

Frequently Asked Questions About Adoption in Arkansas

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 Arkansas 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?

- She can begin talking about the adoption process at any time during the pregnancy. The legal consent is not signed until after the baby is born.

AR Code 9-9-208

2. Can the birth mother choose the adoptive parents?

- Arkansas law permits adoptions to be arranged by the public child welfare agency, private licensed adoption agencies, attorneys, and physicians. These resources select the adoptive parents. Some private licensed adoption agencies, attorneys, and physicians may involve the birth parent in the selection process. “Child welfare agencies/child placement agencies” must comply with the Minimum Licensing Standards for Child Welfare Agencies (AR Code 9-28-407) in order to practice adoption in the state. Attorneys and physicians are exempt from these standards except for the standards established for adoption home studies.

AR Code 9-28-407

- The law states a consent that does not name or otherwise identifies the adopting parent is valid if the consent contains a statement by the person whose consent it is that the person consenting voluntarily executed the consent irrespective of disclosure of the name or other identification of the adopting parent.

AR Code 9-9-208

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

- Yes.

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

- Under no circumstances may a parent or guardian of the baby receive a fee, compensation, or any other thing of value as a consideration for the relinquishment of the baby for adoption. However, incidental costs for prenatal, delivery, and postnatal care may be assessed, including reasonable housing costs, food, clothing, general maintenance, and medical expenses, if they are reimbursements for expenses incurred or fees for services rendered. Any parent or guardian who unlawfully accepts compensation or any other thing of value as a consideration of the relinquishment of the baby shall be guilty of a Class C felony.

AR Code 9-9-206

- The petitioner in any proceeding for the adoption of a baby, shall file, before the petition is heard, a full accounting report in a manner acceptable to the court of all disbursements of anything of value made or agreed to be made by or on behalf of the petitioner in connection with the adoption. The petitioner shall file a sworn affidavit showing any expenses incurred in connection with: the birth of the baby; placement of the baby with the petitioner; medical or hospital care received by the mother or by the baby during the mother's prenatal care and confinement; services relating to the adoption or the placement of the baby for adoption which were received by or on behalf of the petitioner, either biological parent of the baby, or any other person; and fees charged by all attorneys involved in the adoption, including those fees charged by out-of-state attorneys.

AR Code 9-9-211

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

- Yes, a mother less than 18 years of age can consent to an adoption without the concurrence of her parents or guardian. If the mother is a minor, the writing shall be signed by a court-ordered guardian ad litem, who has been appointed by a judge of a court of record in this state to appear on behalf of the minor parent for the purpose of executing consent. The signing shall be made in the presence of an authorized representative of the Arkansas licensed placement agency taking custody of the baby, or in the presence of a notary public, or in the presence and with the approval of a judge of a court of record of this state or any other state in which the baby was present at the time it was signed.

AR Code 9-9-208

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

- The required consent to adoption shall be executed at any time after the birth of the child and in the manner following:
 - If by the individual to be adopted, in the presence of the court;
 - If by an agency, by the executive head or other authorized representative, in the presence of a person authorized to take acknowledgments;
 - If by any other person, in the presence of the court or in the presence of a person authorized to take acknowledgments;
 - If by a court, by appropriate order or certificate.
- A consent, which does not name or otherwise identify the adopting parent is valid if the consent contains a statement by the person whose consent it is that the person consenting voluntarily executed the consent irrespective of disclosure of the name or other identification of the adopting parent.
- If the parent is a minor, the writing shall be signed by a court-ordered guardian ad litem, who has been appointed by a judge of a court of record in this state to appear on behalf of the minor parent for the purpose of executing consent. The signing shall be made in the presence of an authorized representative of the Arkansas licensed placement agency taking custody of the child, or in the presence of a notary public, or in the presence and with the approval of a judge of a court of record of this state or any other state in which the minor was present at the time it was signed.

AR Code 9-9-208

- She can choose to voluntarily relinquish and terminate her parental rights at any time after the pregnancy is confirmed or after the birth of the child. The relinquishment and termination can be rescinded in writing during the 10 day period following the birth of the baby or the date of her signature, whichever is later. The relinquishment shall be executed in the same manner as for a consent to adopt under AR Code Annotated 9-9-208

AR Code 9-9-220(b)

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

- Yes, she cannot be forced to consent to the adoption.

