

# PREVIEW

## A SUMMARY OF THE TERMINATION OF PARENTAL RIGHTS PROCESS

THE FOLLOWING DOCUMENT IS A GENERAL RESPONSE TO GENERAL QUESTIONS ABOUT THE TERMINATION PROCESS AND YOU SHOULD CONSULT WITH AN ATTORNEY ABOUT THE SPECIFIC FACTS IN YOUR CASE WHICH MAY ALTER OR AFFECT THE LAW APPLICABLE TO YOUR CASE.

### What is a Termination of Parental Rights?

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A termination of parental rights is the legal process whereby a parent loses the legal rights that he or she has as a parent for a child in the state of Texas.

The former parent no longer has any legal connection to the child.

### Explanation Of The Termination/Adoption Procedure

Usually, the adoption process involves a two step proceeding. Since most children who are available for adoption, have one or more living parents, it will be necessary to terminate the parental rights of the living parents. If not the husband or wife of the person adopting the child. In step-parent adoptions, the step-parent must be joined by his or her spouse as a petitioner in the proceeding. Thus, living parents will either be involved in the termination/adoption proceeding either as a petitioner or a respondent.

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Termination is a very serious legal proceeding, which according to the Supreme Court of the United States, has constitutional application. The rights of parent with his child are considered constitutionally protected rights, and may not be severed between the parent and the child without following the strict requirements of due process set forth in the United States and Texas Constitutions.

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Texas law requires a higher burden of proof in terminations cases. This burden of proof is not always easily understood by the lay person. In short, a parent's rights with his child are not be terminated except in specific statutorily defined fact situation, where the evidence established said statutory provision by "clear and convincing evidence", which is the highest level of evidence required in civil proceedings. "Clear and convincing evidence" is evidence which establishes a fact so clearly and so persuasively, that it is most obvious and clear that the event or fact did occur. This level of evidence is best explained by contrasting it with the standard of evidence required in most civil cases, which is called the "preponderance of evidence." This "preponderance of the evidence" is a lesser burden, which is that the greater weight of the credible evidence favors the issue or fact to be established.

In a termination proceeding, due process requirements established by the Constitutions of both the United States of America and the State of Texas must be strictly complied with, which include notice to living parents in constitutionally accepted methods. This means that parents are entitled to notice of such proceedings and such notice should apprise them of the nature of the proceedings against them, and should give them a fair and equitable opportunity to be heard.

Courts carefully scrutinize termination cases. Therefore, the most common ground of termination in the overwhelming number of termination/adoption cases, is the ground whereby the living parents or parent voluntarily signs an affidavit of relinquishment. Most termination cases, which are contested, are brought by Department of Protective and Regulatory Services, or the Department of Human Services, and involve situations where parents are guilty of gross neglect, abandonment, or abuse of

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their children. Another ground of termination, which is used more frequently, involves the non-payment of child support for at least 12 months, which period of 12 months ends or occurs within 6 months of the filing of the petition for termination.

If you believe the living parent will not sign an affidavit of relinquishment as set forth in the Texas Family Code, then you should discuss the facts with your attorney to determine if other grounds of termination might be available in your case.

The adoption proceeding will follow the termination process. This is the simple process which follows the dramatic termination process. In the adoption proceeding, the evidence centers around the adoptive parent or parents, and their understanding of the responsibilities and duties they are taking upon themselves by adopting children. Simply put, the adopting parents will tell the court that they are willing to assume the duties and liabilities of a parent, and that they will love and cherish and sacrifice for the adoptive child or children as their own children as though they had been born to them as their natural offspring.

### **What is a Relinquishment Of Parental Rights?**

A Relinquishment of Parental Rights is an affidavit witnessed by two witnesses and a Notary Public, wherein a parent signs away his parental rights and voluntarily gives a statutory ground, that being the execution of the said affidavit, which will sustain a termination order terminating a parental relationship. The Relinquishment must be drafted pursuant to the requirements of the Texas Family Code.

### **What Happens If We Can't Find One or Both of The Natural Parents?**

This is a frequently occurring problem in termination/adoption proceedings. As previously noted, the constitutionally required 50% termination proceedings, require notice

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to living parents. In the situation where the parent is unknown, in times past the courts often required the person seeking the adoption to issue notice in a newspaper to the unknown parent. Usually, this requirement was met by the posting of notice in a legal notice type newspaper, and an attorney appointed to represent the unknown parent.

However, the legislature has amended the law by establishing a Paternity Registry maintained by the Texas Bureau of Vital Statistics, to relieve the petitioner from service on an alleged father under certain circumstances, which includes any unknown father, if the father has not registered with the Paternity Registry, maintained by the Texas Bureau of Vital Statistics. However, the legislature has required that the Petitioner obtain from the registrar of the Paternity Registry (maintained by the Texas Bureau of Vital Statistics) a certificate that the registrar has checked the records, and has found no one alleging to be the father of the child to be adopted. Note that an alleged father is one who alleges he is the father of a child, or who is alleged to be the father of the child, but whose paternity has not been determined and who is not a parent father as set forth in the Texas Family Code. A presumed father is the man who is married to the mother on the date the child is conceived or born, or who is listed on the child's birth certificate, or who has been found by a court of competent jurisdiction, to be the parent of the child. A mother is always a parent.

Of course, if you know the parents of the child, but their address is unknown, they must be served with citation. Before you can issue citation by publication, you must make a diligent effort to locate the missing parent. This effort should include searching records, such as telephone directories, available to you, and by contacting relatives and friends of the missing parent, as well as past employers. Also, you should consider

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retaining an expert in the field of locating missing persons, which can be done rather inexpensively over the internet. If you cannot serve them with citation because you

**PREVIEW**

cannot locate them, then you must serve the missing parent by publication. You will be required to sign an affidavit swearing that you have made a diligent effort to locate the parent, as well as offering testimony at the termination hearing, which should describe in detail your efforts to locate this parent. In this situation, the court will appoint an

attorney to represent the missing parent. One of the duties of this attorney will also be to try to find the missing parent, but the paramount duty will be yours. He will be calling

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you, and you are urged to cooperate with him, providing him with all of the information you know that he might find the missing parent. Your termination/adoption will be strengthened and made less challengeable on appeal or by other litigation, if you are able to locate the missing parent and have them served with personal service by a process server.

**THIS DOCUMENT**  
Standing to File Suit for a Termination or an Adoption

1. The first step in analyzing your client's prospective suit for adoption is to determine if your client has standing to pursue an adoption and/or termination.
2. Most courts require standing in suits affecting the parent-child relationship. A suit for termination, as well as a suit for adoption are suits affecting the parent-child relationship.

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3. §102.003, Texas Family Code, sets forth the requirement of standing in suits affecting the parent-child relationship. A suit for termination, as well as a suit for adoption are suits affecting the parent-child relationship. Note that §102.003, subdivision

(a) (9) requires that a parent who is not a biological parent, and has a factual care

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control, and possession of the child for at least six months ending not more than 90 days preceding the date of the filing of the petition,” has standing to pursue a suit affecting the parent-child relationship. Thus, a person seeking to adopt a child must have had possession for at least six months and must file within 90 days from the date said possession ends, unless he or she fits within the provisions of §102.005.

4. §102.005 specifically sets forth standing to request termination and adoption. It provides that an original suit filed for adoption or for termination joined with a petition for adoption may be filed by a stepparent of the child, or an adult, who as the result of any placement for adoption, has had actual possession and control of the child at any time during the 30-day period preceding the filing of the petition; or an adult who is had actual possession and control of the child for not less than 2 months during the 3 month period preceding the filing of the petition; or another adult whom the court determines to have had substantial past contact with the child sufficient to warrant standing to do so.

5. The Texas Legislature set forth certain limitations on standing in §102.006, Texas Family Code. If the parent-child relationship has been terminated, an original suit may not be filed by a former parent whose parental relationship has been terminated by court order; the father of the child; or a family member or relative by blood, adoption, or marriage of either a former parent whose parent-child relationship has been terminated or of the father of the child. These limitations do not apply if the child’s managing conservator, guardian, or legal custodian has consented to the filing of an original suit, or if the person has a continuing right to possession or access under an existing court order.

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Should You File a Separate Petition for Termination  
**PREVIEW**  
Followed by an Adoption Proceeding?

1. It should be noted that filing separate petitions for termination may be the wise way to proceed in a termination/adoption proceeding. By filing separate petitions, the practitioner facilitates holding a termination hearing before an adoption.

2. This may be considered practical because the parent who has executed an affidavit of relinquishment may be able to revoke his affidavit, or the required investigation and preparation of reports may cause the proceeding to extend past the 60 day period irrevocable period set forth in the affidavit of relinquishment.

3. There are two alternate methods of drafting the revocable clause in an affidavit of relinquishment. They are set forth in §161.003 and §161.035, Texas Family Code. The later section provides that the affidavit of relinquishment by law is revocable for the first 11 days after it is signed, but thereafter it becomes irrevocable.

4. This method of drafting an affidavit of relinquishment is elected when the attorney drafting the affidavit is silent as to whether or not the affidavit is revocable, or when the attorney specifically sets forth in the affidavit that it is revocable for only the 11 days immediately following its signing, which after the expiration of said 11 days, the affidavit is irrevocable. It may be that the later method of drafting the affidavit of relinquishment may well be the preferable method, in that the affiant may be less likely to revoke his affidavit in the first eleven days after its execution, and in that the window of the revocable period is only 11 days in length.

5. If this dilemma presents itself to the practitioner, he should have the client or clients fill out and sign the form entitled CLIENT'S DIRECTIVE REGARDING

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PERIOD OF TIME FOR REVOKING RELINQUISHMENT OF PARENTAL RIGHTS,

**PREVIEW**

which form is set forth in §1:31 herein before. If the client elects pursuant to said election form, the client will evidence in writing that he has been informed regarding this dilemma, and the burden of selecting the method of drafting the affidavit of relinquishment will be shared by the client. Neither the client nor the lawyer know what the future holds regarding the possible revocation of an affidavit of relinquishment by a parent who has signed an affidavit of relinquishment. Either election may produce unfavorable results, but when the client is informed, and he makes an informed election, then the client participates in the decision, and the attorney discharges his responsibility to advise and inform the client.

6. Some practitioners feel that a combined termination and adoption proceeding should only be used in situations where a stepparent adoption is involved and the other natural party has signed a relinquishment of parental rights, or the child has lived in the petitioner's home for six months prior to the filing of the combined adoption and termination. However, if the petitioner/s sign the form entitled CLIENT'S DIRECTIVE REGARDING PERIOD OF TIME FOR REVOKING RELINQUISHMENT OF PARENTAL RIGHTS, §1:31 above, the attorney has given the client the ability to make an informed decision.

#### **What Role Do Government Agencies Play In An Termination?**

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Government agencies, such as the Texas Department of Human Services, may have possession of children who may have come from abused or neglected situations. In some situations, children may be available for placement or adoption. However, many of the children available are older children, rather than small babies, and are most often not

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considered by prospective adopting parents. In larger counties, government agencies may be regularly appointed to conduct social studies, which is explained hereafter in more detail.

### **What Are Court Appointed Social Studies?**

As previously explained, social studies are required in all adoptions. However, the Texas Legislature has changed the term or name “social study” to what is now called a Pre-Adoptive Home Screening Report and a Post-Placement Adoptive Report. In fact, the law as now written actually requires three (3) reports to be filed in adoptions in some cases, and in all cases, at least two reports. These three (3) reports are called: (1) Health, Social, Educational, and Genetic History Report; (2) Pre-Adoptive Home Screening Report; and (3) Post-Placement Adoptive Report. The Health, Social, Educational, and Genetic History Report is not required in adoptions where the adopting petitioner is a step-parent, a grandparent, an aunt or uncle by birth, marriage, or prior adoption. The statutes governing these reports provide that the Department of Protective and Regulatory Services, or a licensed child placing agency, or the child’s parent or guardian shall compile a report on the available health, social, educational, and genetic history of the child to be adopted, if the adoption is not being pursued by a grandparent, aunt or uncle by birth, marriage, or prior adoption, or a stepparent. However, in all cases involving an adoption or a termination where a managing conservator of the child will be appointed, a social study (Pre-Adoptive Home Screening Report and Post-Placement Adoptive Report) is required, and the law authorizes the court to appoint a private agency or another person, to conduct the social study.

