

State Specific Frequently Asked Questions

Adoption in Pennsylvania

WARNING: Adoption is a serious legal proceeding that involves the termination of the legal parental rights of birth parents and the assumption of legal parental responsibilities by the adoptive parents. Individuals who are contemplating an adoption should consult legal and child welfare professionals before proceeding. The information contained in this document is only a general summary of Pennsylvania adoption policies and procedures. It is not intended to substitute for legal advice about any particular individual or situation.

Mother of the Baby: Birth Mother Related

1. When can the mother of the baby start the adoption process?

There are 2 types of voluntary procedures in Pennsylvania:

- ? Birth Parent(s) may petition the court to relinquish their parental rights to the child forever, if they have relinquished their child to a public or private licensed agency, given that agency a written notice of their present intent to transfer custody of the child to them and it has been a minimum of three days. The parent(s) may also petition the court for permission to relinquish forever their parental rights to their child, when they have relinquished the child to an adult who intends to adopt, the adult(s) must have filed an intent to adopt and the child has been in their exclusive care for a minimum period of 30 days. (Voluntary relinquishment procedure.)
- ? Birth Parents can also sign consents for the adoption; birth father can sign at any time, even before birth of child; birth mother can sign any time after 72 hours after birth of child (Consent procedure).

2. Can the birth mother choose the adoptive parents?

- ? Yes. A parent(s) can choose adoptive parents and can relinquish the child to an adult who intends to adopt.

3. Can the birth mother see and hold the baby after the birth?

- ? Yes, the birth mother has the choice on whether she wants to see and hold her baby after the birth or any time while she is in the hospital. The Adoption Act does not prohibit a parent(s) contact with a birth child. Each agency may have their own policies and procedures regarding a parent(s) contact after they have consented to a child's adoption.

4. What expenses can the adoptive parents pay to or on behalf of the birth mother and child?

- ? Adoptive parents can make payments to an intermediary or a third party for reimbursement of certain expenses calculated without regard to the income of the adoptive parent. These permissible expenses include:
 - ? Medical and hospital expenses incurred by the birth parent for prenatal care and hospital expenses incurred by the birth parent and child incident to birth.
 - ? Medical, hospital, and foster care expenses incurred on behalf of the child prior to the decree of adoption.
 - ? Reasonable expenses incurred by the agency or a third party for adjustment counseling and training services provided to the adoptive parents and for home studies or investigations.
 - ? Attorneys' fees in connection with termination of parental rights proceedings.

5. Can a minor mother independently sign legal documents placing the child for adoption (consent to the adoption)?

- ? Yes. The written consent of a parent or guardian of a petitioner who has not reached 18 years of age is not be required when petitioning the court for permission to relinquish parental rights after relinquishing the child to an agency, or for signing a consent to termination of parental rights. Birth grandparents must be notified of the termination hearing proceeding of minor birth parents.

6. When does the birth mother actually sign the legal documents required for the adoption?

Voluntary Relinquishment Procedure:

- ? When any child under the age of 18 years has been in the care of an agency for a minimum period of three days or, whether or not the agency has the physical care of the child, the agency has received a written notice of the present intent to transfer to it custody of the child, executed by the parent, the parent or parents of the child may petition the court for permission to relinquish forever all parental rights and duties with respect to their child.
- ? When any child under the age of 18 years has been for a minimum period of 30 days in the exclusive care of an adult or adults who have filed a report of intention to adopt required by section 2531 (relating to report of intention to adopt), the parent or parents of the child may petition the court for permission to relinquish forever all parental rights to their child.

Consent Procedure:

- ? The birth mother may sign a consent at least 72 hours after the birth of the child. The birth father can sign the consent at any time.

7. Can the birth mother change her mind before signing the legal consents to the adoption?

- ? Yes. The birth mother can change her mind at any time **before** the legal consent is signed. Consents are not valid if they are executed prior to or within 72 hours after the birth of the child. The birth mother's consent is irrevocable more than 30 days after execution. The validity of a consent may be challenged only by filing a petition alleging fraud or duress before the earlier of the following time periods:
 - ? 60 days after the birth of the child or execution of the consent, whichever is later.
 - ? 30 days after the entry of the adoption decree.

