

Adoptions in Alabama

WHAT IS ADOPTION?

Adoption is the legal procedure through which a minor is recognized by law as being the son or daughter of the adopting adult(s) and as having all of the rights and duties of such relationship including the right of inheritance. The adoptee takes the name designated by the petitioner.

WHO MAY ADOPT?

Any person who is 19 years or older. The Adoption Code specifically prohibits discrimination in granting adoptions on the basis of marital status or age.

WHO CAN BE ADOPTED?

A minor, defined as being a person under the age of nineteen (19).

WHAT STEPS ARE USUALLY INVOLVED IN AN ADOPTION?

- Pre-placement investigation (may petition court or go to Department of Human Resources or a Licensed Child Placing Agency)
- All necessary consents and/or relinquishments concerning the adoption are obtained
- Guardian ad litem is appointed when either natural parent of the adoptee is a minor or in case of a contested hearing
- Petition court for authority to pay fees or expenses
- Placement of child with petitioners
- File petition for adoption 30 days after placement
- Serve notice or obtain waiver of notice on or from all parties entitled to notice of the adoption
- Post placement investigation
- Hearings
- Affidavits of non-payment
- Accounting of disbursements

WHAT IS A PRE-PLACEMENT INVESTIGATION?

It is an investigation conducted for the purpose of determining the suitability of each petitioner and the home in which the adoptee will be placed. The investigation will include a criminal background search and will focus on any other circumstances relevant to the placement of the adoptee.

IS IT ALWAYS NECESSARY TO HAVE A PRE-PLACEMENT INVESTIGATION?

Yes, unless the persons seeking to adopt are close relatives of the adoptee as listed in Section 26-10A-27; 26-10A-28 of the Code of Alabama.

WHOSE CONSENT TO THE ADOPTION IS REQUIRED?

- The adoptee, if 14 years or older unless mentally incapable of giving consent
- The adoptee's mother
- The adoptee's presumed father if he meets the requirements set out in Section 26-10A-(c) of the Code of Alabama
- The agency to whom the adoptee has been relinquished of which holds permanent custody except that a court may grant an adoption without the agency's consent when it would be in the child's best interest and the agency's withholding of consent is unreasonable
- The putative father is known; provided that he responds within 30 days after receiving notice of the adoption.

CAN A MINOR CONSENT TO THE ADOPTION OF HIS OR HER CHILD?

Yes, however, prior to such consent the court must appoint the minor parent a guardian ad litem to represent the minor's interests. A minor who is 14 years of age or older can nominate a guardian ad litem to protect his or her interests.

CAN A PERSON REVOKE A CONSENT TO ADOPTION EXECUTED BY HIM OR HER DUE TO THE FACT THAT AT THE TIME THE CONSENT WAS GIVEN THAT PERSON WAS A MINOR?

No, a consent or relinquishment executed by a parent who is a minor shall not be subject to revocation by reason of such minority.

WHEN, WHERE AND IN WHAT FORM MUST A CONSENT OR RELINQUISHMENT FOR ADOPTION BE GIVEN?

A consent or relinquishment for adoption may be given at any time. The pre^abirth consent of the mother must be signed or confirmed before a probate judge. All other pre-birth or post-birth consent or relinquishments must be signed or confirmed before the Probate Judge or clerk of the Probate Court, or someone appointed by the agency conducting the investigation or a notary public. The consent or relinquishment must be in substantially the same form as provided in the adoption code and must be in writing and signed by the person consenting or relinquishing.

WHEN MAY A CONSENT OR RELINQUISHMENT BE WITHDRAWN?

A consent or relinquishment may be withdrawn for any reason five (5) days after the signing of the consent or relinquishment whichever occurs later.

The time to withdraw the consent of relinquishment can be expanded to 14 days if the court finds that such delay is reasonable under the circumstances and is in the best interest of the child.

WHERE IS A PETITION FOR ADOPTION FILED?

A petition for adoption may be filed in the probate court of any of the following counties: where the minor resides; where the petitioner resides or is in military service, or where the office of the agency or institution having guardianship or custody of the minor is located.

WHEN IS A PETITION FOR ADOPTION FILED?

The adoption petition must be filed within 30 days after the minor is placed with the prospective adoption parent(s). If the person(s) seeking the adoption is a stepparent or relative of the adoptee, then the adoptee must reside with the petitioner for a year before such petition is filed. If the child has not lived with the stepparent or relative for a year, the adoption will proceed in the same manner as all other adoptions unless the court waives the residence requirement.

CAN I PAY THE PARENT OF A MINOR OR UNBORN CHILD FOR THE CHILD?

An offer to make such payment is a Class A misdemeanor. To receive payment for a person's consent to adoption is a Class C felony.

WHAT EXPENSES CAN I PAY?

A person seeking to adopt a child may pay maternity connected medical or hospital and necessary living expenses of the mother preceding birth and during pregnancy. Also, during pregnancy related incapacity as long as such payments are made as an act of charity and such payment is not contingent upon placement of the child for adoption. All fees and expenses, including legal, medical, investigative, or other legitimate professional fees may only be paid with court approval.

HOW CONFIDENTIAL IS AN ADOPTION?

The adoption code was designed to keep an adoption as confidential as possible.

(a) Before a final adoption decree is rendered, the only people with access to the adoption records are: the petitioner, the petitioner's attorney; the pre-placement investigator, and any attorney appointed or retained by the minor being adopted. No other person has access to the adoption records unless they obtain a court order after showing good cause to allow them to inspect the records.

(b) All adoption hearings are confidential and held in closed court open only to interested parties and their counsel, except with leave of the court.

(c) After the final decree of adoption is entered, all documents pertaining to the adoption are sealed and identifying information cannot be obtained by anyone except the adoptee under limited circumstances.

(d) The natural parent(s) may consent in writing under oath to disclosure of identifying information to the adoptee when such adoptee reaches the age of 19. The adoptee upon reaching the age of 19 may petition the court for disclosure of identifying information. Such information will not be released to the adoptee without the natural parent(s)' consent unless the court determines it is best after weighing the interests of the parties involved.

WHAT IS THE DIFFERENCE BETWEEN AN ADOPTION BY A STEPPARENT OR A CLOSE FAMILY MEMBER AND OTHER ADOPTIONS?

There is usually a lot less formality and requirements when the adoptee is being adopted by a stepparent or close family member. Unlike all other adoptions, usually no pre-placement or post-placement investigation nor accounting of the cost relating to the adoption are required.

In order to be exempt from these requirements, the adoptee must have lived with the petitioner for at least one year.

CAN GRANDPARENTS OBTAIN VISITATION RIGHTS TO SEE THE ADOPTEE AFTER THE ADOPTION?

Ordinarily the grandparents have no visitation right with their grandchildren when the natural parents' rights have been terminated by adoption. However, at the court's discretion, the court may allow such visitation rights if the child is adopted by a close relative or a stepparent provided it is in the child's best interest. **THIS INFORMATION, WHICH IS BASED ON ALABAMA LAW, IS ONLY TO INFORM AND NOT TO ADVISE. NO PERSON SHOULD EVER APPLY OR INTERPRET ANY LAW WITHOUT THE AID OF A LAWYER WHO ANALYZES THE FACTS, BECAUSE THE FACTS MAY CHANGE THE APPLICATION OF THE LAW.** Prepared by the Alabama Law Institute for the Alabama Probate Judges' Association