

Adoption

Adoption is a court proceeding whereby the adopting parent assumes a parent-child relationship with the child of another, the effect of which is to sever the previously existing parent-child relationship between the child and one or both natural parents. There are several types of adoptions recognized under California statutes: independent adoption, stepparent adoption, agency adoption, inter-country adoption, adoption of adults and adoption of married minors.

In independent adoptions, a child is placed directly in an adoptive home by the natural parent(s), with or without help from a third person such as an attorney. In most cases, the physical custody of the child is given to the adoptive parents at birth, and then a petition for approval of the adoption must be filed in court. The California Department of Social Services or a licensed adoptive agency must conduct an investigation of the adoptive parents and file a written report with the court within 180 days of the filing of the petition.

In stepparent adoptions, the spouse or domestic partner of the child's natural parent seeks to adopt the child. Since adoption cuts off the parental rights of the other natural parent, he or she must give written consent or be found to have abandoned the child. An investigation is made by the County Social Services Agency or a licensed adoptive agency, but it is much less extensive than ones made for independent adoptions.

In agency adoptions, the child is placed in the adoptive home by the California Department of Social Services or a licensed adoption agency after relinquishment by, or termination of the parental rights of, the child's natural parents. Termination of parental rights may occur in connection with a juvenile dependency court case and the child is then placed with the adoptive parents by the Department or adoption agency. In contrast with independent adoptions, the natural parents do not consent to the adoption but rather have lost or given up their parental rights - or are deceased - and the Department or agency has custody of the child. Both the agency and the adoptive parents must join in filing a petition in court.

Inter-country adoptions are primarily controlled by the visa eligibility laws of federal immigration law. The processing of the adoption by the Immigration and Naturalization Service ("INS") involves two distinct determinations: whether the adoptive parents are "suitable" and the submission of a petition to classify the child as an immediate relative who is thereby eligible for a visa. The investigations required to make each of these determinations are usually lengthy and often expensive. The adoption may be finalized in the foreign country or in California.

In adult adoptions or adoptions of married minors, the natural parents do not need to consent and no investigation is usually required. Most such adoptions occur when adoptive parents have raised the child but the consent of the natural parent(s) to the adoption could not be obtained while the child was a minor.

In all adoptions, the child and the adoptive parent(s) have the same rights and duties as if the relationship were a biological one. The natural parents have given up or lost their parental rights, although, by agreement, they may maintain contact with the child.

Anyone who is contemplating adoption should consult with an attorney and/or adoption agency.

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