§ 113. Special provisions relating to adoption from authorized agencies. 1. An authorized agency may consent to the adoption of a minor whose custody and guardianship has been transferred to such agency. An authorized agency may also consent to the adoption of a minor whose care and custody has been transferred to such agency pursuant to section one thousand fifty-five of the family court act or section three hundred eighty-four-a of the social services law, where such child's parents are both deceased, or where one parent is deceased and the other parent is not a person entitled to notice pursuant to sections one hundred eleven and one hundred eleven-a of this chapter.

2. In accordance with subparagraph three of paragraph (g) of subdivision six of section three hundred ninety-eight of the social services law, an authorized agency may submit a written request to a social services district with a population of more than two million for approval to consent to the adoption of a child whose custody and guardianship, or of a child where such child's parents are both deceased, or where one parent is deceased and the other parent is not entitled to notice pursuant to sections one hundred eleven and one hundred eleven-a of this chapter, and whose care and custody, has been transferred to a social services official and who has been placed by the social services official with the authorized agency. If the request is not disapproved by the social services district within sixty days after its submission, it shall be deemed approved, and the authorized agency may give all necessary consent to the adoption of the child. Nothing herein shall result in the transfer of care and custody or custody and guardianship of the child from the social services official to the authorized agency.

3. (a) The agreement of adoption shall be executed by such authorized agency.

(b)(i) If the adoption petition is filed pursuant to subdivision eight of section one hundred twelve of this article or subdivision ten of section three hundred eighty-three-c or subdivision eleven of section three hundred eighty-four-b of the social services law, the petition shall be filed in the county where the termination of parental rights proceeding or judicial surrender proceeding, as applicable, is pending

and shall be assigned, wherever practicable, to the same judge.

(ii) In any other agency adoption proceeding, the petition shall be filed in the same court and, wherever practicable, shall be assigned to the same judge of the county in which parental rights had been terminated, a judicial surrender had been approved or the most recent proceeding under article ten or ten-A of the family court act or section three hundred fifty-eight-a of the social services law had been heard, whichever occurred last, or in the county where the adoptive parents reside or, if such adoptive parents do not reside in this state, in the county where such authorized agency has its principal office. The following procedures shall be applicable in cases where the child is under the jurisdiction of a family court, but where the adoption petition has been filed in a court other than the court that presided over the termination of parental rights, surrender or most recent proceeding under article ten or ten-A of the family court act or section three hundred fifty-eight-a of the social services law, whichever occurred last:

(A) Before hearing such an adoption proceeding, the court in which the adoption petition was filed shall ascertain whether the child is under the jurisdiction of a family court as a result of a placement under article ten or ten-A of the family court act or section three hundred fifty-eight-a of the social services law, a surrender under section three hundred eighty-three-c or three hundred eighty-four of the social services law or an order committing guardianship and custody under article six of the family court act or section three hundred eighty-four-b of the social services law, and, if so, which court exercised jurisdiction over the most recent permanency or other proceeding involving the child.

(B) If the court determines that the child is under the jurisdiction of a different family court, the court in which the adoption petition was filed shall stay its proceeding for not more than thirty days and shall communicate with the family court judge who exercised jurisdiction over the most recent permanency or other proceeding involving the child. The communication shall be recorded or summarized on the record by the court in which the adoption petition was filed. Both courts shall notify the parties and the attorney for the child, if any, in their respective proceedings and shall give them an opportunity to present facts and

legal argument or to participate in the communication prior to the issuance of a decision on jurisdiction.

(C) The family court judge who exercised jurisdiction over the most recent permanency or other proceeding involving the child shall determine whether he or she should assume or decline jurisdiction over the adoption proceeding. In making its determination, the family court judge shall consider, among other factors: the relative familiarity of each court with the facts and circumstances regarding permanency planning for, and the needs and best interests of, the child; the ability of the attorney for the child to continue such representation in the adoption proceeding, if appropriate; the convenience of each court to the residence of the prospective adoptive parent or parents; and the relative ability of each court to hear and determine the adoption petition expeditiously. The court in which the adoption petition was filed shall issue an order incorporating this determination of jurisdiction within thirty days of the filing of the adoption petition.

(D) If the family court that exercised jurisdiction over the most recent permanency or other proceeding determines that it should exercise jurisdiction over the adoption petition, the order of the court in which the adoption petition was filed shall direct the transfer of the proceeding forthwith but in no event more than thirty-five days after the filing of the petition. The petition shall be assigned, wherever practicable, to the family court judge who heard the most recent permanency or other proceeding involving the child.

(E) If the family court that exercised jurisdiction over the permanency or other proceeding involving the child declines to exercise jurisdiction over the adoption petition, the court in which the adoption petition was filed shall issue an order incorporating that determination and shall proceed forthwith.

(iii) Neither such authorized agency nor any officer or agent thereof need appear before the judge or surrogate. The judge or surrogate in his or her discretion may accept the report of an authorized agency verified by one of its officers or agents as the report of investigation hereinbefore required. In making orders of adoption the judge or surrogate when practicable must give custody only to persons of the same religious faith as that of the adoptive child in accordance with article six of the social services law.