

California Adoption Process

The option for adopting a child is very rewarding but the adoption process can be very stressful and sometimes confusing. The Presidio of Monterey Legal Assistance Office has created this information sheet to answer some of the basic questions you may have as you begin your adoption journey.

Q. What is adoption?

A. Adoption is the procedure by which a child born to one set of parents becomes the legal child of another parent or couple, who then assume all the parental rights and duties concerning the child. The word "child" does not mean only infants --- it refers to anyone who is under 18 years of age. The legal result is that the child ceases to be the legal obligation of the natural parents and becomes the responsibility of the adopting parents.

Q. How are children adopted?

A. There are four types of adoptions of children under age 18 in California:

1. Relinquishment or agency adoptions, used by county Departments of Social Services or licensed private adoption agencies; 2. Independent or direct placement adoptions, made by natural parents directly into an unrelated adoptive home without the assistance of an agency; 3. Inter-country adoptions, similar to purely state adoptions but with additional requirements and procedures, particularly the application of US Immigration and Naturalization regulations; 4. Stepparent or relative adoptions in which a parent's relative (often a spouse) agrees to adopt the child of that parent.

Q. Who can adopt?

A. Any adult can adopt a child at least 10 years younger than them. A court may waive the 10-year requirement if the adoption is by a stepparent or relative, and if it is in the child's best interest. If a spouse wants to adopt, the other spouse must give his or her consent, unless they are legally separated. Adoption agencies may take race, culture, and ethnicity of the adoptive parent or child involved into consideration, but may not delay or deny adoption placement based solely on those factors.

Q. Who must consent to an adoption?

A. The birth parents must consent to the adoption.

Exceptions: 1. One parent has been awarded custody and the other parent has not communicated with nor paid support and care of the child for one year, then the custodial parent alone may consent, as long as the noncustodial parent is given notice of the hearing; 2. When parental rights have been terminated or the parent has voluntarily given up his or her rights to the child; 3. When the parent has deserted the

child; or 4. When the parent has given up the child for adoption by relinquishing rights to the Department of Social Services or a licensed agency.

*Department of Social Services or county adoption agency, where parental consent is not necessary and any adoptee who is over 12 years of age.

Q. What is the difference between open and closed adoption?

A. If the adoptive and birth parents know each other and remain in touch after the adoption, the adoption is said to be open. If they do not know each other and do not stay in touch after the adoption, it is said to be closed. The parties involved determine the degree of openness in an adoption. So that there are no misunderstandings, it is recommended that those considering adoption consult an adoption facilitators or family law attorney to assist in ensuring the most secure adoption plan in the best interests of the child.

Q. How do I go about adopting a child?

A. For agency adoptions, get in contact with a licensed adoption agency. A list of licensed California adoption agencies can be found at www.cdss.ca.gov/adoptions.

Q. What if we go with an independent adoption?

A. For independent adoptions where you are adopting a child directly from the birth parents, you must file a petition, along with the proper paperwork in the superior court of the county in which you reside. The County Department of Social Services or a delegated county adoption agency will then investigate the petition, which may include home visits and interviews to determine whether it is a good placement. The agency will then report its findings to the court within 180 days and absent any issues, the court will finalize the adoption. Please note that there are special provisions regarding the adoption of Native American Children per the Indian Child Welfare Act.

Q. How long does it take to adopt a child?

A. In an agency adoption, it will take anywhere from six months to a year to complete an adoption family assessment. Most adoptive placements occur one to several months after the family assessment has been approved. In an independent adoption, the process will vary based on when the prospective adoptive parents have been chosen by the birth parents. However, the department or delegated county adoption agency must investigate the proposed adoption within 180 days after they receive a copy of the filed petition and 50 percent of the adoption fee. In an intercounty adoption, the process will vary with each country. You should contact a private adoption agency licensed to provide these services in the country where you reside to inquire about the length of the process.

Adoption Resources

California Family Code Sections 8500 to 8548, 8600 to 8639, 9200 to 9209, and 9320-9328. See also Sections 8700 to 8720 for more information specific to agency adoptions; 8800 to 8823 for independent adoptions; 8900 to 8925 for inter-country adoptions; and 9000 to 9007 for step-parent adoptions.

California Department of Social Services, Adoptions Support Unit, 744 P Street, Mail Station 8-12-31, Sacramento, CA 95814, (916) 651-8089

<https://www.cdss.ca.gov/adoptee-information>

Monterey County Family and Children's Services, 1000 S. Main Street, Suite 205, Salinas, CA 93901, (831) 755-4475 <http://mcdss.co.monterey.ca.us/families/>

Websites:

<https://adoptionart.org> – American Academy of Adoption Attorneys

<https://www.childwelfare.gov> – Child Welfare Information Gateway

<https://www.adoptuskids.org> – Adopt Us Kids

www.cakidsconnection.com – California Kids Connection

<https://travel.state.gov> – Intercountry Adoption

www.adopt.org – National Adoption Center

This document is not provided as legal advice and should not be used in place of consulting an attorney. If you wish to consult with a Legal Assistance attorney on this matter, visit our office in Building 358, Presidio of Monterey, Monterey, CA or call (831) 242-5083/5084 to schedule an appointment.

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