

CHECKLIST FOR THE PREPARATION AND REVIEW OF A PETITION
FOR ADOPTION INVOLVING A DEPARTMENT
OR AGENCY ADOPTIVE PLACEMENT
PURSUANT TO O.C.G.A. §19-8-4

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NOTE: This checklist is intended as a guide to the practitioner in the preparation of a Petition for Adoption and to the Court in its review of a Petition for Adoption. The textual format of the checklist is *summary in nature* and is not to be relied on in lieu of the specific language of the particular statutory provision cited.

In particular, when preparing or reviewing Surrenders, Acknowledgments, and Affidavits used to support a specific Petition for Adoption attention is directed to the phrase "**shall conform substantially to the following**" that appears immediately before each of the forms set forth in O.C.G.A. §19-8-26. Both the practitioner and the Court are reminded the Surrenders, Acknowledgments, and Affidavits are to be prepared so as to clearly communicate the particular facts of the subject adoption in light of the requirements of the controlling statutory provisions. **Judicial discretion must therefore be used in determining substantial conformance.**

I. EACH PETITION SHALL SET FORTH:

1. The name, age, marital status, and place of residence of each Petitioner [O.C.G.A. §19-8-13(a)(1)(A)]; necessary to determine proper venue under O.C.G.A. §19-8-2(b).
2. Facts sufficient to prove that each petitioner is: (a) at least 25 years of age **or** married to each other, and (b) at least 10 years older than the child sought to be adopted; **and** allegations that each petitioner is "financially, physically, and mentally able to have permanent custody" of the child sought to be adopted; as required by O.C.G.A. §19-8-3(a)(1), (2), and (4).
3. An allegation or facts sufficient to prove that each petitioner established his/her residence in the county in which the petition is filed **and** that residence in the State of Georgia was established more than six months immediately preceding the filing of the petition to satisfy O.C.G.A. §19-8-3(a)(3).
4. If the petition is filed in a county other than that of the petitioner's residence the reason therefore [O.C.G.A. §19-8-13(a)(8)]; venue is discretionary with the Court under O.C.G.A. §19-8-2(b)(1).

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5. If a petitioner is married the petition must be filed in the name of both spouses [O.C.G.A. §19-8-3(c)].
 6. The name by which the child is to be known following the adoption [O.C.G.A. §19-8-13(a)(1)(B)].
 7. The date of birth and the sex of the child [O.C.G.A. §19-8-13(a)(1)(C)].
 8. The child's written consent to his/her adoption in those cases where the child sought to be adopted is 14 years of age or older [O.C.G.A. §19-8-4(b)].
 9. The date and circumstances of the placement of the child with each petitioner [O.C.G.A. §19-8-13(a)(1)(D)].
 10. Whether the child is possessed of any property, and if so a full and complete description thereof, and whether he/she has a guardian for such property [O.C.G.A. § 19-8-13(a)(1)(E) and (G)].
 11. Whether the child's legal mother, legal father, and/or his/her biological father who is not his/her legal father, is alive, or was alive when they signed documents attached to the Petition [O.C.G.A. §19-8-13(a)(1)(F)].
 12. Whether the child has a guardian of his/her person [O.C.G.A. §19-8-13(a)(1)(G)].
- II. IN ADDITION TO THE FOREGOING EACH PETITION SHALL REFERENCE EACH OF THE FOLLOWING **OR EXPLAIN ITS ABSENCE**:
1. An affidavit from the department or agency, as applicable, stating that all the requirements of O.C.G.A. §19-8-4 and §19-8-12 have been complied with [O.C.G.A. §19-8-13(a)(2)(A)].

NOTE: It is best practice for counsel for the petitioner(s) to obtain the original documents that were signed by the parents and biological father who is not the legal father, if applicable, or certified copies of court orders terminating the rights of each, to verify that the department or agency has properly addressed the rights of the child's parent(s) and biological father who is not the legal father, if applicable.

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Accordingly, it is also best practice to include the surrenders, acknowledgments, (or if applicable, certified copies of the juvenile court orders terminating the rights of the mother, legal father, and biological father who is not the legal father, as appropriate) and affidavits as part of the petition as follows:

- A. The written voluntary surrender of each parent or guardian as specified in O.C.G.A. §§19-8-4(a)(1), 19-8-4(e)(1), and 19-8-26(a)
- B. The written acknowledgment of surrender executed by each parent or guardian as specified in O.C.G.A. §§19-8-4(f) and 19-8-26(g)
- C. The affidavit of the mother **and** the affidavit of the department or agency's representative specified in O.C.G.A. §§19-8-4(g) and (h).
- D. The written voluntary surrender of the biological father who is not the legal father as provided for in O.C.G.A. §19-8-5(e)(2) or (3) and the corresponding written acknowledgment of surrender executed by the biological father who is not the legal father as provided for in O.C.G.A. §19-8-4(f).
- E. Allegations of compliance with the provisions of O.C.G.A. §19-8-12 relating to the biological father who is not the legal father [O.C.G.A. §19-8-13(a)(3)(D)] **and**, the certificate from the Putative Father Registry specified in O.C.G.A. §19-8-13(h).

NOTE: The provisions of O.C.G.A. §19-8-12(b) are not applicable in those cases where there is a biological father who is not the legal father that has either executed a voluntary surrender or had his rights terminated by a court of competent jurisdiction. In lieu of alleging compliance with the provisions of O.C.G.A. §19-8-12 attach the written voluntary surrender of the biological father who is not the legal father as specified in O.C.G.A. §19-8-4(e)(2) and the written acknowledgment of surrender executed by the biological father who is not the legal father as specified in O.C.G.A. §19-8-4(f), or a certified copy of the court order terminating the rights of the biological father who is not the legal father, whichever is applicable, and reference the non-applicability of O.C.G.A. §19-8-12.

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NOTE: Though not required by statute, in those cases where a written voluntary surrender is obtained from either the legal father or the biological father who is not the legal father, it is *best practice* to also obtain the certificate from the Putative Father Registry referenced in O.C.G.A. §19-8-13(h) and attach it to the Petition to prove that no other man asserted a claim to be the biological father of the child. Of course, if the certificate from the Putative Father Registry contains the name of another man then he must be notified in compliance with the provisions of O.C.G.A. §19-8-12.

2. The written consent of the department or agency, as applicable [O.C.G.A. §19-8-4(a) and O.C.G.A. §19-8-13(a)(2)(B)].
3. A copy of the appropriate form verifying compliance with the requirements of the Interstate Compact on the Placement of Children (*e.g.*, ICPC 100-A signed on behalf of Georgia as receiving state) [O.C.G.A. §19-8-13(a)(2)(C)].
4. Copies of appropriate certificates or forms verifying allegations contained in the petition as to guardianship of the child sought to be adopted, marriage of the petitioners, the divorce or death of each parent of the child sought to be adopted.

