

# Tyndall AFB Preventive Law Program Series

# Legal Assistance Series

## ADOPTION

*This handout contains basic information. If you have specific questions, come in to see a Judge Advocate for legal assistance.*



OFFICE OF  
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TYNDALL AFB, FL 32403



# **ADOPTION IN FLORIDA**

## **What is adoption?**

Adoption is a serious matter for all concerned. It determines the entire future of the child because it permanently severs ties with the birth parents and relatives and transfers the child into a new family where he or she will remain until grown. The new family is responsible for providing the child with the care and guidance necessary in life that will determine the kind of adult he or she will become. To the birth parents, adoption usually means relinquishing the child forever without the privilege of seeing the child or being otherwise involved in the child's life. Additionally, the birth parents are permanently relieved of all responsibilities of the child's care and financial needs. To the adoptive parents, adoption means providing for and undertaking the care of a child to whom they will have the same obligations as to a child naturally born to them.

Any minor (a person under 18 years) present within the state when the petition for adoption is filed may be adopted. Sibling groups may also be adopted together. Adults can also be adopted by other adults if written consent is given by the adult to be adopted, by his or her spouse, and by his or her natural parents (if living).

## **Who can adopt a child?**

Adults who live and work in Florida, are of good character, and have the ability to nurture and provide for a child may adopt. Married couples and unmarried adults may adopt children. Married couples must jointly apply to adopt a child, unless a stepparent is adopting his or her spouse's children, or unless the court excuses the lack of consent by the other spouse for reason of prolonged unexplained absence, unavailability, incapacity, or unreasonable withholding of consent. A minor may adopt a child if the child is his or her biological child.

The adoption takes place in the county in which the adoptive family lives unless for privacy reasons it is necessary to file the petition for adoption in another county. Florida law specifies that homosexuals are not eligible to adopt.

## **How are children placed for adoption?**

Open Adoption – Birth parents select adoptive parents from written information. Birth parents and adoptive parents choose the degree of disclosure.

Traditional Adoption – Birth parents and adoptive parents allow an agency to select the home for the child. In these situations, there is usually very little disclosure.

Special Needs Adoption – The adoption of black, bi-racial or school-age children and sibling groups, or children with serious medical or emotional problems is considered special and adoptive parents are provided with specialized training. Social workers are available following the placement for support.

Attorney-Assisted Adoption – Birth parents or adoptive parents who wish to plan an independent adoption select an attorney to assist them, who then refers them to a licensed child-placing

agency for the home study and counseling.

Identified Adoptions – This is a method for birth parents who know someone that wants to adopt their child and prefer to use the services of an agency rather than an attorney. If out of state, Florida law requires that they place the child through a licensed child-placing agency with the assistance of the Interstate Compact for the Placement of Children.

### **How can an adoptable child be located?**

A child generally may be placed for adoption by an agency or an intermediary. Agencies may be private or public. All private agencies are licensed by the Department of Children and Families (DCF). The only public child placing agency is DCF. Private adoptions are handled by an intermediary. Only doctors and lawyers may act as intermediaries and the proposed adoption must be reported to the court. Restrictions on placement and reporting requirements protect the best interests of the child, the birth parents, and the adoptive parents, as well as prevent "black market baby business."

### **Who must consent for an adoption?**

Certain parties must either execute written consent or be served notice of the adoption. Consent must occur after the birth of the child. The birth mother is one such party. This also applies to the biological father if he was married to the mother of the child during conception or birth; he adopted the child; or a court established him to be the father of the child. If there is no father that meets these conditions, there may be other men whose consent or notice is required prior to adoption, depending on whether the mother has reason to believe he is the father of the child, whether the father has acknowledge he is the father of the child, and whether he has provided support to the mother and child. Consent and notice is also required for any party in a pending paternity, custody, or termination of parental rights proceeding. In Florida, children over the age of 12 must consent to their own adoption. If the child has lived with a grandparent for six months or more, that grandparent may have priority rights to adopt the child.

### **How does the process of adoption work?**

Once you decide to pursue adoption, you will begin the approval process. The process varies slightly in different parts of the state of Florida. The purpose of this process is to help prospective adoptive parents decide whether they truly want to adopt, what kind of child they want, and to get the tools they need to be successful. The process is also used to screen prospective parents and eliminate those who should not adopt.

Early in the process every prospective adoptive parent must complete the Model Approach to Partnership in Parenting training (MAPP) to explore the issues of adoption. Case workers will visit your home one or more times to do a home study to determine your suitability as an adoptive parent. They will interview you and your spouse, if you have one, and will contact friends and employers for character references. You will be asked to complete a physical examination to determine your state of health.

When your application has been approved, your name will be put on a waiting list. A case worker will provide information about potential children. After you have been matched with a child, you will have a trial period of living together, during which time a case worker will make monthly visits to monitor and help with adjustment problems.

Finally, the adoption will be finalized before a judge. Your child will receive a new birth certificate with your last name on it as your child's last name. Then you and your child are a family in the eyes of the law.

### **Once a natural parent gives consent to an adoption, can it be withdrawn?**

Consent may never be given prior to birth. It must be signed in the presence of two witnesses and be acknowledged before a notary public.

If the prospective adoptive parents are identified, consent may not be given prior to 48 hours after birth, or prior to the day the birth mother is released from the hospital, whichever is earlier. Consent is valid upon execution and cannot be withdrawn absent a showing of fraud or duress.

Under any other circumstances, consent may be given anytime after birth, subject to a 3-day revocation period or a revocation anytime prior to the placement of the minor with the prospective parents, whichever is earlier.

### **How long do the birth parents have to challenge the adoption once the order of adoption is granted?**

An adoption may be challenged based on duress if filed no more than one year after the order of adoption is granted, and for fraud, if filed no more than two years after the order is granted.

### **Are there any residency requirements to adopt in Florida?**

Yes. Florida must be your primary place of work or residence in order to adopt. This requirement does not apply to the adoption of special needs children.

### **Are foreign adoptions recognized in Florida?**

Yes. Florida recognizes adoptions granted in other states and in foreign countries.

### **As a military member, can the military help pay for my adoption expenses?**

You may be able to obtain \$2,000 per child, not to exceed \$5,000, as reimbursement under the Adoption Expense Reimbursement Program. See a Military Personnel Flight representative for further details.