8. Can the birth mother change her mind after signing the legal consents to the adoption?

- ? Yes. The birth mother can change her mind, if she changes her mind within 30 days of signing the legal consent.
- ? A birth mother's consent is irrevocable more than 30 days after its execution.

9. Can the birth mother communicate with the adoptive parents and child after the adoption?

- ? Yes. The Adoption Act does not prohibit the adoptive parents, child and birth mother from having contact with one another. However, open adoption agreements are not legally enforceable in Pennsylvania at this time.
- ? Each adoption agency may have a different policy on how this is achieved. There may be direct communication or communication via the agency or representative. This communication may be in person, over the telephone, through the mail or email.

10. Can a birth mother anonymously surrender a newborn child?

- ? Under the Newborn Protection Act a parent is permitted to anonymously leave a newborn (up to 28 days old) at any hospital that has an emergency room without fear of criminal prosecution when the child has not been a victim of suspected child abuse. The parent may provide the health care provider with information about the newborn's medical history and any identifying information. If a child is found to be abandoned, the public or private agency would follow the appropriate procedures of taking protective custody of the newborn and making diligent

efforts to notify a parent, guardian, custodian, or other family member of the whereabouts of the newborn.

11. What happens if the birth parents do not agree that adoption should be the plan?

- ? THE CONSENT OF THE HUSBAND OF THE MOTHER SHALL NOT BE NECESSARY IF AFTER NOTICE TO THE HUSBAND, IT IS PROVED TO THE SATISFACTION OF THE COURT BY EVIDENCE, INCLUDING TESTIMONY OF THE NATURAL MOTHER, THAT THE HUSBAND OF THE NATURAL MOTHER IS NOT THE NATURAL FATHER OF THE CHILD. ABSENT SUCH PROOF, THE CONSENT OF A HUSBAND OR FORMER HUSBAND OF THE NATURAL MOTHER SHALL BE REQUIRED IF HE WAS THE HUSBAND OF THE NATURAL MOTHER AT ANY TIME WITHIN ONE YEAR PRIOR TO THE BIRTH OF THE ADOPTEE.
- ? IF A PUTATIVE FATHER WILL NOT FILE A PETITION TO VOLUNTARILY RELINQUISH HIS PARENTAL RIGHTS PURSUANT TO SECTION 2501 (RELATING TO RELINQUISHMENT TO AGENCY) OR 2502 (RELATING TO RELINQUISHMENT TO ADULT INTENDING TO ADOPT CHILD), AND/OR HAS FAILED OR REFUSED TO SIGN A CONSENT TO ADOPTION HAS BEEN GIVEN NOTICE OF THE HEARING BEING HELD PURSUANT TO THIS SECTION AND FAILS TO EITHER APPEAR AT THAT HEARING FOR THE PURPOSE OF OBJECTING TO TERMINATION OF HIS PARENTAL RIGHTS OR FILE A WRITTEN OBJECTION TO SUCH TERMINATION WITH THE COURT PRIOR TO THE HEARING AND HAS NOT FILED AN ACKNOWLEDGMENT OF PATERNITY OR CLAIM OF PATERNITY PURSUANT TO SECTION 5103, THE COURT MAY ENTER A DECREE TERMINATING THE PARENTAL RIGHTS OF THE PUTATIVE FATHER PURSUANT TO SUBSECTION (C).
- ? IF THE BABY IS UNDER 6 MONTHS OLD, BIRTH FATHER'S PARENTAL RIGHTS MAY BE INVOLUNTARILY TERMINATED IF HE KNOWS OF BIRTH OF CHILD, DOES NOT RESIDE WITH THE CHILD, HAS NOT MARRIED THE BIRTH MOTHER, AND HAS FAILED FOR A PERIOD OF FOUR MONTHS TO MAKE REASONABLE EFFORTS TO MAINTAIN SUBSTANTIAL AND CONTINUING CONTACT WITH THE CHILD AND HAS FAILED DURING SAME FOUR MONTH PERIOD TO PROVIDE SUBSTANTIAL FINANCIAL SUPPORT FOR THE CHILD.
- ? BIRTH FATHER'S PARENTAL RIGHTS MAY BE INVOLUNTARILY TERMINATED IF, BY CONDUCT CONTINUING FOR A PERIOD OF AT LEAST SIX MONTHS, HE HAS EITHER EVIDENCED A SETTLED PURPOSE OF RELINQUISHING PARENTAL CLAIM OR HAS FAILED OR REFUSED TO PERFORM PARENTAL DUTIES.

