

Frequently Asked Questions About Adoption in Minnesota

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 Minnesota 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?

- She can begin planning the adoption at any time after she becomes pregnant.

2. Can the birth mother choose the adoptive parents?

- The birth mother can choose the adoptive parents either from someone she already knows or hears about through family or friends, or through a licensed adoption agency. Minnesota does not allow "facilitators," otherwise known as "child finders," to make connections between birth and adoptive parents.

M.S.A. 259.21(9)(3)

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

- Yes, it is up to the birth mother to determine what involvement she will have with the baby after birth.

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

- Adoptive parents are required to pay for the birth mother's legal costs for having an attorney represent her and counseling charges (up to 35 hours in the six month period after the child's birth or placement, whichever comes first), if she wishes to have counseling about the adoption.
- Adoptive parents are allowed to pay for uninsured medical costs for the birth mother and baby. They can also pay for reasonable living expenses which are needed to maintain an adequate standard of living which the birth mother is unable to otherwise maintain because of loss of income or other support resulting from the pregnancy. She can ask for living expenses for any period during the pregnancy, but for no longer than six weeks after the birth. Adoptive Parents can also cover reasonable expenses for transportation, meals and lodging incurred for placement of the child or in order to receive

counseling, legal or medical services related to the pregnancy, birth or placement.

M.S.A.259.55(1)

- A birth mother who has received expenses from the adoptive parents and then changes her mind and does not proceed with an adoption, is not liable to repay adoptive parents for any expenses they paid on her behalf.

M.S.A.259.55(2)

- It is a gross misdemeanor for any one to give, or for a birth parent to accept money or anything of value, or compensation, for the placement of a child for adoption. (She cannot be paid for her time, pain or suffering.)

M.S.A.259.55(3)

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

- A minor mother must have her legal parent(s) or guardian also sign a consent to adoption. If no parent or guardian is available, the Commissioner of Human Services may consent to the adoption, in place of her parent(s)/guardian. If the birth mother's parents do not agree with her adoption plan, the court can appoint a Guardian Ad Litem in a termination of parental rights proceeding to consent in place of the parent(s). M.S.A.259.24(2)

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

- She cannot sign a Consent to Adoption until at least 72 hours after the birth. She must sign within 60 days of the adoptive parents taking the baby home.

M.S.A.259.24(2a)

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?

- Yes, the birth mother can change her mind for up to 10 working days after she signs a Consent to Adoption. Once the ten working days is up, she cannot change her mind unless she can prove to a court that her consent was obtained by fraud. M.S.A.259.24(6a)

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

- If the birth mother and adoptive parents agree on a plan for future contact, the court can enter a Contact Agreement which is a court order that the contact the parties have agreed to must take place. Such an order must be entered by the court prior to the finalization of the adoption. The birth mother and adoptive parents can also agree on future contact without a court order, but such an agreement is not legally binding. M.S.A.259.58

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

- Yes, Minnesota has a law which allows a birth mother to leave a newborn child at a hospital without having to give any information about herself, or being charged with child abandonment.
- A person who has the mother's approval

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

- If a presumed birth father does not agree with the adoption plan, he can stop the adoption, if he has taken legal responsibility for the child by following the requirements of the fathers adoption registry. A putative father can do so only by following the requirements of the fathers adoption registry. If he does not take legal responsibility, he cannot stop an adoption. M.S.A. 259.24(1)

BIRTH FATHER RELATED

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

- A birth father who is legally responsible for a child (presumed father) must be notified of an adoption plan. Generally, he has taken responsibility if he is married to the birth mother, has been married to her within 325 days before the child's birth or ten days after birth, appears on the child's birth certificate, he is openly living with the child the mother or both, or a court has issued a paternity order saying he is the father (determined through blood testing).
M.S.A.259.24(2b)
- If a birth father, who is not the presumed father, has not taken legal responsibility for the child (putative father), he is not entitled to notification of the birth or adoption plan unless he registers on the Father's Adoption Registry. M.S.A.259.49(1)

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

- If he is a presumed father, he must be served with notice of the birth mother's intent to consent to an adoption prior to birth or within 72 hours of the child's placement for adoption by personal service or if his whereabouts are

unknown; by publication, unless he is cooperating and will sign a Consent to Adoption. M.S.A.259.24(2a) and (2c)

- If he is a putative father, he does not receive notice unless he registers on the Fathers' Adoption Registry. If he registers in the time allowed by law (between conception and 30 days after the child's birth), he is served with notice either personally or by certified mail that an adoption is being planned. M.S.A.259.52

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

- If he is involved in the adoption plan and the birth mother is agreeable, he can help choose the adoptive parents.

