



ADOPTION IN ARIZONA

(A.R.S. §§8-101-173)

Office of the Staff Judge Advocate, Luke AFB, AZ, (623) 856-6901

If you are considering adopting a child, this handout should answer many of your questions. It outlines the basic steps of the adoption process and informs you of the various documents required by the court.

WHAT IS AN ADOPTION?

An adoption is the legal way to create the relationship of parent and child between an adult and a child who do not already possess that biological relationship. Under Arizona law, once a final decree of adoption has been entered, the adoptee child acquires the same rights as a natural child including inheritance, child support, etc.

WHO CAN BE ADOPTED?

Any child or a foreign-born person under the age of 21, who is not an illegal alien and who is physically present in the State of Arizona at the time the petition for adoption is filed may be adopted. Adoptions of adults are governed by Arizona Revised Statute § 14-8101 and are handled through probate courts.

ADOPTION PROCEDURE

OBTAIN LEGAL ADVICE

The first step in an adoption is to find legal counsel to assist with the formalities of the process. While representation by an attorney is not required, it is often helpful. Adoption procedures can be confusing for those unfamiliar with them. Under Arizona law, the County Attorney is required to provide free legal representation in any uncontested adoption. An uncontested adoption is one where both natural parents have consented to the adoption. For more information regarding this service, contact the Adoption Section of the Juvenile Division at (602) 372-5437 or their website is:

<http://www.maricopacountyattorney.org>

For a contested adoption (where one or both natural parents object to the adoption) or an adoption where paternity must be established, you will need to hire a private attorney to represent your interests. For assistance in obtaining a civilian attorney, contact the Maricopa County Bar Association's Referral Service at (602) 257-4434.

PRE-ADOPTION CERTIFICATION

Before any prospective adoptive parent may petition to adopt a child, the person shall be certified by the court as acceptable to adopt children. A person(s) wishing to adopt must submit an application to the court, an adoptive agency, or a division. The application must include a financial statement, a physician's or a registered nurse practitioner's statement of each applicant's physical health, and fingerprints for the applicant(s) and any adult residing in the household where the child would live. The investigators will have 90 days to review the applicants' complete social history, their financial condition, moral fitness, religious background, physical and mental health and condition, any court action for or adjudication relating to child maltreatment, and other factors and present their findings to the court. The court will then have 60 days to certify the applicant as being "acceptable" or "nonacceptable to adopt children." A certification remains in effect for 18 months from the date of its issuance. Any applicant certified as "nonacceptable" may petition the court to reconsider. Such applicants, however, cannot reapply for certification for one year from the decision date.

NOTE: IF THE PERSON WISHING TO ADOPT IS THE HUSBAND OR WIFE OF THE NATURAL PARENT (STEP PARENT), OR THE CHILD'S AUNT, UNCLE, SIBLING, GRANDPARENT OR GREAT-GRANDPARENT, THEN A PRE-ADOPTION CERTIFICATION IS NOT REQUIRED.

TEMPORARY CUSTODY

Any Non-Certified person who has actual physical custody of a child **must** petition the court for temporary custody, pending the certification. The petition can be filed no later than five (5) days after such person obtains custody of the child. **FILING FOR TEMPORARY CUSTODY IS NOT REQUIRED WHEN THE PROSPECTIVE PARENT IS THE STEP-PARENT, AUNT, UNCLE OR GRANDPARENT OF THE CHILD, IS CURRENTLY CERTIFIED AS ACCEPTABLE TO ADOPT CHILDREN, OR IS A COURT-APPOINTED GUARDIAN OF THE CHILD.**

ADOPTION PETITION

Once a prospective parent has been certified by the court as "Acceptable," or does not need certification (step-parent, aunt, uncle or grandparent), the next step is to file a Petition for Adoption with the court.

CONSENT

To adopt, consent of the child's natural mother is required. Consent from the child's natural father must be obtained only if: 1) he was married to the child's natural mother at the time of conception (or in between conception and the child's birth); 2) he adopted the child; OR 3) the Court established his paternity. No consent is necessary if a parent has been declared incompetent, is deceased, or has had his/her parental rights severed in a separate court proceeding. Children over the age of 12 must consent to their own adoption.

In some instances the paternity of the child may be in question. That is, the mother is unable to identify the father of the child. The mother of this child shall provide a notarized affidavit listing all potential fathers. Subsequently, a notice shall be served on each potential father describing his rights and responsibilities regarding the child. A potential father who does not file a paternity action or serve the mother within 30 days of notice waives his right to be notified of any judicial hearing regarding the child's adoption or the termination of parental rights and his consent to the adoption is not required.

TECHNICAL REQUIREMENTS OF CONSENT

Consent must be in writing and signed before a notary, or witnessed by two adults. For newborn adoptions, consent **must NOT be signed earlier than seventy-two hours after the baby's birth**. It must indicate to whom the child is to be "given:" either an agency, the Department of Economic Security, or a named individual. ***ONCE A NATURAL PARENT HAS CONSENTED TO THE ADOPTION OF THE CHILD, THAT CONSENT MAY NOT BE REVOKED WITHOUT A SHOWING OF FRAUD, DURESS, OR UNDUE INFLUENCE.***

REPORT OF EXPENSES

A Report of Expenses is required by the court. Unless Petitioner is the child's step-parent, a full account of all expenses incurred during the adoption process must be filed. These include attorney's fees, filing fees, court costs and any payments made to the natural mother, health care costs, etc. This requirement was established to eliminate "baby buying."

Military members are entitled to a reimbursement of up to two-thousand dollars (\$2000.00) per child for adoption-related expenses. Reimbursable expenses include medical costs as well as public and private agency fees, placement fees, and legal fees. To begin the reimbursement process, one DD form 2675 per child must be submitted no later than one year after completion of the adoption. Please be advised that reimbursable expenses are taxable and shall be reported as income.

HEALTH AND GENETIC HISTORY

An agency placing a child up for adoption must compile a detailed, non-identifying health and genetic history of the child's natural parents or their families. This information is forwarded to the prospective parents and is kept on file for at least ninety-nine (99) years. The child's health and genetic history is available only to the adoptive parents, the adoptee (if over 18), the natural parents, and other children of the natural parents. Arizona law prohibits the disclosure of this information to anyone else.

THE ADOPTION HEARING

The final step in the adoption process is the court hearing. The hearing on the Petition for Adoption may not be held until six months after the Petition has been filed. At the hearing, the petitioner will be questioned and must provide the following documentation:

- A. Residency of the child and the prospective parents.
- B. Certification to adopt (if required)
- C. Consent of parents (see previous section)
- D. Consent of the child, if over the age of 12
- E. The birth certificate of the child
- F. Report of Expenses
- G. Health and genetic history

WHERE TO GO FOR HELP

If you have any questions on the adoption process, please contact the base legal office at (623) 856-6901 or the Adoption Section of the Juvenile Division, located in the Maricopa County Attorney's Office at (602) 372-5437. (Revised September 2015)