

RELATIVE AND STEPPARENT ADOPTION / FOR JUDGES - CHECKLIST

In a relative adoption, the waiting period, home study, court reports, supervision and guardianship order may all be waived at the court's discretion. The petition should request waiver. The waiver is often granted in the final order of adoption. A court in some cases may not and occasionally should not grant a waiver of one or more requirements to protect the child. For the purpose of this checklist, waiver is assumed.

- Petitioners are related to the child.

T.C.A. § 36-1-102 (45) "Related" means grandparents or any degree of great grandparents, aunts or uncles, or any degree of great-aunts or great-uncles, or stepparent, or cousins of the first degree, or first cousins once removed, or any siblings of the whole or half degree or any spouse of the above listed relatives. Related describes the petitioner's relationship to the *child*.

Petition

- Petitioners are Tennessee residents or non-residents who received guardianship in Tennessee, or are active duty service members with specific connections to Tennessee. T.C.A. § 36-1-115(d), (e) & (f).
- The parental rights of all legal parents, guardians and putative fathers, have been terminated previously, (documentation is attached to petition or to be submitted by the agency) or the adoption petition includes an action for termination of parental rights. T.C.A. § 36-1-117(a).
- The birth parent can consent by joining in the petition with no consent confirmation hearing required. T.C.A. § 36-1-117(f). (This simple consent method is only available when the Petitioners are related to the child.)
- Petition includes required allegations. T.C.A. § 36-1-116(b).
- Petition includes notices to incarcerated persons if respondent is incarcerated. T.C.A. § 36-1-113(f).
- Petition includes all notices about expedited appeal. T.R.C.P. 9A Notice regarding T.R.A.P. 8A rights.
- Petitioners have physical custody of the child. T.C.A. § 36-1-115(b).
- If the child was placed from another state and the adopting "relative" is not a relative within the narrower definition of relative required for waiver in the ICPC, the ICPC 100A approval form must be attached to the Petition. T.C.A. § 37-4-201, Art. VIII.
- All money paid by petitioners is disclosed in the Petition. T.C.A. §36-1-116(b)(16)(A).
- Tennessee Putative Father Registry is consulted within 10 working days prior to filing Petition or 10 working days thereafter. The response is filed with the court. T.C.A. § 36-1-116(b)(13)(A).

- If petitioner knows that the child was born or conceived in another state, or that the mother lived in another state at the time of conception, the petitioner is to determine whether the sister state has a putative father registry and if so, check the registry, within 10 working days of filing of the petition, or 10 working days thereafter. Petitioner reports the check and results to the court. T.C.A. § 36-1-116(b)(13)(A). However, the Court is empowered to waive an out of state inquiry or response pursuant to T.C.A. § 36-1-116(d).
- If the child is less than 30 days old at filing, notice of petition to registry is required. T.C.A. § 36-1-116(b)(13)(A)(iv).
- The petitioners must submit the sworn written consent of the child 14 years of age or older, or if the child is mentally disabled, regardless of age, the consent of the guardian ad litem. T.C.A. § 36-1-117(i)(1)&(2). Typically, the child signs a consent at the end of the adoption petition and signs a state form in a private interview with the judge just before finalization.
- If the petition requests involuntary termination of parental rights, the allegations required by T.C.A. § 36-1-113(d)(2) and T.C.A. § 36-6-224(a) (UCCJEA), allegations of grounds and best interest, and a request for service on respondent parent(s) must be included. (See checksheet for involuntary TPR)
- All parties are properly served. Publication requires a sworn statement of petitioners' search and a court order authorizing notice by publication. T.C.A. § 21-1-203 and 36-1-117(m).

Jurisdiction

Filing of the Adoption Petition, with or without a termination, impacts jurisdiction of other courts over the child. A termination action filed alone does not. The adoption court has exclusive jurisdiction of all matters pertaining to the child including legitimation. But not delinquency, unruliness and truancy. T.C.A. § 36-1-116(f). Most pending matters in Juvenile Court are suspended. If there is an open matter in Juvenile Court, a copy of the Adoption Petition must be filed in the Juvenile Court. T.C.A. § 36-1-113(d)(4).

Finalization

- T.C.A. § 36-1-120(a) lists what a Final Order of Adoption must include.
- The six (6) month waiting period from filing to finalization may be waived in the case of relatives or if the child has already resided in the home for six (6) months. T.C.A. § 36-1-119(c).
- Attorney fee affidavit is reviewed. T.C.A. § 36-1-120(c).
- The court can reduce unreasonable attorney fees. T.C.A. § 36-1-120(b)(1).
- Conducts a private interview with an adoptee 14 years old or older to obtain verbal consent prior to entry of the final order of adoption. The consent is evidenced by a state form which is filed with the court. T.C.A. § 36-1-117(i).

- Affirm that petitioners know the rights and responsibilities that they are undertaking and that termination of birth parents rights ends birth parent's duty to pay future support for the child. T.C.A. § 36-1-113(b)(2).
- After the finalization, a birth certificate application is submitted to the court clerk. T.C.A. § 36-1-120(f)(1).
- If there is no appeal, the adoption must be completed or dismissed within one year unless petitioners can show good cause why a final order should not be entered. T.C.A. § 36-1-119(d).