

What You Should Know About Adoption

Introduction

Adopting a child can be one of the most rewarding events in life. Through the adoption process, an individual or individuals become the legally recognized parents of a child with all of the rights, duties and responsibilities of natural parents. Adoption also terminates the legal relationship between the child and the birth parents. This pamphlet provides an overview of the adoption process and the laws that protect the child, the birth parents, and the adoptive parents.

Qualifications for Adoption

There are no special age, education, or income requirements to adopt a child. However, prospective adoptive parents will be evaluated, usually by a private or public agency, to assure that they can meet the needs of the child. The evaluation commonly begins with a review of the criminal, medical, and employment backgrounds of the adoptive parents. The cleanliness and safety of the adoptive parent's home, their marital situation, and their experience with children will all be investigated. The agency may also provide the adoptive parents with information about the adoption process. The goal of the evaluation is to assure that the adoption is an appropriate choice for the adoptive parents and that they can meet the needs of the child.

Consents to Adoption

The consent of both birth parents, and in some situations the adopted child, is ordinarily required before adoption can take place. However, an adoption can sometimes be completed without obtaining the consent of a parent who has failed to visit and communicate with the child or who has mistreated the child. Your lawyer can help you take appropriate action to assure that proper consents are obtained so that you can defend against any legal challenges to the adoption.

Many states allow birth mothers who gave adoption consent prior to birth to revoke it for several days after the child has been born. The right of the birth mother to revoke consent given after delivery is usually limited to situations involving fraud, threat, or misrepresentation. For example, the courts might find fraud if the consequences of adoption were not properly explained to the birth mother. Most states also allow birth fathers to contest the adoption if they have not been notified within a required time period, sometimes six months prior to the adoption.

Adoption Procedures

After a child has been found for the adoptive parents, a petition is filed with the clerk of court to obtain approval for the adoption. Notice of the petition's filing must be given to persons who would be affected by the adoption (including the birth parents). The adoption is finalized after a waiting period required by state law. Prior to the adoption hearing, the report of the organization that evaluated the adoptive parents must be filed with the court. Most states require that the adoptive parent appear in court to finalize the adoption. At the conclusion of the hearing, a judge will sign an adoption order confirming that all of the requirements have been met. This completes the adoption. After the adoption has been finalized, a new birth certificate is issued for the child. That certificate will list the adoptive parents as the parents from the time of the child's birth. Once the adoption proceeding is complete there is usually no turning back and no way to "un-adopt" a child.

Effects of Adoption

An adopted child has all the rights of a biological child, including the right to parental support and to inherit. If the child's adoptive parent leaves a will providing for his or her "children" without listing them by name, the adopted child is treated the same as a biological child. If an adoptive parent dies without leaving a will, the adoptive child receives the same share of inheritance under state law as a biological child receives.

Adoption Records

An adopted child has all the rights of a biological child, including the right to parental support and to inherit. If the child's adoptive parent leaves a will providing for his or her "children" without listing them by name, the adopted child is treated the same as a biological child. If an adoptive parent dies without leaving a will, the adoptive child receives the same share of inheritance under state law as a biological child receives.

Children Born Before Marriage

You do not need adoption procedures to become the legal parent of your child born before marriage. The child is yours. Further, the child will be recognized as a child of the marriage after the parents marry, even if

born before the marriage. The registrar of births should issue a new birth certificate for children born prior to marriage upon the filing of a marriage certificate.

Stepparent Adoptions

Stepparents frequently seek to adopt a spouse's child. Again, consent of the living non-spouse parent is commonly required. Consent may not be required if a court determines that the other birth parent has abused the child, failed to provide support or maintain contact with the child. In case of divorce after the adoption, the adoptive parent continues to have all the rights and responsibilities of a biological parent, including the obligation to support the child and the right to seek custody and visitation.

Agency Adoptions

Adoption agencies provide many services in an adoption. They can help you locate a child available for adoption. They sometimes supervise the care of birth mothers and assist them to place their child with adoptive parents. Most agencies have extensive procedures to screen prospective parents. They usually offer counseling services to the adoptive family as well as to the biological parents. Many have waiting lists. Some agencies specialize in placing children from foreign countries.