FATHER OF THE BABY: BIRTH FATHER RELATED

1. Does the father of the baby have to be notified of the birth and the mother's adoption plan?

- ? Yes. The birth or putative father whose parental rights could be terminated is to be given at least a ten days' notice of the hearing to terminate parental rights by the court. The notice must state that his rights may be subject to termination if he fails to file either an acknowledgement of paternity or claim of paternity and fails to either appear at the hearing for the purpose of objecting to the termination or file a written objection to the court prior to the hearing.

2. How is the father of the baby notified of the mother's adoption plan?

- ? The birth or putative father whose parental rights could be terminated is given at least a ten days' notice of the hearing by the court, either by certified mail, return receipt requested, or personal service.
- ? If birth father or putative father cannot be located, court may permit notice by publication.

3. Can the father of the baby choose the adoptive parents?

- ? Yes. A parent(s) can choose adoptive parents and can relinquish the child to an adult who intends to adopt.

4. What happens if the biological father of the baby is not the baby's legal father?

- ? The consent of the husband of the mother (legal father) is not necessary if, after notice to the husband, it is proven to the satisfaction of the court by evidence, including testimony from the birth mother, that the husband is not the birth father of the child. Without such proof, the consent of a husband or former husband of the birth mother shall be required if he was the husband of the birth mother at any time within one year prior to the birth of the adoptee.

5. What happens if the husband (legal father) is not the biological father?

- ? THE CONSENT OF THE HUSBAND OF THE MOTHER SHALL NOT BE NECESSARY IF AFTER NOTICE TO THE HUSBAND, IT IS PROVED TO THE SATISFACTION OF THE COURT BY EVIDENCE, INCLUDING TESTIMONY OF THE NATURAL MOTHER, THAT THE HUSBAND OF THE NATURAL MOTHER IS NOT THE NATURAL FATHER OF THE CHILD. ABSENT SUCH PROOF, THE CONSENT OF A HUSBAND OR FORMER HUSBAND OF THE NATURAL MOTHER SHALL BE REQUIRED IF HE WAS THE HUSBAND OF THE NATURAL MOTHER AT ANY TIME

WITHIN ONE YEAR PRIOR TO THE BIRTH OF THE ADOPTEE.

6. What happens if the mother does not know who the biological father is?

- ? If the birth mother can name a putative father(s), the putative father(s) upon notice are then required to acknowledge or claim paternity and appear at the termination of parental rights hearing for the purpose of objecting to the termination of his parental rights or file a written objection to such termination with the court prior to the hearing.
- ? Parental rights of an unknown birth father can be involuntarily terminated, with notice by publication.
- ? Also, most courts in Pennsylvania will require either an Affidavit of Paternity from birth mother or her testimony regarding identity of birth father.

7. What happens if the mother refuses to give the name of the biological father?

- ? If the birth father's rights are being terminated involuntarily, and the petition does not identify a father of the child, it must state whether a claim of paternity has been filed.
- ? Also, most courts in Pennsylvania will require either an Affidavit of Paternity from birth mother or her testimony regarding identity of birth father.

8. Can the biological father of the baby give notice that he intends to plan for the baby before the baby is born?

- ? The father can file an acknowledgement or claim of paternity with the State Department of Public Welfare or Bureau of Vital Statistics.

9. Can the birth father change his mind before signing the legal consents to the adoption?

- ? A putative or birth father may execute a consent at any time after receiving notice of the expected or actual birth of the child. Birth or putative father's consents are irrevocable more than 30 days after the birth of the child or the execution of the consent, whichever is later. The validity of a consent may be challenged only by filing a petition alleging fraud or duress before the expiration of the earlier of the following time periods:
 - ? 60 days after the birth of the child or execution of the consent, whichever is later.
 - ? 30 days after the entry of the adoption decree.

10. Can a minor father independently sign legal documents placing the child for adoption (consent to the adoption)?

- ? Yes. The written consent of a parent or guardian of a petitioner who has not reached 18 years of age shall not be required when petitioning the court for permission to relinquish parental rights after relinquishing the child to an agency, or for signing a consent to termination of parental rights. Birth grandparents of a minor birth parent must received notice of the termination of parental rights proceedings.

