

Opinion No. 46-4853

February 11, 1946

BY: C. C. McCULLOH, Attorney General

TO: Mr. Murray A. Hintz State Director Dept. of Public Welfare Santa Fe, New Mexico

{*187} I have your letter of February 5, 1946 wherein you request an opinion concerning certain phases of adoption in connection with the status of the natural parents, and other similar questions.

Sec. 25-211 of the N.M. 1941 Compilation provides:

"The parents and relatives of an adopted child are, from the time of its adoption, relieved of all parental duties toward and all responsibilities for the child so adopted, and shall have no right to or control over it."

The adoption of a child has the effect of terminating the legal relations between the child and its natural parents, and creates the same relationship between the adopted child and the adoptive parents as between a natural parent and his child. (See 2 C.J.S., Adoption of Children, Secs. 55 to 58 incl.)

We have no provision for a natural parent giving consent to the adoption of a child and at the same time retaining certain parental rights. Consent must be obtained from the persons required by the statute, and if the adoption is granted, the parental rights of the natural child are terminated.

You further request information concerning situations wherein the step-parent petitions for the adoption of a child, and one of the natural parents is a co-petitioner, in connection with the consent of natural parents. It is our opinion that if a natural parent is a co-petitioner under such situations, the petition itself is a consent to the petition, insofar as the particular natural parent is concerned who is a co-petitioner.

By: HARRY L. BIGBEE,

Asst. Atty. General