Note: These documents are not required by the code because the department or licensed child-placing agency is expected to verify the facts *before* placing the child with the petitioner(s) however it is best practice to include such documentation for the court's review.

5. Copies of appropriate certificates or forms verifying compliance with the Interstate Compact on the Placement of Children, *e.g.*, ICPC Form 100-A signed on behalf of Georgia as receiving state. [O.C.G.A. §19-8-13(a)(2)(C)]
 6. A completed form containing background information regarding the child (Form 419 or Form 413) [O.C.G.A. §19-8-13(a)(2)(D)].
- III. The petition must be duly verified [O.C.G.A. §19-8-13(a)].

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- IV. **NOTE:** If the petitioner alleges the application of either O.C.G.A. §19-8-10 or O.C.G.A. §19-8-11 and is seeking termination of *parental* rights of a legal parent (not the rights of a biological father who is not the legal father) incident to the adoption action then the petition must also contain facts demonstrating the applicability of the grounds set forth in that code section [including the failure to exercise proper parental care or control due to misconduct or inability, as set out in paragraph (2), (3), or (4) of O.C.G.A. §15-11-94(b)] and shall allege compliance with the notice provisions of O.C.G.A. §19-8-10(c) or O.C.G.A. §19-8-11(b), as appropriate.
- V. **NOTE:** Check for applicability of notice to grandparent in the event grandparent visitation rights are involved under O.C.G.A. §19-7-3 [O.C.G.A. §19-8-13(f)].
- VI. **NOTE:** The language of the 2007 amendment to O.C.G.A. §19-8-16(d) requiring each Petitioner to provide the Court with a fingerprint-based criminal history record check (of both the GCIC and the NCIC databases) altered the structure of the Code Chapter which had theretofore required a criminal history records check *only* when the Court appointed an agency or agent to conduct an investigation and render a report to the Court. The provisions of O.C.G.A. §19-8-16(c) specifically exempt adoptions involving children placed by the Department (*i.e.*, DFCS) where the Department had previously “conducted an investigation and consented to the adoption” pursuant to O.C.G.A. §19-8-4 from the requirement of an investigation because as part of the Department’s foster care and adoption process each Petitioner previously had to submit a fingerprint-based criminal history records check (of both the GCIC and the NCIC databases) *before* the child was placed by the Department and the result of that fingerprint-based criminal history record check was evaluated as part of the process. That is why the exception exists in O.C.G.A. §19-8-16(c). Accordingly, to require a Petitioner seeking to adopt a child placed by the Department to submit to another criminal history records check as part of the judicial process before the Superior Court will be duplicative, and result in additional cost to the Petitioner and not disclose any new information. In addition, to require another criminal history records check may delay the hearing of the adoption because the provisions of O.C.G.A. §19-8-14 provide that DFCS adoptions may be heard *instanter* by the Court. I submit the Court has the authority to waive the submission of an *additional* criminal history records check in adoptions involving a child placed by the Department (*i.e.*, DFCS) where the Department has “conducted an investigation and consented to the adoption” pursuant to O.C.G.A. §19-8-4.

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Therefore, it is now important for the attorney for the Petitioner to make inquiry of the Court to ascertain whether or not the Court hearing the petition will require each Petitioner to provide a fingerprint-based criminal history records check as a prerequisite to hearing the Petition involving a child placed by the Department (*i.e.*, DFCS) where the Department has “conducted an investigation and consented to the adoption” pursuant to O.C.G.A. §19-8-4.

- VII. **NOTE:** Although not required by the provisions of O.C.G.A. Chapter 19-8 it is the responsibility of the attorney for the Petitioner in an adoption to complete the Georgia Department of Human Resources Vital Records Service Form No. 3927 entitled “Certificate of Adoption” for presentation to the Clerk of the Superior Court at the time of the entry of the Final Decree of Adoption [see, O.C.G.A. §31-10-13(b)]. This will enable the Clerk of the Superior Court to be able to comply with the requirements of O.C.G.A. §31-10-13(d) and keep the Vital Records Service informed. Note this Certificate of Adoption is required for all adoptions, not just for those involving children born in Georgia. Failure to prepare and file the Certificate of Adoption will result in the adoptive parents not being able to secure a birth certificate for the child that will list their names as parents and the child’s new name. The new birth certificate is needed to apply for a new Social Security Account Number for the child and to list the child as a dependent of the adoptive parent(s). The Vital Records Form titled “Certificate of Adoption” is not to be confused with the “Certificate of Adoption” that is available from the Clerk of the Superior Court under the provisions of O.C.G.A. §19-8-20(b) [in the form set out in O.C.G.A. §19-8-20(c)]. A new birth certificate shall not be established if the Court includes in the final decree of adoption a specific direction that a new birth certificate not be issued [see, O.C.G.A. §31-10-14(a)(1)].

CHECKLIST FOR THE PREPARATION AND REVIEW OF A PETITION
FOR ADOPTION INVOLVING AN INDEPENDENT, NON-STEPPARENT,
NON-RELATIVE ADOPTION PURSUANT TO O.C.G.A. §19-8-5

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NOTE: This checklist is intended as a guide to the practitioner in the preparation of a Petition for Adoption and to the Court in its review of a Petition for Adoption. The textual format of the checklist is *summary in nature* and is not to be relied on in lieu of the specific language of the particular statutory provision cited.

In particular, when preparing or reviewing Surrenders, Acknowledgments, and Affidavits used to support a specific Petition for Adoption attention is directed to the phrase "**shall conform substantially to the following**" that appears immediately before each of the forms set forth in O.C.G.A. §19-8-26. Both the practitioner and the Court are reminded the Surrenders, Acknowledgments, and Affidavits are to be prepared so as to clearly communicate the particular facts of the subject adoption in light of the requirements of the controlling statutory provisions. **Judicial discretion must therefore be used in determining substantial conformance.**

I. EACH PETITION SHALL SET FORTH:

1. The name, age, marital status, and place of residence of each Petitioner [O.C.G.A. §19-8-13(a)(1)(A)]; necessary to determine proper venue under O.C.G.A. §19-8-2(b).
2. Facts sufficient to prove that each petitioner is: (a) at least 25 years of age **or** married to each other, and (b) at least 10 years older than the child sought to be adopted; **and** allegations that each petitioner is "financially, physically, and mentally able to have permanent custody" of the child sought to be adopted; as required by O.C.G.A. §19-8-3(a)(1), (2), and (4).
3. An allegation or facts sufficient to prove that each petitioner established his/her residence in the county in which the petition is filed **and** that residence in the State of Georgia was established more than six months immediately preceding the filing of the petition to satisfy O.C.G.A. §19-8-3(a)(3).
4. If the petition is filed in a county other than that of the petitioner's residence the reason therefore [O.C.G.A. §19-8-13(a)(8)]; venue is discretionary with the Court under O.C.G.A. §19-8-2(b)(1).

