



TORII LEGAL ASSISTANCE

OFFICE OF THE STAFF JUDGE ADVOCATE



ADOPTING A RELATIVE

By: Rudy Wartella

There are three types of adoption questions that we see on Okinawa: agency adoptions, independent adoptions, and related/stepparent adoptions. Agency adoptions involve the placement of a child with adoptive parents by a public agency. On Okinawa, most of these cases involve international adoptions. Independent adoptions involve placing a child into the custody of non-relative adoptive parents without using an agency. Related/Stepparent adoptions involve adopting children who are related by blood or marriage. This article will focus on adoptions by relatives.

The majority of the adoption questions we receive on Okinawa are about relative or step-parent adoptions. Many Soldiers decide to adopt their step-children or other relatives. This is much easier to do when the Soldier is CONUS. Adoption laws are based on state law, so each state has its own laws and procedures for step-parent adoptions. Basic to most states is getting consent from the natural parent(s) to terminate their parental right. The type of consent is also dictated by state law. If you are unable to obtain the consent of the natural parent or parents, some states have procedures available to involuntarily terminate parental rights of a parent or parents who have not supported (or abandoned) their children or cannot be located. This process will be more complicated and would almost always require the assistance of a family law attorney in your state. Adoption laws in your state are at: http://topics.law.cornell.edu/wex/table_adoption.

The legal consequences of an adoption should be fully considered. Adoptive parents have the same legal benefits and responsibilities for their adopted children as they do for their natural children. The adopted child is eligible for military family member benefits to the same extent as natural children. In the event of a divorce, an adopted child is treated exactly the same way as a natural child (child custody, child visitation, and child support would be issues requiring resolution). An adopted child is an heir, so unless you have a will that does not include your adopted child, your adopted child would be treated the same as a natural child under intestate statutes. Once parental rights are terminated, there is no requirement for child support from the parent whose rights have been terminated (example: if the natural father was paying child support, he would no longer be required to pay).

If you are interested in adopting a relative, your first stop should be the legal assistance office. Your legal assistance attorney can let you know what the laws are in your state and can also help you find an attorney that practices family law in your state.