

FREQUENTLY ASKED QUESTIONS FOR ADOPTIONS

Questions can arise while you are looking for the content that you need. The following are common questions that have often been posed to our office.

WHO MUST CONSENT?

The parents of the child to be adopted, a minor being adopted who is over the age of 12 years, and an adult adoptee must consent to adoption. However, under certain circumstances, consent may be waived. Therefore, questions concerning consent should be directed to an agency or attorney.

WHERE SHOULD I FILE FOR ADOPTION?

Since the Probate Court has exclusive jurisdiction over adoptions, you are required to file in the Probate Court of the county where any one of the following applies:

- a. The agency having custody of the child is located.
- b. The child was born.
- c. The person or persons seeking to adopt reside.
- d. The person seeking to adopt is stationed in military service.
- e. In an independent placement: where the natural parent resides.

IS A HOME STUDY NECESSARY?

A home study is required with the exception of an Adult Adoption. An individual known as an assessor, who is qualified and trained for the task, will complete the home study. A list of agencies conducting home studies can be found above.

MUST I HAVE AN ATTORNEY?

Yes, on independent or agency adoptions. Step-Parent, Grandparent, and Readoptions may proceed pro se.

MUST I APPEAR IN COURT?

Yes. It is mandatory, whether adopting through an agency, or independently, that the person adopting and the child or children sought to be adopted appear before the Probate Court for the final hearing. In certain circumstances, there may be other appearances required. Any exceptions can only be granted by the Court for good cause shown.

A CITIZEN’S GUIDE TO COMMUNICATING WITH THE JUDGE AND MAGISTRATES

Why can’t I communicate directly with the judge or magistrate on my case?

If the matters are contested, judges and magistrates are not allowed to communicate with individual parties. This is what the law calls an *ex-parte* communication (this is when a judge or magistrate only communicates with an individual party, on their own, without the knowledge of all parties to a case). In order to keep the court process as fair, equal and as transparent as possible, *ex-parte* communication is strictly forbidden. It is unfair for the court to share information without all of the parties present.

You cannot email the judge or magistrate, as the email is considered an *ex-parte* communication. In addition, emails are not pleadings (motions.) You cannot write a personal letter to the judge or magistrate as this may be considered an *ex-parte* communication.

How can I speak to the judge or magistrate on my case?

Typically, to speak to the judge or magistrate on your case, you must file a written motion with the court explaining what you want the court to do and all motions become part of the public record. You also have to send a copy of whatever you file to the other parties, or their attorney if they are represented by an attorney (this is called “service”). A motion is not considered an *ex-parte* communication because all parties are officially notified. You may be required to pay a filing fee when you file your written motion. Please note, there is no fee if you wish to speak to the magistrate in an uncontested matter, on their assigned walk-in days.

I’ve heard there’s always a magistrate on duty to hear arguments immediately – what does that mean?

There is a magistrate on duty every business day. The on-duty magistrate may answer generic procedural questions. The on-duty magistrate may also discuss matters in an uncontested case. For all other matters, the on-duty magistrate is prohibited from speaking with you. To address the court for these matters, you must file a written motion. The on-duty magistrate will set the matter for hearing before the magistrate assigned on your case or the judge.

What if I need to tell the judge or magistrate something I don’t want the other party to know about?

Unfortunately, you cannot withhold information from another party to your case. In order to keep the case fair to everyone involved, as soon as you tell the judge or magistrate something, you must also tell the other parties. All sides must have an opportunity to respond to the information that you have shared with the court.