

## RELATED ADOPTION INFORMATION AND DOCUMENTS

- Caption reads "In the matter of the Adoption Petition of [Petitioner(s) Names]
- Venue - §26-10E-4
  - Adoptee is born, resides or has legal domicile - §26-10E-4(a)(1)
  - Petitioner resides, or is in the military service - §26-10E-4(a)(2)
  - Agency or institution having guardianship/custody of adoptee is located - §26-10E-4(a)(3)
  - Waiver of Venue - §26-10E-4(b)
- Before entry of Final Order, adoptee must have resided with the Petitioner(s) for a one (1) year - §26-10E-27(1) and 28(1)
- Is there a Minor Legal Mother/Father – Is there a need for a Guardian Ad Litem - §26-10E-8
  - Motion for Appointment of Guardian Ad Litem for a Minor Legal Parent – §26-10E-8(a)
  - Motion for Pre-Birth Consent Hearing – §26-10E-12(b)

### PETITION: §26-10E-16(A)

- Petitioners Information - §26-10E-16(a)(1)
  - Petitioner(s) full name
  - Petitioner(s) DOB
  - Petitioner(s) Place of Residency
  - Petitioner(s) Relationship to Adoptee
  - Petitioner(s) Marital Status
  - Petitioners Place of Marriage
- Adoptee Birthplace and Date of Birth - §26-10E-16(a)(2)
  - Adoptee Birthplace
  - Adoptee Date of Birth
- Adoptee Current Names - §26-10E-16(a)(3)
  - Birth Name
  - Other Names
  - Name After Adoption
    - If Minor is 14 years or older they may elect to retain their legal name - §26-10E-28(a)
- Physical Custody of Adoptee - §26-10E-16(a)(4)
  - Specific date of Placement
  - Waiver showing good cause
- Petitioner(s) desire and suitable to adopt - §26-10E-16(a)(5)
- Prior/Pending judicial proceedings - §26-10E-16(a)(6)
  - Court Name
  - Case Number
- Child Placing Agency Information - §26-10E-16(a)(7)
  - Name
  - Address
- Consent Information - §26-10E-16(a)(8)
  - Whether Consent is expressed or implied
  - Name and address for those whose consent is required
- Notice Requirement- §26-10E-16(a)(9)
  - Names of those who are entitled to notice
  - Address of those who are entitled to notice

**DOCUMENTS TO BE ATTACHED TO PETITION: §26-10E-16(B)**

- Petitioner(s) Government issued photographic Identification Card - §26-10E-16(b)(1)
- Certified document establishing proof of marriage, if married - §26-10E-16(b)(2)
  - Waiver with Application showing it has been ordered
- Certified Birth Certificate of the adoptee issued within six (6) months of Petition- §26-10E-16(b)(3)
  - Affidavit Regarding Birth Certificate
  - Application showing it has been ordered
- Documentation of Placement - §26-10E-16(b)(4)
  - Adoptive Home Placement Agreement from Agency to Petitioner(s)
  - Delegation of Power by Parent – from Parent(s) to Petitioner(s)
- Court Orders affecting custody, visitation or parentage of adoptee - §26-10E-16(b)(5)
  - Child Custody Proceeding Affidavit
- Express Consents/ Relinquishments/Termination of Parental Rights (TPR) Orders - §26-10E-16(b)(6)
  - Express Consents are used if the adoptee is being placed directly with the adoptive parents. Express relinquishments are used if the adoptee is being placed with an agency and shall be in writing, sign by the person consenting/relinquishing §26-10E-11(a)
    - Date, place, and time of execution
    - Date of birth or, if prior to birth, the expected date of birth and names by which the adoptee has been known.
    - Relationship and date of birth of the person consenting/relinquishing
    - Right to know the identity of each petitioner has not been waived, the legal name of each petitioner, unless relinquished to an agency
    - Voluntarily and unequivocally consenting to the adoption of the adoptee. If the consents are to a designated individual or married couple, the express consent shall specify that the consent applies only to that individual or married couple, as identified by his, her, or their legal names and that the express consent shall not be construed to apply to any other person(s)
    - By signing the document, he/she understands that upon the entry of the final judgment of adoption, he/she forfeits all rights obligations to the adoptee and that he/she understands the express consent or relinquishment and executes it freely and voluntarily.
    - The person signing the document has been advised and understands that his/her express consent or relinquishment may be withdrawn only in the manner, and within the time periods, as set forth in Sections 26-10E-12 and 26-10E-14, and that the adoption may not be collaterally attacked after the entry of the final judgment of adoption, except as authorized in this chapter.
    - The person signing the document understands that the express consent may become irrevocable, and that the person should not execute it if he/she needs or desires psychological or legal advice, guidance, or counseling.
    - Address of the court in which the petition for adoption has been or will be filed, if known, and if not known, the name and address of the agency, the petitioner(s) or the petitioner's attorney on whom notice of the withdrawal or relinquishment of express consent may be served.
    - In the case of relinquishment, the name and address of the agency to which the adoptee has been relinquished.
    - The person executing the document has received or has been offered a copy of the express consent or relinquishment and withdrawal form.

