

Frequently Asked Questions About Adoption in New Hampshire

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 New Hampshire 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 initiate the process at any point in the pregnancy or even after the baby has been born. She may not sign the Surrender until at least 72 hours after the birth.

- 2. Can the birth mother choose the adoptive parents?**
 - Yes. In both private and agency adoptions, the birth mother may choose the adoptive parents. In addition, the court requires that a licensed child-placing agency complete a home study of the prospective adoptive parents before the adoption petition is accepted.

- 3. Can the birth mother see and hold the baby after the birth?**
 - Yes. She can have as much or as little contact with the baby as she wants. She is the baby's parent until she goes to court and signs the surrender of parental rights.

- 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 are: reasonable counseling fees, medical expenses, clothing, rent, lost wages, and some other pregnancy – related expenses such as transportation to medical appointments.

- 5. Can a minor mother independently sign legal documents placing the child for adoption (surrender)?**
 - The court may require the assent of the parent(s) or legal guardian(s).

- 6. When does the birth mother actually sign the legal documents required for the adoption? The Surrender of Parental Rights?**

- Anytime at least 72 hours after the birth of the child in a court hearing. It is typically 1 to 5 weeks after the birth, depending on birth mother's readiness to sign and depending on legalities related to the birth father.
- 7. Can the birth mother change her mind before signing the legal consents to the adoption?**
- Yes, she can change her mind at any point in the process prior to signing the Surrender in court.
- 8. Can the birth mother change her mind after signing the Surrender?**
- No. The Surrender is final immediately upon signing in court. A birth parent may petition the court to withdraw the surrender but the surrender may not be withdrawn unless: 1. The birthparent has a proven preponderance of evidence that the surrender was obtained under fraud or duress, and 2. The withdrawal is in the best interest of the child.
- 9. Can the birth mother communicate with the adoptive parents and child after the adoption?**
- The New Hampshire law does not prohibit on going contact arrangements between adoptive and birth parents, provided that no such understanding or arrangement shall be binding or enforceable at law or in equity. In reality in New Hampshire there are many semi-open, and open contact arrangements because all 3 parties typically benefit greatly from the openness.
- 10. Can a birth mother anonymously surrender a newborn child?**
- Yes, in New Hampshire, a hospital or safe haven (church, police, or fire station) shall take temporary care and control of a child under 7 days old. The child's parents are not required to identify themselves. Within 24hrs, DCYF and law enforcement will be notified and DCYF will assume the temporary care and control of the child. DCYF and law enforcement will investigate the incident thoroughly and if appropriate, may begin the termination of parental rights process so that the child can be adopted.
- 11. What happens if the birth parents do not agree that adoption should be the plan?**
- If the birth parents do not agree on an adoption, they are offered counseling to help them make a decision for their baby that is comfortable with both of them. Their options are discussed in the context of their relationship and their supports and resources. If they continue to disagree and the birth father is required by the Statute to be involved, an adoption would not occur.

BIRTH FATHER RELATED

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

- Not in all cases. Birth mothers are encouraged to name the father because it is always a safer and more secure adoption if he is involved in the adoption planning and the court process.
- Under some circumstances, the birth mother does not have to name him. There is a Paternity Registry at the Bureau of Child Support where a man may register if he thinks he may have fathered a child for whom he wants to take responsibility. The Registry must be checked before Surrender can be signed.
- A person claiming paternity must be given notice by the court if: he is named by the birth mother in an affidavit; if his identity is known by the court, the agency, proposed adoptive parents or their attorney; if he filed notice with the Registry; or if he is openly living with the child or child's mother or providing financial support to her.
- A legal father (designated on the birth certificate, designated as a result of a paternity test, legally married to the birth mother at the time of conception or birth) must sign Surrender in court unless waived by the court.

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

- If the father fits the definition of a father entitled to notice, he will receive a notice from the court describing his right to prove paternity. If he does not respond to the court within 30 days, he waives his right. He must claim paternity prior to the birthmother surrendering her rights to the child.

Fathers who are entitled to notice: (a) If named by the birthmother, (b) If known by the court, DCYF, Agency which is legal guardian, or the adoptive parents or their attorney., (c) If claiming fatherhood and has registered with the office of Child Support (Putative Father Registry) prior to the birthmother's surrendering of the child in court. , (d) If openly living with child or child's mother AND providing financial support, AND holding himself out to be the father.

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

- Yes, he can be involved in the adoption process, including the choice of adoptive parents along with the birth mother.

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

- The biological father can be notified as addressed above. The legal father must sign a Surrender or a Termination of Parental Rights must be completed.

- 5. What happens if the husband (legal father) is not the biological father?**
 - Same as #4 above. The biological father can be notified as addressed above. The legal father must sign a Surrender or a Termination of Parental Rights must be completed.

- 6. What happens if the mother does not know who the biological father is?**
 - The birth mother does not have to name the father. She will sign an Affidavit stating that she does not wish to name the father. However, the court may question her about this.

- 7. What happens if the mother refuses to give the name of the biological father?**
 - Legally, she does not have to name the father. The court may advise her of the father's rights and encourage her to identify 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 Paternity Registry at the DHHS Child Support Unit.

- 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?**
 - The New Hampshire law does not prohibit on going contact arrangements between adoptive and birth parents, provided that no such understanding or arrangement shall be binding or enforceable at law or in equity. In reality in New Hampshire there are many semi-open, and open contact arrangements because all 3 parties typically benefit greatly from the openness

- 11. Can a minor father independently sign legal documents placing the child for adoption (consent to the adoption)?**
 - The court may require the assent of the minor's parents or legal guardians.

