

Frequently Asked Questions About Adoption in Indiana

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 Indiana 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?**
 - At anytime after she is pregnant.

- 2. Can the birth mother choose the adoptive parents?**
 - Yes. However, a court cannot grant an adoption until either a licensed child placing agency or County Office of Family and Children has investigated the placement and conducted a period of supervision. The report that must be filed with the court is advisory only, and nonbinding, but courts rarely go against those reports.

- 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?**
 - Medical expenses of the birth and delivery (including prenatal expenses), lost wages or reasonable living expenses up to \$3,000.00 during the last two trimesters of the pregnancy and six weeks after birth, legal fees and counseling costs.

- 5. Can a minor mother independently sign legal documents required for the adoption?**
 - A parent who is under eighteen may consent to an adoption without the concurrence of a parent or guardian unless the court determines that it is in the best interest of the child to be adopted to require the concurrence.

- 6. When does the birth mother actually sign the legal documents required for the adoption?**
 - A *consent* is signed 24-48 hours after delivery, depending upon hospital policy.

- 7. When does the birth mother actually sign the legal documents required for the adoption?**
 - After the birth of the child when the court date has been set. Typically this is at least a month's time.

- 8. Can the birth mother change her mind before signing the legal consents to the adoption?**
 - Yes, nothing is legal or binding until a consent is signed.

- 9. Can the birth mother change her mind after signing the legal consents to the adoption?**
 - The birth mother has no right to simply change her mind, but for a period of thirty days after the consent is signed, the birth mother has the right to petition the court to allow her to withdraw her consent. In order to be successful, she must prove that withdrawal is in the best interest of the child. If the consent is given before a judge, she loses the right to withdraw based on best interests. As with other legal documents, a consent may be voided if a court finds the birth mother was induced to sign the consent by fraud, duress or coercion.

- 10. Can the birth mother communicate with the adoptive parents and child after the adoption?**
 - Yes, but Indiana does not make such communication agreements legally enforceable except in certain circumstances involving a child over two years old. Even then, the agreements can be terminated if found to not be in the child's best interest.

- 11. Can a birth mother anonymously surrender a new born child?**
 - Yes, to an emergency medical services provider.

- 12. What happens if the birth parents do not agree that adoption should be the plan?**
 - Consent of the birth parents, either actual or implied, must occur before an adoption can be finalized.

BIRTH FATHER RELATED

- 1. Does the father of the baby have to be notified of the birth and the mother's adoption plan?**
 - In the/case of a legal or presumed father, he must be given personal notice, if possible, or at least notice by publication. In the case of a putative (biological but not legal) father, he must receive personal notice if the birth mother gives his name and address to the agency or attorney handling the adoption prior to signing a consent. The putative father must register with the Putative Father Registry in order to be entitled to receive notice.

- 2. How is the father of the baby notified of the mother's adoption plan?**
 - If the birth mother has given the name and address of the birth father prior to the baby's birth, the birth father may be personally served (service must occur prior to the baby's birth) with a Notice which obligates him to file a paternity action within thirty days or his consent is assumed.
 - If the birth mother gives the name and address prior to signing a consent but the birth father is not served prior to the child's birth, he must be personally served with a different Notice which obligates him to either file a paternity action or a motion to contest the adoption within thirty days or his consent is assumed.
 - If the birth mother does not identify the birth father or does not give his address prior to signing a consent, the birth father must register with the Putative Father Registry in order to be entitled to receive notice of the adoption. If he does not register, he gets no notice and his consent is assumed.

- 3. Can the father of the baby choose the adoptive parents?**
 - Yes, but he has the same limitations as the birth mother.

- 4. What happens if the biological father of the baby is not the baby's legal father?**
 - He is still entitled to notice as discussed above.

- 5. What happens if the husband (legal father) is not the biological father?**
 - He is still entitled to notice.

- 6. What happens if the mother does not know who the biological father is?**
 - An unknown birth father must register with the Putative Father Registry in order to guarantee that he receives notice of the adoption.

- 7. What happens if the mother refuses to give the name of the biological father?**
 - The birth mother is not required to identify the birth father. See number six above.

- 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 or he can file a paternity action.

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

- Yes, nothing is legal or binding until a consent is signed.
- 10. Can a minor father independently sign legal documents placing the child for adoption (consent to the adoption)?**
- A parent who is under eighteen may consent to an adoption without the concurrence of a parent or guardian unless the court determines that it is in the best interest of the child to be adopted to require the concurrence.
- 11. Can the birth father change his mind after signing the legal consents to the adoption?**
- The birth father has no right to simply change his mind, but for a period of thirty days after the consent is signed, the birth father has the right to petition the court to allow him to withdraw his consent. In order to be successful, he must prove that withdrawal is in the best interest of the child. If the consent is given before a judge, he loses the right to withdraw based on best interest. As with other legal documents, a consent may be voided if a court finds that the birth father was induced to sign the consent by fraud, duress or coercion.
- 12. What happens if the birth parents do not agree that adoption should be the option?**
- Consent of the birth parents, either actual or implied, must occur before an adoption can be finalized.