11. Can the birth father change his mind after signing the legal consents to the adoption?

- ? A birth or putative father's consents are irrevocable more than 30 days after the birth of the child or the execution of the consent, whichever is later.

ADOPTIVE PARENT RELATED

1. Who can be an adoptive parent and who selects them?

- ? Any individual may become an adopting parent. Adoptive parents are selected by an agency or the birth parents at any time before placement.

2. What information about the birth parents and the child must be provided to the adoptive parents?

Medical history information

- (a) DELIVERY OF INFORMATION.-- PRIOR TO THE FINALIZATION OF AN ADOPTION, MEDICAL HISTORY INFORMATION SHALL, WHERE PRACTICABLE, BE DELIVERED BY THE ATTENDING PHYSICIAN OR OTHER DESIGNATED PERSON TO THE INTERMEDIARY WHO SHALL DELIVER SUCH INFORMATION TO THE ADOPTING PARENTS OR THEIR PHYSICIAN. IN CASES WHERE THERE IS NO INTERMEDIARY, MEDICAL HISTORY INFORMATION SHALL BE DELIVERED DIRECTLY TO THE ADOPTING PARENTS OR THEIR PHYSICIAN.
- (b) EDITING OF INFORMATION.-- EXCEPT AS PROVIDED IN SECTION 2905 (RELATING TO IMPOUNDING OF PROCEEDINGS AND ACCESS TO RECORDS), MEDICAL HISTORY INFORMATION SHALL BE EDITED BEFORE DELIVERY OR RELEASE BY THE DEPARTMENT OF PUBLIC WELFARE SO AS TO REMOVE ANY CONTENTS WHICH WOULD IDENTIFY THE ADOPTEE'S NATURAL FAMILY.
- (c) AVAILABILITY OF INFORMATION FORMS.--THE DEPARTMENT OF PUBLIC WELFARE SHALL, UPON REQUEST, MAKE AVAILABLE TO COURTS, ADOPTION AGENCIES AND INDIVIDUALS MEDICAL HISTORY INFORMATION FORMS THAT ENABLE PARENTS WHOSE RIGHTS HAVE BEEN TERMINATED TO REGISTER AND UPDATE MEDICAL HISTORY INFORMATION WITH THE DEPARTMENT OF

PUBLIC WELFARE AND WITH THE COURT WHICH ENTERED THE DECREE OF TERMINATION.

3. What procedures are followed to ensure that adoptive parents are fit to adopt a child?

? An intermediary cannot place a child in the physical care and custody of a prospective adoptive parent unless a home study containing a favorable recommendation for placement of a child with the prospective parent(s) has been completed within three years prior and supplemented within a year prior. The home study must be conducted by a local public child care agency, an adoption agency or a licensed social worker designated by the court to perform home studies. A preplacement report must be prepared by the agency or person conducting the home study. The preplacement report must contain all pertinent information relating to the fitness of the adopting parents as parents. The preplacement report must be based on a study that includes an investigation of the:

- ? Home environment.
- ? Family life.
- ? Parenting skills.
- ? Age.
- ? Physical and mental health.
- ? Social, cultural and religious background.
- ? Facilities and resources of the adoptive parents.
- ? Their ability to manage their resources.

In addition, the report must contain information on the adoptive parents' criminal history record from the Pennsylvania State Police and a child abuse history clearance. The preplacement report must include a determination regarding the fitness of the adopting parents as parents.

(a) GENERAL RULE.--NO INTERMEDIARY SHALL PLACE A CHILD IN THE PHYSICAL CARE OR CUSTODY OF A PROSPECTIVE ADOPTIVE PARENT OR PARENTS UNLESS A HOME STUDY CONTAINING A FAVORABLE RECOMMENDATION FOR PLACEMENT OF A CHILD WITH THE PROSPECTIVE PARENT OR PARENTS HAS BEEN COMPLETED WITHIN THREE YEARS PRIOR THERETO AND WHICH HAS BEEN SUPPLEMENTED WITHIN ONE YEAR PRIOR THERETO. THE HOME STUDY SHALL BE CONDUCTED BY A LOCAL PUBLIC CHILD-CARE AGENCY, AN ADOPTION AGENCY OR A LICENSED SOCIAL WORKER DESIGNATED BY THE COURT TO PERFORM SUCH STUDY.

