

# ADOPTION

## **What is Adoption?**

Adoption is a legal process that establishes a parent/child relationship between two people who are not otherwise related by blood. There are three sets of participants in an adoption: the petitioners (the adoptive parents, who are seeking to adopt the child); the child to be adopted; and the birth parents (the biological parents of the child to be adopted). Not only does the adoption create a new legal relationship between the adopted parents and the child, but it also severs or terminates any legal relationship existing between the child and his or her biological parents. It is, therefore, a significant legal, financial, social and emotional step for all parties involved.

While most adoptions involve children, occasionally petitioners may seek to adopt an adult (a person over the age of 18 years). The information in this pamphlet deals primarily with the adoption of children under the age of 18, but the basic procedures discussed apply to all types of adoptions. When the person to be adopted is 18 years or older, the consent of the biological parents is not required.

The decision to place a child for adoption may arise under a variety of circumstances. Occasionally, parents find it impossible to financially support their child or children. After considering other options, they may determine that placing their child for adoption is the most responsible course of action. More often, unwed parents find that they are unable to assume the responsibilities of parenthood and feel that adoption would be in the best interest of their child.

The most common type of adoption is that in which a stepparent seeks to adopt the child or children of their current spouse. For example, this may occur when the natural parent remarries after the death of their former spouse or after a divorce where the other natural parent is willing to consent (agree) to the adoption. A similar situation may arise when a child is born out of wedlock and the natural parent later marries, with the stepparent desiring to adopt the child. These are known as stepparent adoptions.

## **The Adoption Law**

All adoptions filed in the state of Missouri are governed by the same

basic set of laws (called “statutes”). However, procedures in different counties may vary slightly, due to differences in local rules and practice. Persons interested in adoption should seek the advice of an attorney who practices in the county where the adoption is to be filed to ensure that local procedures are followed. Failure to conform to the local law and procedure may result in delays or, worse, in the court’s outright refusal to allow the adoption.

Any person seeking to adopt must file a petition in the family or juvenile court. The petition may be filed in the county in which (1) the person seeking to adopt resides; (2) the child sought to be adopted was born; (3) the child is located at the time of filing of the petition; or (4) either birth parent resides.

It is generally the practice that married persons jointly seek permission to adopt, although it is possible for individuals (whether married or unmarried) to petition the court. Missouri law requires that those seeking to adopt (petitioners) must be of good moral character and must possess the ability to care for, maintain and educate the child. The primary goal of each adoption proceeding is to promote the best interest and welfare of the child to be adopted.

Missouri adoption law has a strong preference for protecting the privacy of the participants in the adoption process. Access to adoption records is carefully restricted by state law in an effort to remove the process from public curiosity. In many circumstances, the biological parents and the adoptive parents may know each other’s identity. The law permits contact and communication between the biological parents and the adoptive parents. This contact and communication is at the discretion of both the biological and adoptive parents prior to the adoption and after the adoption only at the discretion of the adoptive parents. Your attorney or adoption agency will assist you in these procedures.

Even long after the adoption has been approved by the court, there are legal restrictions in Missouri on an adopted adult’s ability to seek information regarding his or her biological parents. These procedures are another effort to protect the identity of biological parents who have placed their child for adoption and may not wish to be tracked down by the child at a later date.

Adult adoptees (age 21 and over) and biological parents or adult siblings may indicate their desire to be contacted by each other upon the voluntary registration of all parties with the adoption information registry. To obtain a copy of an adoption information registry form, contact the Foster

Adopt Hotline at (800) 554-2222 or online at [dss.mo.gov/cd/adopt/adoir](http://dss.mo.gov/cd/adopt/adoir).

A child may be placed for adoption by the child's parents, the Children's Division (if the parental rights of the natural parents have been terminated by court order), by a licensed adoption agency, or by an attorney, physician or clergyman. It is important to note that no transfer of actual custody for the purpose of an adoption may take place without prior court approval. If such a transfer is accomplished without prior court approval, penalties may apply.

