

## Ohio Association of Probate Judges

### • ABOUT THIS PAMPHLET

This publication is designed as a service to the public to provide an understanding of the duties and procedures of the Probate Court in Ohio in reference to adoptions. This pamphlet should not be considered as a legal reference. Additional copies are available on request.

Prepared by the Ohio Association of Probate Judges

### • ADOPTIONS

- WHO MAY ADOPT?
  1. A husband and wife jointly
  2. Step-parent
  3. Single Adult
  
- WHO MAY BE ADOPTED?
  1. Minor child
  2. An adult person determined to be totally and permanently disabled or mentally retarded.
  3. An adult may adopt another adult provided a parent-child relationship existed during the adoptee's minority.
  
- WHAT ARE THE TYPES OF ADOPTION?
  1. Agency: When an agency licensed by the State of Ohio originates and handles the adoption process, Probate Court involvement is limited to the final stages of the adoption. It is the agency who approves the placement, conducts the home study, and recommends the adoption to the Court. Adoption agencies have trained, professional staff, and use legal counsel to insure that adoptions are legally, effectively, and efficiently handled.
  
  2. Independent Adoption: In this instance, a licensed adoption agency is not involved. It is generally handled by a private attorney

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working directly with the Court. On occasion, the child may be related to persons seeking to adopt, such as a grandchild, niece, nephew, etc. Other times, there is no relationship between the child to be adopted and those adopting.

3. Step-parent: The person seeking to adopt is either a step-father or step-mother. The parent whose right is being terminated must consent unless his or her consent is not required.

4. Interstate Adoptions: Where a child is born in one state and the adopting parents are residents of another state, both States' Departments of Human Services must be involved through the Interstate Compact. The Probate Court will supervise these proceedings.

5. Foreign Adoptions: If an Ohio family adopts a child born in another country, the adoption is considered a Foreign Adoption. Adoption may occur in the country of birth or in Ohio. All foreign adoptions must be processed through the U. S. Department of Immigration and Naturalization.

- WHO MUST CONSENT?

The parents of the child to be adopted, a minor being adopted who is over the age of 12 years, and an adult adoptee must consent to adoption. However, under certain circumstances, consent may be waived. Therefore, questions concerning consent should be directed to an agency or attorney.

- WHAT ARE THE RIGHTS OF AN UNWED FATHER?

An unwed father, known as a putative father, may preserve his rights to consent to an adoption of a child born after January 1, 1997, by registering with the Ohio Department of Human Services, Putative Father Registry. Registration must occur either prior to birth, or no later than thirty days after birth. As to the rights of a putative father prior to January 1, 1997, contact an agency or attorney. See the section where can I obtain information about adoptions? of this pamphlet for address of Putative Father Registry.

- WHAT IS AN OPEN ADOPTION?

As an alternative to a traditional closed adoption where identities are not disclosed, an open adoption occurs when both the natural and adopting parents, prior to the adoption, voluntarily disclose their

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identities to each other. Open adoption law applies only to non-relative adoptions, and may involve a non-binding agreement for contact between the adopted child and the natural parent(s). However, all parental control of the adopted child remains with the adopting parents.

For more information on open adoptions, contact an agency or attorney.

- **WHERE SHOULD I FILE FOR ADOPTION?**

Since the Probate Court has exclusive jurisdiction over Adoptions, you are required to file in the Probate Court of the County where any one of the following apply:

1. The Agency having custody of the child is located.
2. The child was born.
3. The person or persons seeking to adopt reside.
4. Person is stationed in Military Service.
5. In an independent placement: where the natural parent resides.

- **IS A HOME STUDY NECESSARY?**

Yes. Regardless of the type of adoption, a home study is required. An individual known as an assessor, who is qualified and trained for the task, will complete the home study.

- **MUST I HAVE AN ATTORNEY?**

Yes, only an attorney or agency may arrange an adoption. However, in the case of a step-parent adoption, check with your local Court to determine if an attorney is required.

