

Notice of At Risk Adoption

In general, it should be kept in mind that termination of parental rights and adoptions are creations of statutory law. Despite all the emotions attached to this area of the law, termination of parental rights and adoptions are controlled by the same principles that apply to any civil procedure. In general, after a judgment is made in a case, a defendant has the right to appeal that judgment for various lengths of time. There are different time limits for different types of appeals, and the limits vary from state to state. For example, one might appeal because of irregularity in a Judicial proceeding. Perhaps certain papers were not served properly. Perhaps a party was not told about a necessary appearance. Any irregularity which prevented a party from fully presenting their case can be appealed, but the time limit for this type of appeal is limited. Beyond the statutory limit, which varies from state to state, termination of parental rights and adoption decrees can generally be attacked because of fraud or mistake.

Generally, terminations and adoptions can be attacked because of fraud or duress in obtaining consent of the natural parents, failure to gain consent from a parent -- usually a birthfather who was not aware of the adoption. In recent years states have created a time limit for appeal by birth fathers who were never informed of the adoption proceedings, or a requirement to register with a paternity registry of some sort. Statutes regarding this issue may vary from state to state. The type of fraud which

can be used to open up an adoption procedure is that which was extrinsic to the original procedure. Extrinsic versus intrinsic fraud is a rather complex topic, but what it means is that a case can be opened up after many years, if it can be shown that there never was a real case. It must be shown that vital information, which was needed by the Court to fully consider the issues, never reached the court because of fraud which was perpetrated outside of the court's awareness. Exact guidelines regarding extrinsic fraud may vary from state to state.

The process of attacking a judgment terminating parental rights or granting an adoption is called an Appeal. This is the legal process by which a party who has lost her/his case at trial level petitions a higher court for a review of the case, claiming that a lower court erred in its judgment. Following a decision by the court to terminate parental rights, the parent may file an appeal requesting a reversal of the lower court's decision. Children placed with an adoptive family during the appeal process are said to be in a legal-risk placement. This implies that the child could be returned to the birth family based on the court's decision. Even if your adoption has been granted, it may be revoked if the natural parents win their case on appeal.

You should not proceed with the adoption process if you have any questions or qualms regarding proceeding with an adoption that may be at risk until you are fully satisfied with your situation, and understand the ramifications of proceeding with the adoption.

I/We have read the above information and understand that in attempting to adopt a child, we may be "at-risk" of having the adoption revoked or overturned by the Court in the future.

Signature of Adoptive Parent

Date

Signature of Adoptive Parent

Date