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In Texas, the term managing conservator means the person having custody of a child. The court is required to appoint a managing conservator in all cases where the court terminates parental rights. The appointment of the agency or person to conduct the Pre-Adoptive Home Screening and Post-Placement Report, will be decided by the court.

Some judges will only appoint certain agencies, and others will appoint only certain social workers, who the court feels comfortable with. In fact, the Texas Department of Protective and Regulatory Services has the authority to prescribe the qualifications of the persons authorized to conduct such studies, and persons who want to qualify for such work, must file with the Court a form which sets forth their respective qualifications.

Your attorney may file a motion suggesting someone to conduct the social study, but the court will make the decision on who shall be appointed, and you will be bound by that decision. Failure to cooperate in the social study will most likely result in the adoption being denied, as such reports are required in every adoption.

The costs of the social study will be paid by the adoptive parents. In some counties, where social workers are appointed, these costs may be higher than those charged by agencies or domestic relations offices.

### **What Is a Guardian Ad Litem?**

The law requires that a guardian ad-litem or an attorney ad-litem be appointed in termination cases to protect and ensure the adequate representation of the child. The courts usually appoint an attorney who has met the qualifications outlined in the Texas Family Code. Most courts maintain a list of attorneys who they have approved as qualifying for such service. If the child to be adopted is over the age of four (4) years old, the attorney appointed must interview the child. This may be accomplished by you

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scheduling an appointment for your child to meet with the said guardian in his or her office, or in the alternative, the guardian ad-litem visiting you in your home. Obviously, this person will play a big part in these proceedings, and your cooperation with this person will facilitate the smooth presentation of your termination-adoption proceeding. You will be required to pay the fees charged by the guardian ad-litem. Check with your attorney for his estimate of the costs of those services, or call the guardian directly, and ask what his or her fees will most likely be.

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The Court Hearing

When the social study, meaning the reports discussed hereinbefore, has been completed, and after all other requirements have been complied with, which include proper citation of the respondents, then the court will schedule the case for a hearing. Usually, the evidence will be presented to the court in two stages. The first stage will be the termination proceeding, and the second, the adoption. The evidence will be presented to the court in the termination proceeding to establish one of the statutory grounds of termination. In most adoption cases, this evidence is offered by you. If the respondent parent has executed an affidavit of relinquishment of parental rights, the same will be presented to the court for the court's examination. The actual manner of presentation will normally commence by your attorney calling you as a witness to establish the basis of the termination, and after offering your testimony and all written documents supporting your testimony, then your attorney will ask the court to rule on the termination portion of your case, if the same has not yet been considered. Then your attorney will move to prove up the facts supporting the adoption. He will again call the adopting parent as a witness, and establish the underlying facts supporting the adoption. The child should have lived in the

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adopting parent's home for at least six (6) months prior to the adoption. The court may waive this requirement if the court finds that it is in the best interest of the child to do so.

**PREVIEW**

Typically the attorneys will ask the adopting parent about his relationship with the adoptive child, and if he understands the legal meaning of an adoption decree, including the responsibility to support the child if an adoption is granted. The court will also examine at the hearing the social study, a copy of which should have been provided to the attorney for petitioners and petitioners prior to the hearing.

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Actually, the best part of this proceeding will be the Court hearing. As previously stated the Court likes adoptions. The Court will treat you courteously and kindly. At the conclusion of the hearing, your attorney will present to the Court a proposed decree, which reduces to writing the orders of termination and/or adoption. This decree will change the name of the child to your name, and a birth certificate will be issued by the Texas Bureau of Vital Statistics, upon the payment of the appropriate administrative fee.

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**Information & Instructions: Affidavit of Relinquishment of Parental Rights**

**PREVIEW**

1. In many jurisdictions an affidavit of voluntary relinquishment of parental rights may be used as a ground for termination. An affidavit of relinquishment of parental rights must be signed after the birth of the child, and within a certain number of hours of the birth of the child.

2. The affidavit of voluntary relinquishment of parental rights is the most common used method or ground of termination. An affidavit of relinquishment of parental rights must be signed after the birth of the child, and not before 48 hours of the birth of the child. The affidavit must be witnessed by 2 credible persons and verified before a person authorized to take oaths. §161.103, Texas Family Code, requires that the affidavit contain:

- a. the name, address, and age of the parent whose parental rights are being relinquished;
- b. the name, age, and birth date of the child;
- c. the names and addresses of the guardians of the person and estate of the child, if any;
- d. a statement that the affiant is or is not presently obligated by court order to make payments for the support of the child;
- e. a full description and statement of value of all property owned or possessed by the child;
- f. one of the following, as applicable:
  - (A) the name and address of the other parent;

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(B) a statement that the parental rights of the other parent have been terminated by death or court order; or

**PREVIEW**

(C) a statement that the child has no presumed father and that an affidavit of status of the child has been executed as provided by this chapter;

g. a statement that the parent has been informed of parental rights and duties;

h. a statement that the relinquishment is revocable, that the relinquishment is irrevocable, or that the relinquishment is irrevocable for a stated period of time;

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i. if the relinquishment is revocable, a statement in boldfaced type concerning the right of the parent signing the affidavit to revoke the relinquishment only if the revocation is made before the 11th day after the date the affidavit is executed;

j. if the relinquishment is revocable, the name and address of a person to whom the revocation is to be delivered; and

k. the designation of a prospective adoptive parent, the Department of Protective and Regulatory Services, if the department has consented in writing to the designation, or a licensed child-placing agency to serve as managing conservator of the child and the address of the person or agency.

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3. It is permissible pursuant to the provisions of Texas Family Code, §161.103, to include in an affidavit of relinquishment a waiver of process in a suit to terminate the parent-child relationship filed under this chapter or in a suit to terminate joined with the petition for adoption, and a consent to the placement of the child for adoption by the Department of Protective and Regulatory Services or by a licensed child-placing agency.

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4. The law requires that the person signing an affidavit of relinquishment be given a copy of said affidavit (Texas Family Code, §161.103(d)).

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5. A relinquishment designating the Texas Department of Protective and Regulatory Services or a licensed child-placing agency is irrevocable. A relinquishment in any other affidavit of relinquishment is revocable unless it expressly provides that it is irrevocable for a stated period of time not to exceed 60 days after the date of its execution. As previously stated, a relinquishment that fails to state that the relinquishment is irrevocable for a stated time is revocable as provided by §161.1035 (provides that an affidavit that does not state a period of time is revocable for 11 days after it is signed and thereafter it is irrevocable).

6. The procedure for revoking a relinquishment is that a person must sign a statement witnessed by 2 credible persons and verified before a person authorized to take oaths. A copy of the revocation is required to be delivered to the person designated in the affidavit. The parent is required to file a copy of the revocation with the clerk of the court where a suit to terminate has been filed based on the parent's affidavit of relinquishment, if the parent has notice of the termination suit. (Texas Family Code, §161.103(g)).

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Information & Instruction **PREVIEW** Father's Affidavit of Relinquishment of Parental Rights

1. The most common ground of termination is the signing of a voluntary affidavit of relinquishment of parental rights. The affidavit for voluntary relinquishment of parental rights must be drafted pursuant to §161.103, Texas Family Code. An affidavit for voluntary relinquishment of parental rights must be:

a. signed after the birth of the child, but not before 48 hours after the birth of the child, by the parent, whether or not a minor, whose parental rights are to be relinquished;

b. witnessed by two credible persons; and  
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c. verified before a person authorized to take oaths.

2. The affidavit must contain:

(1) the name, address, and age of the parent whose parental rights are being relinquished;

(2) the name, age, and birth date of the child;

(3) the names and addresses of the guardians of the person and estate of the child, if any;

(4) a statement that the affiant is or is not presently obligated by court order to make payments for the support of the child;

(5) a full description and statement of value of all property owned or possessed by the child;

(6) an allegation that termination of the parent-child relationship is in the best interests of the child;

(7) one of the following, as applicable:

(A) the name and address of the other parent;

(B) a statement that the parental rights of the other parent have been terminated by death or court order; or

(C) a statement that the child has no presumed father and that an affidavit of status of the child has been executed as provided by this chapter;

(8) a statement that the parent has been informed of parental rights and duties;

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(9) a statement that the relinquishment is revocable, that the relinquishment is irrevocable, or that the relinquishment is irrevocable for a stated period of time.

(10) if the relinquishment is revocable, a statement in boldfaced type concerning the right of the parent signing the affidavit to revoke the relinquishment only if the revocation is made before the 11<sup>th</sup> day after the date the affidavit is executed;

(11) if the relinquishment is revocable, the name and address of a person to whom the revocation is to be delivered; and

(12) the designation of a prospective adoptive parent, the Department of Protective and Regulatory Services, if the department has consented in writing to the designation, or a licensed child-placing agency to serve as managing conservator of the child and the address of the person or agency.

3. An affidavit of relinquishment of parental rights may contain:

(1) a waiver of process in a suit to terminate the parent-child relationship filed under this chapter or in a suit to terminate joined with a petition for adoption; and

(2) a consent to the place of the child for adoption by the Department of Protective and Regulatory Services or by a licensed child-placing agency.

4. A copy of the affidavit of relinquishment must be provided to the parent signing the same at the time he signs the affidavit.

5. The code provides for designation of a period in which the affidavit of relinquishment is irrevocable. The statute limits that period to 60 days from the date the affidavit is signed, unless the affidavit designates the Department of Protective and Regulatory Services, or a licensed child-placing agency as the managing conservator, then the affidavit is irrevocable. Note that the code in §161.1035 provides that an affidavit can be revocable for the first 11 days after its execution, but thereafter is irrevocable. Thus, there is a choice for the practitioner and the client. Most often the affidavit is drafted with the 60 day period, but one could elect the alternate choice of allowing the parent relinquishing their rights to revoke the affidavit within an eleven day period immediately following the date it is signed, but thereafter, the affidavit would be irrevocable. The latter choice might be preferable, if the client feels that it less likely that the parent would revoke the affidavit in the 11 day window after it is signed, then say sixty (60) days after it was signed.

6. An affidavit of relinquishment signed naming a licensed child-placing agency as managing conservator is irrevocable. A separate form is set out hereafter for mother (§1:235) and for father (§1:237). If a parent who has signed an affidavit of relinquishment, if he or she wishes to revoke the affidavit, and they are able to do so pursuant to the terms of the affidavit, they must revoke the affidavit pursuant to the terms of §161.103(g), Texas

Family Code. A form for such affidavit revoking an affidavit of relinquishment is set forth in §1:239 following.

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**How to fill out this form:**

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1. This form is a MS Word document.
2. To complete the form you must replace the variable information with you own specific data.
3. To insert your specific information into the form search for the name of the variable which is enclosed in [brackets].
4. Search by selecting the Ctr F keys or “Edit” from the MS Word top menu and then select “Find”.
5. A dialogue box will appear on your screen. Type the left bracket symbol [ into the dialogue box and then select “Find Next”. Your cursor will be placed at the [ symbol.
6. Now type in your specific data and replace the [ and variable name with you own information.

For example:

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F2 then type in [, then select Find Next, and you will see [Petitioner’s Name], replace [Petitioner’s Name] with Jane Doe. Then repeat the process until there are no more bracketed fields.