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

- Yes, a consent to adopt may be withdrawn within ten (10) calendar days after it is signed or the baby is born, whichever is later, by filing an affidavit with the probate clerk of the Circuit Court in the county designated by the consent as the county in which the guardianship petition will be filed, if there is a guardianship, or where the petition for adoption will be filed, if there is no

guardianship. If the ten-day period ends on a weekend or a legal holiday, the person may file the affidavit the next working day. No fee shall be charged for the filing of the affidavit. The court may waive the ten-day period for filing a withdrawal of consent for agencies as defined by AR Code 9-9-202 (5), minors over ten (10) years of age who consented to the adoption, or biological parents if a stepparent is adopting. ("Agency" means any person certified, licensed, or otherwise specially empowered by law or rule to place minors for adoption). The consent shall state that the person has the right of withdrawal of consent and shall provide the address of the probate clerk of the Circuit Court of the county in which the guardianship will be filed, if there is a guardianship, or where the petition for adoption will be filed, if there is no guardianship. Consent cannot be withdrawn after the entry of a decree of adoption.

AR Code 9-9-209

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

- If the birth mother agrees to an open adoption then she can communicate with the adoptive parents. However, Arkansas law does not provide for open adoptions. Any contract or arrangement would not be enforceable. Open adoptions are made, but the courts will not enforce any agreements of visitation etc., that are made between the birth and adoptive families.

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

- Yes, a safe haven law was passed in 2001 that allows a licensed emergency department of a hospital or a law enforcement agency to take possession of a child without a court order, who is thirty (30) days old or younger if the child is left with or voluntarily delivered to the hospital or law enforcement agency by the child's parent who does not express an intent to return for the child. A hospital employee or law enforcement officer must take the child into protective custody for Seventy-two (72) hours and immediately notify the Arkansas Department of Human Services, Division of Children and Family Services, who then files a dependency petition.
AR Code 9-34-202
- The birth mother does not have to give consent if she has deserted a child without affording means of identification or has abandoned a child, or if a the child is in the custody of another, and if she for a period of at least one (1) year has failed significantly without justifiable cause (i) to communicate with the child or (ii) to provide for the care and support of the child as required by law or judicial decree.
AR Code § 9-9-207(a) (1), (2)

11. What happens if a child is born drug exposed (Garrett's Law)?

- If a report of neglect defined for the purpose of this law; a child to be born with an illegal substance, a drug that is prohibited to be used or possessed without a prescription, is present in the mother's and/or the child's bodily fluids or bodily substances as a result of the pregnant mother's knowingly using an illegal substance before the birth of the child; is made to the Arkansas State Police Child Abuse Hotline, the mother has the options:
 - to place the newborn for Adoption through a licensed child placement agency.
 - A private adoption with any person licensed to practice medicine or law.

(A test of the mother's and/or the child's bodily fluids or bodily substances may be used as evidence to establish neglect under subdivision (12)(B)(i)(a) of this section. [12-12-503](#)(12)(B))
- If a newborn is taken into the custody of the Department of Human Services as the result of a call to the hotline of neglect as defined above, the mother has the option to:
 - Place the newborn for adoption through a licensed child placement agency
 - A private adoption with any person licensed to practice medicine or law.
- The department shall remain involved in each placement that is made under this section to monitor whether the mother withdraws her consent to the adoption.
- If the mother withdraws her consent to the adoption, the department shall initiate an action to ensure the protection of the child, including without limitation, taking the child into custody if custody is warranted to protect the health and safety of the child.

9-9-702.

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

- A petition to adopt the baby may be granted only if written consent to a particular adoption has been executed by:
 - The mother of the minor;
 - The father if married to the mother or otherwise has established paternity;
 - Any person or agency lawfully entitled to custody;
 - The court.

AR Code 9-9-206

If the parents do not agree that adoption should be the plan, the mother chooses adoption and the father wants to parent, then the mother has the right to back out of the adoption plan and parent if she chooses as long as she has not already surrendered her rights and the revocation period has passed. If she still wants the plan to be adoption or she has already surrendered her rights and the revocation period has passed, then the father can become the sole parent. Once he has been cleared as being fit to parent and that the child would be safe and has proven paternity, then the child would be released to him to parent the child.

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

- Arkansas law does not presently address this matter. Since the child is born in the United States the same laws would be applicable for surrenders etc. as if the biological parents were US citizens.