- The person executing a relinquishment waives further notice of the adoption proceeding.
- The person executing an express consent waives further notice of the adoption proceedings unless there is a contest or appeal of the adoption proceeding.
- Notice of Withdrawal of Consent (*this should always be attached to the consent*)- §26-10E-14
- Whose consents/relinquishments required – §26-10E-7
  - Adoptee if 14 years or older, unless court finds adoptee does not have the mental capacity - §26-10E-7(a)(1)
  - Legal Mother(s) - §26-10E-7(a)(2)
  - Legal Father(s) - §26-10E-7(a)(3)
  - Putative Father(s) – if made known - §26-10E-7(a)(4)
  - Legal Custodian(s)/Guardian(s) - §26-10E-7(a)(5)
  - Department of Human Resources - §26-10E-7(a)(6)
- Pre-Placement Investigation - §26-10E-16(b)(7)
  - Pre-Placement Investigation – §26-10E-19(a)
    - For Related/Stepparent under §26-10E-26 and 27, only §26-10E-19(a)(1)(2) and (14) are required.*
    - Letters Suitability for each adult living in the petitioner(s) home – **§26-10E-19(a)(1)**
    - Child Abuse and Neglect (Adam Walsh Act) for household members fourteen (14) and older and from any state the Petitioner(s) has resided for five (5) years or more – **§26-10E-19(a)(2)**
    - Home safety inspection indicating the Petitioner(s) home is safe – **§26-10E-19(a)(14)**
    - Any other requirement pursuant to Alabama Administrative Code Regulation 660-5-3-.03 – §26-10E-19(a)(15)
  - Must be preformed within twelve (12) months of the filing of the petition - §26-10E-19(e)
  - Motion Placement of Pre-Placement Investigation - §26-10E-19(c)
  - Motion for Pre-Placement Investigation - §26-10E-19(c)
- Anticipated Accounting of all cost and expenses for adoption- §26-10E-16(b)(8)
- Affidavit of Petitioner(s) - §26-10E-22(d)
- Affidavit of Adoptee's Parent - §26-10E-22(d)

**VERIFIED AFFIDAVIT BY BIRTH MOTHER - §26-10E-16(C)**

- Verified under penalty of perjury - §26-10E-16(c)
- Married at probable time of conception - §26-10E-16(c)(1)
  - Name
  - Last known Address
  - Why she contents he is or is not the legal/ putative father
- Cohabiting with at probable time of conception- §26-10E-16(c)(2)
  - Name
  - Last known Address
  - Why she contents he is or is not the legal/putative father
- Received payments or promise of support during pregnancy- §26-10E-16(c)(3)
  - Name
  - Last known Address
  - Why she contents he is or is not the legal/ putative father
- Individual named on birth certificate or in connection with applying/receiving public assistance- §26-10E-16(c)(4)

- Identified any man as the legal/putative to any hospital personal - §26-10E-16(c)(5)
- Informed any man he was the legal/putative father of the adoptee - §26-10E-16(c)(6)
- Whether any man has formally/informally acknowledged or claimed paternity of adoptee - §26-10E-16(c)(7)
- Legal Mother has been informed her statements concerning the identity of legal/putative father is for the limited purpose of the adoption and once complete will be sealed- §26-10E-16(c)(8)
- Legal Mother acknowledges that she is aware of the remedies available to her for protection from abuse, pursuant to Ala. Code Section 30-5-1, et seq. - §26-10E-16(c)(9)

### **IMPLIED CONSENT: §26-10E-9**

- Clear and convincing Evidence arises when:
  - Abandonment of Adoptee – four (4) months - §26-10E-9(a)(1)
  - Pre-Birth Abandonment - Failure by a legal/putative father to provide mother with financial or emotional four (4) months immediately preceding the birth of the child - §26-10E-9(a)(2)
  - Safe Haven – parent leaves adoptee without provision for his/her identification for a period of thirty (30) days, without good cause shown - §26-10E-9(a)(3)
  - Post-Birth Abandonment – parent voluntarily and knowingly, without good cause shown, leaving the child with another with out personally providing support, initiating communication with or otherwise maintaining a substantial relation with the child for four consecutive months - §26-10E-9(a)(4)
- Person or Agency has received notice of the pendency of the adoption proceedings and has failed to answer/respond within thirty (30) days. - §26-10E-9(b)
- Implied Consent may not be withdrawn - §26-10E-9(c)
- Failure to comply with the Putative Father Registry under §26-10C-1 - §26-10E-9(d)
- Pre-Birth Notice to putative father under 26-10-E-17 and he does not answer/respond within thirty (30) days and fails to registry with the Putative Father Registry - §26-10E-9(e)