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Form: Father's Affidavit of Relinquishment of Parental Rights

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Cause Number \_\_\_\_\_

IN THE INTEREST OF:

[CHILD'S NAME],

[A CHILD]

IN THE DISTRICT COURT OF

[COUNTY NAME], TEXAS

\_\_\_\_\_ JUDICIAL DISTRICT

**FATHER'S AFFIDAVIT OF**

**VOLUNTARY RELINQUISHMENT OF PARENTAL RIGHTS**

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STATE OF [State]

COUNTY OF [Name of county]

BEFORE ME, the undersigned Notary Public, on this day personally appeared [Father's Name], who, was duly sworn and placed under oath, and in the presence of the undersigned credible witnesses made the following statements:

"My name is [Father's Name]. I am \_\_\_\_\_ years of age. I live at: [address of father]. My telephone number is: \_\_\_\_\_. My social security number is \_\_\_\_\_ and my driver's license number is \_\_\_\_\_, which license is issued by [name of State].

"I am the father of the following [child[ren]:

Name: [Child's name]  
Sex: [Male or female]. Birth date: [Birthrate].  
Birthplace: [Birthplace].  
Residence: [Residence].  
Social Security Number: [Social Security Number]

Name: [Child's name]  
Sex: [Male or female]. Birth date: [Birthrate].  
Birthplace: [Birthplace].  
Residence: [Residence].  
Social Security Number: [Social Security Number]

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“No person has been appointed or has qualified as guardian of the person or estate of the child[ren].

**PREVIEW**

[or]” The guardian of the [child[ren]] is [Name], who resides at [address].

“I am [am not] presently obligated by court order to make payments for support of the [child[ren]].

“A complete description of the child[ren]’s property, which is known to me, including statement of value of all property owned or possessed by the [child[ren]] is as follows:

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[name of child]

[property item]	[value]
[property item]	[value]
[property item]	[value]

“The Mother of the children is [Mother’s name].

“The [Mother’s name] address is:

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“The Mother’s parental rights were terminated on the \_\_\_ day of

, \_\_\_\_\_, by the \_\_\_\_\_ Court, of [name of County], [state or jurisdiction]. [or] The Mother’s parental rights have not previously been terminated by any Court. [or] The Mother of the child[ren] is deceased and her parental rights are terminated because of her death.

“I choose and appoint [Name of person to be appointed Managing Conservator of the child[ren] upon termination of parent’s rights], a qualified person, as managing conservator of the [child[ren]]. [or] [If the child is being placed through an agency:] It is in the best interest of the child[ren] that the child[ren] be placed for adoption in a suitable

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home by [name of child placing agency], an agency licensed by the Texas Department of

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Protective and Regulatory Services to place children for adoption. I therefore designate said agency to care for children or to place children for adoption, and to be the managing conservator of the child.]

**PREVIEW**

“I have been informed that my parental rights, powers, duties, and privileges, are as follows:

a. the right to have physical possession, to direct the moral and religious training, and to establish the legal domicile of the [child[ren];

b. the duty of care, control, protection, and reasonable discipline of the [child[ren];

c. the duty to support the [child[ren], including providing the [child[ren] with clothing, food, shelter, medical and dental care, and education;

d. the duty to manage the estate of the [child[ren], except when a guardian of the estate has been appointed, including the right to act as the [child[ren]’s agent of the [child[ren]’s estate if the [child[ren]’s action is required by a state, the United States, or a foreign government;

e. the right to the services and earnings of the [child[ren];

f. the power to consent to marriage, to enlistment in the Armed Forces of the United States, and to medical, dental, psychiatric, psychological and surgical treatment;

g. the power to represent the [child[ren] in legal action and to make other decisions of substantial legal significance concerning the [child[ren];

h. the power to receive and give receipt for payments for the support of the [child[ren] and to hold or disburse any funds for the benefit of the [child[ren];

i. the right to inherit from and through the [child[ren];

j. the exclusive right to make decisions concerning the [child[ren]'s education; and

k. any other rights, privileges, duties, and powers existing between a parent and the [child[ren] by virtue of law.

“I freely and voluntarily surrender, transfer, give and relinquish to the above-named managing conservator all of my parental rights, powers, duties, and privileges.

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**THIS DOCUMENT**

**THANK YOU**

“I fully understand that a lawsuit has been filed to terminate forever the parent-child relationship between me and the above-named [child[ren]]. I understand that if the Court grants the termination, that I will legally be excluded as the parent of said [child[ren]], and that the parent-child relationship between myself and the above named [child[ren]] will be permanently ended.

“I fully understand that the termination suit may or may not be combined with a suit to adopt my [child[ren]].

I understand that either way, once the Court terminates my parental rights, I have no further say concerning my [child[ren]], whether or not my [child[ren]] is/are adopted then or at some later time.

“I know that I have the right to appear personally before the Court, with an attorney of my choice, to testify about my desires with respect to my [child[ren]]. However, I do not want to go to court in person. No one has discouraged me or advised me or counseled me that I do not need an attorney. I am fully informed of my right to obtain legal advice and representation in this matter. However, I freely and voluntarily choose to sign this affidavit without the advice or counsel of a lawyer. I understand the nature of these proceedings, the consequences of this affidavit, and I wish to relinquish my rights as a parent. I want this Affidavit of Relinquishment of Parental Rights presented to the Court.

[or]

“I know that I have the right to appear personally before the Court, with an attorney of my choice, to testify about my desires with respect to my child. However, I do not want to go to court in person and choose not to be represented by a lawyer. I want this Affidavit for Voluntary Relinquishment of Parental Rights to be presented to the Court.

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“Because I do not want to testify in person before the Court, I freely and voluntarily waive and give up my right to the issuance, service, and return of citation, notice, and all other process in any suit to terminate my parental rights or in any suit to terminate my parental rights joined with a suit to adopt. [If suit to terminate has been filed, then include the following sentence:] I know that the suit to terminate my parental rights has been filed in cause number \_\_\_\_\_, now pending in the

Court of [name of county], Texas. I hereby waive any right I may have to the issuance, service, notice, and return of citation in said cause of action.

“I do not want to be informed further about the lawsuit, and I waive and give up my right to be given notice about anything going on in the lawsuit.

“I specifically agree that a final hearing in the lawsuit may be held at any time without further notice to me. I waive and give up my right to have the official court reporter make a record of the testimony in the lawsuit.

“Furthermore, I do not want to be mailed or given a copy of the judgment terminating my parental rights and do not want to be notified of the signing, rendition, or entry of that judgment. Therefore, I waive and give up my right to insist that those things be done. I also consent to have any suit affecting the parent-child relationship filed or to be filed with respect to the above-identified [child[ren]] be decided by a family law master appointed pursuant to § 201.001 of the Texas Government Code.

“If I am in the armed services of the United States at this time, that fact in no way has interfered with my freedom to make my decision to execute this affidavit, and insofar as this matter is concerned, I waive all rights, privileges, and exemptions existing or that

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may hereafter exist in my favor under the Soldiers' and Sailors' Civil Relief Act of 1940,  
**PREVIEW**  
including the appointment of counsel to represent me in this cause.

“I FULLY UNDERSTAND THAT I MAY NOT BE FURTHER INFORMED  
ABOUT THE TERMINATION SUIT OR ABOUT ANY OTHER HEARING OR  
PROCEEDING AFFECTING THE [CHILD OR CHILDREN] IN THIS AFFIDAVIT.

“I acknowledge and agree that termination of the parent-child relationship between  
myself and the [child[ren]] is in the best interest of the [child[ren]].

**PLEASE DO NOT COPY**  
[The practitioner has 2 methods from which to chose in drafting the period in which

an affidavit of relinquishment may be revoked. The following paragraph sets forth the 60  
day non-revocable period described in § 161.103, Texas Family Code] “I understand that I  
make this termination possible by executing this affidavit. With that in mind, I KNOW  
THAT THIS AFFIDAVIT OF RELINQUISHMENT MAY NOT BE REVOKED FOR 60  
DAYS FROM THE DAY I SIGNED IT. I FULLY UNDERSTAND THAT, IF I

**THIS DOCUMENT**  
CHANGE MY MIND, I CANNOT FORCE [THE MANAGING CONSERVATOR OR  
AGENCY] TO DESTROY, REVOKE, OR RETURN THIS AFFIDAVIT AND THAT I  
CANNOT TAKE BACK OR UNDO THIS AFFIDAVIT IN ANY WAY DURING THIS  
60-DAY PERIOD. I FURTHER UNDERSTAND THAT MY PARENTAL RIGHTS

PROBABLY WILL HAVE ALREADY BEEN ENDED FOR ALL TIME BEFORE THIS  
60-DAY PERIOD EXPIRES. I ALSO UNDERSTAND THAT, IF MY PARENTAL

**THANK YOU**  
RIGHTS HAVE NOT BEEN ENDED WITHIN THIS 60-DAY PERIOD, THIS  
AFFIDAVIT SHALL REMAIN IN FULL FORCE AND EFFECT UNTIL I REVOKE IT.

I FULLY UNDERSTAND THAT, AT ANY TIME UNTIL THIS AFFIDAVIT IS  
REVOKED, MY PARENTAL RIGHTS MAY BE TERMINATED FOR ALL TIME.

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[or the practitioner may elect to use the following language (which is set forth in § 161.103 and 161.1035, Texas Family Code), which makes the affidavit revocable for eleven days

**PREVIEW**

immediately after its signing, after which the affidavit becomes irrevocable] “I HEREBY ACKNOWLEDGE THAT THIS AFFIDAVIT OF RELINQUISHMENT MAY BE

REVOKED BY ME BEFORE THE EXPIRATION OF ELEVEN (11) DAYS

FOLLOWING THE DATE THIS AFFIDAVIT IS SIGNED BY ME. THEREAFTER, I

UNDERSTAND AND WITNESS THAT I HAVE BEEN INFORMED THAT THIS AFFIDAVIT WILL BE IRREVOCABLE BY ME FOR ANY REASON. THIS MEANS

**PLEASE DO NOT COPY**

THAT ELEVEN DAYS AFTER I SIGN THIS RELINQUISHMENT OF MY

PARENTAL RIGHTS, THAT I WILL BE UNABLE TO REVOKE IT.

“I understand that the only manner in which this affidavit of relinquishment may be revoked is that I must sign a statement revoking the same before two credible witnesses and a person authorized to administer a sworn oath. A copy of the revocation must be delivered to [name of managing conservator above] at [address of managing conservator]. I also

**THIS DOCUMENT**

have been informed that if a suit to terminate my parental rights has been filed, that I must also give a copy of such revocation to the clerk of the Court where said suit to terminate is pending.

“I have carefully considered alternative plans for my [child[ren]]'s future and have obtained the advice of whatever family members, friends, or other persons and

**THANK YOU**

professionals I feel were necessary to help me make this decision. This decision is very difficult for me to make, and under other circumstances I might have made a different

decision. Nevertheless, under the circumstances I find myself in, I have decided that I

cannot and will not do so for my [child[ren]]'s physical and emotional needs, and I want

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[name of adoptive parents or licensed agency] to adopt or to place my [child[ren]] for adoption and provide a permanent home.

**PREVIEW**

“As I sign this Affidavit of Relinquishment of Parental Rights, I know that [name of adoptive parents or licensed child placing agency] in accepting my [child[ren]] for adoptive placement and assuming responsibility for my [child[ren]], is relying on my promise that I will not attempt to reclaim my [child[ren]]. With this in mind, I declare that I fully understand the meaning of this affidavit of relinquishment and the finality of my action in signing it, and, understanding all this, I am signing it freely, voluntarily, and with the firm conviction that this decision is the best available alternative for my [child[ren]].

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“I am signing this affidavit today because I want to sign it and not because [Name of adoptive parents] or any other person or persons want me to sign it.

“I am ready emotionally and in every other way to make the decision I am making today.

**THIS DOCUMENT**

“I am signing this affidavit in the presence of the two undersigned witnesses, each of whom is known by me to be a credible person and each of whom is present and acting as a witness. I want them to be here and to witness my signature.

“I am also signing this affidavit before a notary public, who has asked me under oath whether or not each and every statement in this affidavit is true and correct and has advised me not to sign it unless it is correct.