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5. If a petitioner is married the petition must be filed in the name of both spouses [O.C.G.A. §19-8-3(c)].
6. The name by which the child is to be known following the adoption [O.C.G.A. §19-8-13(a)(1)(B)].
7. The date of birth and the sex of the child [O.C.G.A. §19-8-13(a)(1)(C)].
8. The child's written consent to his/her adoption in those cases where the child sought to be adopted is 14 years of age or older [O.C.G.A. §19-8-5(b)].
9. The date and circumstances of the placement of the child with each petitioner [O.C.G.A. §19-8-13(a)(1)(D)] [see, Note V below].
10. Whether the child is possessed of any property, and if so a full and complete description thereof, and whether he/she has a guardian for such property [O.C.G.A. § 19-8-13(a)(1)(E) and (G)].
11. Whether the child's legal mother, legal father, and/or his/her biological father who is not his/her legal father, is alive, or was alive when they signed documents attached to the Petition [O.C.G.A. §19-8-13(a)(1)(F)].
12. Whether the child has a guardian of his/her person [O.C.G.A. §19-8-13(a)(1)(G)].

II. IN ADDITION TO THE FOREGOING EACH PETITION SHALL REFERENCE EACH OF THE FOLLOWING ***OR EXPLAIN ITS ABSENCE:***

1. The written voluntary surrender of each parent or guardian as specified in O.C.G.A. §19-8-5(e)(1) [O.C.G.A. §19-8-13(a)(3)(A)]. (See, VI below for exception)
2. The written acknowledgment of surrender executed by each parent or guardian as specified in O.C.G.A. §§19-8-5(f) and 19-8-26(g) [O.C.G.A. §19-8-13(a)(3)(B)]. (See, VI below for exception)

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3. The affidavit of the mother **and** the affidavit of the petitioner's representative specified in O.C.G.A. §19-8-5(g) and (h) [O.C.G.A. §19-8-13(a)(3)(C)]. (See, VI below for exception)
4. The written voluntary surrender of the biological father who is not the legal father as provided for in O.C.G.A. §19-8-5(e)(2) or (3) and the corresponding written acknowledgment of surrender executed by the biological father who is not the legal father as provided for in O.C.G.A. §19-8-5(f).
5. Allegations of compliance with the provisions of O.C.G.A. §19-8-12 relating to the biological father who is not the legal father [O.C.G.A. §19-8-13(a)(3)(D)] **and**, the certificate from the Putative Father Registry specified in O.C.G.A. §19-8-13(h).

NOTE: The provisions of O.C.G.A. §19-8-12(b) are not applicable in those cases where there is a biological father who is not the legal father that has either executed a voluntary surrender or had his rights terminated by a court of competent jurisdiction. In lieu of alleging compliance with the provisions of O.C.G.A. §19-8-12 attach the written voluntary surrender of the biological father who is not the legal father as specified in O.C.G.A. §19-8-5(e)(2) and the written acknowledgment of surrender executed by the biological father who is not the legal father as specified in O.C.G.A. §19-8-5(f), or a certified copy of the court order terminating the rights of the biological father who is not the legal father, whichever is applicable and reference the non-applicability of O.C.G.A. §19-8-12.

NOTE: Though not required by statute, in those cases where a written voluntary surrender is obtained from either the legal father or the biological father who is not the legal father, it is *best practice* to also obtain the certificate from the Putative Father Registry referenced in O.C.G.A. §19-8-13(h) and attach it to the Petition to prove that no other man asserted a claim to be the biological father of the child. Of course, if the certificate from the Putative Father Registry contains the name of another man then he must be notified as required by the provisions of O.C.G.A. §19-8-12.

6. Allegations of compliance with the Interstate Compact on the Placement of Children, e.g., ICPC Form 100-A signed on behalf of Georgia as receiving state. [O.C.G.A. §19-8-13(a)(3)(E)].

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7. The accounting required by the provisions of O.C.G.A. §19-8-13(c) [O.C.G.A. §19-8-13(a)(3)(F)].
 8. Copies of appropriate certificates or forms verifying allegations contained in the petition as to guardianship of the child sought to be adopted, marriage of the petitioners, the divorce or death of each parent of the child sought to be adopted, and compliance with the Interstate Compact on the Placement of Children [O.C.G.A. §19-8-13(a)(3)(G)].
 9. A completed form containing background information regarding the child (Form 413) [O.C.G.A. §19-8-13(a)(3)(H)].
- III. The petition must be duly verified [O.C.G.A. §19-8-13(a)].
- IV. **NOTE:** Petitioner needs to have complied with the requirements of O.C.G.A. §19-8-5(j) within 15 days following the execution of the surrenders and the placement of the child with Petitioners.
- V. **NOTE:** Before the decree of adoption may be entered every attorney for a petitioner in an adoption proceeding pursuant to O.C.G.A. §19-8-5 shall file the financial accounting required by the provisions of O.C.G.A. §19-8-13(d).
- VI. **NOTE:** The provisions of O.C.G.A. §19-8-13(g) control where a petition is filed pursuant to 19-8-5 following the termination of parental rights and placement of the child by the juvenile court pursuant to O.C.G.A. §15-11-103(a). However, the provisions of O.C.G.A. §19-8-12 regarding the biological father who is not the legal father must be complied with, if applicable, **unless** the juvenile court has also terminated his rights pursuant to the provisions of O.C.G.A. §15-11-96(i) or has terminated his rights pursuant to the provisions of O.C.G.A. §15-11-94 (*i.e.*, erroneously treated him as a “parent”), in which case attaching a certified copy of the order terminating the rights of said biological father shall eliminate the need to comply with the provisions of O.C.G.A. §19-8-12.

