

# Legal Steps in the Adoption Process

## I. Goal Change Hearing:

- a. The worker must develop the case throughout the goal change process so that the goal change supports the child's best interest.
- b. If appropriate, documentation is presented to the court as the basis for a goal change to adoption.
- c. If the goal is changed to adoption, birth parents retain the right to visit their children unless those rights have been suspended by the court.
- d. Goal change hearing affords agencies the right and obligation to file the Petition to Terminate Parental Rights (if the goal is changed to adoption).

## Relinquishment and Termination of Parental Rights

Children may be freed for adoption by the court. When a parent relinquishes rights voluntarily, it is called **relinquishment of parental rights**. When the court steps in and frees the child without parental consent, it is called **termination of parental rights**.

## II. Relinquishment and Termination of Parental Rights

### A. Relinquishment of Parental Rights

#### 1. Voluntary Relinquishment Petition

- a. Parents sign petition freely and of their own will.
- b. Hearing is scheduled.
- c. Notice must be sent to the birth parents, including both the presumptive and legal fathers. (Unknown does not mean unasked.)
- d. In order for petition to be acted upon, the relinquishing birth parents must appear at the hearing (unless they have done a Petition to Confirm Consent).
- e. The court has the option of asking the parents if they have received counseling from a qualified agency or individual. If not, court may refer before deciding on the outcome of the petition.
- f. Parents may revoke interest in voluntary relinquishment by not appearing at the hearing or by putting the revocation in writing to the custodial agency. Recently passed legislation instituted a 30 day time limit for birth parents to revoke consent. This is very important if one parent wants to do a voluntary and the other is contesting.
- g. Agency joins in parents' petition and agrees to assume custody until the adoption is finalized.

# Legal Steps in the Adoption Process (continued)

## III. Relinquishment and Termination of Parental Rights

### A. Relinquishment of Parental Rights

#### 1. Petition to Confirm Consent

- a. Notice must be sent to the birth parents, including both the presumptive and legal fathers (Unknown does not mean unasked).
- b. An alternative procedure to voluntary relinquishment.
- c. It is used if the parents are unwilling or unable to appear at the relinquishment hearing.
- d. Parents must first sign consent. The consent is irrevocable 30 days after it is signed.
- e. Agency files the petition with the signed parental consent.
- f. Hearing is then held on the petition. If court is satisfied with the testimony given, relinquishment will be granted.
- g. Parents need not appear at this hearing

The rights of each parent must be terminated, and each procedure must be viewed separately, but should proceed simultaneously.

## IV. Relinquishment and Termination of Parental Rights

### A. Termination of Parental Rights:

#### 1. Petition for Involuntary Termination

- a. There is only one way to terminate parental rights—through this petition.
- b. Notice must be sent to the birth parents, including both the presumptive and legal fathers (Unknown does not mean unasked).
- c. The court takes the request to terminate parental rights very seriously.
- d. As said before, CYS must make reasonable efforts to reunify the family, and agency service plans must clearly reflect the reunification plan (unless aggravated circumstances have been petitioned to the court, and the court finds that no reasonable efforts to reunify will be made.)
- e. The worker must document these reunification efforts in the record from the point of the initial contact with family (e.g., that a diligent search has been made to find absent parents.) This documentation could become the legal basis for a court action as a petition to terminate parental rights.

## Legal Steps in the Adoption Process (continued)

- f. The petition must clearly state the grounds that support the decision to terminate parental rights.
- g. Testimony must reflect the reunification services that the worker offered to the family, and the extent to which the family used these services.
- h. The legal resources of the agency should be utilized in preparation for this hearing.

### V. Pre-Placement Report

- A. Based upon the family profile.
- B. Filed with the Intent to Adopt.

### VI. Intent to Adopt

- A. Notifies the court that the family intends to adopt a particular child or children.
- B. Intent should be filed within 30 days after child is placed for adoption.

### VII. Report of the Intermediary

- A. Intermediary is the person or agency responsible for arranging the placement of the child with the adoptive family.
- B. The agency worker prepares the Report of the Intermediary to inform the court of:
  - 1. The identity of the intermediary.
  - 2. The intermediary's role in the placement.
  - 3. The facts about the child.
  - 4. The facts about the child's birth family and adoptive family.

### VIII. Custodial Agency Consent

- A. Custodial agency has to consent to the adoption.
- B. If the agency agrees to the adoption, the consent is signed by the custodial agency representative and filed with the court.

### IX. Adoption Petition

- A. The document that is filed by the adopting parents.
- B. Requests that the adoption be approved by the court.

### X. Adoption Finalization Hearing

- A. After the petition is filed, a hearing is scheduled for the court to review the petition and approve or disapprove the petitioner's request to adopt.
- B. The child must be present at the hearing.