

# Frequently Asked Questions About Adoption in Louisiana

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

## **BIRTH MOTHER RELATED**

- 1. When can the mother of the baby start the adoption process?**
  - The mother may start planning for the adoption process at any time. The legal consent is not signed until at least three days (not including the date of birth) after the birth of the baby. LA CC Art 1130.
  
- 2. Can the birth mother choose the adoptive parents?**
  - Yes. Louisiana Law is technically silent on this issue; however, it is addressed in the 2001 Authors' Notes at the beginning of Chapter 12 of the Louisiana Children's Code (LCC). It states "Nothing in this Title or Title XII controls the process of selecting adopting parents."
  
- 3. Can the birth mother see and hold the baby after the birth?**
  - Yes she can, as the surrender (voluntary relinquishment) can not be accepted from a birth mother until three days after the birth of the child.
  
- 4. What expenses can the adoptive parents pay to or on behalf of the birth mother and child?**
  - LA CC Article 1200: There are three categories of allowable costs: the necessary, actual prenatal care and living expenses of the mother, the actual living and medical expenses of both the mother and child for a reasonable period of time, not to exceed 45 days, after the child is born, and the legal fees of the surrendering parent or parent in connection with a voluntary surrender. Details regarding fees allowed are listed in Art. 1223.
  
- 5. Can a minor mother independently sign legal documents placing the child for adoption (consent to the adoption)?**
  - No, if it is a private adoption. LA CC Art 1113: Except as otherwise provided herein, if a parent executing surrender in a private adoption is a minor, the

parents or tutor of the minor must join in the surrender unless the minor parent has been judicially emancipated or emancipated by marriage.

- When the minor's parents or tutor refuse to join in the act or cannot be located, the court may authorize the minor to surrender.
- In an intrafamily adoption the parents or tutor of the minor parent must join in the consent to his child's adoption, unless the court finds the minor is sufficiently mature and well informed to surrender.
- Yes—in an agency adoption, a minor may surrender without the consent of the parents or tutor of the minor. However, this is not customary practice.

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

- Article 1130: No act of surrender by mother shall be executed earlier than three days following the birth of the child. The date of birth shall not be included, and the days shall be consecutive calendar days, including weekends and holidays.

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

- Yes. Nothing is legal until the voluntary surrender is signed.

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

- No. It is irrevocable at time of signature. It can only be overturned if proven to have been taken due to fraud or duress. She may only sign if the child is three days old, not counting the day of birth. Article 1123.

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

- Chapter 14-A, Articles 1269.1-7 Yes through informal agreements. The statute does not provide a mechanism for Court oversight of the agreement unless the adoption was arranged by the State Agency.

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

- Yes, under Louisiana Safe Haven Act. Articles 1149, 1151-1159. Also, under 1119 "For the purposes of insuring anonymity in private adoption, an attorney at law licensed to practice in this state may be named in the surrender as representative of the accepting person". The prospective adoptive parent need not be informed of the identity of the surrendering parent nor be shown the petition or other documents connected with the adoption proceeding,

including any certification for adoption or court order approving the adoptive placement.

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

- The legal rights of the birth mother as well as the birth and legal father(s) have to be addressed either through voluntary Act of Surrender or court Termination of Parental Rights before a child is legally available for adoption, Articles 1123 and 1193. To successfully oppose an adoption, the father would have to do other things such as acknowledge his status, indicate a willingness to accept custody/responsibility of the child, and prove his fitness to the court.

**BIRTH FATHER RELATED**

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

- Yes. Notice of the filing of a petition for adoption shall be served on any parent whose parental rights have not been terminated. Art 1202. See question 2.

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

- Additionally, in Art 1132 and 1133, if an unmarried mother of a child has executed a surrender and identifies the child's alleged father, the agency shall exercise due diligence in locating him. Upon approval of the mother's surrender by the court, notice of the filing of the mother's surrender shall be served upon the alleged father unless his parental rights have already been terminated, voluntarily or involuntarily.

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

- Louisiana Law is silent on this issue; however, it is addressed in the 2001 Authors' Notes at the beginning of Chapter 12 of the Louisiana Children's Code (LCC). It states "Nothing in this Title or Title XII controls the process of selecting adopting parents."