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- VII. **NOTE:** If the petitioner alleges the application of either O.C.G.A. §19-8-10 or O.C.G.A. §19-8-11 and is seeking termination of *parental* rights of a legal parent (not the rights of a biological father who is not the legal father) incident to the adoption action then the petition must also contain facts demonstrating the applicability of the grounds set forth in that code section [including the failure to exercise proper parental care or control due to misconduct or inability, as set out in paragraph (2), (3), or (4) of O.C.G.A. §15-11-94(b)] and shall allege compliance with the notice provisions of O.C.G.A. §19-8-10(c) or O.C.G.A. §19-8-11(b), as appropriate.
- VIII. **NOTE:** Check for applicability of notice to grandparent in the event grandparent visitation rights are involved under O.C.G.A. §19-7-3 [O.C.G.A. §19-8-13(f)].
- IX. **NOTE:** Although not required by the provisions of O.C.G.A. Chapter 19-8 it is the responsibility of the attorney for the Petitioner in an adoption to complete the Georgia Department of Human Resources Vital Records Service Form No. 3927 entitled "Certificate of Adoption" for presentation to the Clerk of the Superior Court at the time of the entry of the Final Decree of Adoption [see, O.C.G.A. §31-10-13(b)]. This will enable the Clerk of the Superior Court to be able to comply with the requirements of O.C.G.A. §31-10-13(d) and keep the Vital Records Service informed. Note this Certificate of Adoption is required for all adoptions, not just for those involving children born in Georgia. Failure to prepare and file the Certificate of Adoption will result in the adoptive parents not being able to secure a birth certificate for the child that will list their names as parents and the child's new name. The new birth certificate is needed to apply for a new Social Security Account Number for the child and to list the child as a dependent of the adoptive parent(s). The Vital Records Form titled "Certificate of Adoption" is not to be confused with the "Certificate of Adoption" that is available from the Clerk of the Superior Court under the provisions of O.C.G.A. §19-8-20(b) [in the form set out in O.C.G.A. §19-8-20(c)]. A new birth certificate shall not be established if the Court includes in the final decree of adoption a specific direction that a new birth certificate not be issued [see, O.C.G.A. §31-10-14(a)(1)].

CHECKLIST FOR THE PREPARATION AND REVIEW OF A PETITION
FOR ADOPTION INVOLVING A STEPPARENT ADOPTION
PURSUANT TO O.C.G.A. §19-8-6

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2. Facts sufficient to prove that each petitioner is: (a) at least 25 years of age **or** married to each other, and (b) at least 10 years older than the child sought to be adopted; **and** allegations that each petitioner is "financially, physically, and mentally able to have permanent custody" of the child sought to be adopted; as required by O.C.G.A. §19-8-3(a)(1), (2), and (4).
3. An allegation or facts sufficient to prove that each petitioner established his/her residence in the county in which the petition is filed **and** that residence in the State of Georgia was established more than six months immediately preceding the filing of the petition to satisfy O.C.G.A. §19-8-3(a)(3).
4. If the petition is filed in a county other than that of the petitioner's residence the reason therefore [O.C.G.A. §19-8-13(a)(8)]; venue is discretionary with the Court under O.C.G.A. §19-8-2(b)(1).
5. Where the child is the stepchild of the petitioner the petition shall be filed by the stepparent alone notwithstanding the general requirement of O.C.G.A. §19-8-3(c) that if a petitioner is married the petition be filed in the name of both spouses. [O.C.G.A. §19-8-3(c)].

CHECKLIST FOR THE PREPARATION AND REVIEW OF A PETITION
FOR ADOPTION INVOLVING A STEPPARENT ADOPTION
PURSUANT TO O.C.G.A. §19-8-6

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6. The name by which the child is to be known following the adoption [O.C.G.A. §19-8-13(a)(1)(B)].
7. The date of birth and the sex of the child [O.C.G.A. §19-8-13(a)(1)(C)].
8. The child's written consent to his/her adoption in those cases where the child sought to be adopted is 14 years of age or older [O.C.G.A. §19-8-6(b)].
9. The date and circumstances of the placement of the child with each petitioner [O.C.G.A. §19-8-13(a)(1)(D)].
10. Whether the child is possessed of any property, and if so a full and complete description thereof, and whether he/she has a guardian for such property [O.C.G.A. § 19-8-13(a)(1)(E) and (G)].
11. Whether the child's legal mother, legal father, and/or his/her biological father who is not his/her legal father, is alive, or was alive when they signed documents attached to the Petition [O.C.G.A. §19-8-13(a)(1)(F)].
12. Whether the child has a guardian of his/her person [O.C.G.A. §19-8-13(a)(1)(G)].

II. IN ADDITION TO THE FOREGOING EACH PETITION SHALL REFERENCE EACH OF THE FOLLOWING ***OR EXPLAIN ITS ABSENCE:***

1. The written voluntary surrender of the parent not married to the petitioner or guardian, as specified in O.C.G.A. §19-8-6(e)(1) [O.C.G.A. §19-8-13(a)(4)(A)].
2. The written acknowledgment of surrender executed by the parent not married to the petitioner or guardian, as specified in O.C.G.A. §§19-8-6(f) and 19-8-26(g) [O.C.G.A. §19-8-13(a)(4)(B)].
3. The affidavit of the mother and the affidavit of the petitioner's representative specified in O.C.G.A. §19-8-6(g) and (h) [O.C.G.A. §19-8-13(a)(4)(C)].

CHECKLIST FOR THE PREPARATION AND REVIEW OF A PETITION
FOR ADOPTION INVOLVING A STEPPARENT ADOPTION
PURSUANT TO O.C.G.A. §19-8-6

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4. The consent of the non-adopting spouse specified in O.C.G.A. §19-8-6(j) [O.C.G.A. §19-8-13(a)(4)(D)].
5. The written voluntary surrender of the biological father who is not the legal father as provided for in O.C.G.A. §19-8-6(e)(2) and the corresponding written acknowledgment of surrender executed by the biological father who is not the legal father as provided for in O.C.G.A. §19-8-6(f).
6. Allegations of compliance with the provisions of O.C.G.A. §19-8-12 relating to the biological father who is not the legal father [O.C.G.A. §19-8-13(a)(3)(D)] **and**, the certificate from the Putative Father Registry specified in O.C.G.A. §19-8-13(h).

NOTE: The provisions of O.C.G.A. §19-8-12(b) are not applicable in those cases where there is a biological father who is not the legal father that has either executed a voluntary surrender or had his rights terminated by a court of competent jurisdiction. In lieu of alleging compliance with the provisions of O.C.G.A. §19-8-12 attach the written voluntary surrender of the biological father who is not the legal father as specified in O.C.G.A. §19-8-6(e)(2) and the written acknowledgment of surrender executed by the biological father who is not the legal father as specified in O.C.G.A. §19-8-6(f), or a certified copy of the court order terminating the rights of the biological father who is not the legal father, whichever is applicable.

NOTE: Though not required by statute, in those cases where a written voluntary surrender is obtained from either the legal father or the biological father who is not the legal father, it is *best practice* to also obtain the certificate from the Putative Father Registry referenced in O.C.G.A. §19-8-13(h) and attach it to the Petition to prove that no other man asserted a claim to be the biological father who is not the legal father of the child. Of course, if the certificate from the Putative Father Registry contains the name of another man then he must be notified as required by the provisions of O.C.G.A. §19-8-12.