ADOPTIVE PARENT RELATED

- 1. Who can be an adoptive parent and who selects them?**
- Any single person or married couple may adopt if approved by the court. The court will make its decision based on the evidence produced during a hearing, aided by the investigation of a licensed child placing agency or County Office of Family and Children. A recent Court of Appeals decision also extends the right to adopt to unmarried couples. This decision is controlling at this time, but could be changed by legislative action or upon review by the Indiana Supreme Court. In all cases, the selection is made by either the birth parents, a licensed child placing agency, or a County Office of Family and Children. The birth parents may or may not have input in the last two situations.
- 2. What information about the birth parents and the child must be provided to the adoptive parents?**
- All non-identifying information that is not confidential under state or federal law and that is reasonably obtainable.

- 3. What procedures are followed to ensure that adoptive parents are fit to adopt a child?**
 - The adoptive parent(s) must be investigated by, and the placement supervised by, either a licensed child placing agency or a County Office of Family and Children. In addition, the court conducts an evidentiary hearing.

- 4. Can the potential adoptive parents have the child placed with them prior to the actual court procedures?**
 - Yes, in the case of a placement by a licensed child placing agency or County Office of Family and Children. In the case of a private adoption, only the court can approve the placement.

- 5. Can the adoptive parents prevent the birth parents from communicating with the child after the adoption?**
 - In the case of a child under two at the time of filing, after the adoption is final, the adoptive parents can prevent communication regardless of what may have been discussed or agreed upon prior to the adoption. In the case of a child over two at the time of filing, the adoptive parents must get the courts' approval to void an agreed upon plan of communication.

- 6. Under what circumstances can an adopted child communicate with the birth parents?**
 - If the adoptee is a minor, the decision would be made by the adoptive parents. Once the adoptee turns twenty-one, the birth parents and the adoptee will be given identifying information about each other by the State Board of Health if both parties have appropriately registered to allow the information to be shared. In the event either the adoptee or the birth parent has not appropriately registered, the party seeking contact may petition a court to approve a confidential intermediary to locate the other party. The confidential intermediary has the power to review confidential information in the attempt to locate the other party. The identifying information cannot be released without the consent of party so located.

- 7. What information must a birth parent provide to the adoptive parents?**
 - The attorney/ agency/ County Office of Family and Children must make reasonable efforts to obtain non-identifying information which includes: health and genetic family history, any medical, psychological or psychiatric evaluations available at the time of placement.

- 8. Who supervises the adoptive placement and for how long?**
 - The supervision is done by a licensed child placing agency or County Office of Family and Children. The period of supervision depends on the best interests of the child and the requirements of the court in which the adoption is

filed. Generally, the period is two months to one year, with six months being the most common.

9. When is the adoption final?

- When the court grants the adoption petition and enters a final decree of adoption.

COURT SPECIFIC PROCEDURES

1. Who initiates the adoption process?

- Either the birth parents or the prospective adoptive parents can initiate adoption proceedings by contracting a licensed child placing agency or an attorney. If a birth parent's rights have been involuntarily terminated by a County Department of Children's Services, that entity may initiate proceedings.

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

- After either consents are signed, or parental rights are terminated. The filing of the petition for adoption starts the investigation/supervision period. If the investigation has already been done then the filing starts the period of supervision. The adoption cannot be final until the investigation/supervision period has been completed. This is usually two months to one year, with six months being the most common.

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

- In the case of an infant, generally twenty-four to forty-eight hours after birth.

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

- An adoption cannot be finalized without the consent of both parents, either actual or implied, unless their rights have been involuntarily terminated by a court.

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

- No, unless their parental rights have been involuntarily terminated by a court, or their consents are implied at law.

MISCELLANEOUS QUESTIONS

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

- If the adoptee is a minor, the decision would be made by the adoptive parents. Once the adoptee turns twenty-one, the birth parents and the adoptee will be given identifying information about each other by the State Board of Health if both parties have appropriately registered to allow the information to be shared. In the event either the adoptee or the birth parent has not appropriately registered, the party seeking contact may petition a court to approve a confidential intermediary to locate the other party. The confidential intermediary has the power to review confidential information in the attempt to locate the other party. The identifying information cannot be released without the consent of party so located.

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 many states, a close relative (grandparents, aunts, uncles, brothers and sisters) can adopt utilizing a less intense procedure for the adoption.
- In Indiana a close relative such as step parent, grand parent, aunt or uncle is considered a relative adoption. Anything beyond that is determined on a case by case basis by the Judge.
- 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.
- In Indiana a close relative such as step parent, grand parent, aunt or uncle is considered a relative adoption. Anything beyond that is determined on a case by case basis by the Judge.

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

- Contact between the birth and adoptive family is direct, without the agency as the intermediary.
- Open adoptions most typically imply that there is a trusting relationship between the parties. Some are flexible relationships where the birth parent(s) are considered part of the adoptive family's extended family, and vice versa.

- Get-togethers are based on the lifestyle of the families, much like one would determine the extent of contact with in-laws.
- 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.