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

- The father's potential parental rights need to be addressed legally before the child can be considered available for adoption. He must register with the

Louisiana Putative Father Registry, Chapter I, Title VII of the Louisiana Revised Statutes (LRS). This is one means of establishing parental rights.

- 5. What happens if the husband (legal father) is not the biological father?**
  - The legal father must sign surrender consenting to the adoption or have his parental rights terminated by the court. See Article 1193. Fathers who must surrender or have their rights terminated include; the father regardless of paternity if the child is legitimate, the father who has executed an act of legitimation by authentic act, the father who is presumed to be the father, the alleged father who has established his parental rights, and the biological father who has had a judgment of filiation.
  
- 6. What happens if the mother does not know who the biological father is?**
  - See article 1135. The mother must declare in the surrender that the father is unknown, a certified copy of the birth certificate shows that no one is indicated thereon as the father of the child, a certificate from the putative father registry indicates that no person is listed or registered as the child's father, and a certificate from the clerk of court in the parish in which the child was born indicates that no acknowledgment of paternity in respect to this child has been filed. The Court would then need to terminate the parental rights of the unknown father(s).
  
- 7. What happens if the mother refuses to give the name of the biological father?**
  - There are legal ramifications of providing false information. This would be a highly risky adoption plan and reputable agencies would be hesitant to assist in an adoption plan under these circumstances.
  
- 8. Can the biological father of the baby give notice that he intends to plan for the baby before the baby is born?**
  - Yes, but it is not legally binding. He may wish to give legal notice, which may give him standing. It would also be in his best interest to file with the Putative Father Registry maintained by the Bureau of Vital Statistics.
  
- 9. Can the birth father change his mind before signing the legal consents to the adoption?**
  - Yes, nothing is legal and or binding until the voluntary surrender is signed.
  
- 10. Can the birth father communicate with the adoptive parents and child after the adoption?**

- Chapter 14-A, Articles 1269.1-7 Yes through informal agreements. The statute does not provide a mechanism for Court oversight of the agreement unless the adoption was arranged by the State Agency.

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

- No, if it is a private adoption. LA CC Art 1113: Except as otherwise provided herein, if a parent executing a surrender in a private adoption is a minor, the parents or tutor of the minor must join in the surrender unless the minor parent has been judicially emancipated or emancipated by marriage.
- When the minor's parents or tutor refuse to join in the act or cannot be located, the court may authorize the minor to surrender.
- In an intrafamily adoption the parents or tutor of the minor parent must join in the consent to his child's adoption, unless the court finds the minor is sufficiently mature and well informed to surrender.
- Yes—in an agency adoption, a minor may surrender without the consent of the parents or tutor of the minor. However, this is not common practice.

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

- If the birth father is an alleged or adjudicated father his surrender is irrevocable upon execution, even if before the birth of the child. If the birth father is the legal father, he may execute surrender earlier than the third day after the child's birth, but it will not be irrevocable until the third day following the birth of the child. Art. 1130.

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

- Yes, under Louisiana Safe Haven Act. Articles 1149, 1151-1159. Also, under 1119 "For the purposes of insuring anonymity in private adoption, an attorney at law licensed to practice in this state may be named in the surrender as representative of the accepting person". The prospective adoptive parent need not be informed of the identity of the surrendering parent nor be shown the petition or other documents connected with the adoption proceeding, including any certification for adoption or court order approving the adoptive placement.

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

- The legal rights of the birth mother as well as the birth and legal father(s) have to be addressed either through voluntary Act of Surrender or court

Termination of Parental Rights before a child is legally available for adoption, Articles 1123 and 1193. To successfully oppose an adoption, the father would have to do other things such as acknowledge his status, indicate a willingness to accept custody/responsibility of the child, and prove his fitness to the court.

## **ADOPTIVE PARENT RELATED**

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

- There are three types of adoption in Louisiana, Agency, Private, and Intrafamily. The Children's Code is the same for all three types: a single person, 18 years or older, or a married couple may jointly petition to adopt a child. When one joint petitioner dies after the petition has been filed, the adoption proceedings may continue as though the survivor was a single original petitioner. Art 1198, 1221, 1243.

