The Process For Independent Adoption In Maryland

June 12, 2024

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AMOS PERRICK LAW

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TYPES OF ADOPTIONS

Maryland recognizes three methods of legal adoption:

1. Local Department adoption
2. Private Agency adoption
3. **Independent Adoption**

The Legal Effect of Adoption

Md. Code Ann. FAMILY LAW § 5-3B-25

"... After a court enters an order for adoption under this subtitle:

1. The adoptee:
   i. **is the offspring** of the adoptive parent for all intents and purposes; and
   ii. **is entitled to all of the rights** and privileges of and is subject to all of the obligations of offspring born to the adoptive parent;

2. Each of the adoptee's natural parents is:
   i. **relieved** of all parental duties and obligations to the adoptee
   ii. **divested** of all parental rights as to the adoptee."

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Sample Adoption Case

IN THE MATTER OF THE PETITION FOR ADOPTION OF	*	**IN THE**
BRUCE W.	*	**CIRCUIT COURT**
	*	**FOR**
ALFRED PENNYWORTH	*	**HOWARD COUNTY**
Wayne Manor **Gotham City, NY**	*	
PETITIONER	*	**Case No.: C-13-FM-24-**
* * * * * *	*	* *

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Petition for Adoption

Md. Code Ann. FAMILY LAW § 5-3B-13(b)

- Petitioner: **Any adult.**
  - If petitioner is married, the petitioner's spouse ***shall*** join in the petition, except if the spouse is a parent of the prospective adoptee and has given consent.

- Venue
  - Child's Domicile

Uncontested Independent Adoption

In an **uncontested** adoption, the natural parents must **consent** to the adoption.

- The prospective adoptee **must also consent** if the adoptee is at least **10 years old**.
  - Md. Code Ann. FAMILY LAW §5-3B-21.

The prospective adoptive parent(s) and the natural parent(s) may enter into an agreement for **postadoption contact**.

- Md. Code Ann. FAMILY LAW §5-3B-07.

Petition for Adoption, Part One

Maryland Rule 9-103(b)(1)

The Petition must include:

1. Basic personal information about the petitioner(s).
2. Basic personal information about the adoptee.
3. Verification of income of petitioner(s).
4. Consent of the birth parent(s).
5. Relationship between the parties
6. Statement as to how the child was located.
7. History of all the persons who have had care and custody of the prospective adoptee since birth (minor)

Petition for Adoption, Part Two

Maryland Rule 9-103(b)(1)

The Petition must include:

8. All other statements as required by Rule 9-103(b)
9. All exhibits as required by Rule 9-103(b)(2).
   a) Consent forms, birth certificate of prospective adoptee, marriage certificate of Petitioner(s), death certificate, any guardianship/custody orders, etc.
   b) Income information for the Petitioner(s)
   c) Health verification of the petitioner
   d) Health verification of the child

REQUIRED EXHIBITS

Maryland Rule 9-103(b)(2)

The following documents shall accompany the petition as exhibits, except for an adoption pursuant to Family Law Article, § 5-3B-27:

(i) A certified copy of the birth certificate or "proof of live birth" of the person to be adopted;

(ii) A certified copy of the marriage certificate of each married petitioner;

(iii) A certified copy of all judgments of divorce/declaration of termination of domestic partnership of each petitioner;

(iv) A certified copy of any death certificate of a person whose consent would be required if that person were living;

(v) A certified copy of all orders concerning temporary custody or guardianship of the person to be adopted;

(vi) A copy of any existing adoption home study by a licensed child placement agency concerning a petitioner, criminal background reports, or child abuse clearances Or Waiver of Home Study;

(vii) A document evidencing the annual income of each petitioner;

(viii) The original of all consents to the adoption, any required affidavits of translators or attorneys, and, if available, a copy of any written statement by the consenting person indicating a desire to revoke the consent, whether or not that statement constitutes a valid revocation;

(ix) Health certification forms for each Petitioner and the minor child;

(x) Proposed judgment of adoption

(xi) Maryland Health Certificate of Adoption Form

Petition Filing Fee & Fee Waiver

☐ CIRCUIT COURT ☐ DISTRICT COURT OF MARYLAND FOR _____ (City/County)

Located at _____ (Court Address) Case No. _____

IN THE MATTER OF: _____ (Petitioner/Plaintiff) vs. _____ (Respondent/Defendant)

STATEMENT IN SUPPORT OF WAIVER OF PREPAID COSTS BY CLERK
(Md. Rule 1-325)

Please be advised that I, _____ (Name of Attorney), am representing the following person, _____ (Name of Party) in this matter on behalf of:

☐ Maryland Legal Aid

☐ the Office of the Public Defender

☐ the following Maryland legal services provider: _____ (Name of Organization/Program)

That organization receives funding from or has otherwise been approved by the Maryland Legal Services Corporation to provide civil legal services on behalf of low-income persons. My client meets the financial eligibility criteria of the Corporation, and payment of filing fees or other court costs related to this matter is not required under the Prisoner Litigation Act, Maryland Code, Courts Article, §5-1002.