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

- The biological father may or may not be entitled to notice depending on whether he is a presumed or putative father. Generally, there is no testing to determine the biological paternity of the child unless the parties to the adoption agree to have that done. If a biological father is not the legal (presumed) father, he must register on the Father's Adoption Registry, if he wants to protect his interest in the child. M.S.A.259.52

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

- A legal father must either consent to the adoption or have his parental rights terminated by a court, even if he is not the biological father. M.S.A.259.24(1)

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

- She is not required to name who she thinks might be the father. The entire burden to come forward and assert rights is on the biological father, who can register with the Fathers' Adoption Registry if he wants notice of an adoption plan. M.S.A.259.52

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

- She does not have to name him.

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 Fathers Adoption Registry anytime during the pregnancy or for up to 30 days after the birth. If he registers, he is entitled to notice of the adoption plan and has a further 30 days after receiving notice to

start a paternity action to have himself declared the father. Or he can begin a paternity action anytime during the pregnancy. M.S.A.259.52(9)

- 9. Can the birth father change his mind before signing the legal consents to the adoption?**
 - If he is a presumed father (legal father) involved in the adoption plan and agrees to sign a Consent, he is governed by the same rules for changing his mind as is the birth mother. However, if he is not a presumed father, he needs to have preserved his interest in the child in order to block the adoption.

- 10. Can the birth father communicate with the adoptive parents and child after the adoption?**
 - Yes birth fathers are encouraged to continue with contact following the placement of a child. He too, like the birth mother, can ask that a Cooperative Agreement (not legally binding) be completed or he can request a Contact Agreement (legally binding).

- 11. Can a minor father independently sign legal documents placing the child for adoption (consent to the adoption)?**
 - A minor father (who is a presumed father) must have a parent or guardian also sign a consent to adoption. If no parent or guardian is available, the Commissioner of Human Services may consent to the adoption.
M.S.A.259.24(2)

- 12. Can the birth father change his mind after signing the legal consents to the adoption?**
 - Yes, the birth father can change his mind for up to 10 working days after he signs a Consent. Once the ten working days is up, he cannot change his mind unless he can prove to a court that his consent was obtained by fraud. If he is not a presumed father and has not preserved his rights via the Fathers' Adoption Registry a revocation of his consent alone would not be sufficient to block an adoption. M.S.A.259.24(6a)

- 13. Can a Birth father anonymously surrender a newborn child?**
 - A person who has the mother's approval

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

- If a birthfather is a putative father the Fathers Adoption Registry is his venue to have his voice heard. All legal fathers must sign consents or served notice of a Termination of Parental Rights hearing.

ADOPTIVE PARENT RELATED

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

- A person, either married or single, who has had an adoption study done by a licensed adoption agency can adopt a child.

M.S.A.259.41

- In an independent (or direct placement) adoption, the birth parent selects the adoptive parents. In an agency adoption, the birth parent usually designates who the adoptive parents should be by working with the agency to select a family who has been pre approved through an adoption study.

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

- The birth parent must provide the adoptive parents with a detailed social and medical history of the birth families, if known after reasonable inquiry. This must be provided on a form prepared by the Commissioner of Human Services. M.S.A.259.43

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

- An adoption study is required by law which requires criminal and child protection background checks, medical information, financial statements, and interviews of the adoptive parents. The adoption study must be done by a licensed child-placing agency and provided to the court when a petition for adoption is filed. M.S.A. 259.41

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

- In an agency adoption, the agency can place the child with the adoptive parents by having them sign a placement agreement.

- 5. Can the adoptive parents prevent the birth parents from communicating with the child after the adoption?**
 - Yes, if there is no Contact Agreement ordered by the court. Adoptive parents have full parental rights to the child after the adoption is finalized, and they decide who the child has contact with, including birth parents.

- 6. Under what circumstances can an adopted child communicate with the birth parents?**
 - Minnesota law allows a birth parent to have the original birth certificate released to the child when the child turns 19 unless the birth parent has signed an affidavit prohibiting the release of information. The birth parent can include an address for the child to use in contacting the birth parent.
 - In addition, a child may request an intermediary contact the birth parent once the child turns 19 to request background medical information and/or to make contact with the birth parent. M.S.A.259.83
 - If a Contact Agreement Order is in place, that may allow contact before age 19 between the child and the birth parents.

