

## **THE ADOPTION PROCESS**

### **HISTORY OF ADOPTION IN MICHIGAN**

In the mid 1990's, Michigan modified the law relative to adoption. Prior to 1995, Direct Placement Adoptions were handled exclusively by adoption agencies. Direct Placement means a placement in which a birth parent or guardian selects an adoptive parent for a child and transfers custody of the child directly to the prospective adoptive parent (rather than to an agency who then places the child with the adoptive parent).

Some people found adoption agency requirements too restrictive regarding such things as age limits and length of marriage. In addition, waiting lists were frequently long with little hope of receiving a newborn before age disqualification occurred.

On January 1, 1995, Michigan's legislature unlocked the exclusive right of adoption agencies to handle Direct Placement Adoptions, allowing attorneys to facilitate the adoption process. Adoption agencies continue to perform the Pre-Placement Assessments (PPA), formerly known as a Home Study, for all prospective adoptive parents.

### **SERVICES PROVIDED BY YOUR ATTORNEY IN THE ADOPTION PROCESS**

A lawyer cannot "solicit" for children to be adopted. Solicit is defined as "contact in person" by various means of communication "directed to a specific recipient." An attorney may communicate with the public in general, however. This means that attorneys will not operate as a "clearinghouse" to match prospective adoptive parents with birth mothers. Rather, an attorney will facilitate the legal process once adoptive and birth parents have already found each other. This is being done more and more frequently and is the reason you see advertisements in the paper or on billboards ("Loving couple wishes to Adopt"). Once the adoptive parents and birth parents find each other, most of the services that an adoption agency would provide are unnecessary (with the exception of the PPA).

Both adoptive parents and birth parents should be represented by an attorney so there can be no later claim that a parent did not understand the legalities. The adoptive parents may pay for the birth mother's attorney fees. There are other expenses for which the adoptive parents may pay but caution

must be exercised so there is no accusation later of financial coercion.

For example, these payments are NOT allowed: 1) payment for placing the child for adoption; 2) payment for a consent; and 3) payment for a petition. An adoptive parent MAY pay for: 1) services of a child placing agency; 2) medical expenses of the birth mother or the adoptee if not covered by a birth mother's insurance or Medicaid; 3) living expenses before birth and for six weeks after; 4) expenses incurred in gathering the information required by law; 5) legal fees; their own and the birth mother's; and 6) traveling expenses.

The adoptive parent SHALL pay for the Pre-Placement Assessment and for the counseling of the birth parent unless the counseling is waived. Should the adoption not be completed, the person who made the payments may NOT recover the money spent.

### **PRE-PLACEMENT ASSESSMENT (PPA) AND TEMPORARY PLACEMENT**

Arranging for the Pre-Placement Assessment with an agency is one of the first priorities for adoptive parents. It is important that the PPA be performed early so that the baby may be placed with the adoptive parents immediately following the baby's birth (as opposed to utilizing interim foster care). This temporary period, until finalization of the adoption, is sometimes referred to as being "at risk" since the birth mother's legal rights have not yet been

terminated and she is free to require that custody of the child be returned to her.

### **PROCEDURES FOLLOWING BIRTH OF THE BABY/ADOPTEE**

Following the child's birth, and temporary placement of the child with the adoptive parents, a **Petition for Adoption** is filed. The court will require that the court's Adoption Specialist conduct a home visit, termed an investigation, which must be completed within three months. The Adoption Specialist will phone the adoptive parents to arrange a meeting. Once the investigation is completed and a report provided to the court, an **Order Terminating Parental Rights** of the birth parents and approving **Formal Placement** with the adoptive parents must be entered within 14 days of the receipt of the investigation report (assuming, of course, that the court finds the consent to termination of rights is genuine and the best interests of the adoptee are served by adoption).

In addition to terminating the birth mother's rights, it is extremely important that the birth father's rights be terminated either by consent or through proper notification and involuntary termination. All of the high-profile cases we've read about in the past became problematic as a result of birth fathers, whose rights were not adequately protected, contesting the adoption.

Following the court's approval of Formal Placement with the adoptive parents, there is a six-month waiting period before a **Final Order of Adoption** may enter. During this time the agency which performed the PPA "supervises" the child, which means they must conduct another home visit and make a report to the court. Be sure to discuss this follow-up visit with the adoption agency you hire to perform the PPA. Following the waiting period, a Final Order of Adoption is entered.

### **CLOSED, SEMI-OPEN AND OPEN ADOPTIONS**

Earlier in adoption's history, almost all adoptions were "closed" adoptions performed under a cloud of secrecy. Today there are many degrees of openness in adoption ranging from the complete disclosure of all information to merely an exchange of medical or similar information with any identifying information deleted. Obviously with Direct Placement adoptions there will be a greater degree of openness but there is still some variance depending on the preferences of the individuals involved. Sometimes adoptive parents and birth parents know one another through a family friend or physician but choose to communicate only through that mutual acquaintance. Or they may choose to meet but exchange first names only. Other people allow visits even after the child is born. This is a personal decision which should be thought out carefully since there will certainly be long-term

ramifications. Birth and adoptive parents should thoroughly discuss this issue with the family members, their attorneys and potentially a therapist familiar with adoption issues.

Adoption is truly a "win-win" situation. We look forward to working with you to formulate an adoption plan which meets with your needs and those of the child.