7. Copies of appropriate certificates or forms verifying allegations contained in the petition as to guardianship of the child sought to be adopted, birth of the child sought to be adopted, marriage of the petitioners, and the divorce or death of each parent of the child sought to be adopted [O.C.G.A. §19-8-13(a)(4)(F)].

CHECKLIST FOR THE PREPARATION AND REVIEW OF A PETITION
FOR ADOPTION INVOLVING A STEPPARENT ADOPTION
PURSUANT TO O.C.G.A. §19-8-6

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8. A completed form containing background information regarding the child (Form 413) [O.C.G.A. §19-8-13(a)(4)(G)].
- III. The petition must be duly verified [O.C.G.A. §19-8-13(a)].
 - IV. **NOTE:** Check for applicability of notice to grandparent in the event grandparent visitation rights are involved under O.C.G.A. §19-7-3 [O.C.G.A. §19-8-13(f)].
 - V. **NOTE:** If the petitioner alleges the application of either O.C.G.A. §19-8-10 or O.C.G.A. §19-8-11 and is seeking termination of *parental* rights of a legal parent (not the rights of a biological father who is not the legal father) incident to the adoption action then the petition must also contain facts demonstrating the applicability of the grounds set forth in that code section [including the failure to exercise proper parental care or control due to misconduct or inability, as set out in paragraph (2), (3), or (4) of O.C.G.A. §15-11-94(b)] and shall allege compliance with the notice provisions of O.C.G.A. §19-8-10(c) or O.C.G.A. §19-8-11(b), as appropriate.
 - VI. **NOTE:** Although not required by the provisions of O.C.G.A. Chapter 19-8 it is the responsibility of the attorney for the Petitioner in an adoption to complete the Georgia Department of Human Resources Vital Records Service Form No. 3927 entitled "Certificate of Adoption" for presentation to the Clerk of the Superior Court at the time of the entry of the Final Decree of Adoption [see, O.C.G.A. §31-10-13(b)]. This will enable the Clerk of the Superior Court to be able to comply with the requirements of O.C.G.A. §31-10-13(d) and keep the Vital Records Service informed. Note this Certificate of Adoption is required for all adoptions, not just for those involving children born in Georgia. Failure to prepare and file the Certificate of Adoption will result in the adoptive parents not being able to secure a birth certificate for the child that will list their names as parents and the child's new name. The new birth certificate is needed to apply for a new Social Security Account Number for the child and to list the child as a dependent of the adoptive parent(s). The Vital Records Form titled "Certificate of Adoption" is not to be confused with the "Certificate of Adoption" that is available from the Clerk of the Superior Court under the provisions of O.C.G.A. §19-8-20(b) [in the form set out in O.C.G.A. §19-8-20(c)]. A new birth certificate shall not be established if the Court includes in the final decree of adoption a specific direction that a new birth certificate not be issued [see, O.C.G.A. §31-10-14(a)(1)].

CHECKLIST FOR THE PREPARATION AND REVIEW OF A PETITION
FOR ADOPTION INVOLVING A RELATIVE ADOPTION
PURSUANT TO O.C.G.A. §19-8-7

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NOTE: This checklist is intended as a guide to the practitioner in the preparation of a Petition for Adoption and to the Court in its review of a Petition for Adoption. The textual format of the checklist is *summary in nature* and is not to be relied on in lieu of the specific language of the particular statutory provision cited.

In particular, when preparing or reviewing Surrenders, Acknowledgments, and Affidavits used to support a specific Petition for Adoption attention is directed to the phrase "**shall conform substantially to the following**" that appears immediately before each of the forms set forth in O.C.G.A. §19-8-26. Both the practitioner and the Court are reminded the Surrenders, Acknowledgments, and Affidavits are to be prepared so as to clearly communicate the particular facts of the subject adoption in light of the requirements of the controlling statutory provisions. **Judicial discretion must therefore be used in determining substantial conformance.**

I. EACH PETITION SHALL SET FORTH:

1. The name, age, marital status, and place of residence of each Petitioner [O.C.G.A. §19-8-13(a)(1)(A)]; necessary to determine proper venue under O.C.G.A. §19-8-2(b).
2. Facts sufficient to prove that each petitioner is: (a) at least 25 years of age **or** married to each other, and (b) at least 10 years older than the child sought to be adopted; **and** allegations that each petitioner is "financially, physically, and mentally able to have permanent custody" of the child sought to be adopted; as required by O.C.G.A. §19-8-3(a)(1), (2), and (4).
3. An allegation or facts sufficient to prove that each petitioner established his/her residence in the county in which the petition is filed **and** that residence in the State of Georgia was established more than six months immediately preceding the filing of the petition to satisfy O.C.G.A. §19-8-3(a)(3).
4. If the petition is filed in a county other than that of the petitioner's residence the reason therefore [O.C.G.A. §19-8-13(a)(8)]; venue is discretionary with the Court under O.C.G.A. §19-8-2(b)(1).

CHECKLIST FOR THE PREPARATION AND REVIEW OF A PETITION
FOR ADOPTION INVOLVING A RELATIVE ADOPTION
PURSUANT TO O.C.G.A. §19-8-7

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5. The relationship by blood or marriage of each petitioner to the child, required by the provisions of O.C.G.A. §19-8-7(a).
6. If a petitioner is married the petition must be filed in the name of both spouses [O.C.G.A. §19-8-3(c)].
7. The name by which the child is to be known following the adoption [O.C.G.A. §19-8-13(a)(1)(B)].
8. The date of birth and the sex of the child [O.C.G.A. §19-8-13(a)(1)(C)].
9. The child's written consent to his/her adoption in those cases where the child sought to be adopted is 14 years of age or older [O.C.G.A. §19-8-7(b)].
10. The date and circumstances of the placement of the child with each petitioner [O.C.G.A. §19-8-13(a)(1)(D)].
11. Whether the child is possessed of any property, and if so a full and complete description thereof, and whether he/she has a guardian for such property [O.C.G.A. §19-8-13(a)(1)(E) and (G)].
11. Whether the child's legal mother, legal father, and/or his/her biological father who is not his/her legal father, is alive, or was alive when they signed documents attached to the Petition [O.C.G.A. §19-8-13(a)(1)(F)].
12. Whether the child has a guardian of his/her person [O.C.G.A. §19-8-13(a)(1)(G)].

