

**Adoption Law:
It's Complicated-The
Highs and Lows of
Adoption**

By: Tiffany Hill

TYPES OF ADOPTION

Private/Independent Adoptions

Agency Adoptions

Relative Adoptions

Stepparent/Second parent Adoptions

Involuntary State Adoptions

International Readoptions

Adult Adoptions

ROLES OF A LAWYER

- Representation for birth parent
- Representation for adoptive parents
- Representation for Adoption Agency
- State cases- GAL, Child's Attorney, AG's office

****Be wary of conflicts**

WHO MAY ADOPT AND BE ADOPTED?

A.R.S. § 8-103

A. Any adult resident of this state, whether married, unmarried or legally separated, is eligible to qualify to adopt children.

B. An adult nonresident of this state, whether married, unmarried or legally separated, is eligible to qualify to adopt a child if all of the following apply:

1. The child is a dependent child and currently under the jurisdiction of the juvenile court in this state.
2. The child currently resides in the home of the applicant.
3. The department placed the child in the home of the applicant pursuant to section 8-548.
4. The department recommends the adoption of the child by the applicant.
5. The foster care review board has reviewed the child's case as required by section 8-515.03, except that the court may not delay the child's adoption if the foster care review board has not reviewed the child's case.

A.R.S. § 8-102

A. Except as provided in title 14, chapter 8 and subsection B of this section, only a child, or a foreign-born person who is twenty-one years of age or less and who is not an illegal alien, who is present within this state at the time the petition for adoption is filed may be adopted.

B. A dependent child is not required to be present in this state at the time the petition for adoption is filed if the criteria prescribed in section 8-103, subsection B are met.



CERTIFICATION - A.R.S. §8-105

A. Before any prospective adoptive parent may petition to adopt a child the person shall be certified by the court as acceptable to adopt children. A certificate shall be issued only after an investigation conducted by an officer of the court, by an agency, by the department or by an entity contracted by the department to do an investigation and home study for foster home licensing or preadoption certification. A written application for certification shall be made directly to the court, to an agency, to the department or to an entity contracted by the department, in the form and content required by the court, agency or department.

N. This section does not apply if:

- 1. The prospective adoptive parent is the spouse of the birth or legal parent of the child to be adopted or is an uncle, aunt, adult sibling, grandparent or great-grandparent of the child of the whole or half-blood or by marriage or adoption.**
2. The birth or legal parent is deceased but at the time of death the parent had legal and physical custody of the child to be adopted and the child had resided primarily with the spouse of the birth or legal parent during the twenty-four months before the death of the parent.
3. The grandparent, great-grandparent, uncle, aunt, great-uncle, great-aunt or adult sibling is deceased but at the time of death that person had legal and physical custody of the child to be adopted and the child had resided primarily with the spouse of the grandparent, great-grandparent, uncle, aunt, great-uncle, great-aunt or adult sibling during the twenty-four months before the death of the grandparent, great-grandparent, uncle, aunt, great-uncle, great-aunt or adult sibling.

CONFIDENTIALITY AND OPENNESS

- Adoption Records are Closed Records
- A.R.S. 8-121(E)
 - Adoptees may access their Birth Certificate at 18
- Open vs. Closed Adoptions
- Post Adoption Contact Agreements
- Impact of Internet & Social Media
- Medical Information

ICPC & ICWA

ICPC= Interstate Compact for the Placement of Children

- All 50 states
- Must obtain clearance before a child can leave the state
- Not all states created equal

ICWA= Indian Child Welfare Act

- Federal law
- Changes standards required for adoption
- Revocable consents until finalization

