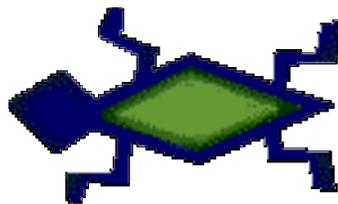


Section 2:

**What Do I Need to Know
Before I Can File a Petition?**



Section 2: What Do I Need to Know Before I Can File a Petition?

Summary

Courts in different counties have different forms, fees, procedures, and requirements that have to be followed when you file your petition. So, you'll need to know:

- Which county to file your petition in
- What specific forms, fees, and procedures are required in the county where you're filing your petition

How do I get this information?

To get the right information, you'll need to read this section to find out what the different forms are, and then talk to the court clerk in the county where you're filing your petition.

Contents

In this section, you will learn:

- How to figure out what county to file your petition in
- What the different forms are that you might have to file
- What fees you have to pay
- What you need to ask the court clerk



How do I know what county to file my petition in?

You can file your petition in:

- the county where you were adopted **or**
- the county where you live now

It might be easier to file your petition and gain access to your birth records in some counties than in others.

If you're not sure which county to file your petition in, you can call your local CILS office to discuss your situation.



What do I do if I wasn't born in California?

If you weren't born in California, but you were adopted in California, you can file your petition in the California county where you live now or where you were adopted. Before you do this though, you should call the Vital Records Office in the state where you were born, explain why you are calling, and ask if they will accept ("honor") an order from a California court to amend your original birth record. Often, Vital Records Offices in other states will honor an order from a California court.

If they agree to accept an order from a California court, make sure you get the name of the person you spoke to in the Vital Records Office, the exact name of the department where they work, and the date you talked to them. You'll need this information when you fill out your petition. Vital Records Offices in other states may also require additional information in the order. Be sure to listen carefully and include all the information they need in the order that you give to the California court.

TIP: You may want to read through both Sections 2 & 3 of this guide before you call the Vital Records Office. This will help you understand what you are asking the Vital Records Office to do and will help you explain your situation to them.

If the state where you were born will not accept a court order from California, call your local CILS office to discuss your situation. CILS may be able to provide you with a referral to a legal aid in the other state to assist you.

What is the Vital Records Office?

- The Vital Records Office is the department in each state that keeps the official birth, death, marriage, and divorce records for all the people who were born, died, married, or divorced in that state.
- The Vital Records Office is a department of the state government. Different states may call this department by a slightly different name. For example, they may call it the Recorder's Office, the Vital Statistics Office, or the Department of Vital Statistics. Whatever it is called, you can usually find a listing in the phone book under the state's Department of Health.

If you already have a copy of your adoptive (amended) birth certificate, you can skip this next section and go to Page 24.

How do I find out where I was adopted?

Your amended (sometimes called **adoptive**) birth certificate lists the county where you were born.

What if I don't have a copy of my amended birth certificate?

- If you think you know where you were born, you can request a copy from that county's Vital Records Office, or from the state Vital Records Office in Sacramento.
- If you don't know the county where you were born, but you think you were born in California, you can request a copy from the state Vital Records Office in Sacramento.

Will I have to pay if I need to get a copy of my amended birth certificate?

Yes.

- If you get a copy from the state's Vital Records Office, it will cost you \$14.
- If you get a copy from the county Vital Records Office, you will have to pay a fee. The amount is different in different counties.
- It may be cheaper to get a copy of your birth certificate from the state than from the county, but it usually takes longer.

You can find out how much it will cost to get a copy of your amended birth certificate from a particular county by calling the County Recorder's Office. Some County Recorder's Offices also list their fees on their websites.

^oSee the list of California County Recorder's Offices in this Kit — Section 7, **Resource G**.

You can also visit the California Department of Public Health's website at: <http://www.cdph.ca.gov> and click on Quick links, Birth Certificates for more information. You can also download their booklet entitled, "How to Obtain Certified Copies of Birth and Death Records."

How do I get a certified copy of my amended (adoptive) birth certificate from the state Vital Records Office?

- To get a certified copy of your amended birth certificate from the state Vital Records Office, you will have to fill out a Certified Birth Certificate Request Form (VS 111).
- You have to have the VS 111 form notarized. See the box below for more information on having a form notarized.

A blank Certified Birth Certificate Request Form (VS 111) can be found in Section 8: Forms (See **Form F**). Form F also includes instructions on how to fill out the form, and a Sworn Statement for you to bring to the notary public with your form.

TIP: The VS 111 is a standard form. Make more than one copy of the VS 111 so you have extra ones in case you need to request more than one certified copy of your birth certificate, or in case you make a mistake you can't erase. (You may have to use the same form, and follow the same instructions, to get a certified copy of your **original** birth certificate later on.)