Foreign Adoptions

Given the added complications of complying with federal and foreign laws, it is advisable to consult a lawyer for foreign adoptions. The adoptive parents must follow the procedures of U.S. Immigration and Naturalization Service (INS) in order to bring the child into the United States. In addition, the child must go through the naturalization process in order to become a U.S. Citizen. The INS has established guidelines for approving adoptions, including the qualifications of the adoptive parents and the child. Factors considered by the INS include the nationality and health of the child. At least one of the adopting parents must be a United States citizen.

Private Adoptions

Private adoptions frequently begin by contacting a lawyer to help find a child available for adoption. Your lawyer may work with physicians who are aware of birth mothers willing to give up their children for adoption. Your lawyer will help you take the steps needed to complete a valid adoption that complies with the law. For example, adoptive parents are allowed to pay a biological mother's medical expenses, but paying the biological mother for the child is a crime. You cannot purchase a child.

Open and Closed Adoptions

In a closed child adoption, the identity of the birth parents and adopting parents are kept secret. Although the parents may be given access to information about each other, it will not include such identifying information as names or addresses.

In open adoptions, both the adoptive and birth parents know each other and the birth parents may continue some contact with the child after adoption. Your lawyer can advise you about the status of open adoptions in your state and prepare an appropriate contract covering such matters as birth parents' visitation or rights to receive pictures and updates regarding the child's development.

Conclusion

The adoption process can be wonderfully rewarding for the child and the adoptive family. It can also provide comfort to the birth parents knowing that the child has a good home. However, the pitfalls of the adoption process must be avoided. Few things are as sad as adoptive parents who have to return a child because the necessary formalities were not followed. Your lawyer may be able to help you find a child to adopt and direct you to resources to help with the financial and emotional aspects of adoption. Your lawyer can advise you about adoption procedures, help you avoid fraud, and protect your legal, financial and emotional well being.

Checklists

1 Important Steps in Adoption Process

- A. Conduct a self assessment
- B. Review types of adoption
- C. Conduct search for child
- D. Complete application

5 Post-Adoption Matters

- A. Add child to your health insurance
- B. Apply for U.S. citizenship for foreign adoptions
- C. Get a Social Security number for your child
- D. Get a birth certificate for your child
- E. Update your will and life insurance policy 6

6 Financial Matters to Consider

- E. Arrange for home study
- F. Review background of birth parents
- G. Seek court approval
- H. Prepare home for the child
- I. Finalize adoption

2 Adoptive Parent Assessment

- A. Health condition
- B. Housing situation
- C. Marital and family status
- D. Personal finances
- E. Work situation

3 Birth Parents and Child Considerations

- A. Consent of birth parents
- B. Counseling for birth parents
- C. Health care for birth parents and child

4 Things to Do While Waiting for a Child

- A. Decorate the child's room
- B. Enroll in a parenting class
- C. Select a name for the baby
- D. Take a CPR course
- E. Plan for day care
- F. Join an adoption support group
- G. Review your finances

- A. Adoption agency fees
- B. Cost of home study
- C. Court costs
- D. Fees for investigation and home study
- E. Financial assistance from state agencies and employer
- F. Legal expenses
- G. Medical expenses

7 Types of Adoption

- A. Agency or private
- B. Domestic or foreign
- C. Open or closed
- D. Stepparent

8 Adoption Agency References

- A. Child Welfare League of America, <http://www.cwla.org>
- B. References provided by adoption agencies
- C. American consular official in country of adoption, <http://www.usembassy.gov/>
- D. Foreign country consular office in United States, <http://www.state.gov/s/cpr/rls/> 9 Information Sources
- A. Adoptive Families magazine, www.adoptivefamilies.com
- B. Bureau of Citizenship and Immigration Services, www.uscis.gov
- C. Child Welfare Information Gateway, www.childwelfare.gov/
- D. Families for Private Adoption, www.ffpa.org/
- E. International Adoption Medicine Program, www.peds.umn.edu/IAC/
- F. Local and internet support groups, www.adoptivefamilies.com/support_group.php
- G. National Adoption Center, www.adopt.org/
- H. State departments for children, family, health, and social services
- I. U.S. Office of Overseas Citizens Services, http://www.travel.state.gov/family/family_1732.html

This pamphlet provides general information. Laws develop over time and differ from state to state. This pamphlet does not provide legal advice about specific legal problems. Let us advise you about your particular situation.