

# Adoption of Minors in Alabama

## What is an adoption?

Adoption is the judicial act of creating a legal relationship between a parent and a minor which previously did not legally exist.

## Who may adopt?

Only an unmarried individual or a married couple may adopt a minor.

## Who can be adopted?

Any minor, defined as being an individual 18 years of age or younger or an individual is not an adult under the law where he or she resides, may be adopted.

## What steps are usually involved in an adoption?

- (1) A pre-placement investigation is conducted.
- (2) All necessary consents and/or relinquishments concerning the adoption are obtained.
- (3) Placement of adoptee with petitioners.
- (4) The petitioners must file the petition for adoption within 60 days after placement.
- (5) The petitioners must serve notice on (or obtain waiver of notice from) all parties entitled to notice of the adoption.
- (6) A post-placement investigation is conducted.
- (7) The petitioners file a sworn statement of full accounting of disbursements.
- (8) The court holds a dispositional hearing (as well as any contested hearings if necessary).
- (9) The court enters a final judgment of adoption.

## 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 dispensed by the court for good cause or unless the person seeking to adopt is a stepparent or close relative of the adoptee as listed in Alabama Code §§ 26-10E-26 and 26-10E-27.

## Whose consent to the adoption is usually required?

- (1) The adoptee, if 14 years or older, unless mentally incapable of giving consent.
- (2) The adoptee's legal mother or mothers.
- (3) The adoptee's legal father or fathers.
- (4) The putative father if known, provided that he complies with the Putative Father Registry and responds within 30 days after receiving notice of the adoption.
- (5) Any legal custodian or legal guardian of the adoptee.
- (6) The State Department of Human Resources under some circumstances.
- (7) The licensed child placing agency to which the adoptee has been relinquished.

## Can a minor parent consent to the adoption of his or her child?

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

However, if a minor parent gives his or her implied consent, it is not necessary to appoint a guardian ad litem.

## Can a minor parent revoke a consent or relinquishment to an adoption due to the fact that the consent or relinquishment was given when he or she was a minor?

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

# Adoption of Minors in Alabama, continued

## How do you give a consent or relinquishment for adoption?

A consent or relinquishment for adoption may be given at any time. The prebirth consent of the mother must be signed or confirmed before a probate judge. All other prebirth 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 that court to do such, a person 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 within five business days after the birth of the adoptee or within five business days after the signing of the consent or relinquishment, whichever occurs later.

Otherwise, a consent or relinquishment may be withdrawn prior to entry of the final judgment of adoption if the court determines that it was obtained by fraud, duress, mistake, or undue influence or if the adoption petition has been denied following a contested case.

## Where is a petition for adoption filed?

A petition for adoption may be filed in the probate court of any of the following counties:

- (1) The county in which the adoptee is born, resides, or has a legal domicile;
- (2) The county in which a petitioner resides or is in military service;
- (3) The county in which an office of any agency or institution having guardianship or custody of the adoptee is located; or
- (4) Any other county under certain circumstances.

## When is a petition for adoption filed?

The petition must be filed within 60 days after the adoptee is placed with the prospective adoption parent(s) for adoption. If the person seeking the adoption is a stepparent or relative of the adoptee, then the petition may be filed at any time.

## Can I pay the parent of a minor or unborn child for the child?

No! It is a Class A misdemeanor to offer to make such payment. It is a Class C felony to actually pay or receive such payment.

## What expenses can I pay?

A person seeking to adopt a child may pay maternity-connected expenses, medical or hospital expenses, and necessary living expenses of the mother preceding and during pregnancy-related incapacity, provided that such payments are not contingent upon placement of the child for adoption. Court approval is required for any payments.

## How confidential is an adoption?

Very confidential. Adoption records are open to inspection only by the petitioners, their attorney, any pre- or post-placement investigators, any guardians ad litem, any attorney for the adoptee, and any person recognized under court order. All hearings are confidential and held in closed court. Once a final judgment is granted, all papers, pleadings, and other documents related to the adoption are sealed and withheld from inspection except via court order.

## Can grandparents obtain visitation rights to see the adoptee after the adoption?

Usually, a final judgment of adoption will vacate any visitation rights for grandparents, but in the case of stepparent and relative adoptions, the court may allow such visitation rights.

*This pamphlet, which is based on Alabama Law is 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.*



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