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

- Arkansas law does not give the grandparents any rights except when one (1) parent of a child or children is deceased, and the parent-child relationship has not been eliminated at the time of death, and adoption proceedings are instituted subsequent to such decease, the parents of the deceased parent shall be notified in the manner appropriate under the Arkansas Rules of Civil Procedure, except when the parent-child relationship has been terminated pursuant to AR Code 9-27-341.

AR Code 9-9-212

BIRTH FATHER RELATED

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

- Yes, if the father was married to the mother at the time the baby was conceived or at any time thereafter or if paternity has been established, he must be notified, or if he has a written order granting him legal custody of the minor at the time the petition for adoption is filed, or he proves a significant custodial, personal, or financial relationship existed with the minor before the petition for adoption is filed.

AR Code 9-9-206, AR Code 9-9-207

- In all cases involving a baby born to a mother unmarried at the time of the child's birth and upon filing of the petition for adoption and prior to the entry of a Final Decree of adoption, a certified statement shall be obtained from the Putative Father Registry with the Arkansas Department of Health stating:
 - The information contained in the registry in regard to the baby who is the subject of the adoption; or

- That no information is contained in the registry at the time the petition for adoption was filed.
- When information concerning the baby is contained in the Putative Father Registry at the time of the filing of petition for adoption, notice of the adoption proceedings shall be served on the registrant unless waived by the registrant in writing signed before a notary public. All confidential information regarding the adoptive parents and the child to be adopted shall be removed from the notice prior to being served to the registrant. Service of notice under this section shall be given in accordance with the Arkansas Rules of Civil Procedure, except that notice by publication shall not be required.
- Upon receipt of notice, the registrant, if he wishes to appear and be heard, shall file a responsive pleading within the time limits set in the Arkansas Rules of Civil Procedure.

AR Code 9-9-224

- The Putative father does not have to give consent to the adoption if the putative father who signed an acknowledgement of paternity, or is listed on the Putative Father Registry, but failed to establish a significant custodial, personal, or financial relationship with the child prior to the time the petition for adoption is filed.

AR Code § 9-9-207(a)

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

- The father is notified by the agency arranging the adoption, the birth mother's or the adoptive parents' attorney, or by publication.
- A petition to adopt a baby may be granted only if written consent has been executed by:
 - The mother of the baby;
 - The father if married to the mother or otherwise has established paternity;
 - Any person or agency lawfully entitled to custody of the baby or empowered to consent;
 - The court having jurisdiction to determine custody of the baby, if the legal guardian or custodian of the person of the baby is not empowered to consent to adoption.

AR Code 9-9-206

- Consent to adoption is not required of:
 - A parent who has deserted a child without affording means of identification or who has abandoned a child;
 - A parent of a child in the custody of another, if the parent for a period of at least one (1) year has failed significantly without justifiable cause to

communicate with the child or to provide for the care and support of the child as required by law or judicial decree.

- The father of the minor if the father's consent is not required under AR Code 9-9-206 (refer to above):
 - A parent who relinquished his or her right to consent under AR Code 9-9-220;
 - A parent whose rights have been terminated by order of the court under AR Code 9-9-220 or 9-27-341;
 - A parent judicially declared incompetent or mentally defective if the court dispenses with the parent's consent.
- Any legal guardian or lawful custodian of the individual to be adopted, other than a parent, who has failed to respond in writing to a request for consent for a period of sixty (60) days or who, after examination of his written reasons for withholding consent, is found by the court to be withholding his or her consent unreasonably.

AR Code 9-9-207

- Except as provided in AR Code 9-9-212 and 9-9-224, notice of a hearing on a petition for adoption need not be given to a person whose consent is not required or to a person whose consent or relinquishment has been filed with the petition.