II. IN ADDITION TO THE FOREGOING EACH PETITION SHALL REFERENCE EACH OF THE FOLLOWING **OR EXPLAIN ITS ABSENCE:**

1. The written voluntary surrender of each parent or guardian as specified in O.C.G.A. §19-8-7(e)(1) [O.C.G.A. §19-8-13(a)(5)(A)]. (See, IV below for exception)

CHECKLIST FOR THE PREPARATION AND REVIEW OF A PETITION
FOR ADOPTION INVOLVING A RELATIVE ADOPTION
PURSUANT TO O.C.G.A. §19-8-7

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2. The written acknowledgment of surrender executed by each parent or guardian as specified in O.C.G.A. §19-8-7(f) [O.C.G.A. §19-8-13(a)(5)(B)]. (See, IV below for exception)
3. The affidavit of the mother and the affidavit of the petitioner's representative specified in O.C.G.A. §19-8-7(g) and (h) [O.C.G.A. §19-8-13(a)(5)(C)]. (See, IV below for exception)
4. The written voluntary surrender of the biological father who is not the legal father as provided for in O.C.G.A. §19-8-7(e)(2) or (3) and the corresponding written acknowledgment of surrender executed by the biological father who is not the legal father as provided for in O.C.G.A. §19-8-7(f).
5. Allegations of compliance with the provisions of O.C.G.A. §19-8-12 relating to the biological father who is not the legal father [O.C.G.A. §19-8-13(a)(3)(D)] and, the certificate from the Putative Father Registry specified in O.C.G.A. §19-8-13(h).

NOTE: The provisions of O.C.G.A. §19-8-12(b) are not applicable in those cases where there is a biological father who is not the legal father who has either executed a voluntary surrender or had his rights terminated by a court of competent jurisdiction. In lieu of alleging compliance with the provisions of O.C.G.A. §19-8-12 attach the written voluntary surrender of the biological father who is not the legal father as specified in O.C.G.A. §19-8-7(e)(2) and the written acknowledgment of surrender executed by the biological father who is not the legal father as specified in O.C.G.A. §19-8-7(f), or a certified copy of the court order terminating the rights of the biological father who is not the legal father, whichever is applicable.

NOTE: Though not required by statute, in those cases where a written voluntary surrender is obtained from either the legal father or the biological father who is not the legal father, it is *best practice* to also obtain the certificate from the Putative Father Registry referenced in O.C.G.A. §19-8-13(h) and attach it to the Petition to prove that no other man asserted a claim to be the biological father of the child. Of course, if the certificate from the Putative Father Registry contains the name of another man then he needs to be notified as required by the provisions of O.C.G.A. §19-8-12.

CHECKLIST FOR THE PREPARATION AND REVIEW OF A PETITION
FOR ADOPTION INVOLVING A RELATIVE ADOPTION
PURSUANT TO O.C.G.A. §19-8-7

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6. Copies of appropriate certificates or forms verifying allegations contained in the petition as to guardianship of the child sought to be adopted, birth of the child sought to be adopted, marriage of the petitioners, and the divorce or death of each parent of the child sought to be adopted [O.C.G.A. §19-8-13(a)(5)(E)].
 7. A completed form containing background information regarding the child (Form 413) [O.C.G.A. §19-8-13(a)(5)(F)].
- III. The petition must be duly verified [O.C.G.A. §19-8-13(a)].
- IV. **NOTE:** Check for applicability of notice to grandparent in the event grandparent visitation rights are involved under O.C.G.A. §19-7-3 [O.C.G.A. §19-8-13(f)].
- V. **NOTE:** If the petitioner alleges the application of either O.C.G.A. §19-8-10 or O.C.G.A. §19-8-11 and is seeking termination of parental rights of a legal parent (not the rights of a biological father who is not the legal father) incident to the adoption action then the petition must also contain facts demonstrating the applicability of the grounds set forth in that code section [including the failure to exercise proper parental care or control due to misconduct or inability, as set out in paragraph (2), (3), or (4) of O.C.G.A. §15-11-94(b)] and shall allege compliance with the notice provisions of O.C.G.A. §19-8-10(c) or O.C.G.A. §19-8-11(b), as appropriate.
- VI. **NOTE:** The provisions of O.C.G.A. §19-8-13(g) control where a petition is filed pursuant to 19-8-7 following the termination of parental rights and placement of the child by the juvenile court pursuant to O.C.G.A. §15-11-103(a). However, the provisions of O.C.G.A. §19-8-12 regarding the biological father who is not the legal father must be complied with, if applicable, **unless** the juvenile court has also terminated his rights pursuant to the provisions of O.C.G.A. §15-11-96(i) or has terminated his rights pursuant to the provisions of O.C.G.A. §15-11-94 (*i.e.*, erroneously treated him as a “parent”), in which case attaching a certified copy of the order terminating the rights of said biological father shall satisfy the need to comply with the provisions of O.C.G.A. §19-8-12.

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- VII. **NOTE:** The provisions of the Interstate Compact on the Placement of Children [O.C.G.A. Chapter 39-4] must be complied with if the child to be adopted is from another state and the petitioner is related to the child by blood or marriage as a "great-grandparent", "great aunt", or "great uncle" because the definition of "relative" in O.C.G.A. §19-8-7(a) differs from the relationships described in Article VIII, Limitations, subsection (a) at O.C.G.A. §39-4-4. If the ICPC is applicable, a copy of the appropriate form verifying compliance with the requirements of the Interstate Compact on the Placement of Children should be attached to the Petition, e.g., ICPC Form 100-A signed on behalf of Georgia as receiving state.
- VIII. **NOTE:** Although not required by the provisions of O.C.G.A. Chapter 19-8 it is the responsibility of the attorney for the Petitioner in an adoption to complete the Georgia Department of Human Resources Vital Records Service Form No. 3927 entitled "Certificate of Adoption" for presentation to the Clerk of the Superior Court at the time of the entry of the Final Decree of Adoption [see, O.C.G.A. §31-10-13(b)]. This will enable the Clerk of the Superior Court to be able to comply with the requirements of O.C.G.A. §31-10-13(d) and keep the Vital Records Service informed. Note this Certificate of Adoption is required for all adoptions, not just for those involving children born in Georgia. Failure to prepare and file the Certificate of Adoption will result in the adoptive parents not being able to secure a birth certificate for the child that will list their names as parents and the child's new name. The new birth certificate is needed to apply for a new Social Security Account Number for the child and to list the child as a dependent of the adoptive parent(s). The Vital Records Form titled "Certificate of Adoption" is not to be confused with the "Certificate of Adoption" that is available from the Clerk of the Superior Court under the provisions of O.C.G.A. §19-8-20(b) [in the form set out in O.C.G.A. §19-8-20(c)]. A new birth certificate shall not be established if the Court includes in the final decree of adoption a specific direction that a new birth certificate not be issued [see, O.C.G.A. §31-10-14(a)(1)].

