

Frequently Asked Questions About Adoption in Maine

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 Maine 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 the child's birth. Tit.18-A, §§ 9-202; 9-302

- 2. Can the birth mother choose the adoptive parents?**
 - Yes.

- 3. Can the birth mother see and hold the baby after the birth?**
 - Yes, the mother has all legal rights until the adoptive placement occurs.

- 4. What expenses can the adoptive parents pay to or on behalf of the birth mother and child?**
 - Except when one of the petitioners is a blood relative of the adoptee or the adoptee is an adult, only the following expenses may be paid by or on behalf of a petitioner in any proceeding under this article:
 - The actual cost of legal services related to the consent or the surrender and release and to the adoption process;
 - Prenatal and postnatal counseling expenses for the biological mother;
 - Prenatal, birthing and other related medical expenses for the biological mother;
 - Necessary transportation expenses to obtain the services listed in paragraphs;
 - Foster care expenses for the child;
 - Necessary living expenses for the biological mother and the child;
 - For the biological father, legal and counseling expenses related to the consent, the surrender and release and the adoption process;

- Fees to a licensed child-placing agency providing services in connection with the pending adoption.
5. **Can a minor mother independently sign legal documents placing the child for adoption (consent to the adoption)?**
 - Yes. The court may approve an attorney to represent her.
 6. **When does the birth mother actually sign the legal documents required for the adoption?**
 - Any time after the birth, before a Judge of Probate.
 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. She has three business days after she signs the legal documents in court to withdraw.
 9. **Can the birth mother communicate with the adoptive parents and child after the adoption?**
 - Yes, by agreement, not enforceable.
 10. **Can a birth mother anonymously surrender a newborn child?**
 - No. However Maine does have a safehaven law and this means that a person who has given birth can voluntarily deliver a child younger than 31 days old to a law enforcement officer, staff at a medical emergency room, a medical services provider or a hospital staff member at a hospital and charges will not be filed
 11. **What happens if the birth parents do not agree that adoption should be the option?**
 - There is no adoption if both parents do not consent unless there are extenuating circumstances.

BIRTH FATHER RELATED

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

- Legal fathers, by marriage or established paternity, must be notified. Putative fathers must also be notified. Fathers can be defaulted by sending notice in hand or by publication.
- 2. How is the father of the baby notified of the mother's adoption plan?**
 - The father is notified by the agency supporting the adoption, the birth mother's or the adoptive parents' attorney or by publication or by personal service.
 - 3. Can the father of the baby choose the adoptive parents?**
 - Yes except for where his parental rights are terminated involuntarily due to abandonment or child abuse or neglect. His consent to adoption must name the adoptive parents, or in an agency adoption, the name of the agency taking custody is disclosed.
 - 4. What happens if the biological father of the baby is not the baby's legal father?**
 - He still must be notified of the pending adoption. He can then file an objection if he desires. The legal father's rights must also be resolved.
 - 5. What happens if the husband (legal father) is not the biological father?**
 - He is presumed to be the legal father and the adoption proceeds with his consent or default. Maine's biological father's rights must be resolved.
 - 6. What happens if the mother does not know who the biological father is?**
 - The mother's statement is taken and notice by publication is made to an unknown birth father.
 - 7. What happens if the mother refuses to give the name of the biological father?**
 - She states in an affidavit that she refuses to give the name of the biological father and the court decides how to proceed. Legal notice can still be ordered to an "unknown birth father" by publication
 - 8. Can the biological father of the baby give notice that he intends to plan for the baby before the baby is born?**
 - Not Legally. He can notify the attorneys or agency involved and then take action post birth for custody.

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

➤ Yes.

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

➤ Yes, by agreement, not enforceable.

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 concurrent of his parents or guardian. An attorney may be approved by the court to represent the minor.

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

➤ Yes, and he has up to 3 days after signing the consent to withdraw his consent.

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

➤ No. However Maine does have a safehaven law and this means that a person who has given birth can voluntarily deliver a child younger than 31 days old to a law enforcement officer, staff at a medical emergency room, a medical services provider or a hospital staff member at a hospital and charges will not be filed

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

➤ There is NO adoption if both parents do not consent unless there are extenuating circumstances.

ADOPTIVE PARENT RELATED

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

➤ Any person who has a valid home study can adopt. Adoptive parents, in infant adoptions in general, are selected by the birth parents, or the agency.

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

➤ The agency or individual placing the child for adoption must provide a report summarizing the available medical, psychological, and education records the agency/individual has concerning the birth parents. In addition, the

agency/individual shall provide a summary of other existing social, medical, psychological and educational records concerning the child.

- 3. What procedures are followed to ensure that adoptive parents are fit to adopt a child?**
 - A home study is completed, criminal records checked and child protective records checked.

- 4. Can the potential adoptive parents have the child placed with them prior to the actual court procedures?**
 - Yes. There is no legal enforceability of any private/agency agreements regarding contact.

- 5. Can the adoptive parents prevent the birth parents from communicating with the child after the adoption?**
 - Yes. Maine does not have a legally binding open adoption agreement. It is the adoptive parent's decision whether or not to allow communication after the adoption.

- 6. Under what circumstances can an adopted child communicate with the birth parents?**
 - When contact is part of the post adoption contact agreement or when the child attains the age of majority (18).

- 7. What information must the birth parents provide to the adoptive parents?**
 - The birth parents information that is shared is de-identified if the birth parents so desire. The background information that is shared is as follows: prenatal records from the doctor, medical history on the birth parents and the extended family; employment history, and educational history. The birth parents typically share why they have chosen to make an adoption plan and their thoughts on how open they would like the adoption to be.

- 8. Who supervises the adoptive placement and for how long?**
 - The period of supervision in private adoptions is totally within the discretion of the court. In agency adoptions, supervision is for six months and is provided by a licensed child placing agency or the county office of family and children.

- 9. When is the adoption final?**

- The adoption is final upon finalization of the adoption in court.

COURT SPECIFIC PROCEDURES

1. Who initiates the adoption process?

- The birth mother or the adoptive parents can initiate the adoption process.

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

- The birth mom can terminate her parental rights after the birth of the child. The adoptive family usually signs legal documents 6 months after placement.

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

- Birth parents sign the voluntary placement documentation when they are in the hospital. Termination of their parental rights after a surrender and release is signed in probate court.

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

- An adoption may not occur if both parties do not agree, Both parties must sign off their parental rights.

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

- No. Both parents must consent to an adoption unless there are extenuating circumstances.

MISCELLANEOUS QUESTIONS

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

- a. Presently an adoptee born in Maine cannot access their adoption file unless it is court ordered. All adoption records are currently sealed in Maine. Beginning January 1, 2009 adoptees 18 or older who were born in Maine will be allowed to have copies of their original birth certificates. These documents bear the name of their birth mothers and sometimes birth fathers.

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 Maine a relative, even a non –biological relative (step-parent adoption) can adopt a child. Kinship adoptions do not necessarily require a home study. Kinship or relative adoptions are a permanent and legal arrangement that is intended to last forever, like all other adoptions.

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

- There are no legal contracts or binding agreements between birth and adoptive families regarding openness in Maine.

