

THE COCHISE COUNTY ATTORNEY GUIDE TO ADOPTION PROCEEDINGS

The Cochise County Attorney's Office may be able to serve as your attorney in an adoption proceeding involving a minor child or children. For representation by our office, children must be under the age of eighteen years *prior to filing the Petition*. Our office is available to represent prospective adoptive parents in adoptions that are not contested. The Petitioner *and not the natural parent* is our client in adoption cases. There is no fee charged to you for our representation but you will be required to pay costs involved.

If the planned adoption is *or becomes* contested our office is unable to represent you. In those situations, we suggest that you seek the assistance of a private attorney in order to proceed. If you have any reason to believe that your petition for adoption may be opposed by someone, we ask that you notify us right away.

Adoptions in Arizona are governed by Title 8 of the Arizona Revised Statutes. The specific requirements set out in those statutes must be met in order for the Court to enter an order of adoption. We will assist you in meeting the statutory requirements.

This guide is intended to provide you with an overview of the adoption process and how the Office of Cochise County Attorney will assist you. We feel it is important that you understand the general process and our respective roles throughout your adoption. Please keep in mind that your particular adoption may have unique circumstances that must be considered and may not be addressed in this general overview. If you intend to request the assistance of our office please wait until you have contacted our office and received our guidance before undertaking any procedure on your own.

Am I able to adopt a child in Arizona?

Pursuant to A.R.S. § 8-103, a prospective adoptive parent must be:

- (a) an adult (i.e. 18 or over); and

(b) a resident of Arizona.

(For purpose of your adoption: A resident of Arizona is a person who is physically present in Arizona and who intends to make Arizona his or her permanent home and has evidence of that intention. Examples of evidence we may require are: paying Arizona taxes, holding an Arizona Drivers License and voting in Arizona. The resident criteria must also be met by military personnel stationed in Arizona.)

Do I need a Pre-Adoption Certification?

If you are one of the persons named in (a) through (c) below, you do not need to obtain Pre-Adoption Certification prior to our office assisting you:

- (a) the husband or wife of the adoptive child's natural parent; or
- (b) the child's uncle, aunt, adult sibling, grandparent or great-grandparent; or
- (c) the widow or widower of (a) or (b) if at the time of death the relative had legal and physical custody of the child and the child lived with you for 24 months before the relative died. (A.R.S. § 8-105(M))

If you are not one of the persons named above, you do need to obtain Pre-Adoption Certification prior to our office assisting you with your adoption.

If I need it, how do I get a Pre-Adoption Certification?

Prospective adoptive parents who need pre-adoption certification should first contact a licensed adoption agency of your choice to do the pre-adoption certification/ investigation. We can refer you to an agency that our office works with or you may consult the local yellow pages to find a listing of local adoption agencies.

The adoption agency will interview you and assist you with processing the application and other forms required. The agency must conduct an investigation and file its investigation report with the court within 90 days of receiving your application (A.R.S. § 8-105(G)).

Once the court has received the report, the court has sixty days to certify you

as either qualified or not qualified to adopt. (A.R.S. § 8-105(H))

When the court certifies you as qualified to adopt, you will be notified of that certification and to contact our office. At that time, we will proceed with the adoption through our office.

What does the Cochise County Attorney's Office initially need from me in order to start the adoption process?

Information

When you call our office, you will be asked some general questions. If you do not need pre-adoption certification, or if you have already been certified, an Adoption Information Sheet (one for each child) will be sent to you.

Fingerprints

If you have not been fingerprinted as part of the pre-adoption certification process, you will be given instructions and fingerprint cards for each adult (any person 18 years of age and older) in the household (with the exception of the natural or legal parent of the child being adopted).

The instructions we will provide to you will include a list of locations where you can get fingerprinted and how much you can expect to pay for the fingerprinting service. (You may know of other agencies that are able to perform fingerprinting that may not be on our list and you are free to use whatever agency you choose.)

Once you have been fingerprinted, you will return the fingerprint cards to our office along with a cashier's check or money order for each card in the amount of \$24.00, payable to "Arizona DPS".

A Background Check

If a Central Registry Records search has not already been performed as part of the pre-adoption certification process, each adult in the household, including the natural parent, must have a search of their name performed by the Department of Economic Security (DES). This process is coordinated through our office and you will be provided with detailed instructions. All household members must be listed on the forms we will

provide to you and each adult household member must provide permission for DES to release information contained in the Central Registry Records to our office.

Who has to consent or be notified of the adoption?

Consent To The Adoption

1. The adoptive child must consent to the adoption if that child is twelve years of age or older.
2. The natural mother of the child being adopted must consent to the adoption unless she is deceased, or her parental rights have been severed.
3. The natural father of the child being adopted, if alive, must consent to the adoption if he was married to the mother during the child's conception or birth, his paternity has been established in court, or his name is on the birth certificate.

Consent from the natural father is not required if:

- a. his parental rights have been severed by a court; or
- b. he was not married to the mother during the child's conception or birth; he is not named on the birth certificate; and paternity has never been established in court. A natural father (whether known or unknown) that meets these requirements is called a "putative father".

