

HARRIS LAW & CO.

Protecting Families & Businesses Through All of Life's Journeys

THINKING ABOUT ADOPTION? THE LEGAL STEPS

One of our family law team's favorite services is helping families welcome a new member into their lives through the legal creation of a parent-child relationship. Adoptions are not as straight-forward as you may think and require an experienced approach to ensure the occasion is joyous for all involved.

There are different types of adoptions for different types of situations, each comes with its own level of legal and financial responsibilities for your growing family.

Requirements to Adopt

Many requirements must be met before a judge will approve a South Dakota adoption. Here are a few:

- A home study report prepared by a licensed child placement agency, the Department of Social Services, or an independent social worker has to be completed.
- You have to pass a child abuse registry check.
- You have to complete a criminal history check.
- You have to disclose any previous child support obligations.
- If residency requirements apply, the child must reside with you at least 6 months prior to the adoption in the state of South Dakota.
- You must be 10 years older than the minor child.
- Further, if the child is 12 or older, they must consent.
- You do not have to be married to adopt, but if the adoptive parent is married, your spouse will need to consent as well.



Public or Private Agency?

Adoption agencies can be public or private and are regulated by the state for the purpose of placing children with adoptive parents. Public agencies work with families to adopt children who have been the center of Abuse and Neglect cases, and have been abandoned, orphaned, or abused and become Wards of the State. These children's age ranges and they typically did not have the best home environment.

In contrast, private agencies are typically run by either non-profit or social service organizations. They typically work with families to adopt children who have been brought to the agency by expectant parents looking to give the gift of adoption to an interested family.

DID YOU KNOW?

The adoption process can change depending on a number of factors. For example, Native American adoptions follow a different process as outlined in the Indian Child Welfare Act.

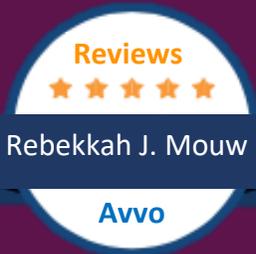


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**Rebekkah J. Mouw
is a skilled advocate
on our Family Law
Team.**

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Instead of using a third-party agency, some adoptive families work directly with the birth mother to arrange an independent adoption. In this situation, the adopting party will utilize an attorney, clergy member, or medical provider to facilitate legal paperwork and necessary counseling. This type of adoption is regulated extensively by some states. South Dakota allows for Independent Adoptions facilitated by an attorney. This type of adoption allows for either an "open" or "closed" adoption. Open adoptions allow for birth parent contact and closed adoptions do not.

Adopting Internationally

International adoption is more complicated. To adopt a child who is a citizen of a foreign country, both the laws of your home state as well as the host country must be satisfied. Because of this complexity, adopting parents are encouraged to utilize an agency that is certified by the State Department. Regardless of whether an agency is used, adopting parents must prove to the State Department that there has been counseling for biological parents, the foreign agency has secured legal consent from the biological parents, the foreign adoption agency has considered local placement of the child, and the child has been properly cleared for adoption in the US. US parents wishing to adopt internationally must obtain an immigrant visa for the child through US Citizenship and Immigration Services and the child will become a US citizen if approved.

Adopting as a Same-Sex Couple

In 2017, the United States Supreme Court overturned an Arkansas law banning same-sex couples from adopting in all US states. Some private faith-based agencies are still able to decline a same-sex couple's adoption due to religious reasons. However, most state agencies and laws comply with the US Supreme Court's decision that paved the way for same-sex couples to adopt.

If you have any questions regarding adoption or the legal process, give us a call. 605-777-1772. Our family law team will guide you through the process and help you avoid any unforeseen bumps in your adoption journey.

**This article is only intended to give general information and not specific legal advice. Consult with an attorney on your situation before taking any legal action.*