

Answers to Your Questions About

Relinquishment & Adoption

Excellence

In

Customer Service

Colorado Judicial Branch

<http://www.courts.state.co.us>

June 2002

PART 1: RELINQUISHMENT

What does it mean to relinquish custody of your child?

A final order by the court removes the relinquishing parent or parents of all legal rights and obligations they may have with respect to the child relinquished, but it does not modify the child's status as an heir at law, which stops only upon a following final decree of adoption. The relinquishing parent's or parents' obligation to pay for services received through the Department of Social Services, or other support received, will end after a final decree of adoption or by order of the court at the time of relinquishment. The order of relinquishment releases the relinquished child from all legal obligations to the relinquishing parent or parents.

How can you as a parent relinquish the custody of your child?

First, you and the child to be relinquished must get counseling as the court deems appropriate from the department of social services in the county where you live or from a licensed child placement agency.

Second, you must file a Petition for Relinquishment in the juvenile court with a standardized form from the Colorado Judicial Branch and give the following information:

- The name of both natural parents, if known;
- The name of the child, if named;
- The ages of all concerned parties;
- The reason(s) for which the relinquishment is desired.

You may be able to obtain this form from the courthouse, or you can download it from the Judicial Branch's website:

www.courts.state.co.us

The petition also must include a standardized affidavit of relinquishment counseling prescribed by the Colorado Judicial Branch that includes:

- A statement showing the nature and extent of counseling furnished to the petitioner and, if any, the counselor's recommendations;
- A copy of the original birth certificate or a copy of the application; and
- A statement disclosing any and all payments, gifts, assistance, goods, or services received, promised, or offered to the relinquishing parent in connection with the pregnancy, birth, or proposed relinquishment of the child and the sources of such payments, gifts, assistance, goods, or services.

When the court receives the petition, a hearing will be set on the condition that the requirements have been met by the petitioner. The parent-child legal relationship of a parent is not terminated by relinquishment proceedings unless the parent joins in the petition. If the court finds after the hearing that it is in the best interests of the child that no relinquishment be granted, the court will enter an order dismissing the action.

What does the court do when hearing a relinquishment case?

- The court may appoint a *Guardian Ad Litem* (GAL) for the child. This person, selected by the court, represents the child's interests in the case.
- The court may interview the child to determine his or her wishes in the case.
- The court may seek advice from any expert witnesses.
- The court may order the parties involved in the case to continue counseling with social services.

If the court approves the relinquishment, to whom can the court transfer custody of the child?

If the court ends the parent-child legal relationship of both parents or of the only living parent, the court will take into consideration the racial, cultural, and religious background of the child and will order guardianship of the person and legal custody transferred to:

- The county department of social services; or
- A licensed child-placement agency; or
- A relative of the child; or
- A person determined to be of good moral character through a process that includes an assessment, if the child has been living in this person's home for six months or more, including a foster parent or a designated adoptive parent.

Can the other natural parent of the child claim custody if you relinquish custody?

Yes; however, there must be a hearing to verify that the parent seeking custody meets these requirements:

- He or she would be a suitable parent for the child.
- He or she has established a substantial, positive relationship with the child.
- He or she promptly assumes parental responsibility of the child.

PART 2: ADOPTION

Who may adopt a child?

- Anyone 21 years of age or older, including a foster parent, can petition the court to decree an adoption.
- A minor may petition the court to decree an adoption only if approved by the court.
- A person having a living spouse from whom he or she is not legally separated can petition jointly with the spouse, unless the spouse is the natural parent of the child to be adopted or has previously adopted the child.

Who may be adopted?

A child is available for adoption only upon:

- Order of the court terminating the parent-child legal relationship;
- Order of the court decreeing the voluntary relinquishment of the parent-child legal relationship;
- Written and verified consent of the court-appointed guardian of a child whose parents are deceased;
- Written and verified consent of the parent in a step-parent adoption where the other parent is deceased or his or her parent-child legal relationship has been terminated;
- Written and verified consent of the parent in a step-parent adoption, along with an affidavit or sworn statement of this parent, that the other parent has abandoned the child for a period of one year or more or that the other birth parent has failed without cause to provide reasonable support for the child for a period of one year or more;
- Written and verified consent of the parent having only residual parental responsibilities when custody or parental responsibilities have been awarded or allocated to the other parent in a dissolution of marriage (divorce) proceeding where the spouse of the parent having custody or parental responsibilities wishes to adopt the child;
- Written and verified consent of the parent(s) in a step-parent adoption where the child is conceived and born out of wedlock;
- A statement by the department of human services or its designated agent as to whether any placement arranged outside Colorado was carried out by a child placement agency licensed or authorized under the laws of another state to make placements;

- Verification by the child placement agency, a county department of social services, or the attorney for the petitioner in any adoption proceeding that any custody obtained outside of Colorado was acquired legally by proceedings according to law;
- Verification by the department of human services or its designated agent that any custody obtained outside of Colorado was acquired by proceedings sanctioned by the federal immigration and naturalization service in cooperation with the department of human services.

Written consent to any proposed adoption must be obtained from the person to be adopted if the person is 12 years of age or older.

Who can get information on adoption cases?

Adult adoptees, adoptive parents, biological parents, and biological siblings have the right to access records regarding their or their child's adoption or the adoption of their offspring or siblings, and this right exists along with the right of such parties to confidentiality and privacy.

Confidentiality is essential to the adoption process and any procedure to access information that relates to an adoption must be designed to keep confidentiality and to respect the wishes of all the parties involved. Individuals who wish to obtain records should file a motion with the court, and a confidential intermediary will be contacted.

What roles do confidential intermediaries play in adoption?

Confidential intermediaries are authorized to inspect confidential relinquishment and adoption records on a motion to the court by an adult adoptee, adoptive parent, biological parent, biological sibling, or half-sibling.

When a sought-after biological relative is located by a confidential intermediary on behalf of the person who started the search, the intermediary must obtain consent from **both** parties that they wish to communicate with each other. Contact will be made between the parties involved in the investigation only when the court has received consent for this contact. If consent for personal communication is not obtained from both parties, all relinquishment and adoption records and any information obtained by any confidential intermediary must be returned to the court and stay **confidential**.

What agencies can help someone involved in a relinquishment or adoption case?

There are numerous agencies for both relinquishment and adoption listed in the phone book. In addition, The Yellow Pages provides a free question-and-answer hotline, **(303) 754-1000**, with information on the following subjects:

- Choosing an adoption agency - Press 3005.
- How an adoption agency works - Press 3006.
- Role of adoption consultants - Press 3007.
- What do adoption services provide? - Press 3008.
- Placing a child for adoption - Press 3009.

<p>This brochure is published as a public service by the Colorado Judicial Branch.</p>
