

ORDER UPON FILING OF PETITION FOR ADOPTION (pursuant to Neb. Rev. Stat. § 43-104)

IN THE COUNTY COURT OF _____ COUNTY, NEBRASKA

IN THE MATTER OF THE ADOPTION OF _____

Case # _____

_____ A minor child

ORDER UPON FILING OF PETITION FOR ADOPTION (pursuant to Neb. Rev. Stat. § 43-104)

Upon the filing of a petition for adoption in the above case, the Court has reviewed the pleadings and attached exhibits, and orders as follows:

APPOINTMENT OF GUARDIAN:

_____ The Court appoints _____ as guardian for the minor child. The Court may authorize execution of substitute consents in accordance with § 43-105(1)(c).

CONSENTS REQUIRED:

_____ Consent of a minor child over fourteen is required. § 43-104(1)(a)

_____ Consent of the District Court/County Court/Separate Juvenile Court of this state is required. § 43-104(1)(b)

_____ Consent of parents/mother/father is required. § 43-104(1)(c)

SUBSTITUTE CONSENTS REQUIRED:

_____ Consent of Nebraska Department of Health & Human Services/approved agency is required. § 43-105(1)(a)(b)

_____ Consent of Guardian/Guardian ad Litem is required if appointed. § 43-105(1)(c)

RELINQUISHMENTS REQUIRED:

_____ Relinquishment and consent of father is required or denial of paternity and waiver of rights by father is required or Certificate of No Notice to Claim Paternity is required.

_____ Relinquishment of natural father/mother is required.

_____ Relinquishment of Department of Health & Human Services/agency is required.

SPECIAL FINDINGS FOR CHILD BORN OUT OF WEDLOCK:

_____ Court finds that natural father has been determined to be incapable of consenting to adoption since no notice to father is required because either:

_____ a. father has not filed notice to claim paternity as required by § 43-104.02 or

_____ b. there is clear evidence that (1) further notice to father threatens safety of mother or child; (2) conception was result of sexual assault or incest.

_____ Substitute consent for the birth father is not required because his consent to the adoption is not required under § 43-104.22.

AFFIDAVITS REQUIRED:

- _____ Affidavit by relinquishing parent, if available, affirming prior to relinquishment the parent was presented a non-consent form as provided in § 43-146.06 and given an explanation of the effects of filing or not filing the non-consent form.
- _____ Affidavit of mother or if minor signed, by agency or attorney regarding paternity of child. This affidavit must be attached to the petition at time of filing.
- _____ Affidavit of agency or attorney stating due diligence was used to notify father(s) of rights, responsibilities and methods of notice. The affidavit should be attached to petition at time of filing (attach return receipt/affidavit of publication). **[NOTE: This affidavit is not required if the mother identifies only one possible biological father and that there is no possibility of any other father, and proper relinquishments or consents are, or denial is, attached to the petition.]**

NONCOMPLIANCE:

- _____ Petition does not allege specific compliance with § 43-104.08 to 43-104.16 (see § 43-104.17)
- _____ Petition fails to establish substantial compliance with identification of and notice to alleged father(s). Evidence shall be received by affidavit of facts of (1) mother’s relationship with the father at time of conception and at time of relinquishment of child and (2) any notice risk to mother of child. **This evidence must be received by the Court within ten (10) days of this order.**
- _____ This Court finds that the agency or attorney representing the biological mother did not exercise due diligence to comply with the identification and notice provisions of the statute and order the agency or attorney to comply fully with § 43-104.08 to 43-104.16 of the act.
- _____ This Court appoints attorney _____ as Guardian ad Litem to represent the possible biological father(s) of the child. Costs and fees to be paid by petitioner(s).

NOTICE REQUIRED:

- _____ Notice of the final hearing shall be given to the birth mother/birth father (circle one or both), unless voluntary appearance and waiver of notice is submitted.
- _____ Notice of final hearing shall be given by publication to _____.
- _____ Notice of the investigative paternity hearing shall be given to every person identified by the Guardian ad Litem as a possible father pursuant to Neb. Rev. Stat. § 25-505.01, et al.
- _____ No notice shall be required to be given to the father(s) of the investigative paternity hearing based on this Court’s finding clear evidence that such notice is a safety risk to the child an/or mother.
- _____ No notice of the final hearing shall be given to the birth father because he has not filed notice of intent to claim paternity as required by § 43-104.02.
- _____ No notice of the final hearing shall be given to the birth father because he did not file a petition to adjudicate his claim of paternity within thirty (30) days of filing his claim of paternity as required by § 43-104.05(2).
- _____ Notice of the abandonment of parents’ capability to give consent hearing shall be given to the father/mother pursuant to Neb. Rev. Stat. § 25-505.01, et al.

HOME STUDY REQUIRED:

- _____ A preplacement home study completed within one (1) year of adoptee’s being placed with petitioner is required. The home study should have been filed with the petition. **No adoption decree shall be issued until six (6) months after a home study has been completed by the department or agency.**

_____ No preplacement or postplacement home study is required because the proposed adoption is by a step-parent.

_____ No pre-placement home study is required because the child was placed for foster care by or through the Nebraska Department of Health & Humans Services or licensed agency in home of petitioner. **A post- placement adoptive home study shall be filed with the Court at least one (1) week prior to the final hearing on adoption.**

_____ No pre-placement home study is required because the child was voluntarily placed by a parent or guardian in a placement for purposes other than adoption without the assistance of any attorney, physician, other individual or agency which later results in an adoption petition. **A post- placement adoptive home study shall be filed with the Court at least one (1) week prior to the final hearing on adoption.**

_____ A national criminal history record information check and a central registry check by the Nebraska Department of Health & Human Services are required at the costs of the petitioner(s).

_____ A proper home study has been attached to the petition and not further home study is required.

MEDICAL HISTORY REQUIRED:

_____ No medical history is required because the proposed adoption is by a step-parent.

_____ No medical history is required because the proposed adoption is for a child that was foreign born or abandoned.

_____ A medical history is required and has/has not been filed with the Court.

_____ No medical history is required from the birth father because his consent or waiver of rights was not obtained and not required.

ORDER FOR HEARING:

_____ No final hearing date should be set until compliance is met as stated above.

_____ The Court sets _____ at _____ .m., for hearing to determine:

- a. whether the child was born out of wedlock; and
- b. the identity of the possible father, if possible; and
- c. the rights of the father(s).

(Note: The Court may set this investigative hearing and the final hearing for the same time.)

_____ The final hearing date is set for _____ at _____ .m.

_____ A pre-adoption hearing on parents' abandonment or capability to give consent is ordered to held _____ at _____ .m.

IT IS FURTHER ORDERED:

Dated: _____

BY THE COURT: _____

COUNTY COURT JUDGE