



# MOUNTAIN POST LEGAL BRIEF

A Preventive Law Service of The Office of the Staff Judge Advocate

Headquarters, Fort Carson

*Keeping You Informed On Personal Legal Affairs*



## ADOPTION PROCEDURES

Consider these questions and answers to help you determine your options, rights, and responsibilities in the adoption process.

### Q: WHAT IS ADOPTION?

A: 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 anyone who is under eighteen 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.

### Q: HOW ARE CHILDREN ADOPTED?

A: Children may be placed for adoption in a variety of ways. These are as follows:

- a. An “agency placement” is the procedure for adoption used by licensed adoption agencies.
- b. A “direct placement” or “independent adoption” or “designated adoption” is one made by the natural parents directly into an unrelated adoptive home without the assistance of an agency.
- c. A “step-parent adoption” is one in which the new spouse of a parent agrees to adopt the child of that parent born before the marriage of the spouses. The legal assistance office can help you with a step-parent adoption in the State of Colorado.

All of these procedures require court approval and most of them require a home study. There is no one form of adoption that is “right” since different procedures may be better for one couple or another.

### Q: WHAT’S THE DIFFERENCE BETWEEN AGENCY PLACEMENT AND DIRECT (NON-AGENCY) PLACEMENT?

A: It might seem at first much easier to adopt a child directly from the mother than to apply to a licensed adoption agency. Many prospective parents are concerned about fees, waiting list, background checks, and home studies. As a practical matter, however, there may be many more problems (although these can be overcome) with direct placements than with agency adoptions. In some states, for example, the hospital will not release an infant to someone other than a natural parent without a valid approval by the county or state Department of Social Services (DSS), or its equivalent. This approval must be obtained well in advance of the baby’s birth. In some states it is a criminal misdemeanor to separate a child under six (6) months of age from his or her natural parents without such approval of county or state authorities. In many states, it is also a crime for the new set of parents (or anyone else) to pay for arrangements, and any other costs. Direct placement, on the other hand, will require considerable effort on the part of the prospective parents regarding the natural parents of the child (both in finding them and obtaining valid and legal consents to the adoption).

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

A: Yes. The problems are greater with independent or direct placement (without an agency) than with agency placement. In addition to the legal problems outlined above, there are many practical difficulties. Couples who wish to adopt should ask themselves:

- a. What do we know about the child’s background, medical history, and birth parents?
- b. How do we know that the legal procedures have been followed, that the proper consent forms have been obtained from the birth parents, and the child is legally available for adoption?
- c. How can we guarantee privacy and security for ourselves and for the child after the adoption and avoid interference by one or both of the birth parents?

***MOUNTAIN POST LEGAL BRIEF is one of a series of informative handouts from the Fort Carson Legal Assistance Division containing general information on topics that legal assistance attorneys frequently advise on. Information provided is general in nature and does not constitute legal advice. Consult an attorney for specific legal advice for your particular situation. You may schedule a legal assistance appointment by calling the Legal Assistance Division at 719-526-5572.***

d. How can we and the child 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 a couple where 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.

**Q: WHAT ARE THE LEGAL STEPS TO BE TAKEN IN ADOPTING A CHILD?**

A: In 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, or placement by an agency. If you have 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.

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

A: The laws of each state permit a natural parent to withdraw his or her consent to the adoption proceedings only in very limited circumstances. Basically, the consent can be withdrawn only within certain time limits, such as within 3 months of giving consent. Again, the rules vary from state to state.

**Q: IF MY CHILD IS ADOPTED, DO I HAVE ANY LEGAL RIGHTS OR OBLIGATIONS TOWARD THE CHILD?**

A: No. Once the child has been adopted, the natural parents cease to have any legal rights or obligations toward the child.

**Q: DOES THE MILITARY PROVIDE ANY FINANCIAL ASSISTANCE FOR ADOPTING PARENTS?**

A: Yes. From time to time Congress approves funding in the DOD budget to reimburse some expenses for adopting parents. Because this program varies annually, contact the Fort Carson Legal Assistance Division for details.

**Q: WHAT ARE THE REQUIREMENTS FOR A STEP-PARENT ADOPTION IN COLORADO?**

A: The petitioner must be 21 years old, married for at least one year to the parent of the child, and everyone must reside in Colorado. The court requires that the petitioner have a fingerprint background check completed. Generally there is no requirement for a home study; however, the court can require a home study under certain circumstances.

**Q: WHAT ARE THE FEES IN COLORADO?**

A: There is a \$139.00 filing fee due to the court at the time of filing and \$16.50 for the fingerprint background check payable to the Colorado Bureau of Investigation. If you want a new birth certificate prepared showing the child's new name and listing the petitioner as the new parent that fee is set by the state issuing the birth certificate. There could also be other fees depending on whether or not the biological parent consents.

**Q: HOW LONG DOES IT TAKE TO DO A STEP-PARENT ADOPTION IN COLORADO?**

A: Once you file, you should receive a court date within the next three to four months.

**Q: WILL THERE BE AN ADOPTION HEARING AND WILL THE CHILD HAVE TO ATTEND?**

A: Yes. There will be a hearing, and the court requires seeing all children. The hearing lasts about 15 minutes and, if the court grants the adoption, you will receive a Final Decree at that time.

**Q: CAN THE LEGAL ASSISTANCE DIVISION ADVISE ME OR HELP ME WITH ADOPTION ISSUES OR PROCEDURES?**

A: Yes. The Fort Carson Legal Assistance Division provides adoption advice on an appointment basis. You should call the Legal Assistance Division to arrange for a consultation.

**Q: WHAT DO I NEED TO BRING WITH ME WHEN I COME IN FOR MY APPOINTMENT?**

A: You will need to bring the state issued copy of the child's birth certificate, any court orders pertaining to the child (e.g., paternity, child support, or divorce decree), and the address for the biological parent.

