

ADOPTION



**Office of the Staff Judge
Advocate
Eielson AFB, Alaska**

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**Legal Assistance & Preventive
Law
Pamphlet Series**

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INTRODUCTION

This pamphlet is intended to give general guidance on adoption and stepparent adoptions in Alaska which is governed by Title 25, Chapter 23 of the Alaska statutes. Every state has agencies that arrange and supervise adoptions by working with both the adoptive parents and the birth parents to match up adoptive parents with children. Generally, the adoptive parents are responsible for paying the birth mother's medical, legal, and other associated expenses while the adoption process is ongoing. Older children are also available for adoption, although in some cases the parental rights of the birth mother and father have already been terminated by the state.

Actual adoption procedures vary from state to state. Nevertheless, all states require adoptive parents to prepare for the adoption with a social worker. This preparation includes an interview and a home inspection to determine whether they are "fit." Once the social worker and state agency are both satisfied, a court will finalize the adoption. Adoption agencies are listed in the phone book, though it may be best to get a referral from an acquaintance instead.

Generally, in stepparent adoptions, if the other parent consents to the adoption, you will not need an attorney. The Alaska Legal Services at (907) 452-5181, sometimes offers instructional classes for people to file their own adoptions.

In this handout, we will discuss the following:

- Foreign Adoptions
- Giving Up a Child for Adoption
- Alaska Adoption Law (including abandonment by one parent)
- Inheritance Rights of Adopted Children
- Financial Assistance for Adoptions

FOREIGN ADOPTIONS

Many agencies have long waiting periods before children are available for adoption. Therefore, some parents often turn to adopting a child from another country; this, however, can be complicated. Anyone attempting to adopt a child from a foreign country can expect to complete a considerable amount of paperwork and work closely with the U.S. Citizenship and Immigration Services (Military Help Line: 1-877-247-4645). It can also be helpful to find another parent that has adopted from the country you are considering and then contact the attorney that the person used.

GIVING UP A CHILD FOR ADOPTION

Giving up a child for adoption traditionally means that the birth mother (and usually father) surrender all rights and are relieved of all responsibilities with respect to the child. While some states allow a form of open adoption in which the birth parent retains some rights, in most states, including Alaska, adoption terminates all birth parent rights to the child.

Adoption is an irrevocable option. That is, once a certain point has passed, the birth parents cannot change their minds and reinstate their parental rights. Thus, this decision is not one that should be made without consulting both a doctor and a counselor, whether legal or otherwise. Adoption requires that the birth parent sign an agreement to surrender all rights to the child.

Each state has an agency that administers adoptions; in Alaska, it is the Department of Health and Social Services, Office of Children's Services, Adoption and Guardianship Program 1-800-478-7307. Up until the adoption is final, the child often will be placed in foster care. The use of private agencies or a personal arrangement with an individual or couple may also be accomplished. It is, however, illegal for anyone to pay money to another for a child.

Even with this prohibition in place, it is allowable for the adoptive parents to pay the medical expenses and hospitalization costs for the birth mother and child.

A child ten years of age or older also is required to consent to an adoption, unless the court believes that it would be in the child's best interest if the child's consent were not required. A parent who signs a consent form must understand that, unless the court agrees to an alternative arrangement, signing the consent will effectively terminate the parent-child relationship.

Adoptions often occur because one or both parents have abandoned a child. In Alaska, consent to adoption is not required if a court finds that a parent has abandoned a child for a period of at least six months. Abandonment may occur if the parent-child relationship has been destroyed due to a parent's conscious disregard of obligations owed to a child. Parental consent to adoption may not be required if the court determines that said parent (who does not have custody of the child) has significantly failed, for at least one year, to meaningfully communicate with the child or to provide for the care and support of the child without a justifiable cause (AS § 25.23.050).

After the court has received a properly filed petition and other documents, a hearing normally will be held before a judge or probate master to determine whether the court can and should order the adoption to occur. The court must determine that the adoption is in the best interests of the child. The court must also determine whether all of the proper legal steps have been taken to insure that the adoption will not be overturned due, for example, to failure to obtain proper consent of all necessary persons. A person objecting to the adoption may argue at the hearing why the adoption should not occur.

If the court approves of the adoption, a Decree of Adoption is issued. A substitute birth certificate

will also be issued to reflect the adoption.

ALASKA ADOPTION LAW

To adopt in Alaska, a Petition for Adoption must be filed in the Superior Court. The petition must set forth certain facts about each person who desires to adopt and about the child to be adopted. Information regarding both of the natural parents of the adoptive child must also be provided in the Petition as well as in a separate form. A certified copy of the child's birth certificate must also be given to the court. If the child is an Indian/Native American child as defined under federal law, additional procedures must be followed to comply with federal regulations. These procedures will not be described in this document.

A husband and wife may adopt a child together. An unmarried person may also adopt, whether or not said person is a parent. The unmarried parent of a child may also adopt.

Generally, the written consent of both biological parents is required prior to the adoption of a child. Consent may also be required of all persons entitled to custody of a child and of other fathers who have adopted the child.

INHERITANCE RIGHTS OF ADOPTED CHILDREN

Under the Uniform Probate Code (UPC) adopted by the State of Alaska, inheritance rights between an adopted child and his or her biological parents are terminated, except in stepparent adoptions. If biological parents or their relatives want to leave property to a child who has been adopted by another family, they must do so by use of a will.

FINANCIAL ASSISTANCE FOR ADOPTIONS

In accordance with 10 U.S.C. §1052, military members may request reimbursement up to \$2,000

per adoptive child or a maximum of \$5,000 per calendar year for qualifying adoption expenses (DoDI 1341.09). In the case of two married military members, only one member may claim reimbursement and the couple is limited to a maximum of \$5,000 per calendar year. Military members can apply for reimbursement by submitting a DD Form 2675, *Reimbursement Request for Adoption Expenses* to their personnel and finance offices no later than two years after the adoption is finalized.

This pamphlet is for basic information on adoption as it relates to military personnel stationed in Alaska. It is not intended to take the place of legal advice from a Judge Advocate. There may be important exceptions in some states to the information presented here. Please contact the 354th Fighter Wing Legal Office for questions and further information.



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