

Frequently Asked Questions About Adoption in Iowa

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 Iowa 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?**
 - Birth mothers can begin the planning process for an adoption at any time during their pregnancy, but the legal process cannot begin until after the baby's birth. Parental release of custody may not be executed until at least 72 hours after the child's birth.

- 2. Can the birth mother choose the adoptive parents?**
 - Although not addressed in legal statutes, this is common practice in infant adoptions.

- 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?**
 - Expenses for a birth parent that are specifically allowed under the statute include legal costs, pregnancy and birth related medical care, living expenses of the mother, transportation for medical treatment, counseling provided to the birth parents, and foster care for the child, if needed. Not allowed are living expenses other than room and board, which are not to extend beyond 30 days after the child's birth. Counseling may not extend beyond 60 days after the child's birth. Additional expenses may be paid, subject to court approval. Payments are to be made to the provider, where applicable, not directly to the parent. Iowa Code § 600.9.
 - Expenses do not have to be repaid if the pregnant woman decides to parent her child.

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

- Yes, a minor mother or father can independently consent to placing a child for adoption. A guardian ad litem (GAL), which is an attorney, is appointed by the court to represent any minor parent and the minor child in the termination of parental rights court proceeding. (A separate GAL must be appointed for each.)
1. **When does the birth mother actually sign the legal documents required for the adoption?**
 - Parental release of custody may not be executed until at least 72 hours after the child's birth. Iowa Code § 600A.4(2)(g).
 2. **Can the birth mother change her mind before signing the legal consents to the adoption?**
 - Yes
 8. **Can the birth mother change her mind after signing the legal consents to the adoption?**
 - Yes. A birth parent has 96 hours (four days) to revoke his or her signature on the Release of Custody for any reason. After the 96-hour revocation period has elapsed, then revocation can only occur upon clear and convincing evidence that good cause exists for revocation. That includes but is not limited to a showing that the Release of Custody was obtained by fraud, coercion, or misrepresentation of law or fact that was material to the execution of the Release of Custody. Once a termination of parental rights court hearing has occurred (TPR), birth parents can appeal the termination of their parental rights within 30 days.
 9. **Can the birth mother communicate with the adoptive parents and child after the adoption?**
 - Cooperative adoption is not addressed in Iowa statutes. If the families have agreed informally they may proceed. If there are problems there is no legal remedy.
 10. **Can a birth mother anonymously surrender a newborn child?**
 - Yes. Iowa has a Safe Haven law. The infant must be (or appear to be) 14 days old or younger and may be relinquished by a parent or person authorized by the parent. Iowa Code chapter 233.
 11. **What happens if the birth parents do not agree that adoption should be the plan?**
 - The best interest of a child requires that each biological parent affirmatively assume the duties encompassed by the role of being a parent. In determining whether a parent has affirmatively assumed the duties of a parent, the court shall consider, but is not limited to consideration of, the fulfillment of financial obligations, demonstration of continued interest in the child, demonstration of a genuine effort to maintain communication with the child,

and demonstration of the establishment and maintenance of a place of importance in the child's life. Iowa Code § 600A.1. Grounds for termination under Iowa Code chapter 600A include the following:

- i. parent signed a release of custody not less than 72 hours after birth, at least 96 hours has passed, and the release has not been revoked.
- ii. a parent has petitioned for the parent's termination of parental rights
- iii. a parent has abandoned the child
- iv. NOTE: a parent is deemed to abandon child under 6 mos unless he or she does all of the following:
 1. demonstrates a willingness to assume custody, rather than merely objection to TPR
 2. takes prompt action to establish parental relationship
 3. demonstrates, through actions, a commitment to the child
- v. a parent has been ordered to contribute to the support of the child and has failed to do so without good cause
- vi. a parent does not object to the termination although every reasonable effort has been made to identify, locate and give notice to that parent
- vii. both of the following apply: (1) the parent has been determined to be a chronic substance abuser, and has committed a second or subsequent domestic abuse assault; and (2) the parent has abducted the child, has improperly removed the child, or has improperly retained the child

BIRTH FATHER RELATED

- 1. Does the father of the baby have to be notified of the birth and the mother's adoption plan?**
 - Notice of the specifics of the adoption plan is not required, but the birth father must be given notice of the hearing on the petition for termination of parental rights (TPR).
- 2. How is the father of the baby notified of the hearing regarding the termination of parental rights?**
 - Personal service is preferred. The father may cooperate by signing an Acceptance of Service, or may be personally served by a private process server or a sheriff's deputy. Notice by publication is sufficient only if the court is satisfied that the father can not be reasonably located and served in person.
- 3. Can the father of the baby choose the adoptive parents?**
 - Although not in statute, this is common practice for infant adoptions.