**THANK YOU**

“I REALIZE THAT I SHOULD NOT SIGN THIS AFFIDAVIT UNTIL I HAVE READ AND UNDERSTOOD EACH WORD, SENTENCE, AND PARAGRAPH IN IT. I REALIZE THAT I SHOULD NOT SIGN THIS AFFIDAVIT OF RELINQUISHMENT IF THERE IS ANY MISTAKE OR ERROR IN MY MIND THAT I MIGHT SOMETIME FEEL

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CHANGE MY MIND AND SEEK TO GAIN CUSTODY OF MY CHILD. AT THE  
**PREVIEW**  
TIME OF SIGNING THIS AFFIDAVIT FOR VOLUNTARY RELINQUISHMENT OF  
PARENTAL RIGHTS, I FEEL THAT I AM PHYSICALLY AND EMOTIONALLY  
PREPARED TO SIGN THIS DOCUMENT. I AM NOT CURRENTLY UNDER THE  
INFLUENCE OF ANY SUBSTANCE AND/OR MEDICATION THAT WOULD  
AFFECT MY ABILITY TO EXECUTE THIS AFFIDAVIT.

“I ACKNOWLEDGE THAT I AM SIGNING THIS AFFIDAVIT FOR  
**PLEASE DO NOT COPY**  
VOLUNTARY RELINQUISHMENT OF PARENTAL RIGHTS MORE THAN FORTY-  
EIGHT HOURS AFTER THE BIRTH OF THE CHILD NAMED IN THIS AFFIDAVIT.

“I hereby acknowledge receipt of a copy of this Affidavit of Relinquishment of  
Parental Rights.”

Signed on \_\_\_\_\_.

## **THIS DOCUMENT**

\_\_\_\_\_  
[Father's name]

WITNESSES:

\_\_\_\_\_  
[Signature of witness]

[Printed name of witness]

[Street address of witness]

**THANK YOU**  
[City, state, and zip code]

\_\_\_\_\_  
[Signature of witness]

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[Printed name of witness]

[Street address of witness]  
**PREVIEW**  
[City, state, and zip code]

VERIFICATION

STATE OF [State]

COUNTY OF [Name of county]

BEFORE ME, the undersigned notary public, on this day personally appeared

[Name of parent relinquishing rights], who, being by me duly sworn on his oath, deposed  
**PLEASE DO NOT COPY**  
and said that he is the Affiant and that he has read the foregoing Affidavit of Relinquishment

of Parental Rights and that the statements contained therein are within her personal  
knowledge and are true and correct.

[Name of parent signing affidavit of relinquishment]

Subscribed and sworn to before me on \_\_\_\_\_ by [Name of  
parent signing affidavit], and witnessed by [Printed name of witness] and [printed name of  
**THIS DOCUMENT**  
witness], known to me to be credible and reliable witnesses.

\_\_\_\_\_  
[Affidavit or Notary public seal]

**THANK YOU**

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**Information & Instructions: Mother's Affidavit of Relinquishment of Parental Rights**

**PREVIEW**

1. The most common ground of termination is the signing of a voluntary affidavit of relinquishment of parental rights. The affidavit for voluntary relinquishment of parental rights must be drafted pursuant to §161.103, Texas Family Code. An affidavit for voluntary relinquishment of parental rights must be:

a. signed after the birth of the child, but not before 48 hours after the birth of the child, by the parent, whether or not a minor, whose parental rights are to be relinquished;

b. witnessed by two credible persons; and

c. verified before a person authorized to take oaths.

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2. The affidavit must contain:

(1) the name, address, and age of the parent whose parental rights are being relinquished;

(2) the name, age, and birth date of the child;

(3) the names and addresses of the guardians of the person and estate of the child, if any;

(4) a statement that the affiant is not presently obligated by court order to make payments for the support of the child;

(5) a full description and statement of value of all property owned or possessed by the child;

(6) an allegation that termination of the parent-child relationship is in the best interests of the child;

(7) one of the following, as applicable:

(A) the name and address of the other parent;

(B) a statement that the parental rights of the other parent have been terminated by death or court order; or

(C) a statement that the child has no presumed father and that an affidavit of status of the child has been executed as provided by this chapter;

(8) a statement that the parent has been informed of parental rights and duties.

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**THANK YOU**

(9) a statement that the relinquishment is revocable, that the relinquishment is irrevocable, or that the relinquishment is irrevocable for a stated period of time.

(10) if the relinquishment is revocable, a statement in boldfaced type concerning the right of the parent signing the affidavit to revoke the relinquishment only if the revocation is made before the 11<sup>th</sup> day after the date the affidavit is executed;

(11) if the relinquishment is revocable, the name and address of a person to whom the revocation is to be delivered; and

(12) the designation of a prospective adoptive parent, the Department of Protective and Regulatory Services, if the department has consented in writing to the designation, or a licensed child-placing agency to serve as managing conservator of the child and the address of the person or agency.

3. An affidavit of relinquishment of parental rights may contain:

(1) a waiver of process in a suit to terminate the parent-child relationship filed under this chapter or in a suit to terminate joined with a petition for adoption; and

(2) a consent to the place of the child for adoption by the Department of Protective and Regulatory Services or by a licensed child-placing agency.

4. A copy of the affidavit of relinquishment must be provided to the parent signing the same at the time he signs the affidavit.

5. The code provides for designation of a period in which the affidavit of relinquishment is irrevocable. The statute limits that period to 60 days from the date the affidavit is signed, unless the affidavit designates the Department of Protective and Regulatory Services, or a licensed child-placing agency as the managing conservator, then the affidavit is irrevocable. Note that the code in §161.1035 provides that an affidavit can be revocable for the first 11 days after its execution, but thereafter is irrevocable. Thus, there is a choice for the practitioner and the client. Most often the affidavit is drafted with the 60 day period, but one could elect the alternate choice of allowing the parent relinquishing their rights to revoke the affidavit within an eleven day period immediately following the date it is signed, but thereafter, the affidavit would be irrevocable. The latter choice might be preferable, if the client feels that it less likely that the parent would revoke the affidavit in the 11 day window after it is signed, than six (60) days after it was signed.

6. An affidavit of relinquishment signed naming a licensed child-placing agency as managing conservator is irrevocable. A separate form is set out hereafter for mother (§1:235) and for father (§1:237). If a parent who has signed an affidavit of relinquishment, if he or she desires to revoke their affidavit, and they are able to do so pursuant to the terms of the affidavit, they may revoke the affidavit pursuant to the terms of §161.1035, Texas

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Family Code. A form for such affidavit revoking an affidavit of relinquishment is set forth in §1:239 following.

**PREVIEW**

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Form: Mother's Affidavit of Relinquishment of Parental Rights

**PREVIEW**  
Cause Number \_\_\_\_\_

IN THE INTEREST OF: \_\_\_\_\_ IN THE DISTRICT COURT OF  
[CHILD'S NAME], \_\_\_\_\_ [COUNTY NAME], TEXAS  
[A CHILD] \_\_\_\_\_ JUDICIAL DISTRICT

**MOTHER'S AFFIDAVIT OF RELINQUISHMENT OF PARENTAL RIGHTS**

STATE OF [State]  
**PLEASE DO NOT COPY**  
COUNTY OF [Name of county]

BEFORE ME, the undersigned Notary Public, on this day personally appeared [Mother's Name], who, was duly sworn and placed under oath, and in the presence of the undersigned credible witnesses made the following statements:

"My name is [Mother's Name]. I am \_\_\_\_\_ years of age. I live at: [address of mother]. My telephone number is: \_\_\_\_\_ My social security number is \_\_\_\_\_ and my driver's license number is \_\_\_\_\_, which license is issued by [name of State].

"I am the mother of the following [child[ren]]:

Name: [Child's name]  
Sex: [Male or female]. Birth date: [Birthrate].  
Birthplace: [Birthplace].  
Residence: [Residence]  
Social Security Number: [Social Security Number]

Name: [Child's name]  
Sex: [Male or female]. Birth date: [Birthrate].  
Birthplace: [Birthplace].  
Residence: [Residence]  
Social Security Number: [Social Security Number]

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“No person has been appointed or has qualified as guardian of the person or estate of the child[ren].

**PREVIEW**

[or] “The guardian of the [child[ren] is [Name], who resides at [address].

“I am [am not] presently obligated by court order to make payments for support of the [child[ren].

“A complete description of the child[ren]’s property, which is known to me, including statement of value of all property owned or possessed by the [child[ren] is as follows:

**PLEASE DO NOT COPY**

[name of child]

[property item]	[value]
[property item]	[value]
[property item]	[value]

“I do not know the name of the father of the children. [or] I was not married at the time the child was conceived or born, and the child does not have a presumed father. I have signed an affidavit of the status of the child[ren]. The father of the child[ren] is [name of alleged father]. [or] The name of the father of the children is: [name of father].

**THIS DOCUMENT**

“The [Father’s name] address is:

“The father’s parental rights were terminated on the \_\_\_ day of \_\_\_\_\_, by the \_\_\_\_\_ Court, of [name of County], [state or jurisdiction]. [or] The father’s parental rights have not previously been terminated by any Court. [or] The father’s parental rights have not been adjudicated by any Court, and his parental rights have not been established by Court order nor has his parental rights been terminated by Court order. [or] The father of the child[ren] is deceased and his parental rights terminated because of his death.

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“I choose and appoint [Name of person to be appointed Managing Conservator of the child[ren] upon termination of parent’s rights], a qualified person, as managing conservator of the [child[ren]]. [or] [If the child is being placed through an agency:] It is in the best interest of the child that the child be placed for adoption in a suitable home by an agency licensed by the Texas Department of Protective and Regulatory Services to place children for adoption. I therefore designate said agency to care for children or to place children for adoption, and to be the managing conservator of the child.]

I have been informed that my parental rights, powers, duties, and privileges, are as follows:

- a. the right to have physical possession, to direct the moral and religious training, and to establish the legal domicile of the [child[ren]];
- b. the duty of care, control, protection, and reasonable discipline of the [child[ren]];
- c. the duty to support the [child[ren]], including providing the [child[ren]] with clothing, food, shelter, medical and dental care, and education;
- d. the duty to manage the estate of the [child[ren]], except when a guardian of the estate has been appointed, including the right to act as the [child[ren]]’s agent of the [child[ren]]’s estate if the [child[ren]]’s action is required by a state, the United States, or a foreign government;
- e. the right to the services and earnings of the [child[ren]];
- f. the power to consent to marriage, to enlistment in the Armed Forces of the United States, and to medical, dental, psychiatric, psychological and surgical treatment;
- g. the power to represent the [child[ren]] in legal action and to make other decisions of substantial legal significance concerning the [child[ren]];
- h. the power to receive and give receipt for payments for the support of the [child[ren]] and to hold or disburse any funds for the benefit of the [child[ren]];
- i. the right to inherit from and through the [child[ren]];

j. the exclusive right to make decisions concerning the [child[ren]]'s education;  
and

**PREVIEW**

k. any other rights, privileges, duties, and powers existing between a parent and the [child[ren]] by virtue of law.

“I freely and voluntarily surrender, transfer, give and relinquish to the above-named managing conservator all of my parental rights, powers, duties, and privileges.

“I fully understand that a lawsuit has been filed to terminate forever the parent-child relationship between me and the above-named [child[ren]]. I understand that if the Court grants the termination, that I will legally be excluded as the parent of said [child[ren]], and that the parent-child relationship between myself and the above named [child[ren]] will be permanently ended.

“I fully understand that the termination suit may or may not be combined with a suit to adopt my [child[ren]].

“I understand that either way, once the Court terminates my parental rights, I have no further say concerning my [child[ren]], whether or not my [child[ren]] is/are adopted then or at some later time.

“I know that I have the right to appear personally before the Court, with an attorney of my choice, to testify about my desires with respect to my [child[ren]]. However, I do not want to go to court in person. I have been encouraged to seek independent legal advice. I want this Affidavit of Relinquishment of Parental Rights presented to the Court.

