

Frequently Asked Questions About Adoption in Alaska

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 Alaska adoption policies and procedures. It is not intended to substitute for legal advice about any particular individual or situation.

BIRTH MOTHER RELATED

- 1. When can the mother of the baby start the adoption process?**
 - The mother can start the adoption process anytime after she is pregnant.

- 2. Can the birth mother choose the adoptive parents?**
 - It is common practice that the birth mother can be involved in choosing the adoptive parents.

- 3. Can the birth mother see and hold the baby after the birth?**
 - The birth mother retains all rights and responsibilities of parentage until she signs the consent for adoption or voluntary relinquishment of her parental rights.
 - It is common practice that the birth mother can see and hold her baby in the hospital after the child's birth.

- 4. What expenses can the adoptive parents pay to or on behalf of the birth mother and child?**
 - AS 25.23.090 (a) provides that the adoptive parents **may** pay any expenses incurred in connection with
 - the birth of the minor;
 - placement of the minor with adopting parents;
 - medical or hospital care received by the birth mother or by the minor during the birth mother's prenatal care and confinement; and
 - services relating to the adoption or to the placement of the minor for adoption that were received by or on behalf of the adopting parents, either natural parent of the minor, or any other person.

- 5. Can a minor mother independently sign legal documents placing the child for adoption (consent to the adoption)?**
 - Yes. AS 25.23.040(a), AS 25.23.180(b). Alaska Adoption Rule 9(c) (2) requires that this consent be signed before the court.

- 6. When does the birth mother actually sign the legal documents required for the adoption?**
 - The required consent to adoption shall be executed any time after the birth of the child in the presence of the court if the birth mother is a minor or if the child is an Indian child or in the presence of a person authorized to take acknowledgments. AS 25.23.060 (a) and Alaska Adoption Rules, Rule 9(b) and Rule 9(c) (2).

- 7. Can the birth mother change her mind before signing the legal consents to the adoption?**
 - Yes, nothing is legal until the consent or voluntary relinquishment is signed. AS 25.23.060(a)

- 8. Can the birth mother change her mind after signing the legal consents to the adoption?**
 - A consent or relinquishment may be withdrawn before the entry of a decree of adoption, within 10 days after the consent is given, by delivering written notice to the person obtaining the consent or relinquishment, or after the 10-day period, if the court finds, after notice and opportunity to be heard is afforded to petitioner, the person seeking the withdrawal, and the agency placing the child for adoption, that the withdrawal is in the best interest of the person to be adopted and the court orders the withdrawal. AS 25.23.070 (b), Alaska Adoption Rule, Rule 9(g)
 - A consent may not be withdrawn after the entry of a decree of adoption. AS 25.23.070 (a)
 - The parent of an Indian child may withdraw consent or relinquishment at any time before the signing of the adoption decree. A decree of adoption may not be signed until 10 days have passed since the signing of the consent or relinquishment. (Alaska Adoption Rules. Rule 9(h)).

- 9. Can the birth mother communicate with the adoptive parents and child after the adoption?**
 - Yes and no. The statute does not preclude ongoing communication or visitation. AS 25.23.130(c). In fact, Alaska Adoption Rule 14(a) (7) requires that the court enter findings as to whether visitation rights are being allowed under AS 25.23.130(c). If the families have this in place they may communicate. If the agreement is not in place they may or may not communicate, depending on the arrangement they have made with each other.

- 10. Can a birth mother anonymously surrender a newborn child?**
 - Yes, according to the statement issued by the Safe Surrender of Infants Act, The bill allows a parent to safely surrender a newborn child without the threat of prosecution, as long as there is no evidence the infant has been physically injured. Without penalty, a parent may leave the infant in the physical custody of a peace officer, physician or hospital employee, or a volunteer or employee

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

- If the birth mother and birth father do not agree on adoption as the plan, the birth parent, whose consent is required, may choose to parent the child and have the parental rights of the other birth parent terminated. AS 25.23.050 (a), AS 25.23.180(e).

