

Frequently Asked Questions About Adoption in Michigan

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 Michigan 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.

MCL 710.55

2. Can the birth mother choose the adoptive parents?

- Yes. The Court requires that a licensed child-placing agency complete a study of the prospective adoptive parent(s) and report its findings to the Court, before the Court will finalize the adoption. If it is a relative direct adoption, the courts can complete the home study.

MCL 710.23

3. Can the birth mother see and hold the baby after the birth?

- There is no specific law addressing this. However, the adoption is not final until the birth mother signs the consents for adoption.

4. What expenses can the adoptive parents pay to or on behalf of the birth mother and child?

- Expenses that can be paid for by law include: Medical, hospital, nursing, or pharmaceutical expenses, living expenses of a mother before the birth of the child and no more than 6 weeks after birth, counseling and traveling expenses necessitated by the adoption.

MCL 710.54

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

- No, a minor mother's consent is not valid unless a parent, guardian or GAL also executes consent.

MCL 710.43 (7)

6. 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.

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

- Yes, nothing is legal until the consent or voluntary releases are signed.

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

- Birth parents have 21 days or until the adoption petition is acted upon by the court to petition for a rehearing, only if there has been fraud or duress, not because the parent has changed her mind.

MCL 710.64-65

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

- Only if the adoptive parents are willing and they can change their minds at anytime. There is no legally binding "open" adoption.

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

- Yes under the Michigan Safe Delivery of Newborn's Law. Anonymous surrender of a newborn within 72 hours of birth to an emergency services provider implies consent and release of the infant to a child placement agency for purpose of adoption.
- The parent has 28 days to petition the court to regain custody and must submit to DNA testing to verify relationship. The parent may or may not provide nonidentifying information or identifying information that will not be made public. The father's rights must be terminated.

MCL 712.10-710.20

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

- Consent, voluntary release or termination of parental rights must occur for both parents before an adoption can be finalized. Therefore, an adoption would not occur until an agreement was made.

MCL 710.43

BIRTH FATHER RELATED

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

- The courts must provide legal notice to putative fathers prior to termination of parental rights and adoption finalization.

MCL 710.34

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

- The father, either legal or putative is notified via personal service or publishing.

MCL 710.36

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

- In a private adoption, the father can choose the adoptive parents. The court requires that a licensed child-placing agency conduct a home study of the prospective adoptive family and file its report with the Court, before the Court will rule on the adoption.
- If the father surrenders to a licensed child-placing agency, the agency selects the adoptive parents.

MCL 710.23

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

- There is a legal necessity to identify the father of children born out of wedlock, or whose biological father may be some one other than the mother's husband. Once identified the father is entitled to notice, as described above.

MCL 710.34 & 710.36

5. What happens if the husband (legal father) is not the biological father?

- Same as #4 above.

6. What happens if the mother does not know who the biological father is?

- The courts would hold a hearing to determine who the father is. Reasonable would be made to locate the putative father and proceed with termination of parental rights.

MCL 710.36 (1)

7. What happens if the mother refuses to give the name of the biological father?

- The mother is required by court to provide as much information as she has about the identity of the father. Notice must be given to any and all putative fathers.

MCL 710.36

8. Can the biological father of the baby give notice that he intends to plan for the baby before the baby is born?

- Yes, a person claiming under oath to be the father of the child can file a verified notice of intent to claim paternity with the court in any county before the birth of a child born out of wedlock. Notice will be held with the Department of Public Health Vital Records Division. The person will be presumed to be the father unless the mother states otherwise.

MCL 710.33

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 consents/voluntary releases are signed.

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

- Only if the adoptive parents are willing and they can change their minds at anytime. There is no legally binding “open” adoption.

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

- Not without the consent of their parent, guardian or GAL (Guardian ad litem).

MCL 710.43 (7)

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

- Birth parents have 21 days or until the adoption petition is acted upon by the court to petition for a rehearing, only if there has been fraud or duress, not because the parent has changed his mind.

MCL 710.64-65

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

- Yes under the Michigan Safe Delivery of Newborn’s Law. Anonymous surrender of a newborn within 72 hours of birth to an emergency services

provider implies consent and release of the infant to a child placement agency for purpose of adoption.

- The parent has 28 days to petition the court to regain custody and must submit to DNA testing to verify relationship. The parent may or may not provide nonidentifying information or identifying information that will not be made public. The father's rights must be terminated.

