

Frequently Asked Questions About Adoption in Illinois

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 Illinois 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 birth mother can consider the adoption option throughout her pregnancy. However, she cannot sign any relinquishment until 72 hours after the birth of the baby.
- 2. Can the birth mother choose the adoptive parents?**
When an adoption agency is involved, the birth parents may select the adoptive parents or they may request the agency select the parents. In private/independent or relative adoptions, the birth parents select the adoptive parents
- 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 and birth father?**
Expenses that can be paid by an adoption agency include: reasonable living expenses of the birth parents as well as reasonable and actual medical fees or hospital charges. In private/independent or relative adoptions, limited expenses can be paid but only after court approval.
These expenses are not returned if the birth family chooses to parent the child.
- 5. Can a minor mother independently sign legal documents placing the child for adoption (consent to the adoption)?**
Yes.
- 6. When does the birth mother actually sign the legal documents required for the adoption?**
IL law requires a birth mother to wait a minimum of 72 hours after the birth of a child before she can sign a surrender. A birth father may sign a surrender any time during the pregnancy. It does not become final and irrevocable until 72 hours after the birth of the child. A named birth father can also sign a denial,

stating he is not the biological father. His parental rights can thereafter be terminated in the adoption proceeding.

- 7. 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?**
No. Surrenders are final and irrevocable.
- 9. Can the birth mother communicate with the adoptive parents and child after the adoption?**
Yes. Birth families and adoptive families may enter into a voluntary agreement regarding an open adoption. These agreements are not legally binding. The Illinois Adoption Registry is available when the adopted person reaches 21 years of age.
- 10. Can a birth mother anonymously surrender a newborn child?**
The IL Abandoned Newborn Protection Act allows a parent to anonymously relinquish her or his newborn infant, within 30 days of the birth, to the care and custody of a safe haven, meaning leaving an infant with the personnel of a hospital, emergency medical facility, fire station or police station. This is not applicable in a private/independent or relative adoption.
IL Safe Haven Law is Public Act 92-0432.
- 11. What happens if the birth parents do not agree that adoption should be the plan?**
They will need the assistance of a social worker and/or an adoption attorney

BIRTH FATHER RELATED

- 1. Does the father of the baby have to be notified of the birth and the mother's adoption plan?**
Yes. He can be notified in person, by certified letter, a telephone call and by an agency including the use of the father identification proceeding.
- 2. How is the father of the baby notified of the hearing regarding the termination of parental rights?**

When the birth mother is making a voluntary adoption plan (meaning the child is not part of the DCFS welfare system) she completes an "Affidavit of Identification" re the birth father. The agency will make extensive efforts to notify the birth father, by the best means possible, of the adoption plan. The agency and/or attorney will attempt to contact the alleged birth father by telephone, regular and certified letters and if necessary a summons. They will

contact the putative father registry to see if he has registered. If there is no response the father's right will be terminated at the adoption hearing. If the alleged father does respond to these efforts he will be involved in planning for his child.

- 3. Can the father of the baby choose the adoptive parents?**
When an adoption agency is involved, the birth parents may select the adoptive parents or they may request the agency select the parents. In private/independent or relative adoptions, the birth parents select the adoptive parents
- 4. What happens if the biological father of the baby is not the baby's legal father?**
A surrender or consent is needed from both the legal father and the biological father.
- 5. What happens if the husband (legal father) is not the biological father?**
A surrender or consent is needed from both the legal father and the biological father.
- 6. What happens if the mother does not know who the biological father is?**
The birth mother must complete an affidavit of identification. She has the right to state she doesn't know the identity of the birth father. The publication for an unknown father will be based on the affidavit.
- 7. What happens if the mother refuses to give the name of the biological father?**
The affidavit of identification gives the birth mother the right to refuse to name the birth father. She is told that she is placing her child at legal risk. A legal father or a putative father who has timely registered with the putative father registry and filed a timely parentage action, has the same legal rights as a birth mother. A putative father who has registered and filed for parentage or a legal father could come forward in a timely manner and claim the child.
- 8. Can the biological father of the baby give notice that he intends to plan for the baby before the baby is born?**
He can tell the mother he is interested in planning for the child; he can register with the putative father registry and file his parentage action before the baby is born.
- 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?

No.

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

The IL Abandoned Newborn Protection Act allows a parent to anonymously relinquish her or his newborn infant, within 30 days of the birth, to the care and custody of a safe haven, meaning leaving an infant with the personnel of a hospital, emergency medical facility, fire station or police station. This is not applicable in a private/independent or relative adoption.

IL Safe Haven Law is Public Act 92-0432.

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

They will need the assistance of a social worker and/or an adoption attorney.

ADOPTIVE PARENT RELATED

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

Any person, not under a legal disability, a reputable person of legal age and of either sex, provided that if such a person is married, his or her spouse shall be a party to the adoption proceeding. When an adoption agency is involved, the birth parents may select the adoptive parents or they may request an agency select the parents. In private/independent adoptions, adoptive parent(s) must have resided in the state of IL continuously for at least 6 months. There is no residency requirement in relative adoptions. In private/independent or relative adoptions, the birth parents select the adoptive parents.

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

The agency (court services in private/independent adoptions) provides age, race, religion and ethnic background; general physical appearance, education, occupation, hobbies, interests and talents; existence of any other children born to them; information about birth grand- parents; reason for emigrating into the United States, if applicable, and country of origin; relationship between birth parents; and detailed medical and mental health histories of the child, the birth parents, and their immediate relatives.

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

In agency adoptions, a home study is completed and the family is licensed by an adoption agency.