BIRTH FATHER RELATED

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

- After the filing of a petition to adopt a minor and at least 20 days before the date of hearing, the father of the baby must be notified if he was married to the mother at any time of conception or after or if the father acknowledged paternity. AS 25.23.040(a)

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

- Notice must be given to the man married to the mother at the time of conception or any time during the pregnancy or the biological father who has established paternity. Notice can be by personal service or certified/registered mail. Notice by publication can be authorized by the court in rare circumstances. AS 25.23.200(a) and Alaska Adoption Rules, Rule 10(a).
- In an adoption involving an Indian child, unless the parental rights are being voluntarily terminated and the parent has filed a statement that the tribe has not been notified in order to protect the privacy of the parent, Alaska Adoption Rule 10 requires that notice must be given to the tribe by personal service or certified or registered mail with proof of service dated no later than 10 days before the adoption hearing.

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

- It is common practice that the birth father can be involved in choosing the adoptive parents and in the adoption plan.

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

- If the mother was married at conception, during the pregnancy, or at birth, the name of the husband shall be entered on the birth certificate as the father of the child unless paternity has been lawfully determined otherwise or both the

- If the mother was not married, the child has no legal father until the court determine paternity or the mother and biological father acknowledge paternity through affidavits. AS 18.50.160(e), AS 25.20.055

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

- If the mother was married at conception, during the pregnancy, or at birth, the name of the husband shall be entered on the birth certificate as the father of the child unless paternity has been lawfully determined otherwise or both the mother and the mother's husband execute affidavits attesting that the husband is not the father and that another man is the father, and the mother and the other man execute affidavits attesting that the other man is the father. AS 18.50.160 (d)

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

- Assuming that the mother was not married at conception, during the pregnancy or at birth and no man has come forward to establish paternity, the agency assisting with the adoption is required to conduct a reasonable investigation to ensure that the rights of all parties are protected. AS 25.23.100(c) If the agency makes a reasonable investigation, and cannot determine the name of the father, the adoption may proceed under AS 25.23.040(a) without the consent of the biological father. AS 25.23.040(a) and Alaska Adoption Rules, Rule 10(d)

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

- Assuming that the mother was not married at conception, during the pregnancy or at birth and no man has come forward to establish paternity, the agency assisting with the adoption is required to conduct a reasonable investigation to ensure that the rights of all parties are protected. AS 25.23.100(c) If the agency makes a reasonable investigation, and cannot determine the name of the father, the adoption may proceed under AS 25.23.040(a) without the consent of the biological father.

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

- No, Alaska does not have a paternity notification registry.

9. Can the birth father who has established paternity or is the father by marriage to the mother change his mind before signing the legal consents to the adoption?

- Yes, nothing is legal until the consent or voluntary relinquishment is signed. AS 25.23.060(a)

- 10. Can the birth father communicate with the adoptive parents and child after the adoption?**
- Only if the adoptive parents are willing and they can change their minds at anytime. There is no legally binding “open” adoption.
- 11. Can a minor father independently sign legal documents placing the child for adoption (consent to the adoption)?**
- Yes. AS 25.23.040(a), AS 25.23.180(b) Alaska Adoption Rule 9(c) (2) requires that this consent be signed before the court.
- 12. Can the birth father change his mind after signing the legal consents to the adoption?**
- A consent or relinquishment may be withdrawn before the entry of a decree of adoption, within 10 days after the consent is given, by delivering written notice to the person obtaining the consent or relinquishment, or after the 10-day period, if the court finds, after notice and opportunity to be heard is afforded to petitioner, the person seeking the withdrawal, and the agency placing the child for adoption, that the withdrawal is in the best interest of the person to be adopted and the court orders the withdrawal. AS 25.23.070 (b), Alaska Adoption Rule, Rule 9(g)
 - A consent or relinquishment may not be withdrawn after the entry of a decree of adoption. AS 25.23.070 (a)
 - The parent of an Indian child may withdraw consent or relinquishment at any time before the signing of the adoption decree. A decree of adoption may not be signed until 10 days have passed since the signing of the consent or relinquishment. (Alaska Adoption Rules, Rule 9(h)).
- 13. Can a birth father anonymously surrender a newborn child?**
- Yes, according to the statement issued by the Safe Surrender of Infants Act, The bill allows a parent to safely surrender a newborn child without the threat of prosecution, as long as there is no evidence the infant has been physically injured. Without penalty, a parent may leave the infant in the physical custody of a peace officer, physician or hospital employee, or a volunteer or employee of a fire station or emergency medical service. Under HB 29, if a parent wishes to relinquish his or her parental rights and release the infant for adoption, the person receiving the infant must contact the Department of Health and Social Service. AS 47.10.013, AS 47.10.120, AS 40.25.220, AS 47.10.086, AS 47.10.990.
- 14. What happens if the birth parents do not agree that adoption should be the plan?**
- If the birth mother and birth father do not agree on adoption as the plan, the birth parent, whose consent is required, may choose to parent the child and

