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Adoption

What is adoption?

Adoption creates the legal relationship of parent and child between a child and an adult who is not the birth parent of the child. An adoption permanently ends the legal relationship between the biological parents and the child. An adoption normally takes place with the consent of the child's birth parents. If a parent places a child with an individual for adoption, a written consent by the parent making the placement must be signed in front of a judge of the Juvenile and Domestic Relations Court before the adoption may even be filed. At the time of the consent signing, the judge makes the adoptive parents the legal guardians of the child for the duration of the adoption process.

Must both biological parents sign the consent?

Yes, even if the biological parents were never married, unless:

1. The parental rights of a parent have already been ended by a court, or,
2. The child was born out of marriage and the father is unknown or cannot be found after compliance with the Birth Father Registry Notification requirements, or,
3. A birth father denies under oath and in writing the paternity of the child, or,
4. The birth father is convicted of a violation of certain criminal sexual offenses listed in Va. Code § 18.2-61, § 18.2-63, § 18.2-366, or an equivalent offense of another state, or has been found by clear and convincing evidence to have engaged in the conduct prohibited by those subsections, whether or not the birth father has been charged with or convicted of the alleged violation, and the child was conceived as a result of such violation or conduct, or,
5. One or both birth parents, without just cause, has neither visited nor contacted the child for a period of six months immediately prior to the filing of the petition for adoption or the filing of a petition to accept consent to an adoption.

An adoption can take place without the consent of either biological parent ONLY if the court finds it in the best interest of the child, and/or consent is unobtainable.

What if the biological parents are under age 18?

A parent under the age of 18 may consent to the adoption of his or her child.

Can the consent to adopt be taken back?

A consent to adopt may be taken back for any reason within seven days if not waived and after the seven-day period, ONLY if there is fraud or coercion, or if the adoption parent(s) agree.

Must the child to be adopted consent?

If the child to be adopted is 14 years old or older, he or she must consent to the adoption. UNLESS the court finds the adoption to be in the child's best interests, then consent is not required.

What are the normal steps in an adoption?

The normal steps in an adoption are as follows:

1. A petition for adoption is filed in the Circuit Court of the county where the adoptive parents live. A name change for the child can be requested in the petition. Consents, if required, must be filed with the petition.

2. The court will order the local Department of Social Services to study the home of the adoptive parent(s).

3. If the results of the home study are favorable, the court will then give a temporary order approving the adoption.

   **There are exceptions to the temporary Order waiting period depending on the circumstances of the adoption as outlined in Virgina Code §§ 63.2-1209 and 63.2-1210.*

4. There will be more home visits, at least three times in the next six months.

5. The court will then give a final order approving the adoption.

A final adoption takes away ALL parental rights of the child's biological parents. The adopting parents have all legal duties and rights in dealing with the child.

What information is needed to file a petition for adoption?

The following information usually is needed to file for an adoption.

- Full name, date of birth, and city or county & state of birth of child to be adopted.
- Child's birth certificate.
- Full name, date of birth, and city or county & state of adopting father.
- Education, health, income and occupation of adopting father.
- Family relationship (if any) of adopting father to the child.
- Full name, date of birth, and city or county & state of adopting mother.

- Education, health, income and occupation of adopting mother.
- Family relationship (if any) of adopting mother to the child.
- Date & place of marriage of adopting father and adopting mother.
- Date child to be adopted was placed in the home with the adopting parents.
- Court order that granted custody of the child to the adopting parents.
- Proposed name of the child after adoption.

Can I file for adoption without an attorney?

You may be able to do this, but it is not recommended. Adoption is difficult. You may not be able to finalize the adoption if you don't know the law.

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