MCL 712.10-710.20

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

- Consent, voluntary release or termination of parental rights must occur for both parents before an adoption can be finalized. Therefore, an adoption would not occur until an agreement was made.

MCL 710.43

ADOPTIVE PARENT RELATED

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

- A person either married or single, who has been assessed as suitable by a licensed adoption agency.

MCL 710.23

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

- Before placing a child for adoption, the department, agency or court must provide the prospective adoptive parents with a written document containing all non-identifying information that is not confidential under state or federal law and that is reasonably obtainable.

MCL 710.27(6) & (7)

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

- A Home Study is completed by a licensed adoption agency. The statute details the requirements for prospective adoptive parents.

MCL 710.23f(1)-(6)

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

- Yes, the child can be placed temporarily with the adoptive family prior to the consents or the releases by the birthparents within certain timeframes.

MCL 710.23d

- 5. Can the adoptive parents prevent the birth parents from communicating with the child after the adoption?**
 - Yes, once the adoption is finalized, the adoptive parents have full rights in decision making for that child, regardless of what may have been discussed or agreed upon prior to the adoption.

- 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. As an adult adoptee, the individual may seek out their birth parents via the Central Adoption Registry and the birth parents have provided releases to provide identifying information.

MCL 710.68

- 7. What information must the birth parents provide to the adoptive parents?**
 - The attorney/agency worker 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 the adoption.

MCL 710.27(c)

- 8. Who supervises the adoptive placement and for how long?**
 - A licensed adoption agency representative supervises the placement for anywhere from 6-18 months depending upon the best interest of the child, until the court enters a final order of adoption.

MCL 710.26(2)

- 9. When is the adoption final?**
 - When the Court grants the adoption petition and enters a final decree of adoption.

MCL 710.56

COURT SPECIFIC PROCEDURES

- 1. Who initiates the adoption process?**
 - Either the birth parents or the prospective adoptive parents can initiate adoption proceeding through an adoption agency or an attorney.

- 2. When are the legal adoption papers filed with the court?**
 - The child must reside with the adoptive parents six months before the finalization hearing on the adoption. The petition is filed with the consents and the final order of adoption hearing is conducted about 6 months later.

- 3. When do the birth parents actually sign the legal documents for adoption?**
 - The birth parent would sign the consent papers or releases at a court hearing that would take place after the birth of the baby. Then the worker or attorney would later file the petition for adoption in the appropriate county court.

- 4. What happens if the birth parents do not agree on the adoption plan?**
 - An adoption cannot be finalized without the consent of the parents, unless their rights have been terminated by a court.

- 5. Can the baby be placed for adoption without the consent of the birth mother and/or birth father?**
 - No, consent must be provided by the parents except as noted with absent or unknown fathers.

MISCELLANEOUS QUESTIONS

- 1. What is the process for accessing adoption files, including identifying information?**
 - Before placing a child for adoption, the department, agency or court must provide the prospective adoptive parents with a written document containing all non-identifying information that is not confidential under state or federal law and that is reasonably obtainable.
 - Once the adoption is finalized, the adoptive parents have full rights in decision making for that child, regardless of what may have been discussed or agreed upon prior to the adoption.
 - If the adoptee is a minor, the decision would be made by the adoptive parents. As an adult adoptee, the individual may seek out their birth parents via the Central Adoption Registry and the birth parents have provided releases to provide identifying information.
 - The attorney/agency worker 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 the adoption.

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 Michigan, relative means an individual related to the child within the fifth degree by marriage, blood, or adoption.
- Kinship or relative adoptions are a permanent and legal arrangement that is intended to last forever, like all other adoptions.
 - Relative or Kinship through Court
 - Birth parents choose adoptive family
 - Court conducts relative home study

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

- In Michigan, any ancillary agreements, such as an openness plan or an openness agreement are **NOT** legally binding.
- Most agencies will prepare a written agreement and the parties will sign the agreement, but that is to use a guide should there be disagreements in later years about the level of openness.
- Birth parents are advised by the agencies, and also are told by the Court, that any agreements are not legally binding. Many judges expound upon this further in the hearings, to clearly tell the birth parents that any agreements they may have signed with the adoptive family are not legally enforceable.
- Adoptive parents are also told by the agencies that the agreements are not legally binding, but are "good faith" agreements.
- Upon release of parental rights or upon consent to adoption by the birth parents, the parental rights of the birth parents are terminated, which then ends any legal rights of the birth parents to the child, including the right to visitation. The legal rights are then vested with the adoptive parents, including the right to determine who has access to their child.