- 12. Can the birth father change his mind after signing the legal consents to the adoption?**
 - Please see the corresponding question in birth mother section. The answer is the same.

- 13. Can a birth father anonymously surrender a newborn child?**
- New Hampshire has a Safe Haven Law, but the child is not legally free for Adoption, and would be turned over to DCYF, which may seek a Termination of Parental Rights.
- 14. What happens if the birth parents do not agree that adoption should be the option?**
- If the birth parents do not agree on an adoption, they are offered counseling to help them make a decision for their baby that is comfortable with both of them. Their options are discussed in the context of their relationship and their supports and resources. If they continue to disagree and the birth father is required by the Statute to be involved, an adoption would not occur.

ADOPTIVE PARENT RELATED

- 1. Who can be an adoptive parent and who selects them?**
- Any person or persons, either married or single, and who has an approved home study from the Division for Children, Youth, and Families or a licensed child-placing agency.
- 2. What information about the birth parents and the child must be provided to the adoptive parents?**
- There are court forms on which the birth parent must provide all easily obtainable social and medical non-identifying background information. This must be provided prior to the adoption petition process. In addition, most agencies have more in depth background forms, and encourage birth parents to share information they feel important.
- 3. What procedures are followed to ensure that adoptive parents are fit to adopt a child?**
- Adoptive parents must complete a home study and be approved by a licensed child-placing agency. Aspects of the home study include home visits, discussion of parenting styles, personal references, medical information, and criminal checks.
- 4. Can the potential adoptive parents have the child placed with them prior to the actual court procedures?**
- Yes. The birth parents and adoptive parents can agree to a legal risk placement. The birth parents retain all parental rights during placement until they sign the Surrenders and they maintain the right to change their minds and have the baby returned to them.

- 5. Can the adoptive parents prevent the birth parents from communicating with the child after the adoption?**
 - Yes, however in most infant adoptions that start out on a semi open basis, the contact continues. Often as trust grows, the contact becomes increasingly open.

- 6. Under what circumstances can an adopted child communicate with the birth parents?**
 - Any arrangement made for ongoing contact is a good faith arrangement and is not legally binding. Most adoptive couples are happy to provide letters and pictures and they enjoy hearing from birthparents. By meeting with the birth parent and developing an emotional connection, they will realize the importance of maintaining ongoing contact arrangements. Adult adoptees have access to original birth certificates. Birthparents may indicate a preference for no contact.

- 7. What information must the birth parents provide to the adoptive parents?**
 - There are court forms on which the birth parent must provide all easily obtainable social and medical non-identifying background information. This must be provided prior to the adoption petition process. In addition, most agencies have more in depth background forms, and encourage birth parents to share information they feel important.

- 8. Who supervises the adoptive placement and for how long?**
 - No. The Surrenders, or TPR's must be filed with the petition for adoption.
 - The agency that completed the home study assessment supervises the placement until a final decree of adoption is entered.

- 9. When is the adoption final?**
 - Typically 6 months after the placement of the child.

COURT SPECIFIC PROCEDURES

- 1. Who initiates the adoption process?**
 - An adoption petition is filed by the adoptive parents, usually with the assistance of the agency or an attorney.

- 2. When are the legal adoption papers filed with the court?**
 - Within 30 days of the child's placement in the home.

- 3. When do the birth parents actually sign the legal documents for adoption?**
 - The Surrender of Parental Rights is signed in a court hearing prior to the filing of the adoption petition.

- 4. What happens if the birth parents do not agree on the adoption plan?**
 - If the birth parents do not agree on an adoption, they are offered counseling to help them make a decision for their baby that is comfortable with both of them. Their options are discussed in the context of their relationship and their supports and resources. If they continue to disagree and the birth father is required by the Statute to be involved, an adoption would not occur.

- 5. Can the baby be placed for adoption without the consent of the birth mother and/or birth father?**
 - No. In a voluntary surrender/adoption, the birthmother must surrender her rights. In this situation, if a birthfather is named, or has registered with the putative father registry, he will be notified by court about his rights. He can either surrender his rights, waive them, or state that he wants to parent. A legal father must surrender his rights for the adoption to take place. In a termination of parental rights situation, both parents rights are terminated without their consent. These are situations in which the child is placed into adoption due to parental abandonment, abuse or neglect.

MISCELLANEOUS QUESTIONS

- 1. What is the process for accessing adoption files, including identifying information?**
 - In New Hampshire adopted adults age 18 or older and birth parents of an adopted child 18 or over can request identifying information, which will be released if consent is given from the party who is the subject of the request.

- 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 New Hampshire, the definition of a related child is "a child within the second degree of kinship either by blood or affinity. Relationships within the second degree includes step-parents, sisters, brothers, grandparents, aunts, or uncles." (This is from the New Hampshire adoption statute.)
 - The petitions to adopt in relative adoptions are more flexible time wise (may be filed at any time, as opposed to 30 days after placement)

- The adoptive parent home study may be waived in relative adoptions under certain circumstances
- A final decree can be issued sooner (waiving the usual interlocutory decree and 6 month post placement period)
- Kinship or relative adoptions are a permanent and legal arrangement that is intended to last forever, like all other adoptions.
- Kinship adoptions can be completed by licensed adoption agencies, attorneys and the court.

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 New Hampshire. There are no legal contracts or binding agreements between birth and adoptive families in voluntary infant adoptions regarding openness in New Hampshire. However, in some adoptions through DCYF, there are agreements that are somewhat enforceable in Mediated Adoptions which have been in effect since January 1, 2006.