AR Code 9-9-207

- At least twenty (20) days before the date of the hearing on the petition for adoption, notice of the filing of the petition and of the time and place of the hearing shall be given by the petitioner to:
 - Any person or person whose consent to the adoption is required, but who has not consented; and a person whose consent is dispensed with upon a ground mentioned in AR Code 9-9-207 (refer to the above comments about who is not required to provide consent: 1., 2., 6., 7.)
- When the petitioner alleges that any person entitled to notice cannot be located, the court shall appoint an attorney ad litem who shall make a reasonable effort to locate and serve notice upon the person entitled to notice; and upon failing to so serve actual notice, the attorney ad litem shall publish a notice of the hearing directed to the person entitled to notice in a newspaper having general circulation in the county one (1) time a week for four (4) weeks, the last publication being at least seven (7) days prior to the hearing. Before the hearing, the attorney ad litem shall file proof of publication and an affidavit reciting the efforts made to locate and serve actual notice upon the person entitled to notice.
- When one (1) parent of a child is deceased, and the parent-child relationship has not been terminated at the time of death, and adoption proceedings are instituted subsequent to such decease, the parents of the deceased parent shall

be notified, except when the parent-child relationship has been terminated pursuant to AR Code 9-27-341.

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

- Arkansas law permits adoptions to be arranged by the public child welfare agency, private licensed adoption agencies, attorneys, and physicians. These resources select the adoptive parents. Some private licensed adoption agencies, attorneys, and physicians may involve the birth parent in the selection process. “Child welfare agencies/child placement agencies” must comply with the Minimum Licensing Standards for Child Welfare Agencies (AR Code 9-28-407) in order to practice adoption in the state. Attorneys and physicians are exempt from these standards except for the standards established for adoption home studies (AR Code 9-28-407). The law states a consent that does not name or otherwise identifies the adopting parent is valid if the consent contains a statement by the person whose consent it is that the person consenting voluntarily executed the consent irrespective of disclosure of the name or other identification of the adopting parent.
AR Code 9-9-208

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

- He must establish paternity.
AR Code 9-9-206
- In all cases involving a baby born to a mother unmarried at the time of the child’s birth and upon filing of the petition for adoption and prior to the entry of a Final Decree of adoption, a certified statement shall be obtained from the Putative Father Registry with the Arkansas Department of Health stating: the information contained in the registry in regard to the baby who is the subject of the adoption; or that no information is contained in the registry at the time the petition for adoption was filed.

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

- He must provide written consent to the adoption if he is married to the mother at the time the baby was conceived or at any time thereafter.
AR Code 9-9-206

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

- Notice or consent is not required as explained in AR Code 9-9-207 (9) (b), but in AR Code 9-9-212 (a) (4) it is not so clear, as it implies constructive notice (publication) be provided. There is the requirement that the Putative Father Registry with the Arkansas Department of Health be checked as explained

above in relation to all adoptions of an infant born to an unmarried mother.
AR Code 9-9-224.

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

- The Putative Father Registry with the Arkansas Department of Health would have to be contacted as explained above in relation to all adoptions of an infant born to an unmarried mother. AR Code 9-9-224 In AR Code 9-9-212 (a) (4), it implies that constructive notice (publication) be provided. This could be a problematic adoption; so attempts to get the mother to reveal the name of the biological father should be made.

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

- Yes, he can register with the Putative Father Registry at the Arkansas Department of Health.
AR Code 9-9-224

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

- Yes, he cannot be forced to consent to the adoption.

10. Can the birth father communicate with the adoptive parents and child after the adoption?

- If the birth father agrees to an open adoption then he can communicate with the adoptive parents. However, Arkansas law does not provide for open adoptions. Any contract or arrangement would not be enforceable. Open adoptions are made, but the courts will not enforce any agreements of visitation etc., that are made between the birth and adoptive families.

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

- Yes, a father less than 18 years of age can consent to an adoption without the concurrence of his parents or guardian. If the father is a minor, the writing shall be signed by a court-ordered guardian ad litem, who has been appointed by a judge of a court of record in this state to appear on behalf of the minor parent for the purpose of executing consent. The signing shall be made in the presence of an authorized representative of the Arkansas licensed placement agency taking custody of the baby, or in the presence of a notary public, or in the presence and with the approval of a judge of a court of record of this state or any other state in which the baby was present at the time it was signed.

AR Code 9-9-208

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

- Yes, a consent to adopt may be withdrawn within ten (10) calendar days after it is signed or the baby is born, whichever is later, by filing an affidavit with the probate clerk of the Circuit Court in the county designated by the consent as the county in which the guardianship petition will be filed, if there is a guardianship, or where the petition of adoption will be filed, if there is no guardianship. If the ten-day period ends on a weekend or a legal holiday, the person may file the affidavit the next working day. No fee shall be charged for the filing of the affidavit. The ten-day period for filing a withdrawal of consent shall not apply to agencies as defined by AR Code 9-9-202 (“Agency” means any person certified, licensed, or otherwise specially empowered by law or rule to place minors for adoption). The consent shall state that the person has the right of withdrawal of consent and shall provide the address of the probate clerk of the Circuit Court of the county in which the guardianship will be filed, if there is a guardianship, or where the petition for adoption will be filed, if there is no guardianship. A consent cannot be withdrawn after the entry of a decree of adoption.