How do I get the VS 111 form notarized?

- You will need to bring the form to a **notary public** and sign the Sworn Statement in front of them.
- You can find a notary public in the Yellow Pages.
- They will “**notarize**” the form. This means they confirm that you are the person who signed the form.
- You will also have to bring some kind of photo identification, such as your California driver's license or identity card.
- The notary may charge you a small fee.

What if I don't have a California driver's license or photo ID?

You can contact the notary you are going to sign the form in front of, and ask them what other forms of identification they will take. You can also ask them how much the fee will be.

What do I do once I know where I was adopted?

Once you know where you were adopted, look up that county on the list of Contact Information, California County Courthouses. Section 7 — **Resource F**.

What will Resource F tell me?

It will give you:

- A general phone number for the county courthouse, so you can call and get the court clerk's name and phone number (there are often several court clerks, and you need to talk to the one who handles cases like yours).
- The address or addresses of the courthouse, where you file your request.
- In some cases, **Resource F** also includes more specific information, like the phone number of the clerk's office and their hours of operation.

Why do I have to talk to the court clerk before I fill out the forms to unseal my birth records?

It is important to talk to the court clerk because different counties want you to ask the court for your records in different ways, using different kinds of forms. You have to call the court clerk before preparing your forms, because the court clerk is the person who:

- files documents (like your petition) with the court
- makes sure that you follow the proper procedures

Can the court clerk give me legal advice or tell me what to say in the forms?

No. The court clerk can only answer specific questions about the rules you have to follow for filing your request.

What will the court clerk tell me?

- What kind of forms you have to submit to unseal your birth records—specifically, whether that county requires additional forms than the ones in this packet
- Where to file your forms **and**
- How much it will cost



What kind of forms will I need to submit?

- There are several different forms that you might need to submit. It depends on the county.
- The court clerk will tell you which forms are required by the county where you are filing the petition.
- This section will explain what the different forms are, so that when you talk to the court clerk you'll understand what they're talking about.

Forms the clerk might tell you to submit are:

- A petition
- A court order
- A letter to the judge
- Special forms for the county

In most cases, you will have to submit a petition **and** two court orders.

TIP: This kit includes blank copies of the forms for you to fill out, and instructions on how to fill out the forms. These are discussed in detail in Section 3, which you'll go through once you have talked to the court clerk and you know what forms are required by that county.

What is a petition?

The most common type of form that the court asks for is a “**petition**” written on special paper called “**pleading paper.**” The petition:

- is the application to the court that gives the judge background information on your case
- is the form where you will present the information you have about why you think you're Native American, and the evidence you have that supports your claim
- is a “**sworn statement**” (also called a “**declaration**”)
- lets the judge know what laws give him or her the power to unseal your birth records and why you need to have a copy of your original birth certificate.



What is a sworn statement or declaration?

- It is a written statement where the person who signs it swears that the information on the form is true and correct to the best of their knowledge.
- Someone who makes a sworn statement promises that they are telling the truth under “**penalty of perjury.**” This means that if they knew they were lying, they could have to pay a fine or go to jail.
- Because you’re promising that you are telling the truth, saying that you are Native American in a declaration is evidence to present to a judge. (Other people can also make declarations that you are Native American. We explain this in more detail on Page 41.)

TIP: Sometimes petitions and declarations are filed separately, as two different documents. In this case, you will be filing both together, in the same document. This document is called a “petition and declaration on pleading paper.” Most of the time, we will just call it a “petition” in this guide — to keep it simple.

If a court clerk won’t accept the petition and declaration together, in one document, call your local CILS office to discuss your situation.

What does pleading mean?

In your petition, it means to ask the court for “relief.” In this case, “relief” means asking the court to unseal your birth records.

What is pleading paper?

- Pleading paper is special lined paper used by the courts.
- Each line on the paper is numbered.
- Each fact or piece of evidence that you present in your petition goes on a particular numbered line, or series of numbered lines.

What is a court order?

A “**court order**” is a form that is signed by a judge. In it, a judge commands (or “orders”) another government department or agency to take some specific action.

To get your original birth certificate, it will probably take two court orders:

- One so the judge can look at your birth records (this is called a “**Department of Social Services order**”) and
- One so the judge can get a certified copy of your original birth certificate to give to you (this is called a “**Vital Records order**”).
- You have to file the court orders **at the same time** that you file your petition.

What is the Department of Social Services?

The Department of Social Services (or DSS) is the department in each state that handles adoption paperwork, conducts investigations, and stores old adoption files.

What is the DSS Order?