[or]

**THANK YOU**

“I know that I have the right to appear personally before the Court, with an attorney of my choice, to testify about my desires with respect to my child. However, I do not want

to do so in person and choose not to be represented by a lawyer. I want the Termination of Parental Rights and Adoption of my [child[ren]] to be handled by the Court.  
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as this matter is concerned, I waive all rights, privileges, and exemptions existing or that may hereafter exist in my favor under the Soldiers' and Sailors' Civil Relief Act of 1940, including the appointment of counsel to represent me in this cause.

“I FULLY UNDERSTAND THAT I MAY NOT BE FURTHER INFORMED ABOUT THE TERMINATION SUIT OR ABOUT ANY OTHER HEARING OR PROCEEDING AFFECTING THE [CHILD OR CHILDREN] IN THIS AFFIDAVIT.

“I acknowledge and agree that termination of the parent-child relationship between myself and the [child[ren]] is in the best interest of the [child[ren]].

[The practitioner has 2 methods from which to chose in drafting the period in which an affidavit of relinquishment may be revoked. The following paragraph sets forth the 60 day non-revocable period described in § 161.103, Texas Family Code] “I understand that I make this termination possible by executing this affidavit. With that in mind, I KNOW THAT THIS AFFIDAVIT OF RELINQUISHMENT MAY NOT BE REVOKED FOR 60 DAYS FROM THE DAY I SIGNED IT. I FULLY UNDERSTAND THAT, IF I CHANGE MY MIND, I CANNOT FORCE [THE MANAGING CONSERVATOR OR AGENCY] TO DESTROY, REVOKE, OR RETURN THIS AFFIDAVIT AND THAT I CANNOT TAKE BACK OR UNDO THIS AFFIDAVIT IN ANY WAY DURING THIS 60-DAY PERIOD. I FURTHER UNDERSTAND THAT MY PARENTAL RIGHTS PROBABLY WILL HAVE ALREADY BEEN ENDED FOR ALL TIME BEFORE THIS 60-DAY PERIOD EXPIRES. I ALSO UNDERSTAND THAT, IF MY PARENTAL RIGHTS HAVE NOT BEEN ENDED WITHIN THIS 60-DAY PERIOD, THIS AFFIDAVIT SHALL REMAIN IN FULL FORCE AND EFFECT UNTIL I REVOKE IT.

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I FULLY UNDERSTAND THAT, AT ANY TIME UNTIL THIS AFFIDAVIT IS  
REVOKED, MY PARENTAL RIGHTS MAY BE TERMINATED FOR ALL TIME.

[or the practitioner may elect to use the following language (which is set forth in § 161.103  
and 161.1035, Texas Family Code), which makes the affidavit revocable for eleven days  
immediately after its signing, after which the affidavit becomes irrevocable] “I HEREBY  
ACKNOWLEDGE THAT THIS AFFIDAVIT OF RELINQUISHMENT MAY BE

REVOKED BY ME BEFORE THE EXPIRATION OF ELEVEN (11) DAYS  
FOLLOWING THE DATE THIS AFFIDAVIT IS SIGNED BY ME. THEREAFTER, I  
UNDERSTAND AND WITNESS THAT I HAVE BEEN INFORMED THAT THIS  
AFFIDAVIT WILL BE IRREVOCABLE BY ME FOR ANY REASON. THIS MEANS  
THAT ELEVEN DAYS AFTER I SIGN THIS RELINQUISHMENT OF MY  
PARENTAL RIGHTS, THAT I WILL BE UNABLE TO REVOKE IT.

“I have carefully considered alternative plans for my [child[ren]]'s future and have  
obtained the advice of whatever family members, friends, or other persons and  
professionals I feel were necessary to help me make this decision. This decision is very  
difficult for me to make, and under other circumstances I might have made a different  
decision. Nevertheless, under the circumstances I find myself in, I have decided that I  
cannot provide properly for my [child[ren]]'s physical and emotional needs, and I want  
[name of adoptive parents or licensed agency] to adopt or to place my [child[ren]] for  
adoption and provide a permanent home.

“As I sign this Affidavit of Relinquishment of Parental Rights, I know that [name of  
adoptive parents or licensed child placing agency] in accepting my [child[ren]] for adoptive  
placement and assuming responsibility for my [child[ren]], is relying on my promise not

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will not attempt to reclaim my [child[ren]]. With this in mind, I declare that I fully understand the meaning of this affidavit of relinquishment and the finality of my action in signing it, and, understanding all this, I am signing it freely, voluntarily, and with the firm conviction that this decision is the best available alternative for my [child[ren]].

“I am signing this affidavit today because I want to sign it and not because [Name of adoptive parents] or any other person or persons want me to sign it.

“I am ready emotionally and in every other way to make the decision I am making today.

“I am signing this affidavit in the presence of the two undersigned witnesses, each of whom is known by me to be a credible person and each of whom is present and acting as a witness. I want them to be here and to witness my signature.

I am also signing this affidavit before a notary public, who has asked me under oath whether or not each and every statement in this affidavit is true and correct and has advised me not to sign it unless it is correct.

“I REALIZE THAT I SHOULD NOT SIGN THIS AFFIDAVIT UNTIL I HAVE READ AND UNDERSTOOD EACH WORD, SENTENCE, AND PARAGRAPH IN IT. I REALIZE THAT I SHOULD NOT SIGN THIS AFFIDAVIT OF RELINQUISHMENT IF THERE IS ANY THOUGHT IN MY MIND THAT I MIGHT SOMEDAY SEEK TO CHANGE MY MIND AND SEEK TO GAIN CUSTODY OF MY CHILD. AT THE TIME OF SIGNING THIS AFFIDAVIT FOR VOLUNTARY RELINQUISHMENT OF PARENTAL RIGHTS, I FEEL THAT I AM PHYSICALLY AND EMOTIONALLY PREPARED TO SIGN THIS DOCUMENT. I AM NOT CURRENTLY UNDER THE

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INFLUENCE OF ANY SUBSTANCE AND/OR MEDICATION THAT WOULD  
**PREVIEW**  
AFFECT MY ABILITY TO EXECUTE THIS AFFIDAVIT.

“I ACKNOWLEDGE THAT I AM SIGNING THIS AFFIDAVIT FOR  
VOLUNTARY RELINQUISHMENT OF PARENTAL RIGHTS MORE THAN FORTY-  
EIGHT HOURS AFTER THE BIRTH OF THE CHILD NAMED IN THIS AFFIDAVIT.

“I hereby acknowledge receipt of a copy of this Affidavit of Relinquishment of  
Parental Rights”

Signed on \_\_\_\_\_, 20\_\_.

**PLEASE DO NOT COPY**

Signed on \_\_\_\_\_.

\_\_\_\_\_  
Mother's name

WITNESSES:

**THIS DOCUMENT**  
[Signature of witness]

[Printed name of witness]

[Street address of witness]

[City, state, and zip code]

\_\_\_\_\_  
[Signature of witness]  
**THANK YOU**  
[Printed name of witness]

[Street address of witness]

[City, state, and zip code]

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VERIFICATION

STATE OF [State]

COUNTY OF [Name of county]

# PREVIEW

BEFORE ME, the undersigned notary public, on this day personally appeared [Name of parent relinquishing rights], who, being by me duly sworn on her oath, deposed and said that she is the Affiant and that she has read the foregoing Affidavit of Relinquishment of Parental Rights and that the statements contained therein are within her personal knowledge and are true and correct.

**PLEASE DO NOT COPY**  
[Name of parent signing affidavit of relinquishment]

Subscribed and sworn to before me on \_\_\_\_\_ by [Name of parent signing affidavit], and witnessed by [Printed name of witness] and [printed name of witness], known to me to be credible and reliable witnesses.

**THIS DOCUMENT**  
[Affiant or Notary Public Seal]

## THANK YOU

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**Information & Instructions: Affidavit of Status of Child**

**PREVIEW**

1. The affidavit of status of a child is required when the child has no presumed father. (Texas Family Code §161.105) It may be executed by at any time after the first trimester of the pregnancy of the mother.

2. This affidavit must be signed by the mother, even if she is a minor, and witnessed by 2 credible persons, and verified before an authorized to take oaths. The affidavit must state that the mother is not and has not been married to the alleged father; that the mother and the alleged father have not attempted to marry under the laws of this state or another

state of this nation; that paternity has not been established under the laws of any state or nation, and contain one of the following as applicable: (A) the name and whereabouts of

a man alleged to the father; (B) the name of an alleged father and a statement that the affiant does not know the whereabouts of the father; (C)) a statement that an alleged

father has executed an acknowledgment of paternity under Chapter 160 [Uniform Parentage Act] and an affidavit of relinquishment of parental rights under this chapter

and that both affidavits have been filed with the court; or (D) a statement that the name of an alleged father is unknown.

3. §161.105, Texas Family Code, set out the requirements for an Affidavit of Status of Child. This affidavit is required by law if the child does not have a presumed father. The affidavit must be:

- a. signed by the mother, whether or not a minor,
- b. witnessed by two credible persons; and
- c. verified before a person authorized to take oaths.

4. The affidavit must state:

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a. that the mother is not and has not been married to the alleged father of the child;

**PREVIEW**

b. that the mother and alleged father have not attempted to marry under the laws of this state or another state or nation;

c. that paternity has not been established under the laws of any state or nation; and

d. contain one of the following, as applicable:  
**PLEASE DO NOT COPY**

i. the name and whereabouts of a man alleged to be the father;

ii. the name of an alleged father and a statement that the Affiant does not know the whereabouts of the father;

iii. a statement that an alleged father has executed a statement of paternity under Chapter 160 and an affidavit of relinquishment of parental rights under this chapter and that both affidavits have been filed with the court; or

**THIS DOCUMENT**

iv. a statement that the name of an alleged father is unknown.

5. The affidavit of status of child may be executed at any time after the first trimester of the pregnancy of the mother.

**THANK YOU**

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Form: Affidavit of Status of Child

# PREVIEW

AFFIDAVIT OF STATUS OF CHILD

Cause Number \_\_\_\_\_

IN THE INTEREST OF:

IN THE DISTRICT COURT OF

[CHILD'S NAME],

[COUNTY NAME], TEXAS

[A CHILD]

\_\_\_\_\_ JUDICIAL DISTRICT

AFFIDAVIT OF STATUS OF CHILD

# PLEASE DO NOT COPY

STATE OF [State]

COUNTY OF [Name of county]

BEFORE ME, the undersigned authority, in the presence of the two undersigned credible witnesses, on this date personally appeared [Natural mother's name], who being by me first duly sworn and placed upon her oath to tell the truth, stated and deposed that she is the natural birth mother of the child the subject of the above referenced adoption proceeding and that she is fully competent to make this affidavit of status, and that she is familiar with the matter and facts herein stated; and that the facts stated in this affidavit are true and correct. Affiant further states:

# THIS DOCUMENT

“My name is [Name] and I am the natural mother of [Child's name]. I live at [residence of mother].

“The child was born on [Date] and is a [male or female] child. The child was born in [City, county & state].

# THANK YOU

[or]

“My name is [Name] and I am the expectant mother of a child that I believe will be born to me or a [Mother's name] on [Date].

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“I have passed my first trimester of pregnancy.

**PREVIEW**

“I am not now nor have I ever been married to the father of the child. We have not attempted to marry under the laws of any state or nation. We are not common law spouses of each other.

“I was not married to any man at the time of conception or during my pregnancy.

“Paternity of the child has therefore not been established under any of the laws of any state or nation.

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“I believe the father of the child to be [Name and last known address] or [I do not know where his last known address is.]

[or]

“The father of the child is [Name and last known address]. He has signed a statement of paternity pursuant to the Texas Family Code and he has also signed an Affidavit of Renunciation of parental rights per the Texas Family Code. Both affidavits are being or have been filed with the court in this proceeding.

[or]

“I do not know the identity of the probable father of the child.

[or]

“The name of the father is: [Name]. He is now deceased.”