AR Code 9-9-209

13. Can a birth father anonymously surrender a newborn child?

- Yes the Infant Safe-Haven law does not make a distinction between the birthmother and birthfather in who actually brings the child to the safe delivery locations. The safe haven law was passed in 2001 that allows a licensed emergency department of a hospital or a law enforcement agency to take possession of a child without a court order, who is thirty (30) days old or younger if the child is left with or voluntarily delivered to the hospital or law enforcement agency by the child’s parent who does not express an intent to return for the child. A hospital employee or law enforcement officer must take the child into protective custody for Seventy-two (72) hours and immediately notify the Arkansas Department of Human Services, Division of Children and Family Services, who then files a dependency petition.

AR Code 9-34-202

- The birth mother does not have to give consent if she has deserted a child without affording means of identification or has abandoned a child, or if a the child is in the custody of another, and if she for a period of at least one (1) year has failed significantly without justifiable cause (i) to communicate with the child or (ii) to provide for the care and support of the child as required by law or judicial decree.

AR Code § 9-9-207(a) (1), (2)

14. What happens if the birth parents do not agree that adoption should be the option?

- A petition to adopt the baby may be granted only if written consent to a particular adoption has been executed by:
 - The mother of the minor;
 - The father if married to the mother or otherwise has established paternity;
 - Any person or agency lawfully entitled to custody;
 - The court.

AR Code 9-9-206

If the parents do not agree that adoption should be the plan, the mother chooses adoption and the father wants to parent, then the mother has the right to back out of the adoption plan and parent if she chooses as long as she has not already surrendered her rights and the revocation period has passed. If she still wants the plan to be adoption or she has already surrendered her rights and the revocation period has passed, then the father can become the sole parent. Once he has been cleared as being fit to parent and that the child would be safe and has proven paternity, then the child would be released to him to parent the child.

ADOPTIVE PARENT RELATED

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

- The following individuals may adopt:
 - A husband and wife together although one (1) or both are minors;
 - An unmarried adult;
 - The unmarried father or mother of the individual to be adopted;
 - A married individual without the other spouse joining as a petitioner, if the individual to be adopted is not his spouse; and if:
 - The other spouse is a parent of the individual to be adopted and consents to the adoption;
 - The petitioner and the other spouse are legally separated; or
 - The failure of the other spouse to join in the petition or to consent to the adoption is excused by the court by reason of prolonged unexplained absence, unavailability, incapacity, or circumstances constituting an unreasonable withholding of consent.

AR Code 9-9-204, AR Code 9-9-207

- Arkansas law permits adoptions to be arranged by the public child welfare agency, private licensed adoption agencies, attorneys, and physicians. These resources select the adoptive parents. Some private licensed adoption agencies, attorneys, and physicians may involve the birth parent in the selection process. “Child welfare agencies/child placement agencies” must

comply with the Minimum Licensing Standards for Child Welfare Agencies (AR Code 9-28-407) in order to practice adoption in the state. Attorneys and physicians are exempt from these standards except for the standards established for adoption home studies (AR Code 9-28-407). The age requirement of an adoptive parent may vary among the resources arranging an adoption.

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

- Before placement for adoption, the licensed adoption agency or, where an agency is not involved, the person, entity, or organization handling the adoption shall compile and provide to the prospective adoptive parents a detailed, written health history, genetic and social history of the infant which excludes information that would identify birth parents or members of a birth parent's family and which shall be set forth in a document that is separate from any document containing such identifying information.