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

- A Statement of Family History, which includes medical and genetic information. Article 1125 states that this must contain explicit medical and genetic history of the biological parents and their families on the form for the statement of family history.

Also Article 1127.1 states that after the adoptive placement of the child, the agency or person to whom surrender is made shall have a continuing duty to maintain these records and supplement them if additional non-identifying medical or genetic information is received about the adopted child or a surrendering biological parent.

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

- Article 1171. The adoptive parent needs to have pre-placement approval of their adoptive home (home study), or have their home approved for placement by a court of competent jurisdiction.

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

- Yes, the child must have lived with the adoptive parents for six months prior to filing a petition to finalize the adoption. Art 1171.

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

- Yes. The adoptive parents are the legal parents and have the same rights as other parents regarding their children, however, if there is a continued contact agreement the adoptive parents should comply with the terms of the agreement. Article 1037.1 Chapter 14-A, Articles 1269.1-7 The statute does not does not provide a mechanism for Court oversight of the agreement unless the adoption was arranged through the State Agency.

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

- An adopted child may communicate with their birth parent if both the adoptive parent and biological parents have agreed to the contact. However, it is ultimately the adoptive parents' decision regarding the type and duration of the communication.

Adult adoptees may attempt to locate their biological family through the Louisiana Adoption Reunion Registry. It is managed exclusively by the State Agency, the Louisiana Office of Community Services. Adopted persons have to be age 18 in order to register. For there to be a match/reunion (the exchange of any identifying information) both the adopted person and birth parent have to register--voluntarily, independently. If only one of them gets on the Registry, nothing happens.

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

- Medical and genetic information.

A Statement of Family History, which includes medical and genetic information, Article 1125, states that the history must contain explicit medical and genetic history of the biological parents and their families on the form for the statement of family history.

Also Article 1127.1 states that after adoptive placement of the child, the agency or person to whom surrender is made shall have a continuing duty to maintain these records and supplement them if additional non-identifying medical or genetic information is received about the adopted child or a surrendering biological parent.

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

- The state employs adoption specialists to provide case management and supportive services. Private agency staff members supervise their placements. Attorney assisted placements have a period of supervision by the Adoption Petition Unit of the Office of Community Services. Art 1297.

**9. When is the adoption final?**

- The adoption is final at the time of the adoption finalization hearing, one that results in a final decree of adoption. Art 1217.

**COURT SPECIFIC PROCEDURES**

**1. Who initiates the adoption process?**

- Either the birth parents or the adoptive parents may start the adoption process either by initiating an adoption plan or by initiating a home study, respectively. Officially, the adoptive parents start the legal process through the filing of the adoption petition through their attorney or an adoption agency. Art 1208

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

- Initially the Act of Surrender documents must be filed with the court shortly after the signings. The child must then be in the home for period of at least six months before the filing of the adoption petition. Art 1208

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

- At time of parental surrender the child becomes available for adoption—anytime after the child is three days old (not counting the day of birth) papers may be signed. Article 1130

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

- The parents must agree on the adoption plan assuming that they have each retained their parental rights. In order to successfully oppose an adoption plan, the father must have established his paternal rights and proven capability to the court.

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

- Yes, such as in removal and subsequent termination of parental rights for abuse/neglect. See chapter 4, Grounds of Involuntary Termination. Art 1015

**MISCELLANEOUS QUESTIONS**

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

- Louisiana law requires that both the biological parent and adopted person register with the Louisiana Adoption Reunion Registry in order for identifying information to be released.
- In Louisiana birth parents have no legal rights to contact with the child after placement. In an open adoption, contact is continued due to the trusting relationship all parties have developed.

**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 Louisiana, a close relative (step parent, step-grandparent, great-grandparent, grandparent, aunt, great aunt, uncle, great uncle, sibling, or cousin) can adopt utilizing a less intense procedure for the adoption. A home evaluation, generally conducted by the State Agency, is required.

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

- In Louisiana birth parents have no legal rights to contact with the child after placement. In an open adoption, contact is continued due to the trusting relationship all parties have developed. Court enforceable continuing contact agreements are possible only if the adoption was arranged through the State Agency.