## **The Adoption Process**

Each adoption is unique, but in Missouri most follow a similar process. A child may be placed for adoption by the child's parents, the Children's Division, a licensed adoption agency, or by an attorney, physician or clergyman. No transfer of actual custody can take place without prior court approval. Also, before a child can be placed with adoptive parents, state law requires the adoptive parents to undergo a home study by a licensed social worker. State law also requires the birth parents and child to undergo assessments, which will be provided to the prospective parents.

A birth parent may choose to relinquish parental rights, allowing the child to be adopted. If a birth parent chooses to consent to the adoption, Missouri law requires a child to be at least 48 hours old before a consent is considered valid. Once accepted by the court, the birth parent may not revoke the consent.

A birth parent may allow adoptive parents to pay certain expenses. There are strict regulations governing the types of expenses petitioners in an adoption proceeding can assume. Petitioners are only allowed to pay certain expenses authorized by law or approved by the court. These expenses may include: (1) medical expenses in connection with the birth or illness of the child; (2) counseling services for the biological parent or child; (3) cost for the suitability and placement studies; (4) legal expenses, court costs, travel expenses, and administrative expenses; (5) reasonable living expenses for the biological parents; (6) and any other services or items that the court finds reasonably necessary. Petitioners will be required to disclose any and all fees they have paid related to the adoption — called an "accounting." If the petitioners have paid any expenses not allowed by law or approved by the court, or if the fees paid are unreasonable, the court may not approve the adoption.

If a birth parent does not consent to the adoption, adoptive parents would have to prove the consent is not required because one of the fol-

lowing exists:

1. The birth parent's rights have previously been terminated;
2. The birth parent has previously consented to the future adoption of a child;
3. The birth parent's identity is unknown and cannot be ascertained;
4. A man who has not been established as the father denies paternity;
5. After proper service, the birth parent is in default;
6. The birth parent has a permanent and incurable medical condition that renders the parent unable to provide care for the child; or
7. The birth parent has, for a period of six months, abandoned or neglected the child who is one year of age or older (this period is 60 days if a child is less than one year of age).

If the person to be adopted is 14 years of age or older, his or her written consent to the adoption is required.

The adoption process under Missouri law is a two-step proceeding. The first step involves the transfer of legal custody of the child to the adoptive parents, and the second step is the actual adoption six months later. Once the petition for transfer of custody and adoption is filed, the juvenile court appoints an attorney to act as guardian ad litem to represent the interest of the child who is to be adopted.

Before the court enters a final decree of adoption, the adoptive parents must have had lawful and actual custody of the child for a period of at least six months. At the conclusion of the six-month period, a final adoption hearing is held. At this hearing, the court determines whether it is fitting and proper that the adoption be allowed. Again, the social worker who conducted the home study will be required to make a recommendation to the court. When the court finds that all legal requirements have been met, a judgment of adoption is entered. At this point the court's involvement with the family is concluded. For the purposes of a stepparent adoption, lawful custody is deemed to begin with the marriage of the parents. The parents must be married for at least six months prior to the granting of the stepparent adoption.

Once the final decree of adoption is entered by the court, the court clerk sends to the Bureau of Vital Statistics of the Department of Health and Senior Services a Certificate of Decree of Adoption. Once the bureau receives the certificate, the child's original birth certificate is sealed and a new birth certificate is prepared, upon which the adoptive parents appear as the biological parents of the child.

## **Legal Implications**

When a child is adopted, all relations and rights between a child and its biological parents are terminated, and the child is viewed legally as if it were the natural child of the adoptive parents. Specifically, the biological parents no longer have any rights to contact with or information about the child, although sometimes the adoptive parents will agree to maintain some contact. Further, the child has no right to inherit from his or her biological parents. In a stepparent adoption, the grandparent (the parent of the non-adopting biological parent) may continue to have visitation rights even after the adoption is granted.

## **For Legal Advice, See Your Lawyer**

If you need help finding a lawyer, call The Missouri Bar Lawyer Referral Service at 573/636-3635.

In St. Louis, call  
314/621-6681  
In Springfield, call  
417/831-2783