INSTRUCTIONS FOR CUSTODIAL ADOPTION

These standard instructions are for informational purposes only and do not constitute legal advice about your case. If you choose to represent yourself, you are bound by the same rules and procedures as an attorney.

GENERAL INFORMATION

- The Petitioner must be 21 years of age or older, unless a minor receives consent of court.
- Petitioner has had physical custody of the child (the child has lived with Petitioner) for over one year. Legal custody may have been established through a Domestic Relations, Probate or Juvenile case.
- Any child under 18 years of age residing in the state at the time the Petition for Adoption is filed and legally available for adoption per §19-5-203, C.R.S. may be adopted. Any person between the ages of 18 and 21 may be adopted as a child upon approval of the Court.
- Your case is to be filed in the county in which you reside or where the placement agency is located.
- The prospective adoptive parent(s) must complete both state and federal fingerprint-based criminal history record checks.
- The prospective adoptive parent(s) must complete a TRAILS background check from the Department of Human Services. The individual inquiry form and current fee information is available on their website.
- The prospective adoptive parent(s) must provide a statement informing the Court if they have been convicted of a felony or misdemeanor in one of the following areas:
  - child abuse or neglect.
  - spousal abuse.
  - any crime against a child.
  - any crime, the underlying factual basis of which has been found by the Court to include an act of Domestic Violence.
  - violation of a Protection/Restraining Order.
  - any crime involving violence, rape, sexual assault, or homicide.
  - any felony involving physical assault or battery.
  - any felony involving drugs within the past five years, at a minimum.
- A person convicted of a felony offense that involves child abuse, a crime of violence, or a felony offense involving unlawful sexual behavior **shall not be allowed** to adopt a child.
- If the fingerprint-based criminal history record check reveals a felony or misdemeanor conviction, the Court will review the type of conviction and determine if it meets the requirements as outlined in 19-5-207(2.5)(a.5)(III) where the court **may allow** the party to adopt the child.
- The child must not be the subject of a pending dependency and neglect proceeding.
- Legally available for adoption means one of the following: a Court has terminated the parent-child legal relationship; a Court has approved voluntary relinquishment of the parent-child legal relationship; if the parents are deceased; a court-appointed guardian has executed written and verified consent; or written and verified consent has been given by the parents.
- If child is not legally eligible for adoption, the Petitioner must provide proof that they have consulted with the appropriate local County Department of Social services concerning the possible eligibility of the Petitioner(s) and the child for temporary assistance for needy families (TANF), Medicaid, subsidized adoption and other services or public assistance administered by the County Department of Social Services.
- For additional information, please review §§19-5-200.2. – 19-5-403 of the Colorado Revised Statutes.
- If you have a disability and need a reasonable accommodation to access the courts, please contact your local ADA Coordinator. Contact information can be obtained from the following website: **http://www.courts.state.co.us/Administration/HR/ADA/Coordinator_List.cfm**

COMMON TERMS

Petition:	Document officially commences the Custodial Adoption process.
Petitioner:	The person or persons filing a Petition for Adoption.
Respondent:	The person who files a response against the Petition for Custodial Adoption.
Service of Process:	The Petition is to be served on any party in interest in the Custodial Adoption
Return Date:	The date that the Respondent must file his/her answer by, (listed on the Summons).
May:	In legal terms, “may” is defined as “optional” or “can”.
Shall:	In legal terms, “shall” is defined as “required”.

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If you do not understand this information, please contact an attorney.

FEES

A filing fee of $167.00 is required for each adoption. However, if the Petitioner(s) is/are is seeking to adopt more than one child, and the circumstances/availability for the children to be adopted are the same (e.g. the children are available for the adoption due to the death of the primary caretaker, e.g. biological parent) then only an additional $ 3.00 Vital Stats Fee is required for each additional child the Petitioner(s) is/are seeking to adopt. The Court will determine when circumstances exist for children to qualify under one adoption or separate adoptions such that more than one $167.00 filing fee is required. See Step 4 for completing appropriate forms for each child.