- 7. What information must the birth parents provide to the adoptive parents?**
 - The birth parent must provide the Social & Medical Background form. Additionally, the birth parents may provide the adoptive parents and/or agency with notice if the birth parent becomes terminally ill or dies. The adoptive parents must notify the agency if the adopted child becomes terminally ill or dies. The agency must notify the birth parent of this information if the birth parent has requested notice and if the birth parent has provided an address where the birth parent can be reached.M.S.A.259.27

- 8. Who supervises the adoptive placement and for how long?**
 - A licensed adoption agency must supervise the placement for a minimum of 90 days after the placement is made. The agency is required to provide a Report to Court with a recommendation of whether or not the adoption should be finalized within that time period. M.S.A.259.53(2)

- 9. When is the adoption final?**
 - The adoption is final when a hearing is held and the court signs a Decree of Adoption. This hearing cannot occur until the child has been in the care of the adoptive parents for more than three months.
M.S.A.259.57

COURT SPECIFIC PROCEDURES

1. Who initiates the adoption process?

- The adoptive parents begin the adoption process in the courts. In an independent adoption, they request a Pre-Adoptive Custody Order. In an agency adoption, they file a Petition for Adoption.

M.S.A.259.47(3) and M.S.A. 259.22(4)

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

- The Petition for Adoption can be filed any time after the child is placed with the adoptive parents. It must be filed no later than 12 months after the child is placed for adoption. M.S.A.259.22(4)

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

- In an independent adoption, the birth parent will sign legal papers prior to the birth of the child in order for the court to issue a Pre-Adoptive Custody Order.

M.S.A.259.47(3)(a)(2)

- The Consent to Adoption cannot be signed until at least 72 hours after the birth, but must be signed within 60 days of the child entering the adoptive parents care. This is usually done before the Petition for Adoption is filed with the court, although it may be done afterwards.

M.S.A.259.22(4)

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

- For birth mothers and presumed fathers if a Consent to Adoption has not been signed, or if signed and 10 working days have not passed, the birth parent can change his or her mind and stop the adoption. If the Consent is irrevocable, the birth parent can only stop the adoption by having a court determine that the Consent was obtained by fraud.

- A putative father can only stop the adoption if he has registered on the Father's Adoption Registry and followed the necessary steps under the registry to preserve his interests in the child. A putative father who has consented to the adoption and timely revokes his consent has to have properly preserved his rights under the Registry to block the adoption.

- (See prior answers in birth parent section)

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

- Yes, if the parental rights of the birth mother (birth parents if there is a presumed father) are terminated because of abuse or neglect, the county could place the child for adoption.

- Birth Father's consents are only required if they are presumed fathers or have registered on the Fathers Adoption Registry, and after having been served with notice have timely filed a notice of intent to retain parents rights and commenced a paternity proceeding within the time allowed by law.

M.S.A.259.52

MISCELLANEOUS QUESTIONS

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

- a. If the birth mother and adoptive parents agree on a plan for future contact, the court can enter a Contact Agreement which is a court order that the contact the parties have agreed to must take place. Such an order must be entered by the court prior to the finalization of the adoption. The birth mother and adoptive parents can also agree on future contact without a court order, but such an agreement is not legally binding.
 - b. The birth parent must provide the adoptive parents with a detailed social and medical history of the birth families, if known after reasonable inquiry. This must be provided on a form prepared by the Commissioner of Human Services.
 - c. Minnesota law allows a birth parent to have the original birth certificate released to the child when the child turns 19 unless the birth parent has signed an affidavit prohibiting the release of information. The birth parent can include an address for the child to use in contacting the birth parent.
 - d. In addition, a child may request an intermediary contact the birth parent once the child turns 19 to request background medical information and/or to make contact with the birth parent. M.S.A.259.83
- If a Contact Agreement Order is in place, that may allow contact before age 19 between the child and the birth parents.
 - The birth parent must provide the Social & Medical Background form. Additionally, the birth parents may provide the adoptive parents and/or agency with notice if the birth parent becomes terminally ill or dies. The adoptive parents must notify the agency if the adopted child becomes terminally ill or dies. The agency must notify the birth parent of this information if the birth parent has requested notice and if the birth parent has provided an address where the birth parent can be reached.
 - M.S.A.259.27

2. What is considered a kinship adoption? How is kinship adoption handled? Are home studies necessary? Who can conduct them? Is there a fee?

- a. In a **relative adoption**, however, the families involved may retain an attorney or go directly to the Court for all necessary assistance. In Minnesota relatives within the 4th degree (grandparents or aunts and uncles to the child being adopted) do not need to have a home study completed in their adoption process. Anyone outside the 4th degree of relativity will be required to have a home study completed.

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

Yes either birth or adoptive families can ask that the Cooperative Agreement (not legally binding) be turned into a Contact Agreement (legally binding)