**THANK YOU**

\_\_\_\_\_  
[Mother's name]

WITNESSES:

\_\_\_\_\_  
[Signature of witness]

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[Printed name of witness]

[Street address of witness]  
**PREVIEW**  
[City, state, and zip code]

\_\_\_\_\_  
[Signature of witness]

[Printed name of witness]

[Street address of witness]

[City, state, and zip code]  
**PLEASE DO NOT COPY**  
VERIFICATION

STATE OF [State]

COUNTY OF [Name of county]

BEFORE ME, the undersigned notary public, on this day personally appeared  
[mother's name], who, being by me duly sworn on her oath, deposed and said that she is the  
Affiant and that she has read the foregoing Affidavit of Status of Child and that the  
statements contained therein are within her personal knowledge and are true and correct.

**THIS DOCUMENT**

\_\_\_\_\_  
[Name of Mother signing affidavit]

Subscribed and sworn to before me on [date of execution] by [Name of Mother], and  
witnessed by [printed name of witness] and [printed name of witness], known to me to be  
credible and reliable witnesses.

**THANK YOU**

\_\_\_\_\_  
[Affidavit or Notary public seal]

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**Information & Instructions: Requirement of Paternity Registry Certificate**

**PREVIEW**

1. If the affidavit of status of a child as provided by this chapter states that if the father of the child is unknown and no probable father is known, a certificate from the bureau of vital statistics signed by the registrar that a diligent search has been made of the paternity registry maintained by the bureau of vital statistics and a registration has not been found pertaining to the father of the child in question must be filed before the termination trial may be held. (Texas Family Code §160.421; §160.422; §161.002)

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2. In any case where the alleged or probable father has not been personally served with citation or signed a waiver, an affidavit of relinquishment of parental rights, or affidavit of waiver of interest, then a like certificate must be obtained as above stated from the bureau of vital statistics indicating that a diligent search was made by the paternity registrar and no registration has been found.

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**Information & Instructions: ~~Petition for Termination Parental Rights~~ Required  
Prior to an Adoption**

**PREVIEW**

1. This form may be used to terminate the rights of a parent from his or her child.
2. In all adoption proceeding, the attorney should file with the clerk of the Court a Bureau of Vital Statistics form. Certificate of Adoption (VS-160 REV 9/96). This form should be filed with the adoption decree.

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**THIS DOCUMENT**

**THANK YOU**

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**PREVIEW**  
Cause Number \_\_\_\_\_

IN THE INTEREST OF: \_\_\_\_\_ IN THE DISTRICT COURT OF  
[CHILD'S NAME], \_\_\_\_\_ [COUNTY NAME], TEXAS  
[A CHILD] \_\_\_\_\_ JUDICIAL DISTRICT

**ORIGINAL PETITION FOR TERMINATION OF PARENTAL RIGHTS**

<sup>1. DISCOVERY CONTROL PLAN</sup>  
**PLEASE DO NOT COPY**  
1.1 Petitioner[s] would show the Court that Discovery Control Level [1,2, or 3] is the level pursuant to Rule 190 of The Texas Rules of Civil Procedure under which discovery should be conducted.

**2. PETITIONERS**

2.1 This suit is brought by [Names of petitioner's], herein referred to as Petitioners.

2.2 Petitioner [Name] is [Age] years of age.

2.3 [if applicable] Petitioners are husband and wife, who reside at [Address, city, county, state]. [or] Petitioner [name of mother] is the mother of the child and Petitioner [name of mother's current husband] is the step-father of the child.

[or] Petitioner/s [is or are not] related to the child[ren] who is the subject of this suit. [add if applicable] Petitioner [name of Petitioner] is the [relationship of Petitioner] of the child[ren] the subject of this suit.

**THANK YOU**

**3. JURISDICTION**

3.1 This Court has exclusive jurisdiction over the child, who is the subject of this suit, because the child [Choose] [the child has been the subject of prior proceedings in this

Court] or [the child currently resides and has resided with the Petitioners since [Date], in this County.

**PREVIEW**

3.2 No other Court has continuing jurisdiction of this suit or of the child who is the subject of this suit.

3.3 There are no court-ordered relationships for support, custody or other matters affecting the child[ren] the subject of this adoption.

[or] **PLEASE DO NOT COPY**  
This Court has entered orders affecting the child the subject of the suit as a result of prior proceedings, and has named the following persons in prior proceedings as conservators of the child[ren] or as persons having access to the child[ren]:

[Managing conservator' name]

[Possessory conservator's name]

[Joint managing conservator's name]

[Joint managing conservator's name]

**THIS DOCUMENT**

[Person granted access to the child by court order]

3.4 Pursuant to §152.209 of the Texas Family Code, attached to this Petition is an affidavit marked as "Exhibit B" and made a part hereof for all purposes.

4. CHILD[REN]

4.1 Petitioners would show the Court that the child[ren] the subject of this proceeding [is/are]:

**THANK YOU**

Name: \_\_\_\_\_

Sex: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Place of birth: \_\_\_\_\_  
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Current residence: \_\_\_\_\_

**PREVIEW**

Social Security Number: \_\_\_\_\_

Driver's License Number: \_\_\_\_\_

<sup>5</sup> SERVICE AND PERSONS ENTITLED TO CITATION OR NOTICE  
5.1 **PLEASE DO NOT COPY**  
The following persons are entitled to citation or notice:

Natural Father of the Child

[If the presumed or alleged father has signed affidavit of relinquishment] The father of the child has signed or will sign an affidavit of relinquishment of parental rights, and has waived service of process.

[or] [If the father is a presumed or legal father] The father of the child should be served with citation at his residence located at: [Street address, city, state and zip code], or at his place of employment, located at: [Name of employer, street address, city, state and zip code].

[or] [If the child does not have a presumed father] The child is not the legitimate child of any man. An affidavit of status, executed by the [Natural mother's name], is or will be filed herein.

[or] The whereabouts of Respondent, [Name of father], is unknown to Petitioners. A sworn affidavit verifying the fact that Petitioner's do not know the whereabouts of the said Father, is filed herewith, and citation by publication should be issued pursuant to

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law, and an attorney ad-litem to represent the missing Father should be appointed by this Court.

**PREVIEW**

[or] The man alleged in such affidavit to be the father or probable father is [Natural father's name], who is approximately \_\_\_\_\_ years of age and resides at:

\_\_\_\_\_  
\_\_\_\_\_

Notice of these proceedings should be served on said father at the above address.

[or if applicable] Petitioners have no material information as to the identity of

whereabouts of the biological father.

The affidavit of status filed herein executed by the mother of the child indicates that the identity of the father of the child is unknown.

[or] [Father's name], Respondent herein, has filed a notice of intent to claim paternity by registering with the paternity registry under of the [Applicable law]. [Father's name] has provided the registry with the following address: [Address, city, state], where he should be served with citation herein.

Mother of the Subject Child

The mother of the child is a Petitioner in this cause of action.

[or] The natural mother has signed a Relinquishment of her Parental Rights and has waived her right to service.

[or] The whereabouts of the mother of the child is unknown to Petitioner/Petitioners.

Attached to this petition is an affidavit of Petitioner/Petitioners verifying that the

whereabouts of the mother of the child is unknown. Consequently, petitioners request

that the notice be served by citation by application.

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**THANK YOU**

[or] The mother of the child[ren] should be served with citation herein at the following address:

**PREVIEW**

[Address of biological mother of the child]

Other Persons Entitled to Service of Citation

Name: \_\_\_\_\_

Street address: \_\_\_\_\_

**PLEASE DO NOT COPY**

Relationship to child: \_\_\_\_\_

Name: [Mother of the children] \_\_\_\_\_

Street address: \_\_\_\_\_

Relationship to child: \_\_\_\_\_

Name: \_\_\_\_\_

**THIS DOCUMENT**

Street address: \_\_\_\_\_

Relationship to child: \_\_\_\_\_

Process should be served on said persons at the respective address listed above.

6. PROPERTY

6.1 No property is owned or possessed by the child who is the subject of this suit.

[or]

**THANK YOU**

The following property is owned or possessed by the child the subject of this suit:

\_\_\_\_\_

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7 TERMINATION  
**PREVIEW**

7.1 Petitioner's would show the Court that the termination of the parent-child relationship between [Child's name] and the [Parent's name] is in the best interest of the child, and such termination is requested.

7.2 Petitioner/s would show the Court that the termination of the parent-child relationship between [child's name] and the [Parent's name] is in the best interest of the child, and such termination is requested.

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As grounds for termination, Petitioner/s allege that [Parent's name] has:

[SELECT THE APPLICABLE GROUNDS FOR TERMINATION PURSUANT TO THE FACTS BEFORE THE COURT IN THIS CASE:]

- (A) voluntarily left the child alone or in the possession of another not the parent and expressed an intent not to return;
- (B) voluntarily left the child alone or in the possession of another not the parent without expressing an intent to return, without providing for the adequate support of the child, and remained away for a period of at least three months;
- (C) voluntarily left the child alone or in the possession of another without providing adequate support of the child and remained away for a period of at least six months;
- (D) knowingly placed or knowingly allowed the child to remain in conditions or surroundings which endanger the physical or emotional well-being of the child;
- (E) engaged in conduct or knowingly placed the child with persons who engaged in conduct which endangers the physical or emotional well-being of the child;
- (F) failed to support the child in accordance with the parent's ability during a period of one year ending within six months of the date of the filing of the petition;
- (G) abandoned the child without identifying the child or furnishing means of identification, and the child's identity cannot be ascertained by the exercise of reasonable diligence;
- (H) voluntarily, and with knowledge of the pregnancy, abandoned the mother of the child beginning at the filing of the pregnancy with the child and continuing through the birth, failed to provide adequate support or medical care for the mother during the period of

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abandonment before the birth of the child, and remained apart from the child or failed to support the child since the birth;

**PREVIEW**

(i) contumaciously refused to submit to a reasonable and lawful order of a court under Subchapter D, Chapter 261 [Investigation of Report of Child Abuse or Neglect];

(J) been the major cause of:

(i) the failure of the child to be enrolled in school as required by the Education Code; or

(ii) the child's absence from the child's home without the consent of the parents or guardian for a substantial length of time or without the intent to return;

(K) executed before or after the suit is filed an unrevoked or irrevocable affidavit of relinquishment of parental rights as provided by this chapter;

(L) been convicted or has been placed on community supervision, including deferred adjudication community supervision, for being criminally responsible for the death or serious injury of a child under the following sections of the Penal Code or adjudicated under Title 3 for conduct that caused the death or serious injury of a child and that would constitute a violation of one of the following Penal Code sections:

(i) § 19.02 (murder);

(ii) § 19.03 (capital murder);

(iii) § 19.04 (manslaughter);

(iv) § 21.11 (indecent with a child);

(v) § 22.01 (assault);

(vi) § 22.011 (sexual assault);

(vii) § 22.02 (aggravated assault);

(viii) § 22.021 (aggravated sexual assault);

(ix) § 22.04 (injury to a child, elderly individual, or disabled individual);

(x) § 22.041 (abandoning or endangering a child);

(xi) § 25.02 (prohibited sexual contact);

(xii) § 43.25 (sexual performance by a child); and

(xiii) § 43.26 (possession or promotion of child pornography);

(M) had his or her parent-child relationship terminated with respect to another child based on a finding that the parent's conduct was in violation of Paragraph (D) or (E) or substantially equivalent provisions of the law of another state;

(N) constructively abandoned the child who has been in the permanent or temporary managing conservatorship of the Department of Protective and Regulatory Services or an authorized agency for not less than six months, and:

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**THANK YOU**

(i) the department or authorized agency has made reasonable efforts to return the child to the parent;

(ii) the parent has not regularly visited or maintained significant contact with the child; and

(iii) the parent has demonstrated an inability to provide the child with a safe environment;

(O) failed to comply with the provisions of a court order that specifically established the actions necessary for the parent to obtain the return of the child who has been in the permanent or temporary managing conservatorship of the Department of Protective and Regulatory Services for not less than nine months as a result of the child's removal from the parent under Chapter 262 [Procedures in Suit by Governmental Entity] for the abuse or neglect of the child;

(P) used a controlled substance, as defined by Chapter 481, Health and Safety Code, in a manner that endangered the health and safety of the child, and:

(i) failed to complete a court-ordered substance abuse treatment program; or

(ii) after completion of a court-ordered substance abuse treatment program, continued to abuse a controlled substance;

(Q) knowingly engaged in criminal conduct that has resulted in the parent's:

(i) conviction of an offense; and

(ii) confinement or imprisonment and inability to care for the child for not less than two years from the date of filing the petition; or

(R) been the cause of the child being born addicted to alcohol or a controlled substance, other than a controlled substance legally obtained by prescription, as defined by §261.001; or

(S) voluntarily delivered the child to a designated emergency infant care provider under §262.302 without expressing an intent to return for the child; and

[or] The parent-child relationship between the child and the alleged biological father does not exist in law or in fact. It is in the best interest of the child that the Court so decree, and such finding and decree are requested.