4. **What happens if the biological father of the baby is not the baby's legal father?**
 - A man who was married to the birth mother at the time of conception or birth is presumed to be the father of the child (and may be referred to as the "legal father"). The legal father generally must be given notice of the hearing, and his rights must also be terminated, or, in the alternative, the court may determine based on the evidence (such as the results of a paternity test) that he is not the father of the child and thus has no parental rights.
5. **What happens if the husband (legal father) is not the biological father?**
 - See above.
6. **What happens if the mother does not know who the biological father is?**
 - The birth mother will be asked to provide as much information as she can about the identity of the birth father, including where and when the sexual act occurred. If the birth mother has no information on his identity, often an affidavit is submitted to court with the birth mother's explanation of this. The mother may also be required to testify at the TPR hearing regarding the identity of the birth father. Whether or not she will be required to testify is within the discretion of the judge.
7. **What happens if the mother refuses to give the name of the biological father?**
 - The mother will likely be required to testify at the TPR hearing regarding the identity of the birth father. Again, this is within the discretion of the judge, but parental rights likely will not be terminated if the mother knows the identity of the birth father but refuses to disclose it.
3. **Can the biological father of the baby give notice that he intends to plan for the baby before the baby is born?**
 - The birth father can make this known to the adoption professionals involved or by registering with the Declaration of Paternity Registry. A putative father may file with the registry prior to the birth of the child, or no later than the filing of the Petition for Termination of Parental Rights. The registry is maintained by the Bureau of Vital Statistics, Iowa Department of Public Health. Iowa Code § 144.12A.
9. **Can the birth father change his mind before signing the legal consent to the adoption?**
 - Yes.
10. **Can a minor father independently sign legal documents placing the child for adoption (consent to the adoption)?**
 - Yes.

- 11. Can the birth father change his mind after signing the legal consent to the adoption?**
- Yes. A birth parent has 96 hours (or four days) to revoke his or her signature on the Release of Custody for any reason. After the 96-hour revocation period has elapsed, then revocation can only occur upon clear and convincing evidence that good cause exists for revocation. That includes but is not limited to a showing that the Release of Custody was obtained by fraud, coercion, or misrepresentation of law or fact that was material to the execution of the Release of Custody. Once a termination of parental rights (TPR) court hearing has occurred, birth parents can appeal the termination of their parental rights within 30 days.
- 12. Can a birth father anonymously surrender a newborn child?**
- Yes. Iowa has a Safe Haven law. The infant must be (or appear to be) 14 days old or younger and may be relinquished by a parent or person authorized by the parent. Iowa Code chapter 233.
- 13. What happens if the birth parents do not agree that adoption should be the plan?**
- The best interest of a child requires that each biological parent affirmatively assume the duties encompassed by the role of being a parent. In determining whether a parent has affirmatively assumed the duties of a parent, the court shall consider, but is not limited to consideration of, the fulfillment of financial obligations, demonstration of continued interest in the child, demonstration of a genuine effort to maintain communication with the child, and demonstration of the establishment and maintenance of a place of importance in the child's life. Iowa Code § 600A.1. Grounds for termination under Iowa Code chapter 600A include the following:
 - i. parent signed a release of custody not less than 72 hours after birth, at least 96 hours has passed, and the release has not been revoked.
 - ii. a parent has petitioned for the parent's termination of parental rights
 - iii. a parent has abandoned the child
 - iv. NOTE: a parent is deemed to abandon child under 6 mos unless he or she does all of the following:
 1. demonstrates a willingness to assume custody, rather than merely objection to TPR
 2. takes prompt action to establish parental relationship
 3. demonstrates, through actions, a commitment to the child
 - v. a parent has been ordered to contribute to the support of the child and has failed to do so without good cause
 - vi. a parent does not object to the termination although every reasonable effort has been made to identify, locate and give notice to that parent
 - vii. both of the following apply: (1) the parent has been determined to be a chronic substance abuser, and has committed a second or

subsequent domestic abuse assault; and (2) the parent has abducted the child, has improperly removed the child, or has improperly retained the child

ADOPTIVE PARENT RELATED

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

- Any person who may adopt may file an adoption petition. This includes an unmarried adult, husband and wife together or a husband or wife separately if the person to be adopted is not the other spouse and if the adopting spouse (a) is the stepparent of the person to be adopted, (b) has been separated from the other spouse by reason of the other spouse's abandonment or (c) is unable to petition with the other spouse because of the prolonged and unexplained absence, unavailability, or incapacity of the other spouse, or because of an unreasonable withholding of joinder by the other spouse. Iowa Code § 600.4.