If you are unable to pay, you must complete the Motion to File without Payment and Supporting Financial Affidavit (JDF 205) and submit it to the Court. Once you submit the completed JDF 205 form and a blank Order (JDF 206), the Court will decide whether you need to pay the filing fee.

Other fees that a party to the case may encounter are as follows:

❑ Response	$158.00
❑ Cost of Fingerprints	Varies (Payable to local law enforcement)
❑ Fingerprint-based Criminal History Check	(Payable to CBI by Cash, Money Order or by Credit Card.) **Link for credit card form**
❑ Fingerprint-based Criminal History Check	(Payable to Treasury of the United States by Money Order, Certified Check or by Credit Card)
❑ Service Fees	Varies (not payable through or to the Court)
❑ Home Study Fee	Varies (not payable through or to the Court)
❑ Copy of Documents	$ .75 per page
❑ Certification Fee	$ 20.00
❑ TRAILS Background Check	Payable to Colorado Department of Human Services
❑ Report of Adoption (one per child required)	**Payable to the Bureau of Vital Records upon billing**

FORMS

To access a form online go to **www.courts.state.co.us** and click on the **"Forms"** tab. The packet/forms are available in PDF and WORD by selecting **"Adoption – Custodial".** You may complete a form online and print or you can print it and type or print legibly in black ink. **You may need all or some of these forms. Read these instructions carefully to determine what forms you may need.**

❑ JDF 454	Statement of Attorney fees
❑ JDF 503	Petition for Custodial Adoption
❑ JDF 506	Notice of Adoption Proceeding and Summons
❑ JDF 507	Affidavit of Service/Waiver and Acceptance of Service
❑ JDF 510	Consent to Adoption - Non-Custodial Parent
❑ JDF 511	Consent to Adoption - Child Over 12 Years of Age
❑ JDF 514	Notice of Hearing
❑ JDF 515	Motion to Waive Family Assessment/Home Study
❑ JDF 516	Order Regarding Motion to Waive Family Assessment
❑ JDF 517	Motion and Affidavit for Publication of Notice
❑ JDF 518	Order for Publication and Mailing
❑ JDF 520	Petition to Terminate Parent - Child Legal Relationship
❑ JDF 521	Finding of Fact and Decree
❑ JDF 522	Final Decree of Adoption
❑ JDF 525	Affidavit of Abandonment
❑ JDF 526	Affidavit of Diligent Efforts

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STEPS TO FILING YOUR CASE

Step 1: Complete the required fingerprint-based criminal history record checks.

The prospective adoptive parent must submit a fingerprint-based criminal history record check from the Colorado Bureau of Investigation (CBI) and Federal Bureau of Investigation (FBI) at the time the case is filed. Please follow these steps:

- ❑ Contact your local law enforcement office to be fingerprinted. The Court may provide you with two fingerprint cards, or in the event that your local court does not provide them, your local sheriff's department should. You will see a box labeled "Reason Fingerprinted" on the card in the upper left hand corner. Complete the box with the following: **"§19-5-207 Adoption."** It is important that the CBI and FBI know that the criminal history record check is for an adoption. Please write your name, home address, and date of birth clearly on the fingerprint card. If the agency completing the fingerprints uses an electronic print system, please do not write on the cards as the agency will automatically input the information.
- ❑ You are responsible for mailing or hand-delivering the completed fingerprint cards to the CBI and the FBI. Allow up to 13 weeks to process the criminal history check from the FBI. It can take 4 weeks to receive your criminal history check back from the CBI. **The criminal history results must be conducted within 90 days prior to the filing of the Petition.** For this reason, it is best to mail your FBI fingerprint card, wait 7 - 9 weeks, and then mail or hand-deliver your CBI fingerprint card. You will be provided with a full report from both agencies.
- ❑ The FBI requires an applicant information form to be submitted along with the fingerprint card. This applicant information form, along with additional information on FBI requests, can be obtained at the following link: **https://www.fbi.gov/services/cjis/identity-history-summary-checks**
- ❑ Mail the completed fingerprint card and applicant information form to the FBI at, Criminal Justice Information Services (CJIS) Division, Attn: SCU, Mod. D-2, 1000 Custer Hollow Road, Clarksburg, WV 26306 along with a certified check or money order. **Do not fold the fingerprint card**.
- ❑ Mail or hand-deliver your completed CBI fingerprint card to the CBI at 690 Kipling, Denver, Colorado 80215 along with a money order. **Do not fold the fingerprint card**. If you hand-deliver the fingerprint card, you can also pay by cash.
- ❑ If you have a felony conviction recorded in Colorado or any other state, and you know that it is inaccurate, it is your responsibility to obtain the disposition information from the court where such action occurred as identified in the CBI and FBI reports.
- ❑ **You are also responsible for providing certified copies of any criminal dispositions that are not reflected in the Colorado Bureau of Investigations or Federal Bureau of Investigation records and any other dispositions which are unknown, by contacting the agency where such actions occurred.**

Step 2: Complete TRAILS Background Check.

Information to complete this background check can be found at the Colorado Department Human Services (CDHS) website. The fee for this background check is payable to CDHS. This is not a JDF form. Please use the following link to access information about obtaining a TRAILS background check.

Trails Background Check

Step 3: Proof of consultation with appropriate local County Department of Social Services agency.

If a child is not legally eligible for adoption, the Petitioner must show that a person has consulted with the appropriate local County Department of Social Services concerning the possible eligibility of the Petitioner(s) and the child for temporary assistance for needy families (TANF), Medicaid, subsidized adoption and other services or public assistance administered by the County Department of Social Services. You will be required to identify on the Petition a date when such consultation occurred.

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Step 4: Complete appropriate forms.

Please refer to the list of required forms above to determine which forms must be submitted when filing your case based on your individual circumstances. The caption on page 4 needs to be completed on all forms filed.

☐District Court ☐Denver Juvenile Court _____County, Colorado Court Address: _____ **In the Matter of the Petition of:** _____(Name of person(s) seeking to adopt) **For the Adoption of the Child**	▲ ▲ **COURT USE ONLY**
Attorney or Party Without Attorney (Name and Address): **Print your name and address here if you are representing yourself.** Phone Number: E-mail: FAX Number: Atty. Reg. #:	Case Number: Division Courtroom
NAME OF FORM	

- ❑ **Petition for Custodial Adoption (JDF 503):**
  If more than one child is being adopted you will be required to prepare a separate Petition for each child. Each child being adopted will have his or her own case for confidentially purposes. A $167.00 filing fee is required for each adoption. However, if the Petitioner(s) is/are is seeking to adopt more than one child, and the circumstances/availability for the children to be adopted are the same (e.g. the children are available for the adoption due to the death of the primary caretaker, e.g. biological parent) then only an additional $3.00 Vital Stats Fee is required for each additional child the Petitioner(s) is/are seeking to adopt. The Petitions must be filed on the same day.
  - ❑ The Petition must be signed in the presence of a Court Clerk or Notary Public.
  - ❑ Please complete all sections of this form.
  - ❑ Attach the fingerprint based FBI and the CBI criminal history checks to the Petition and identify as Exhibit A. **Make sure that the fingerprint-based criminal history record checks are conducted within 90 days prior to the filing of the Petition.**
  - ❑ Attach TRAILS Background Check and label as Exhibit B.
  - ❑ Attach proof you have consulted with the appropriate local County Department of Social Services for temporary assistance for needy families (TANF), Medicaid, subsidized adoption and other services or public assistance administered by the County Department of Social Services. (See step 3 above).

