



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" refers to anyone who is under 18 years of age. The legal result of adoption 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/Independent Adoption: The procedure for adoption used by the natural parents, placing their child directly into an unrelated adoptive home without the help of an agency.
3. Stepparent Adoption: The procedure for adoption in which 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 AGENCY PLACEMENT?

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 we best protect ourselves and the child for the future?

When an agency places a child, 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 of 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 legally 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 attorney. 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. **PETITION FOR ADOPTION:** This document is signed by the adoptive parents and 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. There can be investigator costs associated with this phase and the adoptive parents must make a satisfactory effort to locate both birth parents. Such action can involve hiring a process server or private investigator to try to locate a missing biological parent. In some states, a child over a certain age, often 12 years, must also consent to his or her own adoption.
3. Next is the order of reference and the home study. The order of reference involves referring the case to the adoption agency or, in the case of a stepparent adoption by consent, to the county Department of Social Services (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. It is usually very difficult to withdraw consent once the interlocutory order has been issued.

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.

NAVY'S ADOPTION REIMBURSEMENT POLICY

Servicemembers may submit a request to their command for reimbursement of up to \$2,000 per child (not to exceed \$5,000 per year) for costs associated with adoption.

LEGAL ASSISTANCE SERVICES

A legal assistance attorney is available by appointment Monday through Thursday from 0800 - 1030 and 1300 - 1500, and Friday from 0900 - 1100. Powers of attorney and notaries are available Monday through Friday at the same times. For more information, please contact the Legal Assistance Office, located in Building 56, 32nd Street Naval Station, San Diego, CA, by telephone at (619) 556-2211, or our office at Naval Air Station North Island – Coronado, Building 318 – Second Deck, above the Fleet and Family Support Center, Saufley Road, by telephone at (619) 545-6437.

RESOURCES

Adoption Reimbursement Policy, OPNAVINST 1754.4A (2014)
California Family Code §§ 7500 et seq., 8500 et seq. (2013).