ADOPTIVE PARENT RELATED

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

- Adoptive parents can be:
 - a husband and wife together;
 - an unmarried adult;
 - the unmarried father or mother of the person to be adopted;
 - a married person without the other spouse joining as a petitioner, if the person to be adopted is not the other spouse, and if the other spouse is a parent of the person to be adopted and consents to the adoption or the petitioner and the other spouse are legally separated; or the other spouse is excused by the court because of prolonged unexplained absence, unavailability, incapacity, or circumstances constituting an unreasonable withholding of consent.

AS 25.23.020 (a)

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

- Non identifying information is required including history of the birth parents and medical history of the birth parents and the child.

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

- An investigation is conducted by an agency or person designated by the court. The investigation shall include inquiry into the conditions of the minor sought to be adopted and of the petitioner for the purpose of determining if the adoptive home is suitable for the child and whether the adoption is in the best interest of the child. AS 25.23.100(d)

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

- Not addressed in Alaska statutes. However, Alaska Adoption Rules, Rule 6(3) (d) (2) states “In a petition for termination of parental rightsfiled before a petition for adoption, the term “petitioner” will be interpreted to mean the person who will have custody of the child pending adoption.”

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

- Yes and no. A final decree of adoption terminates all legal relationships between the adopted person and the birth parents. AS 25.23.130 (a). However, if the court enters an order under Alaska Adoption Rule 14 (a) (7) specifying that visitation rights are allowed under AS 25.23.130(c), then the

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

- AS 25.23.130 (c) provides that visitation between the adopted person and that person's natural parents or other relatives is allowable and Alaska Adoption Rule 14(a) (7) requires the court to make a finding as to visitation as part of the adoption decree.

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

- The following information regarding a biological parent named on the original birth certificate of the adopted person, if available from the registrar's adoption records, can be released to the adoptive parents or the adoptee if 18 years of age or older:
 - the age of the biological parent on the day the adopted person was born;
 - the heritage of the biological parent, to include
 - national origin;
 - ethnic background; and
 - tribal membership;
 - the medical history of the biological parent and of blood relatives of the biological parent;
 - the number of years of school completed by the biological parent by the day the adopted person was born;
 - a physical description of the biological parent on the day the adopted person was born, including height, weight, and color of hair, eyes, and skin;
 - the existence of other children of the biological parent;
 - whether the biological parent was alive at the time of adoption;
 - the religion of the biological parent; and
 - other information provided by the biological parent for disclosure to the child, which may include such items as photographs, letters, and a statement explaining the reasons for the adoption. AS 18.50.510 (a)
- The information may not include the name of a biological parent or other information not listed in (a) of this section. AS 18.50.510 (b)

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

- A child placing agency or any person certified, licensed or empowered by law to place minors for adoption supervises the adoptive placement. No specific time period is set in statute for the supervision. AS 25.23.110

9. When is the adoption final?

- AS 25.23.140 A final decree of adoption may not be issued until the minor to be adopted, other than a stepchild of the petitioner, has lived in the adoptive home and the department or any other qualified agency or person designated

COURT SPECIFIC PROCEDURES

1. Who initiates the adoption process?

- A petition for adoption shall be signed and verified by the person or persons seeking to adopt the child.