- ❑ **Verified Statement of Fees Charged (JDF 454):**
  The Petition is to be accompanied by a Statement of Fees disclosing any and all fees, costs, or expenses charged or to be charged by any person or agency in connection with the adoption.

- ❑ **Consent to Adoption - Child Over Twelve Years of Age (JDF 511):**
  - ❑ **Complete this form only** if the child is 12 years of age or older, as his/her consent is required.
  - ❑ This form must be signed in the presence of a Court Clerk or Notary Public.

- ❑ **Notice of Hearing (JDF 514):**
  - ❑ Please complete the caption only on this form.
  - ❑ Provide pre-addressed stamped envelopes for you and the non-custodial parents. For the non-custodial parents use their last known address.

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- ❑ **Motion to Waive Family Assessment/Home Study (JDF 515):**
  The Court may waive the assessment and approval of the potential adoptive parents in cases involving kinship or custodial adoption or may determine and order what kind of information or written report it deems necessary. (§19-5-206(2)(c), C.R.S.)
  - ❑ **Complete this form only** if applicable.
- ❑ **Order Regarding Motion to Waive Family Assessment/Home Study (JDF 516**):
  - ❑ **Complete this form only** if you file a Motion to Waive Family Assessment/Home Study (JDF 515).

- ❑ **Petition to Terminate the Parent - Child Legal Relationship (JDF 520):**
  - ❑ The Court must enter an order terminating the parental rights of the child's parents. (§19-5-210(6), C.R.S.)
  - ❑ Complete all sections of this form.
  - ❑ This form must be signed in the presence of a Court Clerk or Notary Public.

- ❑ **Affidavit of Abandonment (JDF 525):**
  Complete this form only if the birth parent(s) has/have abandoned the child for a period of one year or more, or that the birth parent(s) has/have failed without cause to provide reasonable support for a period of one year or more.

Non-Custodial Consent Forms

Please review sections A – C below to determine the forms to complete and the process necessary to complete based on your individual circumstances.

A. Consent to Adoption is obtained from both birth parents.
You will need to have the non-custodial birth parents complete (JDF 510) based on their custody relationship with the child being adopted.
- ❑ Complete Consent to Adoption – Non-Custodial Parent (JDF 510). Each birth parent should complete all sections on this form if they consent to the adoption.
- ❑ Make sure that you also provide the Non-Custodial Parent(s) with a copy of the Petition and Notice of Hearing.
- ❑ The waiver and acceptance of service must be signed in the presence of a Court Clerk or Notary Public.
- ❑ You are now ready to file your Documents with the Court, see Step 5.

or

B. Consent to Adoption cannot be obtained and whereabouts of the non-custodial birth parent(s) are <u>known.</u>

If you have not obtained consent from the non-custodial birth parent(s) and you know his/her whereabouts, you must complete the following forms and serve them before a hearing will be set to finalize your adoption.

- ❑ **Notice of Adoption Proceeding and Summons (JDF 506).**
  - ❑ Please complete all sections of this form and provide to the Court when you file your Petition.
  - ❑ Once issued/signed by the Court, you can complete service.

- ❑ **Affidavit of Service/Waiver and Acceptance of Service (JDF 507).**
  - ❑ Once the Petition for Custodial Adoption, Petition to Terminate Parent-Child Legal Relationship, and Notice of Adoption Proceeding and Summons have been served on or accepted by the non-custodial birth parent(s), the applicable portion of the Affidavit of Service/Waiver and Acceptance of Service must be completed and filed with the Court

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Service options:

Waiver and Acceptance of Service:

- ❑ This is the easiest form of service. However, the non-custodial parent must be willing to accept the adoption papers and sign the waiver.
- ❑ Have the non-custodial birth parent sign the Original Waiver and Acceptance of Service form before a Court Clerk or Notary Public.
- ❑ File the signed original waiver with the Court.