(b) PREPLACEMENT REPORT.--A PREPLACEMENT REPORT SHALL BE PREPARED BY THE AGENCY OR PERSON CONDUCTING THE HOME STUDY.

- (1) The preplacement report shall set forth all pertinent information Relating to the fitness of the adopting parents as parents. Each adoption agency may have different requirements for the home study.
- (2) The preplacement report shall be based upon a study which may Include an investigation of the home environment, family life, Parenting skills, age, physical and mental health, social, cultural and Religious background, facilities and resources of the adoptive parents And their ability to manage their resources. The preplacement report Shall also include the information required by section 6344(b)(relating to information relating to prospective child-care personnel).
- (3) The preplacement report shall include a determination regarding the Suitability of the adopting parents as parents.
- (4) The preplacement report shall be dated and verified.

4. Can the potential adoptive parents have the child placed with them prior to the actual court procedures?

- ? Yes. However, the home study must be initiated in order for an intermediary to place a child with the prospective parent(s). The home study must have been completed within three years prior and supplemented within a year prior. A report of intention to adopt must be filed by the prospective adoptive parents within 30 days of receipt of custody or physical care of the child.

5. Can the adoptive parents prevent the birth parents from communicating with the child after the adoption?

- ? After a decree of adoption has been made, the adoptee has all the rights of a child and heir to the adopting parents and are subject to the duties of being their child. The Adoption Act does not prohibit the adoptive parents, adoptee and birth mother from having contact with one another. The adoptive parents may prevent this communication, when the adoptee is under the age of 18.
- ? Open adoption agreements between birth parents and adoptive parents are not legally enforceable in Pennsylvania at this time.

6. Under what circumstances can an adopted child communicate with the birth parents?

- ? The Adoption Act does not prohibit the adoptive parents, child and birth mother from having contact with one another. This communication would depend on the adoptive parents until the child is eighteen years of age.

7. What information must the birth parents provide to the adoptive parents?

- ? Adoptive parents are to be given such non-identifying information as is necessary for them to deal with their own, and the child's needs. At the time the decree of termination is given, the court must advise the birth parent, in writing, of his or her continuing right to place and update personal and medical information, whether or not the medical condition is in existence or discoverable at the time of adoption.

8. Who supervises the adoptive placement and for how long?

- ? A minimum of three supervisory visits by the agency are to be made with the child and the adoptive parents prior to finalization of the adoption. Each county may have its own requirements.

9. When is the adoption final?

- ? The parental rights of the birth parents need to be terminated first.
- ? The time period may differ due to individual circumstances.
- ? The adoption is final when the court enters a decree of adoption.

COURT SPECIFIC PROCEDURES

1. Who initiates the adoption process?

- ? If a parent is voluntarily relinquishing a child to an agency or adult who intends to adopt, the parent may petition the court for permission to relinquish their parental right to the child forever. For a petition to confirm consents, the agency or adoptive parents may petition the court to terminate parental rights after the 30-day revocation period has expired. For involuntary termination, the following may petition the court to involuntarily terminate parental rights:
 - ? Either parent, when termination is sought on the other.
 - ? An agency.
 - ? The individual having custody or standing in loco parentis to the child and who has filed a report of intention to adopt.
 - ? An attorney representing a child or a guardian ad litem representing a child who has been adjudicated dependent.

2. When are the legal adoption papers filed with the court?

- ? A report of intention to adopt must be filed by the prospective adoptive parents within 30 days of receipt of custody or physical care of the child. The petition to

adopt can later be filed and a hearing will be scheduled by the court.

3. When do the birth parents actually sign the legal documents for adoption?

- ? Consents of the birth mother are not valid if they are executed prior to or within 72 hours after the birth of the child. Birth or putative father's consents can be signed at any time and are irrevocable more than 30 days after the birth of the child or the execution of the consent, whichever is later. A birth mother's consent is irrevocable more than 30 days after execution. The validity of a consent may be challenged only by filing a petition alleging fraud or duress the earlier of the following time periods:
 - ? 60 days after the birth of the child or execution of the consent, whichever is later.
 - ? 30 days after the entry of the adoption decree.
 - ? The court may enter a decree of adoption at any time; after all legal requirements have been met.