If any parent-child relationship does exist, has ever existed, or could ever exist between the father or probable father and the child, which is not admitted but which is denied, in the best interest of the child that such relationship be terminated, and that

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termination is requested. As grounds, Petitioners further allege that the father or probable father has voluntarily, and with knowledge of the pregnancy, abandoned the child's mother beginning at a time during her pregnancy with the child and continuing through the birth, failed to provide adequate support or medical care for the mother during the period of abandonment before the birth of the child, and remained apart from the child or failed to support the child since birth.

[or] [If applicable] The natural father of the child, who is the subject of this suit, has the right to seek to legitimize the child the Texas Family Code. Said natural father has not sought to exercise said right after being served with citation of service of this proceeding. Accordingly, he has failed to exercise his rights under the Texas Family Code and he has therefore waived said rights. After service of citation of this proceeding, petitioners request that rights to legitimize the child be terminated because he has failed to file a petition or take any action to preserve said rights.

8. [If applicable] RELINQUISHMENT

8.1 Petitioner/Petitioners would show the Court that a Waiver of Interest and [or] Relinquishment of Parental Rights executed by [Name of Father], the father [and/or] mother of the child, has been or will be on file with this Court by the time this case is heard.

9. REQUIRED REPORTS

9.1 [if in the termination proceeding, the Court will appoint a managing conservator, then a social study (Pre-Adoptive Home Screening Report and Post-Placement Adoptive Report) is required.]

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9.2 Petitioners further request the Court to appoint an investigator to make and prepare a Pre-Adoptive Home Screening Report and a Post-Placement Adoptive Report into the circumstances and condition of the child, and the Petitioners, as required by Sections 107.051 through 107.056, Texas Family Code, and that the Court assess the fee or costs thereof to Petitioners.

#### 10. AD LITEM

10.1 Petitioners request the Court to find that the interests of the [child/ren] will be represented adequately by Petitioners and are not adverse to Petitioners. Petitioner's request that the appointment of a Guardian Ad-Litem be waived.

[or] Petitioners request the court appoint a guardian Ad Litem or an attorney Ad Litem to protect the interests of the minor child, should the Court determine that such would be in the best interest of the child. In the event any Respondent named hereinbefore should be served with citation by publication, Petitioner/Petitioners request that an attorney ad-litem be appointed to represent any Respondent served with citation by publication.

#### 11. INHERITANCE RIGHTS

11.1 It is in the best interest of the Child that the Court terminate the right of [Name of the child], to inherit from and through [terminated parent or parents' name], and such termination is requested. [Such a provision as this denies the child the right to inherit from the terminated parents

11.2 Unless the Court specifically terminate the right of the child to inherit from his natural parents, the child retains that right even though the parental rights of the parent are terminated. This provision may well deprive the child of benefits that could accrue to

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the child from the wrongful death of the terminated parent, or social security benefits, and is difficult to justify in most cases.]

**PREVIEW**

12. ATTORNEY'S FEES

12.1 Petitioner's has/have retained the undersigned attorney, to wit: [Name of attorney for Petitioner], and Petitioners request that Respondent should be ordered to pay a reasonable attorney's fee, and a judgment should be rendered in favor of said attorney against Respondent; or, in the alternative, such reasonable attorney's fees should be taxed as costs and should be ordered paid directly to the undersigned attorney.

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13. SEALING OF RECORDS

13.1 Petitioner/Petitioners, pursuant to the provisions of § 161.210, do hereby request the Court to order the sealing of the file and the minutes of the Court.

PRAYER

Petitioner/Petitioners pray that citation issue as required by law to the Respondents named herein, that after such service and notice, that the Court issue its orders in accordance with allegations in this Petition, that the Court grant a Termination of [Person's or persons' name or names] parental rights, that the parent-child relationship between [Name of parent or parents who rights terminated] and the child[ren], [Name's of child[ren]], on final hearing, and to grant any other relief sought in the interests of justice and equity.

**THIS DOCUMENT**

**THANK YOU**

Petitioners pray for attorney's fees and other costs. Petitioners pray for general relief.

Respectfully Submitted,

[Law firm name]

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By \_\_\_\_\_

**PREVIEW** [Attorney's name]  
[Attorney's address]  
[Telephone & facsimile number]  
State Bar Number \_\_\_\_\_

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**Information & Instructions: Motion and Order for Appointment of Ad Litem**

**PREVIEW**

1. The following motion and order may be used to have an Guardian Ad-Litem or Attorney Ad-Litem for the child appointed, when such appointment is required by the Court, or when the practitioner feels that the appointment of a Guardian Ad-Litem or Attorney Ad-Litem would strengthen the termination-adoption process.

2. An attorney acting as a Guardian Ad Litem may place the termination-adoption on a more solid foundation, as the Guardian acts as a second set of eyes for the Court looking after the best interests of the child.

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3. An attorney who is appointed to represent the children may prefer to be named a Guardian Ad-Litem for liability reasons, as the code specifically provides for immunity to the Guardian Ad-Litem when he or she makes a recommendation to the Court. See §107.003, Texas Family Code.

4. A Guardian Ad-Litem differs from an Attorney Ad-Litem in that a Guardian acts in the best interests of the child, and his recommendations to the Court may not always be consistent with the wishes of the child. An Attorney Ad-Litem listens to the child's wishes and acts as the child's advocate.

**THIS DOCUMENT**

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Form: Motion for Appointment of Guardian Ad-Litem

# PREVIEW

Cause Number \_\_\_\_\_

IN THE INTEREST OF:

[CHILD'S NAME],

[A CHILD]

IN THE DISTRICT COURT OF

[COUNTY NAME], TEXAS

\_\_\_\_\_ JUDICIAL DISTRICT

## MOTION FOR APPOINTMENT OF AN GUARDIAN AD LITEM

[this motion may be used also to appoint Amicus Attorney or Attorney Ad-Litem, if desired]

# PLEASE DO NOT COPY

On \_\_\_\_\_, the Petitioner's, [Names of Petitioner's], by and

through their attorney make this Motion for Appointment of an Guardian Ad Litem [or Amicus Attorney or Attorney Ad-Litem], who shall perform the duties and have the powers as set forth in [State statute or code] and shall assist the Court to determine the best interest of the [child[ren]] in the above entitled and numbered cause.

# THIS DOCUMENT

Respectfully Submitted,

[Law firm name]

By \_\_\_\_\_

[Attorney's name]

[Attorney's address]

[Telephone & facsimile number]

State Bar Number \_\_\_\_\_

# THANK YOU

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Form: For Appointment of Guardian Ad-Litem, Amicus Attorney, or Attorney Ad-Litem for Child

**PREVIEW**

Cause Number \_\_\_\_\_

IN THE INTEREST OF:

IN THE DISTRICT COURT OF

[CHILD'S NAME],

[COUNTY NAME], TEXAS

[A CHILD]

\_\_\_\_\_ JUDICIAL DISTRICT

**PLEASE DO NOT COPY**

On \_\_\_\_\_, the foregoing Motion for Appointment of a

[Guardian Ad-Litem, Amicus Attorney or Attorney] Ad Litem to represent the interest of

[the child[ren], natural parent or other party] in this cause was presented to the Court.

The Court finds there is need to appoint a [Guardian Ad-Litem or Amicus Attorney or Attorney Ad Litem] , and the Court appoints [Guardian Ad-Litem's, Amicus

Attorney's, or Attorney Ad-Litem's] to represent the interests of the [the child[ren], natural parent or other party in this cause.

This appointment shall be effective immediately and shall remain in effect during the pendency of this matter or until further action of the Court.

Signed on \_\_\_\_\_.

**THANK YOU**  
Judge Presiding

APPROVED AND CONSENTED TO AS TO BOTH FORM AND SUBSTANCE:

**LegalFormsForTexas.Com**  
[Name of attorney]  
[Street address]

[City, [State] Zip code]  
[Phone] [Facsimile]  
State Bar Number \_\_\_\_\_

**PREVIEW**

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**Information & Instructions: Citation by Publication**

**PREVIEW**

1. In many termination/adoption situations, one or more of the parents cannot be located. In cases, where the parent is a presumed parent, such as a former husband, or a man who has been adjudicated the parent of the child, and his address is unknown and he cannot be located after a diligent effort to find him has been attempted, then he should be served by publication.

2. If the missing parent is an alleged parent, the attorney should carefully review the Texas Family Code. The code provides that in situations where the alleged parent has not been adjudicated to be a parent, or is unknown, then citation by publication is not required. In times past lawyers have served the unknown parent by publication.

3. This procedure is not required by the family code, but it will be necessary to obtain from the Texas Bureau of Vital Statistics Paternity Registry a certificate from the registrar indicating that no Father has registered with the Paternity Registry. This certificate must be filed with the papers in the termination/adoption proceeding.

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**THANK YOU**

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Form: Affidavit for Citation by Publication

# PREVIEW

Cause Number \_\_\_\_\_

IN THE INTEREST OF:

IN THE DISTRICT COURT OF

[CHILD'S NAME],

[COUNTY NAME], TEXAS

[A CHILD]

\_\_\_\_\_ JUDICIAL DISTRICT

## AFFIDAVIT FOR CITATION BY PUBLICATION

STATE OF [State]

COUNTY OF [Name of county]

# PLEASE DO NOT COPY

BEFORE ME, the undersigned Notary Public, on this day personally appeared [Names of petitioner's], who are known to me personally, and who, having been by me first duly sworn, upon oath stated:

“My name is [Names of Petitioner's]. I am one of the Petitioners, in the above entitled and numbered cause. I am of sound mind and capable of making this affidavit and I have personal knowledge of the fact stated herein.

# THIS DOCUMENT

“I am the [father/mother/guardian] of said child.

“I have made a diligent search to locate the natural parent of the child who is the subject of this proceeding which has not signed an Affidavit of Relinquishment of Parental Rights. I have performed the following in an attempt to locate [Missing Parent's Name].

[Description of steps taken by affiant to locate missing parent]

# THANK YOU

“Despite exercising due diligence, I have not been able to locate the whereabouts of said [Name]. I believe that said person is a transient person and absent from this state. I do not believe that said person now resides in [State]. I have been unable to locate the current

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business or residence address of said person. Furthermore, said person is not a member of the armed forces of the United States.

**PREVIEW**

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Petitioner

---

[Affidavit or Notary public seal]  
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**Information & Instructions: Service of Citation by Publication**

1. §102.010 of the Texas Family Code states:

(a) Citation may be served by publication as in other civil cases to persons entitled to service of citation who cannot be notified by personal service or registered or certified mail and to persons whose names are unknown.

(b) Citation by publication shall be published one time. If the name of a person entitled to service of citation is unknown, the notice to be published shall be addressed to "All Whom It May Concern." One or more causes to be heard on a certain day may be included in one notice and hearings may be continued from time to time without further notice.

**THIS DOCUMENT**

**Form: Service of Citation by Publication**

STATE OF [State] **THANK YOU**

To [Names of persons to be served with citation] and to all whom it may concern [if the name of any person to be served with citation is unknown], Respondent(s),

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"You have been sued. You may employ an attorney. If you or your attorney do (does) not file a written answer with the clerk who issued this citation by [Deadline to answer], a default judgment may be taken against you.