Personal Service:

- ❑ Select the Sheriff's Department, a private process server, or someone you know who is 18 years or older, who is not a party to the action, and who knows the rules of service to serve the non-custodial parent.
- ❑ Provide the process server with the Notice of Adoption Proceeding (JDF 506), Petition for Custodial Adoption (JDF 503), and Petition to Terminate Parent - Child Legal Relationship (JDF 520).
- ❑ The process server will need to complete the Affidavit of Service and the original will need to be filed with the Court.

or

C. Consent to Adoption cannot be obtained and whereabouts of the non-custodial birth parent(s) is <u>unknown</u>.

If you are unable to obtain the consent of the non-custodial birth parent(s), and you do not know where he or she is located, you will need to file a Motion with the Court requesting service by Publication and the Affidavit of Diligent Efforts (JDF 526) to support your efforts in locating the non-custodial parent. The Motion for Publication can be filed when you file the other adoption forms, see step 5.

❑ **Affidavit of Diligent Efforts (JDF 526).**

- ❑ Complete all sections and please do not alter this form as the Court must have complete information regarding efforts made to locate the non-custodial parent.
- ❑ Identify in your own words, stating the last known address and/or any efforts made to contact or locate the non-custodial birth parent. Keep return receipts, registered mail slips, and any returned mail you might have. This documentation should be attached to your Affidavit.

❑ **Motion and Affidavit for Publication of Notice (JDF 517).**

- ❑ Complete all sections on this form.

❑ **Order for Publication and Mailing (JDF 518).**

- ❑ Complete caption only on this form.
- ❑ Provide pre-addressed stamped envelopes for you and the non-custodial parent at his/her last known address.

Note: Once you receive the Order for Publication and Mailing, it is your responsibility to provide the appropriate newspaper agency with a copy of the Order of Publication and the Notice of Hearing. Service by publication will be in a newspaper published in the county where the action is filed or as ordered by the Court. You are responsible for all publication costs.

Once publication of the Notice of Hearing has been completed, the newspaper agency will provide you with a clipping of the publication along with an Affidavit of Publication. **It is your responsibility to provide this information to the Court. This proof is necessary for the adoption hearing to proceed.**

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Step 5: File Documents with the Court.

Check with the Court to determine if they require all completed forms at the time of filing and if they have any additional filing requirements.

- ❑ You have completed all background checks as mentioned in Step 1 and 2.
- ❑ You have completed the appropriate forms mentioned in Step 4 based on your individual circumstances and have completed the forms identified in Step 6. **Some courts may want you to keep the forms referenced in Step 6 and bring to the Court at the time of the hearing.**
- ❑ Pay the appropriate filing fee.
- ❑ Be sure to provide the appropriate number of pre-addressed stamped envelopes with the Court. This includes envelopes for you and the non-custodial parent.

Step 6: Be prepared for your Adoption Hearing.

Submit the following forms to the Clerk prior to the hearing, unless submitted to the Court at the time of filing. The documents will be signed at the end of the hearing.

❑ **Finding of Fact and Decree (JDF 521).** (*Original and 1 Copy)*
The statute requires that the Court must enter an order terminating the parental rights of the child's parents. (§19-5-210(6), C.R.S.)

- ❑ Complete caption only on this form.

❑ **Final Decree of Adoption (JDF 522).** *(Original and 3 copies for each child)*

- ❑ Complete caption only on this form.
  - **a.** Original is for the file.
  - **b.** One to be certified for the adopting parent, the cost is $20.00 for each form for certification.
  - **c.** One certified copy goes to Vital Records Section of the Colorado Department of Public Health and Environment for purposes of obtaining a new birth certificate.
  - **d.** One for the attorney of record. (if applicable)
  - **e.** Additional certified copies of the decree are $.75 per copy made and $20.00 for certification. .

❑ **Report of Adoption/Obtaining a Birth Certificate. This is not a JDF form. Please use the following link to access the Report of Adoption. http://www.cdphe.state.co.us/certs/adoptreport.pdf**

After the Judge or Magistrate signs the Final Decree of Adoption, the birth certificate can be ordered.