Our office will provide Consent Forms to those persons whose consent is required. If you already have signed consent forms, please provide the originals to us for our review.

Putative Fathers Must Be Notified

The natural mother must complete an affidavit that will be filed with the Court that sets out information regarding each potential putative father. (A putative father is a natural father that meets the requirements in 3(b) above.)

Although consent is not required of a putative father, he must be notified of the pending adoption and given an opportunity to assert his legal right

to establish paternity.

The requirements to notify putative fathers are set out in A.R.S. § 8-106 and the Arizona Rules of Court. If your adoption requires that you notify a putative father of this adoption, our office will provide you with a separate informational document entitled “Information Related to 8-106 Procedures” that will assist you in complying with the Arizona laws and rules.

When does the Petition for Adoption get filed?

Once we have processed all the information you have provided and we have obtained the documentation evidencing compliance with the statutory requirements for your adoption, we will prepare a Petition for Adoption for you to sign.

Please understand that each adoption situation is unique and the ability to file the Petition within a certain amount of time can vary. Our office will make every effort to keep you informed of how long your adoption should expect to take and when we will be able to file the Petition for Adoption and have a hearing.

Does someone investigate me or visit me at my home?

Arizona requires that a social study be conducted on all applicants seeking to adopt a child. (A.R.S. § 8-112).

The Social Study May Be A Report Of The Background Check Results

In some circumstances the social study may consist only of the results of the state and federal criminal records check and the Central Registry records check.

The Social Study May Be A Comprehensive Report

In other circumstances, the social study may consist of a comprehensive study prepared by a licensed agency from information you supply them and from their actual in-home meetings with your family and the child. Their report informs the court of their findings and will either recommend or not recommend the adoption. The local agency we utilize to prepare comprehensive social study reports is Catholic Community Services.

Our Office May Require A Comprehensive Social Study Report Even If It Is Not Required By Statute

A comprehensive social study report is not required by Arizona Statute if the prospective adoptive parent is the child's stepparent who has been legally married to the child's natural or legal parent for at least one year and the child has resided with the stepparent and parent for at least one year or the prospective adoptive parent is the child's adult sibling, by whole or half blood, or the child's aunt, uncle, grandparent, or great-grandparent and the child has resided with the prospective adoptive parent for at least one year. (A.R.S. § 8-112(D))

Although a comprehensive social study report may not be required by law, our office or the court may at our discretion, require that a comprehensive social study report be prepared in any case. We will inform you as soon as possible if a comprehensive social study report will be required in your case.

If a comprehensive social study report is required in your case, either by our office or by statute, Catholic Community Services will contact you and arrange to visit and interview you. Their report must be provided to our office and filed with the court at least 10 days before the final hearing on the adoption.

The Cost Of The Comprehensive Social Study

A portion of the cost of the Social Study is the responsibility of the Petitioner. The Petitioner's portion of the cost is calculated as 1% of your combined gross annual income as set out in your Federal Tax Return for the previous year. (The maximum amount to be paid by a Petitioner for a Social Study report is set at \$1,000.00, even if the calculation of 1% of your combined gross annual income indicates your portion would be higher.)

Federal Tax Credit For All Costs Related To Your Adoption

Please note that you may be eligible for a Federal Tax Credit on your Income Tax Return. The tax credit allows you to reclaim all of the costs related to this adoption and we strongly suggest that you discuss the costs related to your adoption and the tax credit with your accountant or tax advisor.

Who has to attend the adoption hearing and when will it be?

The prospective adoptive parents and the child being adopted must attend the adoption hearing unless the Court orders otherwise.

The hearing on the adoption will be held within:

- a. Sixty (60) days after the Petition has been filed if the adoptive child has been living in the home of the prospective adoptive parent or parents for at least one year immediately preceding the filing of the Petition. If the prospective adoptive parent is the stepparent of the child, this requirement applies only if the stepparent has been married to the birth or legal parent of the child for at least one year; or
- b. Ninety (90) days after the Petition has been filed if the adoptive child is under six months of age or has lived in the home of the prospective adoptive parent or parents for at least six months preceding the filing of the petition. If the prospective adoptive parent is the stepparent of the child, this requirement applies only if the stepparent has been married to the birth or legal parent of the child for at least one year; or
- c. Six (6) months after the Petition has been filed in all other cases.

Adoptions are Confidential

You should be aware that adoption matters are considered confidential by Arizona law. Their confidential status means that our office will be limited in who we discuss your case with and we will require releases from our client, the petitioner, in order to discuss your case and work with certain other people or agencies. The petitioner (and not the natural parent) is our client in adoption cases.

Conclusion

You have just read an overview of the adoption process that is followed in the office of the Cochise County Attorney. Although we could not possibly cover every scenario of possible events in an informational guideline such as this, you should now have a better understanding of what must be accomplished by you and our office in order for us to proceed to the final

adoption hearing.

Every step of the way, our office is available to assist you, discuss options with you, and provide support and guidance. We are available to answer your questions at any time during the adoption process. We appreciate your allowing our office to assist you with your adoption and we look forward to working with you.

Office of Cochise County Attorney
Civil Department
Post Office Drawer CA
Bisbee, Arizona 85603
520-432-8700