AR Code 9-9-212

- The documents shall be retained by the agency or, when no agency is involved, by the person, entity, or organization handling the adoption, for ninety-nine (99) years. If the agency or person, entity, or organization who handled the adoption ceases to function, that agency or intermediary shall transfer records containing the nonidentifying information on the adoptee to the Department of Human Services except that a licensed agency ceasing operation may transfer the records to another licensed agency within this state, but only if the agency transferring the records gives notice of the transfer to the Department of Human Services; and shall be available upon request, throughout the time specified in subdivision (1) of this subsection, together with any additional nonidentifying information which may have been added on health or on genetic and social history but which excludes information identifying any birth parent or member of a birth parent's family or the adoptee or any adoptive parent of the adoptee, to the following persons only: The adoptive parents of the child or, in the event of death of the adoptive parents, the child's guardian; The adoptee upon reaching the age of eighteen (18) years; In the event of the death of the adoptee, the adoptee's spouse as the legal parent of the adoptee's child, or the guardian of any child of the adoptee; The birth parent of the adoptee.

AR Code 9-9-505

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

- An adoption home study is required. Criminal and Central Registry (abuse/neglect) checks are included in the home study process. "Child

welfare agencies/child placement agencies” must comply with the Minimum Licensing Standards for Child Welfare Agencies.

AR Code 9-28-407.

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

- Yes. An adoption study shall be conducted prior to the placement of the child. The home study must be conducted by a licensed child welfare agency/child placement agency or any licensed certified social worker (LCSW).

AR Code 9-9-212

- **Release of the child from the hospital or birthing center.**

After a consent to adoption or a relinquishment of parental rights under is executed with regard to a minor in the physical custody of a hospital or birthing center, the biological mother may authorize the release of the child from the hospital or birthing center to the petitioner for adoption, the guardian of the minor child, the child placement agency licensed, the Division of Children and Family Services, or the attorney acting on behalf of any of the foregoing entities.

(1) A hospital or birthing center release form under this section must: Be executed in writing; Be witnessed by two (2) credible adults; Authorize the petitioner for adoption, the guardian of the minor child, the licensed child placement agency, the division, or the attorney acting on the behalf of any of the foregoing entities to obtain any medical treatment, including circumcision of a male child, reasonably necessary for the care of the minor and to authorize any physician or medical services provider to furnish additional services deemed reasonable and necessary; and Be verified before a person authorized to take oaths.

(2) If a hospital or birthing center surrenders custody of a minor child to the petitioner for adoption, the guardian of the minor child, a licensed child placement agency, the division, or the attorney acting on behalf of any of the foregoing entities, the hospital or birthing center releasing the minor shall not be liable to any person because of its acts if the hospital or birthing center has complied with this section.

A hospital or birthing center shall comply with the terms of a release without requiring a court order. Once the hospital or birthing center release form is presented to the hospital or birthing center, the hospital or birthing center shall discharge the minor child to the petitioner for adoption, the guardian of the minor child, a licensed child placement agency, the division, or the attorney acting on the behalf of any of the foregoing entities after the hospital or birthing center is presented photo identification of the receiving party.

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

- Arkansas law does not provide for open adoptions. Any agreement or contract with the birth parents is not enforceable

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

- Arkansas law does not provide for open adoptions. Any contact or arrangement would not be enforceable. Open adoptions are made, but the courts will not be involved.
- However, the following applies to siblings and adoptions that are facilitated by the Department of Human Services. Sibling visitation shall not terminate if the adopted child was in the custody of the Department of Human Services and had a sibling who was not adopted by the same family and before adoption the circuit court in the juvenile dependency-neglect or families in need of services case has determined that it is in the best interests of the siblings to continue visitation and has ordered visitation between the siblings to continue after the adoption.

AR Code § 9-9-215 (C)

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

- Nothing is required in Arkansas law. However in most cases involving an adoption agency the birth parents are given non-identifying information so that the birth parents can make an informed decision on what family that want to choose to adopt their child.

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

- Minimum Licensing Standards for Child Welfare Agencies require the child welfare agency/child placement agency to ensure that at least two (2) post-placement visits in person are made before the final decree of adoption is issued, or the stipulated time of the fulfillment of the interlocutory decree. One of the visits shall be in the home of the adoptive family. The agency shall offer supportive services to the adoptive family for at least six (6) months following placement. Some agencies provide more than the two visits with the family after placement.

AR Code 9-28-407

- A final decree of adoption shall not be issued and an interlocutory decree of adoption does not become final until the minor to be adopted, other than a step-child of the petitioner, has lived in the home for at least six (6) months after placement by an agency or for at least six (6) months after the petition for adoption is filed.