CHECKLIST FOR THE PREPARATION AND REVIEW OF A PETITION FOR
ADOPTION BASED UPON A FOREIGN DECREE OF ADOPTION
PURSUANT TO O.C.G.A. §19-8-8

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NOTE: This checklist is intended as a guide to the practitioner in the preparation of a Petition for Adoption and to the Court in its review of a Petition for Adoption. The textual format of the checklist is *summary in nature* and is not to be relied on in lieu of the specific language of the particular statutory provision cited.

In particular, when preparing or reviewing Surrenders, Acknowledgments, and Affidavits used to support a specific Petition for Adoption attention is directed to the phrase "**shall conform substantially to the following**" that appears immediately before each of the forms set forth in O.C.G.A. §19-8-26. Both the practitioner and the Court are reminded the Surrenders, Acknowledgments, and Affidavits are to be prepared so as to clearly communicate the particular facts of the subject adoption in light of the requirements of the controlling statutory provisions. **Judicial discretion must therefore be used in determining substantial conformance.**

I. EACH PETITION SHALL SET FORTH:

1. The name, age, marital status, and place of residence of each Petitioner [O.C.G.A. §19-8-13(a)(1)(A)]; necessary to determine proper venue under O.C.G.A. §19-8-2(b).
2. Facts sufficient to prove that each petitioner is: (a) at least 25 years of age **or** married to each other, and (b) at least 10 years older than the child sought to be adopted; **and** allegations that each petitioner is "financially, physically, and mentally able to have permanent custody" of the child sought to be adopted; as required by O.C.G.A. §19-8-3(a)(1), (2), and (4).
3. An allegation or facts sufficient to prove that each petitioner established his/her residence in the county in which the petition is filed **and** that residence in the State of Georgia was established more than six months immediately preceding the filing of the petition to satisfy O.C.G.A. §19-8-3(a)(3).
4. If the petition is filed in a county other than that of the petitioner's residence the reason therefore [O.C.G.A. §19-8-13(a)(8)]; venue is discretionary with the Court under O.C.G.A. §19-8-2(b)(1).

CHECKLIST FOR THE PREPARATION AND REVIEW OF A PETITION FOR
ADOPTION BASED UPON A FOREIGN DECREE OF ADOPTION
PURSUANT TO O.C.G.A. §19-8-8

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5. If a petitioner is married the petition must be filed in the name of both spouses [O.C.G.A. §19-8-3(c)].
 6. The name by which the child is to be known following the adoption [O.C.G.A. §19-8-13(a)(1)(B)].
 7. The date of birth and the sex of the child [O.C.G.A. §19-8-13(a)(1)(C)].
 8. The child's written consent to his/her adoption in those cases where the child sought to be adopted is 14 years of age or older [O.C.G.A. §19-8-4(b)].
 9. The date and circumstances of the placement of the child with each petitioner [O.C.G.A. §19-8-13(a)(1)(D)].
 10. Whether the child is possessed of any property, and if so a full and complete description thereof, and whether he/she has a guardian for such property [O.C.G.A. § 19-8-13(a)(1)(E) and (G)].
 11. Whether the child's legal mother, legal father, and/or his/her biological father who is not his/her legal father, is alive, or was alive when they signed documents attached to the Petition [O.C.G.A. §19-8-13(a)(1)(F)].
 12. Whether the child has a guardian of his/her person [O.C.G.A. §19-8-13(a)(1)(G)].
- II. IN ADDITION TO THE FOREGOING EACH PETITION SHALL REFERENCE EACH OF THE FOLLOWING **OR EXPLAIN ITS ABSENCE:**
1. A certified copy of the final decree of adoption from the foreign country along with a verified English translation [O.C.G.A. §19-8-13(a)(6)(A)(i)]. In many cases the adoptive parent petitioners only received one certified copy of their final decree of adoption from the foreign county and the provisions of O.C.G.A. §19-8-13(a)(6)(A)(i) require that the certified copy be "provided or attached" and it is best practice that the Petitioners **not** attach their only certified copy but instead explain they only have one copy and bring the certified copy to the final hearing and "provide" it for

CHECKLIST FOR THE PREPARATION AND REVIEW OF A PETITION FOR
ADOPTION BASED UPON A FOREIGN DECREE OF ADOPTION
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examination by the court, if required. The requirement that "[T]he translator shall provide a statement regarding his qualification to render the translation, his complete name, and his current address. Should the current address be a temporary one, his permanent address shall also be provided;" should not be an issue because the U.S. Embassy in the country where the foreign adoption was granted has reviewed the documents in the native language and would not have issued the child a U.S. Passport if the adoption were not valid.

2. While O.C.G.A. §19-8-13(a)(6)(A)(ii) requires "A verified copy of the visa granting the child entry into the United States" the visa related to the child's entry into the United States **is not available**, it was issued by the US Embassy in the country of the child's origin and was retained by U.S. Citizenship and Immigration Services [USCIS] upon the child's entry into the United States. The child's passport with the IR-3 or IR-4 stamp, or if the child has been in the United States for a while the child's Legal Permanent Resident card (a/k/a "Green Card") or the child's Certificate of United States Citizenship, will be the *only* possible items to offer as *evidence attainable by the Petitioner to prove the existence of an immigrant visa*. Accordingly, in lieu of the "verified copy of the visa" attach a photocopy of the page from the child's passport showing the IR-3 or IR-4 stamp or of the child's Legal Permanent Resident card or Certificate of United States Citizenship and bring the original passport and/or Legal Permanent Resident card or Certificate of United States Citizenship to the final hearing should the Court require to see it.
3. A certified copy, with verified English translation, of the child's amended birth certificate or registration showing each petitioner as a parent [O.C.G.A. §19-8-13(a)(6)(A)(iii)]. Some countries (*e.g.*, China) do **not** provide an amended birth certificate or registration showing the petitioners names as parents, accordingly in those cases where there is no amended birth certificate or registration its absence shall be explained.
4. A copy of the home study, which was completed for the United States Citizenship and Immigration Service [O.C.G.A. §19-8-13(a)(6)(A)(iv)]. This home study is more rigorous than the home study required for a domestic agency adoption or the investigation conducted pursuant to the provisions of O.C.G.A. §19-8-16(a) and requires a more extensive criminal records check (*i. e.*, including the FBI) than required by the provisions of

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O.C.G.A. §19-8-16(d). That is the reason the provisions of O.C.G.A. §19-8-16(c) provide that no additional investigation is required when a petition is brought pursuant to the provisions of O.C.G.A. §19-8-8.

