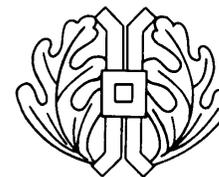


PREVENTIVE LAW SERIES

Adoption



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WHAT IS ADOPTION?

Adoption is the procedure by which a child born to one set of parents becomes the legal child of another parent or couple, who then assume all the parental rights and duties concerning the child. The word "child" does not mean only infants--it refers to one who is under eighteen (18) years of age. The legal result is that the child ceases to be the legal obligation of the natural parents and becomes the responsibility of the adoptive parents.

HOW ARE CHILDREN ADOPTED?

Children may be placed for adoption in a variety of ways as follows:

1. Agency Placement: the procedure for adoption used by licensed adoption agencies.
2. Direct Placement: a.k.a. "independent adoption" is one made by the natural parents directly into an unrelated adoptive home without the help of an agency.
3. Stepparent Adoption: the new spouse of a parent agrees to adopt the child of his/her spouse from a prior relationship (this relieves the non-custodial natural parent of further child support obligations).

ARE THERE MORE PROBLEMS WITH DIRECT PLACEMENT THAN WITH PLACEMENT THROUGH AN AGENCY?

Yes. The problems are greater with direct (or independent) placement than with agency placement. Couples considering adoption should ask themselves the following questions:

1. What do we know about the child's background, medical history, and birth parents?
2. How do we know that the legal procedures have been followed, that the proper consent forms have been obtained from the birth parents, and that the child is legally available for adoption?
3. How can we guarantee privacy and security for ourselves and for the child after the adoption and avoid interference by one or both birth parents?
4. How can the child and we be best protected for the future?

When an agency placement is done, every effort is made to make sure that the child is placed in a suitable adoptive home with parents well matched to the child's background, capabilities, and medical history. The adoptive parents will be told enough about the child to inform them of these factors but not enough to identify the birth parents. The child is placed with parents so that there is no danger or recognition by the natural parents or their friends or relatives. The adoptive parents are assured that the child can legally be adopted. Their home environment and backgrounds are checked and studied thoroughly to make sure that they are ready and able to adopt the child and provide adequately for him or her. An agency placement means that every available protection has been given to the natural parents, the child, and the adoptive parents under state law.

WHAT ARE THE LEGAL STEPS TO ADOPT A CHILD?

When adopting a child, it is necessary to file certain papers in court and, in most cases, to retain a private attorney for assistance. The procedures will vary in individual cases, depending on whether the proposed adoption is one based on abandonment, consent by the other parent(s), or placement by an agency. If you have

a question about whether you will need a private attorney, you should consult a legal assistance officer.

In general, procedures for adoption are handled by a local court in the county where the adoption is to take place. There is usually a filing fee required with the adoption petition. The basic steps are as follows:

1. The first step is filing the petition for adoption. It is signed by the adoptive parents and is filed in the county where the child is living, the county in which the adoption agency is located, or the county in which the adoptive parents live.
2. If the adoption is by consent (either a stepparent adoption or agency placement, for example), the next step is the filing of the consent to the child's adoption by the natural parent(s) who would give such consent. In some states, a child over a certain age, such as twelve, for example, must also consent to his or her own adoption.
3. Next is the order of reference and the home study. The order of reference is involved in referring the case to the adoption agency or, in the case of a stepparent adoption by consent, to the county DSS, or its equivalent, for completion and filing of a home study of the adoptive parent(s), their background and home situation, and how the child and parents interact.
4. Once the home study is completed, an interlocutory decree may be issued. This is a **temporary** court order giving the adoptive parents custody of the child until the final order is issued. The interlocutory decree is NOT a final order. It will usually take up to a year between the interlocutory decree and the final decree of adoption, but this varies from state to state.
5. The final step is the filing of the final order of adoption. This makes the child a legal member of the family, just as if he or she had been born to the adoptive parents. The child is able to inherit real and personal property just like a natural child. After the final decree, the birth certificate of the child is amended and the new certificate will show the adoptive parents as the birth parents of the child.

IF I GIVE MY CONSENT TO HAVE MY CHILD ADOPTED, CAN I CHANGE MY MIND LATER?

The laws of each state permit a natural parent to withdraw his or her consent to the adoption proceedings only in very limited circumstances, such as within three (3) months of giving consent. Again, the rules vary from state to state.

IF MY CHILD IS ADOPTED, DO I STILL HAVE ANY LEGAL RIGHTS OR OBLIGATIONS TO THE CHILD?

No. Once the child has been adopted, the natural parents cease to have any legal rights or obligations toward the child. If a natural parent was paying child support, that obligation would stop once the child was adopted.

LEGAL ASSISTANCE APPOINTMENTS:

For an appointment to see a legal assistance attorney, please contact the Legal Assistance Office, located in Building 610, Naval Air Station North Island, by telephone at (619) 545-6278.

RESOURCES

California Family Code Sections 7660-7670, 8500-8548