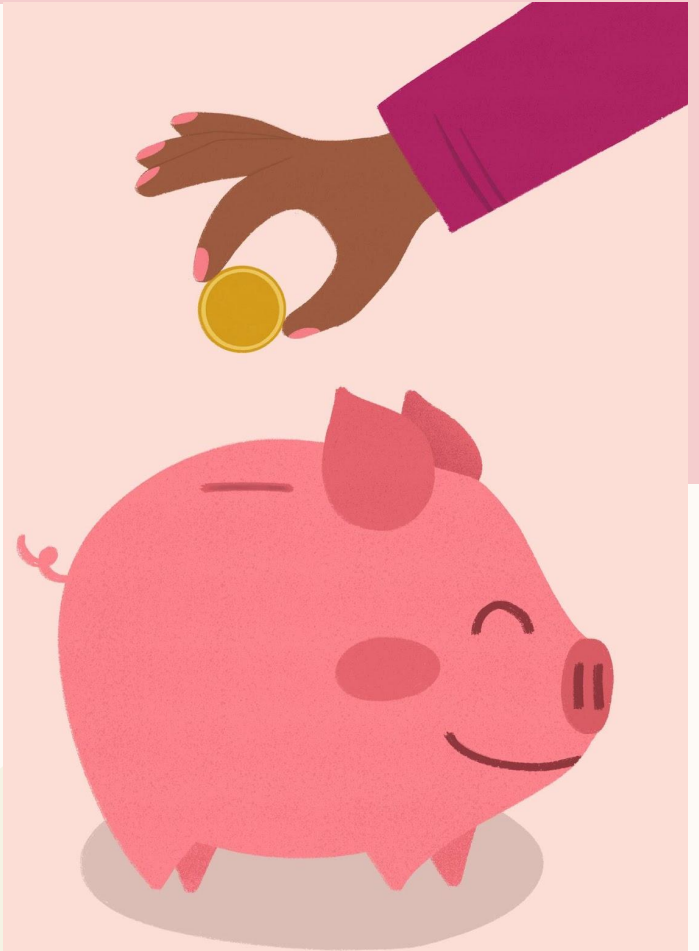
TEMPORARY CUSTODY A.R.S. §8-108

- A. A person who is not currently certified as acceptable to adopt but who has custody of a child who the person intends to adopt shall petition the court for an order permitting that person to keep custody of the child pending certification. The person shall file the petition not later than five days after the person obtains custody of the child. The court shall hold a hearing within ten days after the person files the petition. The child shall attend the hearing, except for good cause shown. At the hearing the burden of proof is on the petitioner to show that permitting custody is in the child's best interests. The court may permit the petitioner to have custody or it may order that custody be given to some other person or agency as it deems to be in the child's best interests. If the court permits the person to continue to have custody of the child, the court shall order the investigation for preadoption certification and report as required by section 8-105 to continue. If an application for certification has not been filed before the hearing, the court shall order that an application for certification be filed within thirty days after the hearing date.



ADOPTION FINANCES

- Financial Support
 - Adoption Subsidy
 - Grants
 - Tax Credit
- Non-Financial Support
 - Post Adoption Support
 - Family Coaching



WHAT COULD GO WRONG?

- Everything.
- Birth parent has until 72 hours after birth to sign a consent. (10 days in ICWA)
- Father- known or unknown
- Grandparents and family involvement
- Adoptive parent difficulties



I. The notice required pursuant to subsection G of this section shall be in substantially the following form:

Notice:

Notice is given to _____ that you have been identified by _____, the natural mother, as a potential father of a child to be born or, born on _____, in _____.

You are informed of the following:

1. _____, the natural mother, plans to place the child for adoption.
 2. Under sections 8-106 and 8-107, Arizona Revised Statutes, you have the right to consent or withhold consent to the adoption.
 3. Your written consent to the adoption is irrevocable once you give it.
 4. If you withhold consent to the adoption, you must initiate paternity proceedings under title 25, chapter 6, article 1, Arizona Revised Statutes, and serve the mother within thirty days after completion of service of this notice.
 5. You have the obligation to proceed to judgment in the paternity action.
 6. You have the right to seek custody.
 7. If you are established as the child's father, you must begin to provide financial support for the child.
 8. If you do not file a paternity action under title 25, chapter 6, article 1, Arizona Revised Statutes, and do not serve the mother within thirty days after completion of the service of this notice and pursue the action to judgment, you cannot bring or maintain any action to assert any interest in the child.
 9. The Indian child welfare act may supersede the Arizona Revised Statutes regarding adoption and paternity.
 10. For the purposes of service of a paternity action under title 25, chapter 6, article 1, Arizona Revised Statutes, service may be made on the mother at _____ or her agency or attorney at _____.
 11. You may wish to consult with an attorney to assist you in responding to this notice.
- J. A potential father who fails to file a paternity action and who does not serve the mother within thirty days after completion of service on the potential father as prescribed in subsection G of this section waives his right to be notified of any judicial hearing regarding the child's adoption or the termination of parental rights and his consent to the adoption or termination is not required.

BIRTH FATHER RIGHTS

Legal Father

Must sign a consent to adoption or have his rights terminated.

Potential Father

Must be given notice of the adoption plan.

LIVING EXPENSES

8-114. Monies paid to or for parent; court approval; attorney fees; accounting; disallowance; exception

A. The court may approve any monies paid to a parent of a child placed for adoption or another person for the benefit of the parent or adopted child for reasonable and necessary expenses incurred in connection with the adoption. These expenses may include costs for medical and hospital care and examinations for the mother and child, counseling fees, legal fees, agency fees, living expenses and any other costs the court finds reasonable and necessary.

POST ADOPTION CONTACT AGREEMENTS

- 8-116.01. Agreements regarding communications
- B. An agreement is not enforceable unless the agreement is in **writing** and is approved by the court. The court shall not approve an agreement unless the agreement is approved by the prospective adoptive parents, any birth parent with whom the agreement is being made and, if the child is in the custody of the division or an agency, a representative of the division or agency.
- C. An agreement entered into pursuant to this section shall state that the adoptive parent may terminate contact between the birth parent and the adoptive child at any time if the adoptive parent believes that this contact is not in the **child's best interests**.

ADOPTION LAW

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