Therefore, in accordance with Maryland Rule 1-325(d), my client is entitled to an automatic waiver of prepaid costs.

I certify that to the best of my knowledge, information, and belief, there is a good ground for this claim, application, or request for process, and it is not interposed for any improper purpose or delay; or

☐ I am representing this client on behalf of the Office of the Public Defender which is required by statute to provide representation in this matter.

On behalf of: _____ (Name of Party)

_____ Attorney Signature

_____ Attorney Name

_____ Address

_____ City, State, Zip

_____ Telephone / Fax

_____ E-mail

_____ Date

CC-DC-088 (07/2015)

Appointed Counsel

Md. Code Ann. FAMILY LAW §5-3B-06

The Court shall appoint counsel:

1. To a **parent**, but only if:
   a) The parent has a disability; or
   b) The parent is a minor.

2. To the **prospective adoptee** if:
   a) The adoptee has a disability; **and**
   b) The adoptee is at least 10 years old and must consent to the adoption.

Adoption of Child Conceived via Assisted Reproduction (§5-3B-27)

(a) Scope of section. -- (1) This section applies only to an adoption by:**(i)** an individual who is the spouse of the prospective adoptee's mother at the time of the prospective adoptee's conception or birth; or

(ii) an individual who, together with the prospective adoptee's mother, consented to the conception of the prospective adoptee by means of assisted reproduction with the shared express intent of being parents of the prospective adoptee.

(2) This section does not apply to a nonconsensual adoption under Section 5-3B-22 of this subtitle.

Adoption of Child Conceived via Assisted Reproduction (§5-3B-27)

(b) In a proceeding under this section, the petitioner shall file, together with the petition for adoption:

(1) (i) for an adoption described in subsection (a)(1)(i) of this section, a copy of the petitioner's and prospective adoptee's mother's marriage certificate; or

(ii) for an adoption described in subsection (a)(1)(ii) of this section, evidence of the parties' shared express intent to become parents of the child by means of assisted reproduction, including a copy of any written agreement consenting to the conception of the prospective adoptee by means of assisted reproduction;

(2) a copy of the prospective adoptee's birth certificate; and

(3) a statement explaining the circumstances of the prospective adoptee's conception in detail sufficient to identify any individual who may be entitled to notice or whose consent may be required under this subtitle.

Adoption of Child Conceived via Assisted Reproduction (§5-3B-27)

(c) (1) In ruling on a petition for adoption under this section, the court **may not require an investigation** under § 5–3B–16 of this subtitle **or a hearing under** § 5–3B–17 of this subtitle, **except for good cause**.

(2) The court may hold a hearing to determine whether there are additional individuals who may be entitled to notice or whose consent may be required under this subtitle if the court is not satisfied from the pleadings that the appropriate notice or consent has been provided.

Adoption Hearing MD Rule 9-109

Adoption Order Granted/Denied

DECREE OF ADOPTION

UPON REVIEW of the Petition for Adoption by Alfred Pennyworth, [with the consent and support of his spouse and the biological mother of the minor child, _____] it is this _____2024 by the Circuit Court of Howard County:

ORDERED that, Alfred Pennyworth, be and is hereby declared to be the adoptive parent of Bruce Wayne, and shall have all of the rights, duties, responsibilities, and privileges of a parent of Bruce Wayne; and it is further

ORDERED that, the minor child, Bruce Wayne, a male, born April 7, 2020, be and is declared to be the adoptive child of Alfred Pennyworth, the adoptive parent, for all interests and purposes and is entitled to all rights and privileges of and is subject to all of the obligations of offspring been to the adoptive parent; and it is further

ORDERED that, Bruce Wayne's name shall be legally changed to **Bruce Pennyworth, and** the Maryland Department of Health and Mental Hygiene, Division of Vital Records is hereby directed to prepare and issue a new birth certificate for Bruce Pennyworth, changing his name from Bruce Wayne to Bruce Pennyworth, and adding the name of "**Alfred Pennyworth"** as "Father of Child.

.

_____

Judge

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Adoption v. Guardianship v. Custody

What's the difference?