In private/independent adoptions, a review is completed by court services.

In relative adoptions, an investigation form is completed for the Guardian ad litem to review and it is ultimately submitted to the court. As an alternative, a review may be completed by court services.

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

In agency adoptions, once the child is released to a licensed adoption agency, the agency decides whether to permit a “temporary placement” with the adopting parents.

In private/independent or relative adoptions, only a birth parent(s) can give permission for a “temporary placement” with adopting parents, pending court action.

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

Birth families and adoptive families may enter into a voluntary agreement regarding an open adoption and continuing contact. However, these agreements are not legally binding and either party may end contact.

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

The Illinois Adoption Registry is available when the adopted person reaches 21 years of age.

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

The agency (court services in private/independent adoptions) provides age, race, religion and ethnic background; general physical appearance, education, occupation, hobbies, interests and talents; existence of any other children born to them; information about birth grand- parents; reason for emigrating into the United States, if applicable, and country of origin; relationship between birth parents; and detailed medical and mental health histories of the child, the birth parents, and their immediate relatives.

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

In agency adoptions, the court assigns a licensed adoption agency to visit the family and report to the court for a minimum of six months.

In private/independent adoptions, court services will supervise the placement for six months. There is no supervision in relative adoptions.

9. When is the adoption final?

An adoption is typically finalized six months after the supervisory period is satisfactorily completed and the court enters a final order of adoption. In relative adoptions, the finalization can take place prior to six months.

COURT SPECIFIC PROCEDURES

1. Who initiates the adoption process?

In agency adoptions, birth parent(s) and sometimes prospective adoptive parents contact a licensed adoption agency to seek assistance.

In private/independent adoptions, birth parent(s) and sometimes prospective adoptive parents contact an adoption attorney

In relative adoptions, birth parent(s) identify a relative and contact an adoption attorney.

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

Illinois statute provides that within 30 days after the child has become available for adoption, legal adoption papers may be filed with the court.

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

Illinois law requires a birth mother to wait a minimum of 72 hours after the birth of a child before she can sign surrender or consent. A birth father may sign a surrender or consent any time during the pregnancy. It does not become final and irrevocable until 72 hours after the birth of the child. A named birth father can also sign a denial, stating he is not the biological father. His parental rights can thereafter be terminated in the adoption proceeding.

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

They will need the assistance of a social worker and/or an adoption attorney.

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

Only rarely can an infant be placed for adoption without the consent of the birth mother. This is usually in cases where the birth mother abandons the infant and cannot be found and/or shows no interest in the child.

In the best interest of the child, the agency and/or attorney, should always attempt to involve the birth father in the adoption plan and obtain a consent. Legal birth fathers, putative fathers who have registered with the Putative Father Registry, fathers whom have acted as a father and/or provided support for the child should provide consent to the adoption. Putative birth fathers who have shown no interest in the child must be given notice of the impending adoption through the best means possible including telephone, regular mail and certified mail. When there is no consent, the parental rights of the birth father will be terminated, with cause, at the adoption hearing.

MISCELLANEOUS QUESTIONS

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

Illinois does not automatically allow adult adoptees access to their adoption files or their original birth certificate. A court order is required for an adoptee to have access to these records. There are two possible avenues a person adopted in Illinois through a closed adoption can follow to make possible contact with a birth parent:

- Illinois Adoption Registry-This is a voluntary registry wherein birth parents and adoptees over 21 years of age can state their wishes regarding contact. If both the adoptee and birth parent(s) register and state that they want identifying information shared with the other party, the Registry provides identifying information of the other party. If either party does not want identifying information shared, the other party is so notified. Either party can share non-identifying medical information through the Registry without revealing their identities. In addition to birth parents and adoptees, the following persons may also register:
 - Brothers or sisters over age 21 of those who were adopted or surrendered for adoption and a common parent is deceased
 - Adoptive parents of adopted individuals under age 21
 - Legal guardians of adopted or surrendered parson
- Confidential Intermediary Program- An adoptee over 21 years of age or birth can file a petition in any county in Illinois for the appointment of a Confidential Intermediary (CI). Under court order, the CI will search for the adoptee or birth parent(s) to determine if he/she is interested in contact, the CI sends him/her forms for the IL Adoption Registry and identifying information is shared through the Registry. If the found party is not interested in contact, the CI can attempt to obtain non-identifying information to be shared with the other party. The found person is also given the option to share non-identifying and/or medical information through the IL Adoption Registry. In addition to adoptees, birth parents and adoptive parents of adoptees under the age of 21, a judge may grant the following persons a petition for a CI to search for the birth family:
 - Adult child of a deceased adoptee or surrendered person
 - Adult birth sibling of the adopted person if the birth parent is deceased
 - Adult birth sibling of the deceased birth parent

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 Illinois the Adoption Act defines a 'related child' as a child being adopted where one or both adoptive parents are in any of the following relationships with the child by blood or marriage: parent, grand-parent, brother, sister, step-parent, step-grandparent, step-brother, step-sister, uncle, aunt, great-uncle, great-aunt, or cousin of the first degree.
- Kinship or relative adoptions are a permanent and legal arrangement that is intended to last forever, like all other adoptions.
- This is notably different from the more informal family care, where, for example, the grandmother does most of the parenting for a temporary time until the parent(s) is able to take over parenting responsibility.
- Kinship adoptions can fall anywhere along the relationship continuum

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

- No two open adoptions are the same. Contact between the members of the triad may be spontaneous and initiated by either party at any time. Some may be determined by a previously developed agreement of scheduled contact/visits and/or phone calls, and/or letters/pictures. Parties may re-negotiate contact over time.