AS 25.23.080 (b)

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

- The petition for adoption, along with other required documents, may be filed with the court at any time after the child's birth. It may be filed along with petitions for involuntary termination of parental rights or voluntary relinquishment of parental rights. Alaska Adoption Rules, Rule 6(d).

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

- The required consent to adoption shall be executed at any time after the birth of the child. AS 25.23.060 (a)

- The person giving consent shall state in the consent form whether the child is a member of an Indian tribe or the biological child of a member of an Indian tribe, so that the court may determine whether the provisions of 25 U.S.C. 1901 - 1963 (Indian Child Welfare Act of 1978) apply. AS 25.23.060 (a)

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

- If the birth mother and birth father do not agree on adoption as the plan, the birth parent, whose consent is required, may choose to parent the child and have the parental rights of the other birth parent terminated. AS 25.23.050 (a), AS 25.23.180(e).
- If the circumstance of the birth parents fit one or more of the conditions where birth parent consent is not required, the adoption may proceed. AS 25.23.050 (a)

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

- Yes. Parental consent is not required if the parent:
 - has abandoned a child for a period of at least six months;
 - has, for a period of at least one year, failed significantly without justifiable cause to communicate meaningfully with their child who is in the custody of another person, or failed to provide for the care and support of the child as required by law or judicial decree;
 - is a father whose consent is not required because he is not the legal father;
 - has relinquished the right to consent;
 - has had parental rights terminated by order of the court; or

- has been judicially declared incompetent or mentally defective and the court dispenses with the consent of the parent. AS 25.23.050(a)

MISCELLANEOUS QUESTIONS

1. What is the process for accessing adoption files, including identifying information?

- In Alaska, identifying information along with an original birth certificate and any changes in birth parents' names or addresses will be provided upon request to adopted adults age 18 or older. Birth parents may receive identifying information if the adopted adult is 18 or older and has made a written request for the disclosure of the information.

2. What is considered a kinship adoption? How is kinship adoption handled? Are home studies necessary? Who can conduct them? Is there a fee?

- In Alaska there are no special provisions for relative adoption. Relatives must complete the same process as non relatives.

3. Are contracts or binding agreements between birth and adoptive families regarding openness allowed?

- Yes and no. The statute does not preclude ongoing communication or visitation. **AS 25.23.130(c)**. In fact, **Alaska Adoption Rule 14(a) (7)** requires that the court enter findings as to whether visitation rights are being allowed under AS 25.23.130(c). If the families have this in place they may communicate. If the agreement is not in place they may or may not communicate, depending on the arrangement they have made with each other.

To Find Out More About It

State of Alaska Laws

<http://w3.legis.state.ak.us/index.php> Search for HB 29.
<http://touchngo.com/lglcntr/ctrules/adopt/htframe.htm>

Federal Laws

The Howard M. Metzenbaum Multiethnic Placement Act (MEPA) of 1994 – PL 103-382, Sections 551-555 as amended by the Small Business Job Protection Act- Provision for Removal of Barriers to Interethnic Adoption (IEP) of 1996, PL 104-188, Section 1808.
http://www.acf.hhs.gov/programs/cb/laws_policies/cblaws/safe2003.pdf

Indian Child Welfare Act, PL 95-608 of 1978.
<http://www.nicwa.org/policy/law/icwa/ICWA.pdf>

Servicemembers Civil Relief Act of 2003 (SCRA), formerly known as Soldiers' and Sailors' Civil Relief Act of 1940 (SSCRA).
http://www.access.gpo.gov/uscode/title50a/50a_10_1_.html