9. When is the adoption final?

- If at the conclusion of the hearing the court determines that the required consents have been obtained or excused and the required period for the withdrawal of consent and withdrawal of relinquishment have passed and that the adoption is in the best interest of the baby, it may (1) issue a final decree of adoption; or (2) issue an interlocutory decree of adoption which by its own terms automatically becomes a final decree of adoption on a day therein specified, which day shall not be less than six (6) months nor more than one (1) year from the date of issuance of the decree, unless sooner vacated by the court for good cause shown.

AR Code 9-9-214

COURT SPECIFIC PROCEDURES

1. Who initiates the adoption process?

- The adoption agency or attorney for the adoptive parents may initiate court action. A Petition for Adoption is signed by the adoptive parents and filed by their attorney after the period in which the relinquishment may be withdrawn or in which consent may be withdrawn under whichever is applicable, has expired. No orders of adoption, interlocutory or final, may be entered prior to the period for withdrawal. After the filing of a petition to adopt a minor, the court shall fix a time and place for hearing the petition. At least twenty (20) days before the date of hearing, notice of the filing of the petition and of the time and place of hearing shall be given by the petitioner to: Any agency or person whose consent to the adoption is required but who has not consented; and when the petitioner alleges that any person entitled to notice cannot be located, the court shall appoint an attorney ad litem who shall make a reasonable effort to locate and serve notice upon the person entitled to notice; and upon failing to so serve actual notice, the attorney ad litem shall publish a notice of the hearing directed to the person entitled to notice in a newspaper having general circulation in the county one (1) time a week for four (4) weeks, the last publication being at least seven (7) days prior to the hearing. Before the hearing, the attorney ad litem shall file a proof of publication and an affidavit reciting the efforts made to locate and serve actual notice upon the person entitled to notice.

AR Code: 9-9-212

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

- The legal adoption papers are most commonly filed with the court at the time the Petition for Adoption is filed following the birth of the child.

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 and in the manner following:
 - If by the individual to be adopted, in the presence of the court;
 - If by an agency, by the executive head or other authorized representative, in the presence of a person authorized to take acknowledgments;
 - If by any other person, in the presence of the court or in the presence of a person authorized to take acknowledgments;
 - If by a court, by appropriate order or certificate.
- A consent, which does not name or otherwise identify the adopting parent, is valid if the consent contains a statement by the person whose consent it is that the person consenting voluntarily executed the consent irrespective of disclosure of the name or other identification of the adopting parent.
- If the parent is a minor, the writing shall be signed by a court-ordered guardian ad litem, who has been appointed by a judge of a court of record in this state to appear on behalf of the minor parent for the purpose of executing consent. The signing shall be made in the presence of an authorized representative of the Arkansas licensed placement agency taking custody of the child, or in the presence of a notary public, or in the presence and with the approval of a judge of a court of record of this state or any other state in which the minor was present at the time it was signed.

AR Code 9-9-208

- She can choose to voluntarily relinquish and terminate her parental rights at any time after the pregnancy is confirmed or after the birth of the child. The relinquishment and termination can be rescinded in writing during the 10 day period following the birth of the baby or the date of her signature, whichever is later. The relinquishment shall be executed in the same manner as for a consent to adopt under AR Code Annotated 9-9-208

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AR Code 9-9-220(b).

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

- A petition to adopt the baby may be granted only if written relinquishment or consent to a particular adoption has been executed by:
 - The mother of the minor;
 - The father if married to the mother or otherwise has established paternity;
 - Any person or agency lawfully entitled to custody;

- The court.
- All Parties that have to relinquish or consent to the adoption must agree or the adoption may not proceed.

AR Code 9-9-206

See information listed above under Mother and Father related questions with the same title.

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

- See answer to “What if the birth parents do not agree question.” An adoption can not be legally completed without the proper legal consent and/or relinquishment of both the birth mother and birth father or a ruling by the court to terminate parental rights or finding the consent of a parent is not required.

AR Code 9-9-206 and 9-9-220

CHILD WELFARE/SPECIAL NEEDS

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

- Yes, a child born in Arkansas or the surrounding areas of AR is a citizen of AR and the United States and may be adopted through the Arkansas courts. AR Code 9-9-205 The parent who is an undocumented or illegal alien still has the legal right to sign consents and/or relinquishments of the child.