- ❑ You or your attorney will need to prepare a document, called the **Report of Adoption**. Complete items 1 through 10. Section 6 should be completed by the attorney, if applicable. Once you complete the form online, print two copies for submission to the Court.

- ❑ The Court will certify the bottom portion of the form and send the Report of Adoption to the Office of the State Registrar of Vital Statistics within one week from issuing the Final Decree of Adoption.

- ❑ **New Requirement to obtain a Birth Certificate.** The Office of the State Registrar will contact you or your attorney within 4 – 6 weeks from the receipt of the Court order in their office.
  - ❑ You or your attorney will need to complete the application provided by the Vital Records Division with a photocopy of your driver's license, state identification card, passport, or other State or Federally issued ID card (legal representatives must provide proof of client relationship).
  - ❑ **The Vital Records Office will not issue a birth certificate without the required fee and a photocopy of one of the forms of ID mentioned above. If you have an attorney listed in section 6 on the Report of Adoption, the notification will be forwarded to the attorney.**

- ❑ One Report of Adoption is required for each child. **If the child was born in the State of Colorado or born out of the United States**, the Vital Records Office will send Notification and an Application for a

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Certified Copy of a Birth Certificate to your attorney. If no attorney is listed on the Report of Adoption the Notification and Application will be sent to you.

- ❑ **The Court will not be accepting payments for the Colorado Vital Records Office.**

- ❑ If the child was born in another state, please determine what the cost is to obtain a birth certificate in that state. Make a check or money order payable to that state in the amount of the cost to obtain a birth certificate. Please access the link (on page 7 of these instructions) to the National Center for Health Statistics Website to obtain information about obtaining birth certificates.

Helpful Hints when completing the Report of Adoption:

- ❑ Check the Report of Adoption carefully.
- ❑ The Vital Records Section will not accept the report if there are mistakes, cross-outs, or white-out entries.
- ❑ The information on the Report of Adoption in sections 8 – 10 **must agree** with what is on child's current birth certificate.

Preparation of Birth Certificate - If your child was born in Colorado or a foreign country:

The birth certificate will be prepared and issued by the Colorado Department of Public Health and Environment. It takes anywhere from 4 - 6 weeks to prepare a birth certificate in Colorado. It is important that you supply a current address on the Report of Adoption to prevent any delay in getting the Notification and Application for a certified copy of a Birth Certificate to you.

If there are any problems in getting the birth certificate prepared, you will need to contact the Vital Records Section of the Colorado Department of Public Health and Environment directly. The address and telephone number is as follows:

Vital Records/Adoption Specialist
Colorado Department of Public Health and Environment
4300 Cherry Creek Drive South HSVRD-DM-A1
Denver, Colorado 80246-1530
(303) 692-2227
Link to Website: **http://www.cdphe.state.co.us/certs/adoption.html**

Preparation of Birth Certificate - If your child was born in another state:

The Colorado Vital Records section will send the Report of Adoption to the appropriate state. You will need to contact the Vital Records Office in the appropriate state where the child was born to find out the procedure and cost for obtaining a birth certificate. Each state has different laws, regulations, and fees. Please check with them to determine how long it will take to receive a birth certificate from any other state.

You may check the link to the National Center for Health Statistics Website to obtain information about obtaining birth certificates from each state.
http://www.cdc.gov/nchs/howto/w2w/w2welcom.htm

When you receive your certificate please check it over carefully!

Be sure that names, dates, and ages are correct. If there is a mistake caused by the documentation you supplied, you will need to fill out an **Amended Report of Adoption**, which will have to be signed by the Court and then sent to the Colorado Department of Public Health and Environment for correction and re-issuance of another birth certificate. **There is a fee charged by the Vital Records Office for this process.** You will need to contact the Colorado Department of Public Health and Environment for their fee schedule and exchange policy.

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