- The DSS order tells the state’s Department of Social Services (DSS) to send the birth records to the court so the judge can look at them.
- The judge signs the DSS order, then gets the birth records and reviews them before deciding whether to sign the Vital Records Order.

What is the Vital Records Order?

- The Vital Records Order lets the judge get a certified copy of your original birth certificate to give to you.
- Usually, the Vital Records Office will send **both** the “**adoption certificate**” and the birth certificate together.

What is an adoption certificate?

- It’s a one-page document that looks like a birth certificate
- It just lists the names of the child and adoptive parents, the dates of the adoption, and whether the adoption was done through the county or a private agency.

Do all counties require a petition or court order to unseal my birth records?

No. Usually a petition and court orders are required, but some counties just ask you to write a letter to a judge. However, it is rarely done nowadays. A petition and court order is normally required.

Do any counties require other forms, besides a petition or court order, to unseal my birth records?

Yes. Some counties have their own pre-printed form that you have to fill out. Make sure to ask the court clerk if you have to file any specific county forms **in addition** to the petition. These pre-preprinted, county-specific forms are sometimes called “local forms.” If the court clerk will not send you copies of these local forms, you can check the county’s court website for their local forms. Most courts post their local forms on-line. For a listing of local court websites, visit: <http://www.courtinfo.ca.gov/courts/find.htm>

If you are asked to fill out a pre-printed form **instead of** the petition, call your local CILS office before filling out and submitting any forms.



Are there fees I have to pay to file the petition or other paperwork?

Sometimes. You'll have to ask the court clerk how much they are (they are usually \$350.00).

If there is a charge for filing the petition, you can apply for a “**fee waiver.**” A fee waiver is an application to the court asking the court not to charge you any fees for opening and filing a case. (You file the fee waiver application at the same time you file the rest of your documents with the court clerk.)

How do I apply for a fee waiver?

There are standard court forms that you have to fill out to request a fee waiver.

TIP: Filling out the fee waiver forms can be a complicated process. The court clerk can answer some of your questions. However, we recommend that you either visit the California court's website for an explanation of the forms at: <http://www.courtinfo.ca.gov/selfhelp> or see the CILS Community Legal Education Self-Help Guide, “How Can I Get a Fee Waiver for My Court Fees & Costs?” to help you fill out the forms.

What does a fee waiver cover?

- A fee waiver covers the “**filing fees**” (the amount you have to pay to file your paperwork with the court).
- It does **not** cover the cost of making extra copies of the documents to submit to the court and to keep for your records.
- It does **not** cover costs for a certified copy of your birth certificate.

Will I qualify for a fee waiver?

Fee waivers are based on need. You may qualify for a fee waiver if you get financial assistance from one or more of the following programs:

- SSI (Supplemental Security Income)
- SSP (State Supplemental Payments Program)
- CalWORKS (California Work Opportunity and Responsibility to Kids Act) or Tribal TANF
- the Food Stamp Program
- County Relief, General Relief (G.R.), or General Assistance (G.A.)

You may also qualify for a fee waiver if you are low-income. The fee waiver application will tell you what amount of income is “low.”

What questions do I ask the court clerk?

You need to ask the court clerk:

- what forms you have to file
- how many copies of each petition or form you have to file
- whether you can file the petition by mail or whether you have to bring it to the court clerk in-person
- the address where you need to submit your petition (make sure you get the mailing address if you can submit by mail, and the physical address if you have to submit in person)
- how much the “**filing fees**” are (what it costs)
- to send you the special pre-printed forms for the county (local forms), if there are any
- **make sure you ask the court clerk what his/her name is**

When you talk to the court clerk, use all the information the clerk gives you to answer the questions in the box on the next page. You'll be able to refer back to this box when you get ready to fill out the forms and submit your petition. It is always a good idea to write down exactly what any clerk tells you so that if a judge or somebody else tells you something different, you can show them what the clerk told you.

QUESTIONS FOR THE COURT CLERK

Instructions: When you talk to the court clerk, fill out this box with the information the clerk gives you. Keep this for your records, and refer back to it when you're ready to send out your petition.

The clerk told me I have to submit:

- petition
- 2 blank court orders
- letter to the judge
- special forms for the county
- _____

Remember, if you are told to submit special county forms **instead of** a petition, call CILS.

Note any special instructions or requirements that the clerk gives you here: _____

How many copies do I have to submit? _____

Do I need to include a Self-Addressed Stamped Envelope Yes No

If yes, how many? _____

! Make sure you include enough postage.

Can I file by mail? Yes No

County: _____

Court Clerk name: _____

Court Clerk phone #: _____

Court physical address: _____

Court mailing address: _____

Date & time I spoke to Court Clerk: _____