

§3946. Parental rights; voluntary termination

1. Consent; record; certification matters; invalid consents. When a parent or Indian custodian voluntarily consents to a foster care placement or to termination of parental rights, this consent is not valid unless executed in writing and recorded before a judge of the District Court or Probate Court. The court shall certify in writing that the terms and consequences of the consent were fully explained in detail and were fully understood by the parent or Indian custodian. The court shall also certify that either the parent or Indian custodian fully understood the explanation in English or that it was interpreted into a language that the parent or Indian custodian understood. Consent given prior to, or within 10 days after, birth of an Indian child is not valid.

[PL 2023, c. 359, §5 (NEW).]

2. Foster care placement; withdrawal of consent; return of custody. Any parent or Indian custodian may withdraw consent to a voluntary foster care placement under the laws of this State at any time and, upon such withdrawal, the Indian child must be returned to the parent or Indian custodian.

[PL 2023, c. 359, §5 (NEW).]

3. Voluntary termination of parental rights or adoptive placement; withdrawal of consent; return of custody. In any voluntary proceeding for termination of parental rights to, or adoptive placement of, an Indian child, the consent of the parent or Indian custodian may be withdrawn for any reason at any time prior to the entry of a final decree of termination or adoption, as the case may be, and the Indian child must be returned to the parent or Indian custodian.

[PL 2023, c. 359, §5 (NEW).]

4. Collateral attack; vacation of decree and return of custody; limitations. After the entry of a final decree of adoption of an Indian child in the District Court or Probate Court in a voluntary proceeding, the parent or Indian custodian may withdraw consent to the adoption upon the grounds that consent was obtained through fraud or duress and may petition the court to vacate the decree. Upon a finding by clear and convincing evidence that the consent was obtained through fraud or duress, the court shall vacate the decree and return the Indian child to the parent or Indian custodian. An adoption that has been effective for 2 years or longer may not be invalidated under the provisions of this subsection.

[PL 2023, c. 359, §5 (NEW).]

SECTION HISTORY

PL 2023, c. 359, §5 (NEW).

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