

## **INDEPENDENT, AGENCY, DCS, AND INTERCOUNTRY ADOPTION FOR JUDGES CHECKLIST**

### **Petition**

- ❑ Petitioners live in Tennessee or received guardianship in Tennessee or are active duty service members with specific connections to Tennessee. T.C.A. § 36-1-115(d), (e) & (f).
- ❑ Petition includes required allegations. T.C.A. § 36-1-116(b).
- ❑ Petitioners have physical custody of the child. T.C.A. § 36-1-115(b).
- ❑ 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).
- ❑ 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).
- ❑ If the petition requests involuntary termination of parental rights, allegations required by T.C.A. § 36-1-113(d)(2) and T.C.A. § 36-6-224(a) (UCCJEA) of grounds and best interest and a request for service on respondent parents must be included. (See checksheet for involuntary TPR).
- ❑ Order of reference to the home studying agency should be issued to the agency within 5 days of filing the petition. T.C.A. § 36-1-116(e)(3). Supervision of the placement should be ordered with fees taxed to the Petitioners. T.C.A. § 36-1-116(g). Petitioners' counsel will typically prepare and offer a proposed order of reference.

### **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).

### **Guardianship**

- Prospective adoptive parents may request complete or partial guardianship in the adoption action. T.C.A. § 36-1-116(f)(3), T.C.A. § 36-1-102(25)&(26).

### **Intercountry Adoption**

- The petitioners must submit authority from the sending government for placement of a child with petitioners, T.C.A. § 36-1-116(b)(15)(A), and authorization for a child to enter the U.S. from the U.S. Department of Homeland Security, U.S. Department of Justice or U.S. Department of State. T.C.A. § 36-1-116(b)(15)(B).

### **International Readoption**

- When a child was previously adopted pursuant to the laws of a foreign country, Tennessee courts are authorized to enter a new order of adoption with no further termination of parental rights, no guardianship, no home study, and no waiting period. T.C.A. § 36-1-106(c). This process is similar to recording a foreign judgment.

### **Child Placed in Tennessee from Another U.S. State**

- The petitioners must submit the ICPC 100A interstate approval form from the Tennessee ICPC office or explain why ICPC does not apply. T.C.A. § 36-1-116(b)(14).

### **Adoptee 14 Years or Older**

- The petitioners must submit the sworn written consent of the child 14 years of age or older, or, if a child is mentally disabled, regardless of the age of the child, 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.

### **Adult Adoption**

- Only sworn consent of prospective adopted adult child is required. No order of reference or home study, court report, or waiting period is required. T.C.A. § 36-1-117(j). Though the parental rights are terminated, no grounds need to be alleged or proven. Notice should be provided to the terminated birth parent. With permission of the court, actual notice may be sufficient when formal notice is difficult or expensive.

## **Two Business Days Prior to Finalization**

- In a DCS or private agency adoption, an agency packet including documents necessary to confirm the freedom of the child for adoption and the appropriateness of the proposed home should be submitted by the agency to the court and a copy submitted to petitioner's counsel, at least 2 business days prior to finalization. T.C.A. § 36-1-116(e)(6). Advanced review by the court may allow an opportunity for correction or clarification, if necessary, prior to finalization.

## **Finalization**

- T.C.A. § 36-1-120(a) lists what a Final Order of Adoption must state.
- There is a six month waiting period from filing to finalization except in the case of adoption by relatives, international readoption and adult adoptions. The six-month waiting period may be waived if the child has already resided in the home for six months.
- In an agency case, the court has reviewed the agency court report. T.C.A. § 36-1-119.
- Agency fee affidavit is reviewed. T.C.A. § 36-1-120(b)(2).
- Attorney fee affidavit is reviewed. T.C.A. § 36-1-120(b)(1).
- The court can reduce unreasonable attorney fees and agency fees. T.C.A. § 36-1-120(c).
- Conduct 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 understand the rights and responsibilities that they are undertaking.
- After the finalization, a birth certificate application or report of foreign birth application is submitted to 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).