START\_STATUTE8-106.  Consent to adoption; waiver; consent to the release of information; notification to potential fathers

A.  The court shall not grant an adoption of a child unless consent to adopt has been obtained and filed with the court from the following:

1.  The child's birth or adoptive mother, if living.

2.  The child's father if any of the following is true:

(a)  The father was married to the child's mother at the time of conception or at any time between conception and the child's birth unless his paternity is excluded or another man's paternity is established pursuant to title 25, chapter 6, article 1.

(b)  The father has adopted the child.

(c)  The father's paternity is established under title 25, chapter 6, article 1 or section 36‑334.

3.  A child who is twelve years of age or older and who gives consent in open court.

4.  Any guardian of the person of the child who is appointed by a court and who is given authority by it to consent to the child's adoption.

5.  An agency that has been given consent to place the child for adoption by the parent or parents whose consent would be necessary under paragraph 1 or 2 of this subsection, or that has been given authority in other legal proceedings to place the child for adoption.

6.  The guardian of any adult parent for whom a guardian is currently appointed.

7.  The division if it has been given consent to place the child for adoption by the parent or parents whose consent would otherwise be necessary pursuant to paragraph 1 or 2 of this subsection or if it has been given authority in other legal proceedings to place the child for adoption. The court may waive the requirement for consent if the court determines, after a hearing on actual notice to all persons who may be adversely affected, that waiving the requirement is clearly in the child's best interest.

B.  It is not necessary for a person to obtain consent to adopt from the following:

1.  An adult parent for whom a guardian is currently appointed.

2.  A parent whose parental rights have been terminated by court order.

3.  A parent who has previously consented to an agency's or the division's placement of the child for adoption.

4.  A person whose consent is not required under subsection A of this section.

C.  The minority of the child or parent does not affect the child's or parent's competency to give consent in the instances set forth in this section.

D.  A consent to adopt is irrevocable unless obtained by fraud, duress or undue influence.

E.  An agency, the division or an attorney participating or assisting in a direct placement adoption pursuant to section 8‑130 shall obtain from a birth parent, at the time consent for adoption is obtained, a notarized statement that acknowledges that when the child being adopted reaches eighteen years of age, the child may obtain a copy of the child's original birth certificate as provided in section 36‑340.  The birth parent shall also submit the contact preference form prescribed in section 36‑340 to the agency, division or attorney for filing with the court.

F.  A notarized affidavit signed by the mother listing all potential fathers shall be filed with the court.  The affidavit shall attest that all of the information contained in the affidavit is complete and accurate.

G.  Notice shall be served on each potential father as provided for the service of process in civil actions.  The notice shall be substantially in the form prescribed in subsection I of this section and shall inform the potential father of all of the following:

1.  That adoption is planned.

2.  The potential father's right to consent or withhold consent to the adoption.

3.  The potential father's responsibility to initiate paternity proceedings under title 25, chapter 6, article 1, and to serve the mother within thirty days of completion of service.

4.  The potential father's responsibility to proceed to judgment in the paternity action.

5.  The potential father's right to seek custody.

6.  The potential father's responsibility to begin to provide financial support for the child if paternity is established.

7.  That the potential father's failure to file a paternity action pursuant to title 25, chapter 6, article 1, and to serve the mother and proceed to judgment in the paternity action as prescribed by this section, bars the potential father from bringing or maintaining any action to assert any interest in the child.

H.  Service on a mother of a title 25, chapter 6, article 1 paternity action pursuant to this section may be accepted by an attorney or agency that is licensed in this state and that is representing the mother.  A mother may omit her address from the affidavit and notice to potential fathers if the address of her attorney or the agency is provided in the affidavit.  Service on an attorney or agency pursuant to this subsection is limited to service of the initial verified petition and summons in the paternity action. Service on the attorney does not make the attorney the attorney of record for the mother in the paternity action and does not make the agency the agent for the mother in the paternity action.

I.  The notice required pursuant to subsection G of this section shall be in substantially the following form:

Notice:

Notice is given to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ that you have been identified by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the natural mother, as a potential father of a child to be born or, born on \_\_\_\_\_\_\_\_\_\_\_\_\_, in \_\_\_\_\_\_\_\_\_.

You are informed of the following:

1.  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the natural mother, plans to place the child for adoption.

2.  Under sections 8‑106 and 8‑107, Arizona Revised Statutes, you have the right to consent or withhold consent to the adoption.

3.  Your written consent to the adoption is irrevocable once you give it.

4.  If you withhold consent to the adoption, you must initiate paternity proceedings under title 25, chapter 6, article 1, Arizona Revised Statutes, and serve the mother within thirty days after completion of service of this notice.

5.  You have the obligation to proceed to judgment in the paternity action.

6.  You have the right to seek custody.

7.  If you are established as the child's father, you must begin to provide financial support for the child.

8.  If you do not file a paternity action under title 25, chapter 6, article 1, Arizona Revised Statutes, and do not serve the mother within thirty days after completion of the service of this notice and pursue the action to judgment, you cannot bring or maintain any action to assert any interest in the child.

9.  The Indian child welfare act may supersede the Arizona Revised Statutes regarding adoption and paternity.

10.  For the purposes of service of a paternity action under title 25, chapter 6, article 1, Arizona Revised Statutes, service may be made on the mother at \_\_\_\_\_\_\_\_\_\_\_\_\_ or her agency or attorney at \_\_\_\_\_\_\_\_\_\_\_.

11.  You may wish to consult with an attorney to assist you in responding to this notice.

J.  A potential father who fails to file a paternity action and who does not serve the mother within thirty days after completion of service on the potential father as prescribed in subsection G of this section waives his right to be notified of any judicial hearing regarding the child's adoption or the termination of parental rights and his consent to the adoption or termination is not required.END\_STATUTE