- **Guardianship** grants **decision-making power** to the agent.
- **Adoption** grants **full parentage rights and obligations** to the child, including inheritance and child support.
  - Md. Code Ann. ESTATES AND TRUSTS § 1-207.
- **Custody** can be modified **if there is a material change in circumstance.**
- **Adoption** must be **appealed** and entails a **more complicated process.**

Thank You!

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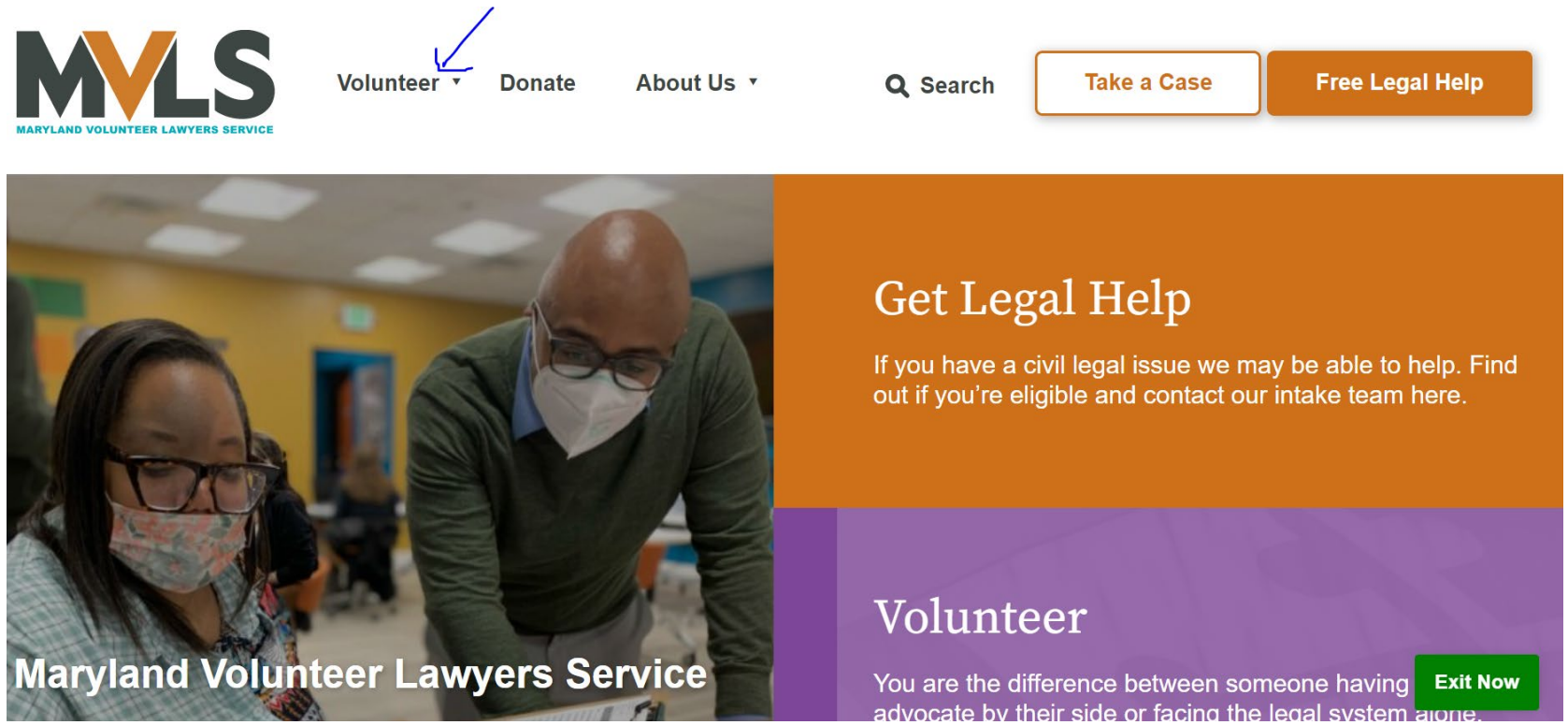

The Judicare Program

Judicare Clients

- Contested Divorce and Custody Matters
- Clients must meet eligibility requirements (income)

- The Program
- Volunteers must have three years experience in representing contested matters or two years of mentorship with an experienced identified Judicare volunteer
- Compensated at a maximum of $4200/case
- Malpractice Insurance provided

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MVLS Pro Bono Portal:
https://mvlslaw.org/probonoportal

FREE Recorded Trainings:
Go to https://mvlslaw.org/volunteer/volunteer-resources/

Recordings of past trainings are available in the following categories:

- -Consumer
- -Estate Planning & Estate Administration
- -Expungement
- -Family Law
- -Housing
- -Human Trafficking Prevention
- -Tax
- -Miscellaneous (business and soft skills)

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