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ADOPTION

Adoption is the legal creation of a parent-child relationship. The adoption process is designed to provide permanent homes for children who need them. Adoptive parents become the child's legal parents, with all of the rights and responsibilities of parenthood.

Are there minimum requirements that I must meet before I will be allowed to adopt?

Yes. There are several requirements that must be met before a judge will approve of an adoption. Some of the requirements include a home study report prepared by a licensed child placement agency, the Department of Social Services or a certified independent social worker; you must be a resident of South Dakota; the child must reside with you at least six months prior to the adoption; you must pass a child abuse registry check; your criminal history, if any, will be reviewed; any child support obligations that you may have will be reviewed to determine if there are outstanding amounts due; you must be at least 10 years older than the minor child you wish to adopt; a child over the age of 12 years old must consent to the adoption; and a married person cannot adopt a child without the consent of their spouse. Single adults may also adopt.

Are there different types of adoptions?

Yes. There are several types of adoptions that include: a) adoptions facilitated by social service agencies; b) private adoptions facilitated by adoption attorneys; c) adoptions facilitated by the South Dakota Department of Social Services; d) interstate adoptions; e) international adoptions; f) adult adoptions; and g) stepparent adoptions.

Where should the adoption petition be filed?

The adoption petition must be filed in the county where the child resides or in the county where the prospective adoptive parents reside.

May anything of value be given to the biological parents?

No. Any person who offers, gives or receives any money or any other thing of value in connection with the placing of a child for adoption, or relating to the consent to adoption, is guilty of a class six felony.

What is a step-parent adoption?

A step-parent adoption is when a step-parent petitions the court for adoption of his or her spouse's child from a former marriage or relationship. Absent a Court Order waiving the requirement of parental consent, both the parent retaining custody and the other birth parent must consent to the adoption. Step-parent adoptions **do not** require an adoptive home study or investigation as the child remains in the home with a birth parent.

In a step-parent adoption, the adoptive step-parent assumes the legal rights and responsibilities for the adoptive child. By consenting to the adoption other birth parent agrees to terminate his or her parental rights to the child.

How much will an adoption cost?

The cost of adoption varies from case to case. The cost of medical care and hospital care may be covered by the biological mother's insurance company. The fees associated with the adoption of a foster child are often paid by the Department of Social Services. Private and international adoptions can be quite costly, based upon their complexity. You should consult an experienced adoption attorney for further guidance on this subject.

What happens when the adoption is finalized by the court?

The final adoption hearing will be conducted by a Circuit Court Judge. All papers, records and information pertaining to an adoption are confidential and the court file will be sealed. Following an adoption, the biological parents relinquish all rights, duties and responsibilities toward the child. A child, when adopted, may take the family name of the person adopting. The adoptive parents and the child will have the legal relation of parent and child and have all the rights and be subject to all the duties of that relationship.

The biological parent relinquishing parental rights in an adoption will have no rights or privileges to have parenting time or other post-adoption contact with the child. However, parents voluntarily terminating their parental rights to allow the adoption may enter into a pre-adoption agreement to allow future contact with the child. It is strongly encouraged parents contemplating an adoption consult with an attorney.

Once an adoption is entered, the adoptive parents will step into the full legal rights and responsibilities for the adoptive child, including supporting that child financially. Further, adoptive children are granted full legal rights of inheritance in the event of the death of the adoptive parent.

Selecting an adoption lawyer

If you do not know an adoption lawyer personally, you may want to consult the lawyer referral service of the State Bar which can be accessed online at the State Bar of South Dakota website: <https://findalawyerinsd.com/>. Choose your lawyer for his or her skill, reputation in the community and integrity. It is very important that you retain an experienced adoption lawyer because there are many special laws that might apply to your case. For instance, there are special federal and state laws that must be followed if the child to be adopted is Native American, if the child is from another country, or if the child or the prospective adoptive parents live in another state.

The adoption process is a wonderful process that gives children the "forever home" that they so greatly deserve.

NOTICE: This brochure is based in South Dakota law and is designed to inform, not to advise. No person should ever apply or interpret any law without the aid of an attorney who knows the facts and may be aware of any changes in the law.