- III. The petition must be duly verified [O.C.G.A. §19-8-13(a)].
- IV. Copies of surrenders or judicial terminations of parental rights and surrenders or judicial terminations of the rights of the biological father who is not the legal father are **not** required [O.C.G.A. §19-8-13(a)(6)(B)].
- V. **NOTE:** The language of the 2007 amendment to O.C.G.A. §19-8-16(d) requiring each Petitioner to provide the Court with a fingerprint-based criminal history record check (of both the GCIC and the NCIC databases) altered the structure of the Code Chapter which had theretofore required a criminal history records check *only* when the Court appointed an agency or agent to conduct an investigation and render a report to the Court. The provisions of O.C.G.A. §19-8-16(c) specifically exempt adoptions pursuant to O.C.G.A. §19-8-8 from the requirement of an investigation because as part of the international adoption each Petitioner previously had to submit a fingerprint-based criminal history records check (of both the GCIC and the NCIC databases) as part of the home study requirement *before* the child was placed by the foreign entity and the result of that fingerprint-based criminal history record check was evaluated as part of the foreign adoption. That is why the exception exists in O.C.G.A. §19-8-16(c). Accordingly, to require a Petitioner re-adopting her/his child she/he legally adopted in a foreign country to submit to another criminal history records check as part of the adoption before the Superior Court will be duplicative, and result in additional cost to the Petitioner and not disclose any new information. In addition, to require another criminal history records check may delay the hearing of the adoption because the provisions of O.C.G.A. §19-8-14 provide that the domestication of foreign decrees of adoption may be heard *instanter* by the Court. I submit the Court has the authority to waive the submission of an additional criminal history records check in adoptions based upon the provisions of O.C.G.A. §19-8-8. Therefore, it is now important for the attorney for the Petitioner to make inquiry of the Court to ascertain whether or not the Court hearing the petition will require each Petitioner to provide a fingerprint-based criminal history records check as a prerequisite to hearing the Petition brought pursuant to the authority of O.C.G.A. §19-8-8.

CHECKLIST FOR THE PREPARATION AND REVIEW OF A PETITION FOR ADOPTION
BASED UPON A FOREIGN DECREE OF ADOPTION
PURSUANT TO O.C.G.A. §19-8-8

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NOTE: Although not required by the provisions of O.C.G.A. Chapter 19-8 it is the responsibility of the attorney for the Petitioner in an adoption to complete the Georgia Department of Human Resources Vital Records Service Form No. 3927 entitled "Certificate of Adoption" for presentation to the Clerk of the Superior Court at the time of the entry of the Final Decree of Adoption [see, O.C.G.A. §31-10-13(b)]. This will enable the Clerk of the Superior Court to be able to comply with the requirements of O.C.G.A. §31-10-13(d) and keep the Vital Records Service informed. Note this Certificate of Adoption is required for all adoptions, not just for those involving children born in Georgia. Failure to prepare and file the Certificate of Adoption will result in the adoptive parents not being able to secure a Certificate of Foreign Birth for the child that will list their names as parents and the child's new name. The new Certificate of Foreign Birth may be needed to apply for a new Social Security Account Number for the child and to list the child as a dependent of the adoptive parent(s). The Vital Records Form titled "Certificate of Adoption" is not to be confused with the "Certificate of Adoption" that is available from the Clerk of the Superior Court under the provisions of O.C.G.A. §19-8-20(b) [in the form set out in O.C.G.A. §19-8-20(c)]. A new birth certificate shall not be established if the Court includes in the final decree of adoption a specific direction that a new birth certificate not be issued [see, O.C.G.A. §31-10-14(a)(1)].

NOTE: The provisions of O.C.G.A. §31-10-13(f) control the issuance of the Certificate of Foreign Birth. If the child meets the requirements of the Child Citizenship Act of 2000, [P.L. 106-395, 114 Stat. 1631] then the Certificate of Foreign Birth will **not** contain a statement indicating that it is not evidence of United States citizenship for the child. The immigration status of the adoptive parents is not in and of itself determinative if a child will be an automatic citizen based on his/her adoption. Practitioners should seek advice of an immigration attorney or materials that deal specifically with this area to determine whether or not a child is a citizen, a legal permanent resident, or simply a child that is out of immigrant status. This is a critical matter because failure to properly establish the child's citizenship in a timely manner can result in serious consequences for the child when she/he becomes an adult, including risk of deportation.

CHECKLIST FOR THE PREPARATION AND REVIEW OF A PETITION
FOR ADOPTION OF AN ADULT PURSUANT TO
O.C.G.A. §19-8-21

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NOTE: This checklist is intended as a guide to the practitioner in the preparation of a Petition for Adoption and to the Court in its review of a Petition for Adoption. The textual format of the checklist is *summary in nature* and is not to be relied on in lieu of the specific language of the particular statutory provision cited.

In particular, when preparing or reviewing Surrenders, Acknowledgments, and Affidavits used to support a specific Petition for Adoption attention is directed to the phrase "**shall conform substantially to the following**" that appears immediately before each of the forms set forth in O.C.G.A. §19-8-26. Both the practitioner and the Court are reminded the Surrenders, Acknowledgments, and Affidavits are to be prepared so as to clearly communicate the particular facts of the subject adoption in light of the requirements of the controlling statutory provisions. **Judicial discretion must therefore be used in determining substantial conformance.**

I. EACH PETITION SHALL SET FORTH:

1. The name, age, and residence of each petitioner [O.C.G.A. §19-8-21].
2. The name, age and residence of the adult sought to be adopted [O.C.G.A. §19-8-21].
3. The name by which the adult is to be known following the adoption [O.C.G.A. §19-8-21].
4. The adult's written consent to his/her adoption [O.C.G.A. §19-8-21].
5. The reason why the adoption is sought.

II. The petition must be duly verified [O.C.G.A. §19-8-13(a)].

III. **NOTE:** The Petition may be heard *instanter*, [See, second sentence in O.C.G.A. §19-8-21(a) "The court may assign the petition for hearing *at any time*." Emphasis added]. Because of that provision the requirement that the court appoint an agent to conduct an investigation and render a report and recommendation to the Court pursuant to the provisions of O.C.G.A. §§19-8-16(a) and 19-8-17 does not appear to apply in the case of an adult adoption, even though there is no specific exception noted in O.C.G.A. §19-8-16.

CHECKLIST FOR THE PREPARATION AND REVIEW OF A PETITION
FOR ADOPTION OF AN ADULT PURSUANT TO
O.C.G.A. §19-8-21

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- IV. **NOTE:** The language of the 2007 amendment to O.C.G.A. §19-8-16(d) requiring each Petitioner to provide the Court with a fingerprint-based criminal history record check (of both the GCIC and the NCIC databases) altered the structure of the Code Chapter which had theretofore required a criminal history records check *only* when the Court appointed an agency or agent to conduct an investigation and render a report to the Court. Therefore, it is now important for the attorney for the Petitioner to make inquiry of the Court to ascertain whether or not the Court hearing the petition for the adoption of an adult will require the Petitioner to provide a fingerprint-based criminal history records check as a prerequisite to hearing the Petition.