

Adoption



SPACE BASE DELTA 1 LEGAL OFFICE

135 DOVER STREET, BLDG 350, SUITE 2068
PETERSON SFB, CO 80914-1148
(719) 556-4871
DSN 834-4871



210 FALCON PARKWAY, SUITE 2104
SCHRIEVER SFB, CO 80912-2104
(719) 567-5050
DSN 560-5050

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ADOPTION

Introduction

Adoption is a legal process that creates a parent-child relationship. Each state has agencies and specialized attorneys that arrange and supervise adoptions. Agencies assist birth parents in finding the right adoptive parents for their children. While infant adoption is well-known, older children are also in need of adoptive parents. These children, also known as “foster-adopts,” often have special needs because of their physical or mental handicap, a history of neglect or abuse, and/or have siblings who are also up for adoption.

While adoption procedures vary from state to state, all states require adoptive parents to prepare for the adoption with a licensed child placement agency. This preparation includes an interview and a home inspection to determine whether the adoptive parents "fit" the child's needs. Once the placement agency and state agency are both satisfied, a court will finalize the adoption.

Adoption agencies/attorneys are listed in the phone book and on the internet. However, it is preferable to get recommendations from people who have previously adopted from that attorney/agency.

Foreign Adoptions

Many agencies have long waiting periods (approximately 6+ months) before children are available for adoption. As a result, parents often turn to adopting a child from another country. This complicated process can be made easier by seeking help from an experienced adoption agency. These agencies can help walk you through the process, assist with paperwork, and help identify children for adoption.

The foreign process is controlled by the U.S. Citizenship and Immigration Services. For more information, please visit www.uscis.gov or call 1-800-375-5283. It is important to note that this process may be just as lengthy and complicated as a domestic adoption due to various complications that may arise, such as acquiring a visa for the child.

Making an Adoption Plan for Your Child

Making an adoption plan for your child traditionally means that the birth mother (and usually father) surrender all rights and are relieved of all responsibilities concerning the child. While some states allow a form of open adoption in which the birth parent can maintain contact with the child, the general rule is that adoption terminates all of the birth parents' rights to the child.

Adoption is an irrevocable option. Adoption requires that the birth parents sign an agreement to surrender all of their rights to the child. That is, once a court terminates the parental rights of the birth parents, the birth parents cannot "change their minds" and reinstate their parental rights. Therefore, this decision is not one that should be made without consulting both a doctor and a counselor, whether legal or otherwise.

Each state has an agency that administers adoptions. Until the adoption is finalized, the child will often be placed with an adoptive family who is licensed to provide foster care. The use of private agencies or a personal arrangement with an individual or couple can also be accomplished. However, it is illegal for anyone to pay money to another for a child. Even with this prohibition in place, it is allowable for the adoptive parents to pay the medical expenses and hospitalization costs for the birth mother and child. However, it should be stressed that these payments should NOT be made directly to the birth parents but should only be made through a licensed attorney or with the assistance of an agency.

Rescission or If the Birth Mother Changes Her Mind

While many states have a waiting period before an adoption is final, the period in which a mother may “change her mind” about the adoption is very short. Should she change her mind within the allotted time period, she must assume all rights and responsibilities regarding the child. Adoptions can also be rescinded if the birth parents can show, with clear and convincing evidence, that the adoption was predicated on fraud or duress within 90 days of placement for adoption.

Birth Parent Rights

Traditionally, those who give up their parental rights under adoption have surrendered **all** of their rights and responsibilities toward the child, and the adoptive parents become the legal parents of the child. Legally, it is as if the birth parents never existed. In such a case, the birth parents do not have a right of visitation nor can they involve themselves in the child's life.

Though it is not recognized in all states, open adoption is a more modern trend. In an open adoption, the birth parents still surrenders all of their legal rights. However, an agreement is made between the adoptive parents and the birth parents to exchange identifying information in an effort to maintain contact throughout and after the adoption process. This ensures that all parties are comfortable with the arrangements and prevents the adopted children from being “cut off” from their biological family.

Father's Rights

Similarly, most states require that the biological father be given notice of a pending adoption. In such a case, the father may object to the adoption, but only if the father is willing to assume full responsibility for the child himself. He cannot refuse to allow the adoption to go forward and refuse to raise the child. In such a case, the state will terminate his parental rights.

Adoption Records

Adoption records are usually sealed to prevent access by the public. While there have been movements to both open up and keep adoption records private, provisions on accessing adoption records vary on a state-by-state basis. Some states allow an adopted child to have access to the records once they reach the age of maturity, while other states only release the records if both the child and birth mother agrees. Likewise, in some instances, if the adopted

child develops a serious health problem, the identity of the birth parents may be revealed if it is believed that the child's genetic information would be helpful.

Adoption Tax Credit and Military Reimbursement

A non-refundable tax credit exists for qualified adoption expenses paid or incurred by a qualifying taxpayer. This means that the credit cannot be claimed as a tax refund but rather as a credit against your taxes owed. Practically speaking, you must adjust your tax withholdings in the year that the adoption will finalize. The taxpayer can claim a credit for qualified adoption in the year it becomes final. The maximum amount of the credit for an adoption finalized in 2020 is \$14,300 per child. For a domestic adoption of a "child with special needs," which includes children adopted from the foster care system, the taxpayer may claim the entire \$14,300 of allowable adoption expenses regardless of expenses actually incurred. The tax credit is available for each child who is adopted. The credit begins to phase out when a taxpayer has a Modified Adjusted Gross Income (MAGI) of \$214,520. If the adoption takes place later in the calendar year, the credit can roll forward for up to five years. Keep in mind, the credit changes each year and typically adjusts upwards.

Additionally, the military will reimburse active duty members for certain expenses incurred in the adoption process, up to a maximum of \$2,000.00 per child, and \$5,000.00 per calendar year. Please see your finance office for details and restrictions.

Conclusion

If you are contemplating adopting a child, the first step should be to contact an experienced civilian attorney or an agency licensed in the state in which the adoption will take place. Once you have talked to them, you will be on the path to parenthood.