The petition of \_\_\_\_\_, Petitioner, was filed in the Court of \_\_\_\_\_ County, [State], on \_\_\_\_\_, against [Respondent's name] , Respondent(s), which cause of action is numbered \_\_\_\_\_ , and entitled

^In the interest of \_\_\_\_\_ , a child (or children)'. The suit requests (statement of relief requested, e.g., terminate the parent-child relationship). The date and place of birth of the child (children) who is (are) the subject of the suit: \_\_\_\_\_

"The court has authority in this suit to render an order in the child's (children's) interest that will be binding on you, including the termination of the parent-child relationship, the determination of paternity, and the appointment of a conservator with authority to consent to the child's (children's) adoption.

"Issued and given under my hand and seal of the Court at \_\_\_\_\_, [State], on \_\_\_\_\_

\_\_\_\_\_  
Clerk of the District Court of

[Name of County] County, [State].

By \_\_\_\_\_, Deputy.  
**THANK YOU**

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Form: Order Granting Termination of Parental Rights

**PREVIEW**  
Cause Number \_\_\_\_\_

IN THE INTEREST OF:

[CHILD'S NAME],

[A CHILD]

IN THE DISTRICT COURT OF

[COUNTY NAME], TEXAS

\_\_\_\_\_ JUDICIAL DISTRICT

**ORDER GRANTING TERMINATION OF**

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PARENTAL RIGHTS  
Date of Hearing \_\_\_\_\_

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, came on to be

considered the Petition for Termination filed by Petitioner/s herein, and this cause was heard by the Court.

Appearances of Parties and Ad Litem's Appointed by the Court

Petitioner/s, [names of Petitioner/s] appeared in person and through attorney of record, [name of Petitioner/s' attorney], and announced ready for trial.

**THIS DOCUMENT**

Respondent, [name of Respondent], although duly served with citation herein, did not appear and wholly made default. [or] Respondent, [name of Respondent], waived issuance of citation by Affidavit of Relinquishment of Parental Rights, as well as notice of this hearing, which was filed herein, and did not appear in person. [or] Respondent, [name of Respondent], appeared in person and through attorney of record, [name of Respondent's attorney], and announced ready for trial.

**THANK YOU**

Also appearing was [Guardian Ad Litem's name], appointed by the Court as guardian Ad Litem of the child the subject of this suit. Also appearing was [name of

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attorney ad litem for parent served by publication], appointed by the Court as Attorney  
Ad Litem for [Respondent's Full Name], who was served citation by publication.

**PREVIEW**

Jurisdiction

The Court, after examining the record and hearing the evidence and argument of counsel, finds that it has jurisdiction of this case and of all the parties and that no other court has continuing, exclusive jurisdiction of this case. All persons entitled to citation were properly cited.

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A jury was waived, and all questions of fact and of law were submitted to the Court.

Hearing Record

A record of testimony was duly recorded by the court reporter assigned to this Court.

**THIS DOCUMENT**

Subject Child[ren]

The Court finds that the following child[ren] is/are the subject of this suit:

NAME OF CHILD:

AGE OF CHILD:                      SEX OF CHILD:

BIRTH DATE:                                      BIRTHPLACE:

SOCIAL SECURITY NUMBER:

DRIVER'S LICENSE NUMBER:                      ISSUING STATE:

NAME OF CHILD:

AGE OF CHILD:                      SEX OF CHILD:

**THANK YOU**

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SOCIAL SECURITY NUMBER:

**PREVIEW**

DRIVER'S LICENSE NUMBER:

ISSUING STATE:

Termination

The Court finds by clear and convincing evidence that [Respondent's Full Name] has:

voluntarily left the child alone or in the possession of another not the parent and expressed an intent not to return;

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voluntarily left the child alone or in the possession of another not the parent without expressing an intent to return, without providing for the adequate support of the child, and remained away for a period of at least three months;

voluntarily left the child alone or in the possession of another without providing adequate support of the child and remained away for a period of at least six months;

knowingly placed or knowingly allowed the child to remain in conditions or surroundings which endanger the physical or emotional well-being of the child;

**THIS DOCUMENT**

engaged in conduct or knowingly placed the child with persons who engaged in conduct which endangers the physical or emotional well-being of the child;

failed to support the child in accordance with the parent's ability during a period of one year ending within six months of the date of the filing of the petition;

abandoned the child without identifying the child or furnishing means of identification, and the child's identity cannot be ascertained by the exercise of reasonable diligence;

**THANK YOU**

voluntarily, and with knowledge of the pregnancy, abandoned the mother of the child beginning at a time during her pregnancy with the child and continuing through the

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birth, failed to provide adequate support or medical care for the mother during the period of abandonment before the birth of the child, and remained apart from the child or failed to support the child since the birth;

contumaciously refused to submit to a reasonable and lawful order of a court under Chapter 264;

been the major cause of: (I) the failure of the child to be enrolled in school as required by the Education Code; or (ii) the child's absence from the child's home without the consent of the parents or guardian for a substantial length of time or without the intent to return;

executed before or after the suit is filed an unrevoked or irrevocable affidavit of relinquishment of parental rights as provided by the Texas Family Code;

been convicted or has been placed on community supervision, including deferred adjudication community supervision, for being criminally responsible for the death or serious injury of a child under the following sections of the Penal Code or adjudicated under Title 3 for conduct that caused the death or serious injury of a child and that would constitute a violation of one of the following Penal Code sections:

- (i) § 19.02 (murder);
- (ii) § 19.03 (capital murder);
- (iii) § 21.11 (indecent with a child);
- (iv) § 22.01 (assault);
- (v) § 22.011 (sexual assault);
- (vi) § 22.02 (aggravated assault);

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(viii) § 22.04 (injury to a child, elderly individual, or disabled individual);

(ix) § 22.041 (abandoning or endangering child);

(x) § 25.02 (prohibited sexual conduct);

(xi) § 43.25 (sexual performance by a child); and

(xii) § 43.26 (possession or promotion of child pornography);

had his or her parent-child relationship terminated with respect to another child based on a finding that the parent's conduct was in violation of Paragraph (D), or (E) or substantially equivalent provisions of the law of another state;

constructively abandoned the child who has been in the permanent or temporary managing conservatorship of the Department of Protective and Regulatory Services or an authorized agency for not less than six months, and: (I) the department or authorized agency has made reasonable efforts to return the child to the parent; (ii) the parent has not regularly visited or maintained significant contact with the child; and (iii) the parent has demonstrated an inability to provide the child with a safe environment;

failed to comply with the provisions of a court order that specifically established the actions necessary for the parent to obtain the return of the child who has been in the permanent or temporary managing conservatorship of the Department of Protective and Regulatory Services for not less than nine months as a result of the child's removal from the parent under Chapter 262 for the abuse or neglect of the child;

used a controlled substance, as defined by Chapter 481, Health and Safety Code:

(I) in a manner that endangered the health or safety of the child, and failed to complete a court-ordered substance abuse treatment program; or (ii) repeatedly, after completion of a

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court-ordered substance treatment program in a manner that endangered the health or safety of the child;

**PREVIEW**

knowingly engaged in criminal conduct that results in the parent's imprisonment and inability to care for the child for not less than two years from the date of filing the petition;

been the cause of the child being born addicted to alcohol or a controlled substance, other than a controlled substance legally obtained by prescription, as defined by § 261.001 of the Texas Family Code;

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voluntarily left the child with an Emergency Medical Services Provider without expressing an intent to return.]

[if applicable: ]

executed an unrevoked or irrevocable affidavit of relinquishment of parental rights as provided for by chapter 161 of the Texas Family Code (this affidavit of relinquishment is attached to this petition,

**THIS DOCUMENT**

[or]

The child subject of this proceeding has no living parents. or The names and addresses of the birth parents of the child are unknown.

[or]

The parent-child relationship between the child and the alleged biological father does not exist in law or in fact. It is in the best interest of the child that the Court so decree, and such finding and decree are requested.

**THANK YOU**

[or]

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If any parent-child relationship does exist, has ever existed, or could ever exist between the father or probable father and the child, which is not admitted but which is denied, it is in the best interest of the child that such relationship be terminated, and such termination is requested. As grounds, Petitioners further allege that the father or probable father has voluntarily, and with knowledge of the pregnancy, abandoned the child's mother beginning at a time during her pregnancy with the child and continuing through the birth, failed to provide adequate support or medical care for the mother during the period of abandonment before the birth of the child, and remained apart from the child or failed to support the child since birth.

[or]

If applicable The natural father of the child, who is the subject of this suit, has the right to seek to legitimize the child the Texas Family Code. Said natural father has not sought to exercise said right after being served with citation of service of this proceeding. Accordingly, he has failed to exercise his rights under the Texas Family Code and he has therefore waived said rights. After service of citation of this proceeding, petitioners request that rights to legitimize the child be terminated because he has failed to file a petition or take any action to preserve said rights.

[If applicable: statement regarding paternity registry:]

[Father's Name] has filed a notice of intent to claim paternity by registering with the paternity registry under subchapter D, chapter 160, of the Texas Family Code.

[Father's Name] has provided the registry with the following address: [address, city, state].

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The Court also finds by clear and convincing evidence that termination of the parent-child relationship between [Respondent's Full Name] and the child the subject of this suit is in the best interest of the child.

IT IS THEREFORE ORDERED and DECREED that the parent-child relationship between [Respondent's Full Name] and the child[ren] the subject of this suit is terminated.

Verified Statement Required by §162.002  
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The Court finds by clear and convincing evidence that Petitioner has filed a verified allegation or statement regarding compliance with the Interstate Compact on the Placement of Children as required by §162.002 of the Texas Family Code.

Guardian Ad-Litem's Fees [Attorney Ad-Litem's Fees]

IT IS ORDERED that good cause exists to award [Client's Attorney] a judgment of \$[Amount of attorney fees] for legal services rendered in relation to the child and as Guardian Ad-Litem [Attorney Ad-Litem] for the child[ren] and in the nature of child support, with interest at [interest rate] percent per year compounded annually from the date the judgment is signed until paid. The judgment, for which let execution issue, is awarded against [Respondent's Full Name], Respondent.

These fees are taxed as costs, and [Respondent's Full Name], Respondent is ORDERED to pay the fees to [Guardian Ad Litem's name] by cash, cashier's check, or money order on or before [Date fees are due]. [Guardian Ad Litem's name] may enforce this order for fees in his own name.

IT IS ORDERED that costs of court are to be borne by the party who incurred the n.

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IT IS ORDERED that all papers and records in this case, including the minutes of  
the Court, be sealed.

**PREVIEW**

All relief requested in this case and not expressly granted is denied.

Signed on \_\_\_\_\_.

\_\_\_\_\_  
Judge Presiding

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APPROVED AND CONSENTED TO AS TO BOTH FORM AND SUBSTANCE.

\_\_\_\_\_  
[Name of attorney]  
Attorney for petitioner  
[Street address]  
[City, [State] Zip code]  
[Phone] [Facsimile]  
State Bar Number \_\_\_\_\_

**THIS DOCUMENT**

\_\_\_\_\_  
[Name of attorney]  
Attorney for respondent  
[Street address]  
[City, [State] Zip code]  
[Phone] [Facsimile]  
State Bar Number \_\_\_\_\_

\_\_\_\_\_  
[Name of Guardian Ad-Litem]  
Attorney for Petitioner  
Texas State Bar Number \_\_\_\_\_  
[street address]  
[city, state, and zip]  
[Phone] [Facsimile]  
State Bar Number \_\_\_\_\_

**THANK YOU**

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\_\_\_\_\_  
[Name of attorney Ad-Litem]

Attorney for Respondent  
Texas State Bar Number  
[street address]  
[city, state and zip]  
[Phone] [Facsimile]  
State Bar Number \_\_\_\_\_

**PREVIEW**

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