4. What happens if the birth parents do not agree on the adoption plan?

- ? If one birth parent disagrees with adoption plan and one of the grounds for involuntary termination of parental rights exists, parental rights can be terminated involuntarily and the adoption can proceed.

5. Can the baby be placed for adoption without the consent of the birth mother and/or birth father?

- ? Yes, if any of the grounds for involuntary termination of parental right is met.

SPECIAL ISSUES

1. Can a Native American child be placed for adoption without the approval of the Tribe?

- ? (ICWA) No. The Indian Child Welfare Act procedures need to be followed.

2. Can children be placed for adoption with parents of a different race, color or national origin?

- ? (MEPA/IEP) Yes. Any individual may become an adopting parent. A family can not be discriminated against due to their race.

3. Can a child born with birth anomalies or organic impairments be placed for adoption?

? Yes. Any individual may be adopted, regardless of age or residence.

CHILD WELFARE/SPECIAL NEEDS

1. Can a child born to illegal/undocumented alien parents be placed for adoption?

? (Immigration Law) Yes. Parental rights may be terminated and the child's permanency goal may be adoption.

2. What rights do birth grandparents have in their child's decision to place a child for adoption?

? Birth grandparents have no legal rights if child to be placed for adoption has not been in their custody.

3. Who can engage in the practice of adoption?

? Intermediaries can place children in the physical care and custody of prospective adoptive parents. Home studies can be conducted by local public child-care agencies, adoption agencies, or licensed social workers designated by the court. Preplacement reports are prepared by the agency or person who conducted the home study.

CHILD PROTECTION LAW

1. Under what conditions must a health care professional refer a case of a pregnant child to the State's child protective services agency?

? If the health care professional has reasonable cause to suspect on the basis of their medical, professional or other training and experience, that a child coming before them in their professional or official capacity is an abused child, they must make a report or cause a report to be made.

MINOR CONSENT LAWS

1. What medical procedures may a pregnant minor consent to without parental, legal guardian, or court approval?

? Under the Minor's Consent Act, a minor may consent to receive contraceptive advice and contraceptives, testing for pregnancy and health services to treat pregnancy. A minor who seeks consent for a physician to perform an abortion shall comply with applicable laws. A pregnant minor mother can consent to

health services for herself whether she has carried to term or if the pregnancy was terminated through a miscarriage or an abortion. No other consent is required, and a minor has the same right to confidentiality as an adult. If a minor mother has given birth, she may consent to the health services for her child as well.

2. What medical procedures require parental, legal guardian, or court approval, permission or agreement?

- ? None. Under the Minor's Consent Act, a pregnant minor mother can consent to health services for herself whether she has carried to term or if the pregnancy was terminated through a miscarriage or an abortion.

3. Can a minor consent to medical treatment for her/his child?

- ? A minor mother who has given birth may consent to health services for her child.

COMPETENCY LAWS

1. Who determines if a patient/client, minor or adult, is competent to consent to medical treatment and decision-making?

- ? A psychiatrist determines competency. Minor's 14 or older can consent to their own inpatient and outpatient mental health treatment and control of records related to such treatment. Minors' parents can also consent to their child's voluntary outpatient or inpatient mental health treatment if the child is 18 years of age or younger.

2. What is the process for making a competency determination?

- ? Psychiatrists will evaluate the minor and if the minor and minor's parent will not consent, the treatment may be court ordered.

NOTIFICATION/REPORTING LAWS REGARDING ADULTS

1. What events involving adults require the health care professional to report to law enforcement or an administrative agency?

- ? If a health care professional has reasonable cause to suspect on the basis of their medical, professional or other training and experience, that a child coming before them in their professional or official capacity is an abused child, they must make a report or cause a report to be made. Under the Newborn Protection Act, a parent is permitted to leave a newborn (less than 28 days old) at a hospital without fear of criminal prosecution when the child has not been a victim of suspected child abuse. If the newborn has been a victim of child abuse, the parent is not exempt from criminal liability for any violation of the crimes code under 23 Pa. C.S.,

Chapter 65.