### **NOTICE OF PETITION FOR ADOPTION – §26-10E-17**

- Unless waived, the following shall be served by the Petitioner(s) with notice of pendency of an adoption proceeding: – §26-10E-17(a)
  - Any person, agency or institution whose consent/relinquishment is required – §26-10E-17(a)(1)
  - Legal Father – §26-10E-17(a)(2)
  - Putative Father, if made known to the court – §26-10E-17(a)(3)
  - Legal Custodian/Guardian – §26-10E-17(a)(4)
  - Spouse of Petitioner who is a stepparent unless express consent is given – §26-10E-17(a)(5)
  - Grandparent of adoptee if the grandparent’s child is deceased and before their death, they did not give expressed consent, relinquishment or had their rights to the adoptee terminated – §26-10E-17(a)(6)
  - Any person known to the Petitioner(s) as currently having physical custody or visitation rights with the adoptee under an existing court order – §26-10E-17(a)(7)
  - Agency or individual authorized to investigate the adoption under 26-10A-19 – §26-10E-17(a)(8)
  - Alabama Department of Human Resources - – §26-10E-17(a)(9)
  - If in foster care, the director of the county Department of Human Resources with legal custody – §26-10E-17(a)(10)
  - Any person designated by the court – §26-10E-17(a)(11)

- Notice shall include - §26-10E-17(b)
  - That Petition has been filed - §26-10E-17(b)(1)
  - Party may appear to contest or support petition - §26-10E-17(b)(2)
  - Party has thirty (30) days to respond to notice – §26-10E-17(b)(3)
  - If party fails to respond, court may construe that as implied consent, waiver of right to appear and notice -§26-10E-17(b)(4)
  - If adoption is approved, parental right will be considered terminated - §26-10E-17(b)(5)
- Notice shall be made in the following manner - §26-10E-17(c)
- Service by Publication shall be made in the county of the last know address of the legal/putative parent, if no general circulation – Alabama Rules of Civil Procedure - §26-10E-17(d)
- Maybe waived by person entitled to receive - §26-10E-17(e)
- Notice required by this section must be filed with the court before the contested hearing provided by section 26-10E-24 - §26-10E-17(f)

**OTHER DOCUMENTATION:**

- Pre-Approval of Fees and Charges - §26-10E-22
  - Prior to payment, Petitioner(s) must file with the court a full accounting of charges and fee for services - §26-10E-22(b)
    - Comments: Petitioner(s) may pay reasonable maternity-connected medial expenses as provided in section 26-10E-32
- Alabama Report of Adoption – HS-17
- Application to Request a New Birth Certificate After Adoption – HS-88
- Interlocutory Order - §26-10E-18
- Final Order - §26-10E-24
  - Shall approve if it finds: §26-10E-24
    - Adoptee has been in physical custody of petitioners for a period of sixty (60) days – can be waived - §26-10E-24(b)(1)
    - All necessary consents/relinquishments/TPR or waivers have been filed - §26-10E-24(b)(2)
    - All Investigative reports are complete and filed - §26-10E-24(b)(3)
    - Notice has been made to all person entitled under section 26-10E-17 - §26-10E-24(b)(4)
    - All contest have been resolved in favor of the Petitioner(s) - §26-10E-24(b)(5)
    - Petitioner(s) aer suitable adoptive parents and desire to establish child/parent relationship - §26-10E-24(b)(6)
      - Best Interest is served - §26-10E-24(b)(7)
    - Petitioner(s) have cleared the Federal, State, Sex Offender Registry, Child Support and Adam Walsh Act - §26-10E-24(b)(8)(a and b)
    - Full Accounting - §26-10E-24(b)(9)
    - All other requirements of this chapter - §26-10E-24(b)(10)
  - Final Order shall include new name after adoption and shall **not** include any other name by which formally known or the names of the former parent(s). It shall order that the adoptee be the child of the Petitioner(s) and shall be accorded the status set for in section 6-10E-28 from the date of the order - §26-10E-24(c)
- Acknowledgement Letter From SDHR (Putative Father Registry) – §26-10C

**CONTESTED ADOPTION: 26-10E-23**

- Notice of Withdrawal of Consent or Motion to withdrawal – §26-10E-13 and 14
- Motion to Transfer case to Juvenile – 26-10E-3(b - d)
- Order to Transfer

- Pre-Trial/Status Hearing Order
- Motion to Obtain Reimbursement - §26-10E-24(e)
- Order Granting Withdrawal of Consent
- Order Denying Withdrawal of Consent
  - Order for Reimbursement to Petitioners - §26-10E-19(g)

**GRANDPARENT VISITATION: §26-10E-29**

- Only applies to adoptions pursuant to section 26-10E-26 and 27 - §26-10E-29(a)
- Before or after final judgement if in the best interest of the adoptee - §26-10E-29(b)
- Petition for Grandparent Visitation
- Notice and Order Setting Hearing on Petition for Grandparent Visitation
- Order on Petition for Grandparent Visitation