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

- Arkansas law does not give the grandparents any rights except when one (1) parent of a child or children is deceased, and the parent-child relationship has not been eliminated at the time of death, and adoption proceedings are instituted subsequent to such decease, the parents of the deceased parent shall be notified in the manner appropriate under the Arkansas Rules of Civil Procedure, except when the parent-child relationship has been terminated pursuant to AR Code 9-27-341.

AR Code 9-9-212

3. Who can engage in the practice of adoption?

- Arkansas law permits adoptions to be arranged by the public child welfare agency, private licensed adoption agencies, and attorneys. These resources select the adoptive parents. Some private licensed adoption agencies, attorneys may involve the birth parent in the selection process. “Child welfare agencies/child placement agencies” must comply with the Minimum

Licensing Standards for Child Welfare Agencies (AR Code 9-28-407) in order to practice adoption in the state. Attorneys are exempt from these standards except for the standards established for adoption home studies. AR Code 9-28-407

MISCELLANEOUS QUESTIONS

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

- Adopted adults age 21 or older, adoptive parents of a minor, and birth siblings age 21 or older can request identifying information, which will be released if consent is given from the party who is the subject of the request.

AR Code 9-9-507 states that all records must be kept for 99 years by the agency, entity, organization, or person arranging the adoption.

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

- There is no statute in Arkansas specifying what is considered kinship adoption.

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

- They are allowed, however birth parents have no legal rights to contact with the child after placement. In open adoption contact is continued due to the trusting relationship all parties have developed. The contracts or agreements are not legally binding or enforceable.

4. Can a birth mother surrender physical custody of her child at the Hospital or Birthing center?

- After a consent to adoption or a relinquishment of parental rights under is executed with regard to a minor in the physical custody of a hospital or birthing center, the biological mother may authorize the release of the child from the hospital or birthing center to the petitioner for adoption, the guardian of the minor child, the child placement agency licensed, the Division of Children and Family Services, or the attorney acting on behalf of any of the foregoing entities.

(1) A hospital or birthing center release form under this section must: Be executed in writing; Be witnessed by two (2) credible adults; Authorize the petitioner for adoption, the guardian of the minor child, the licensed child placement agency, the division, or the attorney acting on the behalf of any of the foregoing entities to obtain any medical treatment, including circumcision of a male child, reasonably necessary

for the care of the minor and to authorize any physician or medical services provider to furnish additional services deemed reasonable and necessary; and Be verified before a person authorized to take oaths.

(2) If a hospital or birthing center surrenders custody of a minor child to the petitioner for adoption, the guardian of the minor child, a licensed child placement agency, the division, or the attorney acting on behalf of any of the foregoing entities, the hospital or birthing center releasing the minor shall not be liable to any person because of its acts if the hospital or birthing center has complied with this section.

A hospital or birthing center shall comply with the terms of a release without requiring a court order. Once the hospital or birthing center release form is presented to the hospital or birthing center, the hospital or birthing center shall discharge the minor child to the petitioner for adoption, the guardian of the minor child, a licensed child placement agency, the division, or the attorney acting on the behalf of any of the foregoing entities after the hospital or birthing center is presented photo identification of the receiving party.

AR Code 9-9-101

5. What about the Hague Convention and International Adoptions?

- The Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption entered into force for the United States on April 1, 2008. The United States joined with more than 70 countries around the world in recognizing the importance of intercountry adoption and an adoption process that protects all those involved. Implementing the Convention and the Intercountry Adoption Act (IAA) has led to many changes in the U.S. intercountry adoption process. Some of these key changes are highlighted below. As more Americans expand their families through intercountry adoption, we are pleased that many of these families and the children they seek to adopt will receive increased protections during this significant, life-changing process.
- **Accreditation of adoption service providers:** For the first time ever, U.S. adoption service providers (providers) are subject to federal oversight by the Department of State and its designated accrediting entities (the Colorado Department of Human Services (CO) and the Council on Accreditation (COA)). Only those providers that have been accredited or approved by CO or COA may provide certain key adoption services in connection with Convention adoption cases.
- **New Department of Homeland Security procedures and forms**
- **New U.S. visa requirements**
- **Adoption Tracking:** The Department will track both incoming cases and cases of children emigrating from the United States through an Adoption

Tracking Service (ATS). A Hague Complaint Registry will track public complaints related to intercountry adoptions.

For more answers, please refer to the US Department of State's website, www.travel.state.gov, or contact the Office of Children's Issues via AdoptionUSCA@state.gov.