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

- A person or agency accepting a Release of Custody from a birth parent must provide (to the extent available) the family medical and social history, including any known disorders, developmental history, racial, ethnic, and religious background and prior and existing relationship must be reported about the person to be adopted, without disclosing the identity of the biological parents. Iowa Code § 600A.4(2)(f).

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

- A pre-placement investigation (home study) shall is required, and a report of this investigation shall answer the following: The suitability of the home, emotional maturity, finances, health, relationships, a criminal background check, and if they have a history of abuse or neglect. Adoptive parents shall not be approved if within the five year period preceding the petition they have been convicted of a drug-related offense or child endangerment or neglect or abandonment of a dependent person, domestic abuse, or a crime against a child including but not limited to sexual exploitation of a minor, or a forcible felony.
- A post-placement investigation regarding the progress of the placement, wither the adoption is in the best interest of the child is also required. Iowa Code § 600.8.

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

- Yes. It is common that adoptive parents have the child placed with them prior to the TPR hearing. This is known as an "at risk" placement. Furthermore,

adoption in Iowa is generally a two-step process (termination of parental rights followed by the finalization of the adoption). The adoption of a minor person cannot be finalized until the child has lived with the adoptive petitioner for a minimum residence period of one hundred eighty days. This may be waived if this is a stepparent or relative adoption upon showing the court that the adoption petitioner and the person to be adopted are suited to each other.

5. **Can the adoptive parents prevent the birth parents from communicating with the child after the adoption?**
 - Yes, as there is not a cooperative agreement or open adoption statute.

1. **Under what circumstances can an adopted child communicate with the birth parents?**
 - The adoptive parents, child, and birth parents may agree to communicate as they wish.

2. **What information must the birth parents provide to the adoptive parents?**
 - Birth parents are encouraged to provide information to the adoptive parents, but are not required to do so. See # 2 above regarding information to be provided to the adoptive parents if available. In addition, the birth parents may provide ongoing information.

3. **Who supervises the adoptive placement and for how long?**
 - A child placing agency, licensed adoption investigator or Department of Human Services will supervise the placement for at least six months (180 days). The post placement investigative reports must be filed with the court prior to the adoption finalization hearing. Iowa Code § 600.8.

4. **When is the adoption final?**
 - The adoption is final upon the entry of a Final Decree of Adoption by the court. The adoption of a minor person shall not be decreed until that person has lived with the adoptive petitioner for a minimum residence period of one hundred eighty days. This period may be waived if this is a stepparent or relative adoption upon showing the court that the adoption petitioner and the person to be adopted are suited to each other.

COURT SPECIFIC PROCEDURES

1. **Who initiates the adoption process?**
 - The TPR proceeding is initiated by filing a petition for the termination of parental rights. In an infant adoption, the petition is typically filed by the person or agency who accepted a Release of Custody from the birth parent. See Iowa Code § 600A.4 and § 600A.5.

- The adoption finalization proceeding is initiated by the adoptive parents by filing a Petition for Adoption.
2. **When are the legal adoption papers filed with the court?**
 - Iowa has a 2-step process.
 - i. A person accepting a Release of Custody from a birth parent must, within a reasonable time thereafter, file a Petition for Termination of Parental Rights with the court. Iowa Code § 600A.4(2)(j).
 - ii. A Petition for Adoption cannot be filed until the termination of parental rights has been accomplished (absent certain exceptions, such as a step-parent adoption with consent). Iowa Code § 600.3.
 3. **When do the birth parents actually sign the legal documents for adoption?**
 - Parental release of custody may not be executed until at least 72 hours after the child's birth. Iowa Code § 600A.4(2)(g).
 4. **What happens if the birth parents do not agree on the adoption plan?**
 - A termination of parental rights may still be accomplished, as long as grounds for termination exist with respect to both birth parents. (See section I, item 11, above.)
 5. **Can the baby be placed for adoption without the consent of the birth mother and/or birth father?**
 - Yes, assuming that there are grounds for termination of parental rights.

MISCELLANEOUS QUESTIONS

1. **What is the process for accessing adoption files, including identifying information?**
 - a. In Iowa at the age of 21 the adoptee may file an affidavit with the court to have previously sealed records opened.
2. **What is considered a kinship adoption? How is kinship adoption handled? Are home studies necessary? Who can conduct them? Is there a fee?**
 - a. In Iowa, the court may waive the 180-day waiting period to finalize an adoption if the adoption petitioner (parent) is a stepparent or related to the minor person within the fourth degree of consanguinity. Iowa Code 600.10. Adoptive home studies are necessary and are conducted by licensed adoption agencies. Fees are determined by the agency.

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

In Iowa 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.