- **MUST I APPEAR IN COURT?**

Yes. It is mandatory, whether adopting through an agency, or independently, that the person adopting and the child or children sought to be adopted appear before the Probate Court for the final hearing. In certain circumstances, there may be other appearances required. Any exceptions can only be granted by the Court for good cause shown.

- **ACCESS TO ADOPTION FILES?**

Adoption files are confidential, and closed to the public. The adoptee

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or adopting parents, however, may obtain the following information:

1. Medical Information: Generally, all adoption records are open for the purpose of obtaining the medical background of biological parents. The court or agency involved in the adoption should be contacted for that information.

2. Identifying Information - Biological Parents: Prior to 1964: Copies of the original birth certificate may be obtained from the State Bureau of Vital Statistics.

1964-1996: Adoption records for this period are closed. Identifying information will be released only if the biological parent(s), or an adult sibling, has signed a Release of Information.

1996 to date: Since 9-18-96, adoption records are open unless the biological parent(s) have requested that identifying information be withheld. The State Bureau of Vital Statistics should be contacted.

See back panel of this pamphlet for address of State Bureau of Vital Statistics.

- IS THE BIRTH CERTIFICATE CHANGED?

Yes. The original birth certificate will be sealed and a new birth certificate issued. The adopting parent or parents will be reflected on the birth certificate, just as though they had been the biological parents.

Adopted children born in Ohio or a foreign country, receive their new birth certificate from the Bureau of Vital Statistics, Columbus, Ohio. Children adopted in Ohio, but born in other states, obtain their new birth certificates from the Bureau of Vital Statistics in the state where they were born.

- WHERE CAN I OBTAIN INFORMATION ABOUT ADOPTIONS?

Check your telephone book if an address or telephone number is not listed below.

1. County Offices,  
Probate Court,  
Children Services Board or Department of Human Services

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2. Private Agencies,  
Local Bar Association (for referral to attorney who specializes in  
adoption law),  
Private Adoption Agencies (licensed by the State of Ohio)

### 3. State Agencies

Bureau of Vital Statistics  
Ohio Department of Health  
35 E. Chestnut St., 6th Floor  
P. O. Box 15098  
Columbus, OH 43215-0098

Ohio Putative Father Registry  
30 E. Broad Street, Floor 31  
Columbus, OH 43266-0423

Ohio Department of Human Services  
30 E. Broad Street, Floor 31  
Columbus, OH 43266-0423

- **KNOW YOUR PROBATE COURT**

The Probate Court of Ohio is a State Court with extensive duties and powers. The following facts may help when you have dealings with the Court.

**WHERE?** Located in each of Ohio's counties is a Probate Division of the Court of Common Pleas, or Probate Court. For a Court's hours, address, and telephone number, check the local telephone directory.

**DUTIES:** Major duties of the Court are Guardianships and Conservatorships, Estate Administration, Issuance of Marriage Licenses, Civil Commitments, Adoptions, Name Changes, Trusts, and Land Appropriations.

**RECORDS:** The Judge of the Probate Court is the ex officio clerk of the Court, and maintains all files, journals, and dockets. To examine Probate records, contact the appropriate Probate Court.

**OFFICERS:** The Probate Court in each county is presided over by a

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Judge elected on a non-partisan ballot for a six-year period. To assist in carrying out the extensive duties of the Probate Court, the Judge may appoint magistrates, deputy clerks, and investigators.

LEGAL PRACTICE is restricted, by law, to attorneys who are licensed by the Supreme Court of Ohio. If an individual wishes to handle his or her own case, he or she may do so, but may not represent others. Deputy Clerks are prevented, by law, from practicing law, and therefore, are limited in the amount of advice they are permitted to give.

**ADDITIONAL COPIES**

Additional copies of this pamphlet are available on request, for a nominal fee, by writing to the Ohio Judicial Conference, 10 West Broad Street, Columbus, Ohio 43215.