

Frequently Asked Questions About Adoption in Ohio

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 Ohio 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?**
 - A mother can investigate all options upon learning of her pregnancy.

- 2. Can the birth mother choose the adoptive parents?**
 - Yes. Birth parents **may assist with** choosing the adoptive couple. The attorney or agency handling the adoption could assist them. Under Section 3107.3 of the Ohio Revised Code, **birth parents** can request profiles of prospective adoptive parents and express a preference.

- 3. Can the birth mother see and hold the baby after the birth?**
 - Yes. The birth mother may see her baby as much as she wishes while the baby is in the hospital. She may also visit the child, regardless of the kind of placement, as much as reasonably possible before signing the papers.

- 4. What expenses can the adoptive parents pay to or on behalf of the birth mother and child?**
 - Under Ohio law, only the following expenses can be paid: medical expenses; counseling; attorney fees; and court costs. Gifts and/or incentives are illegal and cannot be provided.
(ORC 3107.10(C))

- 5. Can a minor mother independently sign legal documents placing the child for adoption (consent to the adoption)?**
 - Some courts may require parental consent as a policy if the birth parent is 12 years old or younger. Otherwise, the consent of a minor in adoption cases is treated as though it were made by an adult under Ohio law. **However, minors cannot enter into legal contracts, so many courts require an affidavit signed by the custodian of the minor in addition to the minor's consent.**

- 6. When does the birth mother actually sign the legal documents required for the adoption?**
- Consent cannot be executed until at least 72 hours after the child's birth (ORC 3107.08(A)) and 72 hours after signing the Ohio Adoptions Rights document (ODJFS1693).
 - Consent must be executed in the following manner:
 - If by an agency, before an authorized person
 - If by another person, before the court or an authorized person
 - If by a court, by an appropriate order (ORC 3107.08)
- 7. Can the birth mother change her mind before signing the legal consents to the adoption?**
- Yes. An adoption is not final until after the documents are signed. She cannot be forced to consent to the adoption.
 - **In Ohio the party taking the Consent to Adopt or Permanent Surrenders must assure that the birth mother is capable of understanding the process and is not under the influence of medication or other mood altering substances.**
- 8. Can the birth mother change her mind after signing the legal consents to the adoption?**
- In an attorney-facilitated adoption, a birth parent can try to withdraw consent to the adoption before the Interlocutory Order (usually 30-45 days after the child is placed in the adoptive home) or before the Final Decree goes into effect, which is six months after placement. To exercise this right to withdraw consent, a birth parent must present clear and convincing evidence that the "best interests of the child" have changed. A birth parent may also contest the adoption within one year after the Final Decree, if the birth parent can show that the adoption placement was based on "gross error or fraud." However, attempts to withdraw consent or to contest an adoption are almost never successful. **If the parents signed permanent surrenders, they have no appeal rights and cannot rescind their surrenders.**
- 9. Can the birth mother communicate with the adoptive parents and child after the adoption?**
- Yes, under Section 3107.3 of the Ohio Revised Code, birth parents may request an open adoption. However, the agreement regarding openness is voluntary and not legally binding.
- 10. Can a birth mother anonymously surrender a newborn child?**
- Yes. A mother can surrender within 72 hours of the child's birth to a hospital that provides 24 hour medical services or emergency medical services workers or peace officers.
- 11. What happens if the birth parents do not agree that adoption should be the plan?**

- The child cannot be placed for adoption without the consent of both parents. However, if the birth father has not registered with the Putative Father Registry, his signature is not required. The court can place the child if their rights as a parent have been terminated in juvenile court.

BIRTH FATHER RELATED

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

- A man who has sexual intercourse with a woman is on notice that if a child is born as a result, the child may be adopted without his consent pursuant to division (B) of [section 3107.07](#) of the Revised Code, unless he has registered in accordance with the Ohio Putative Father Registry. Where he fails to register, he forfeits his rights as a parent.

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

- The legal father and all known and unknown biological fathers will be served with legal process of the adoption proceedings or termination of parental rights if done by court order.
- The birth father first must register with the Ohio Putative Father Registry that is maintained by the Ohio Department of Job and Family Services within 30 days after the birth of the child. Also, he must file a formal objection to the adoption in court and be prepared to offer an alternative parenting plan. The birth father should hire an attorney to represent him.

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

- Yes. Birth parents may assist in choosing the adoptive couple, or the attorney or agency handling the adoption could assist them. Under Section 3107.3 of the Ohio Revised Code, birth parents can request profiles of prospective adoptive parents and express a preference.

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

- Addressed in the Putative Father Registry.

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.

- 6. What happens if the mother does not know who the biological father is?**
 - Ohio has a putative father registry which requires birth father's to register to protect their rights. A general publication to "all unknown biological fathers" is generally done when terminating parental rights by court order.
- 7. What happens if the mother refuses to give the name of the biological father?**
 - Not addressed in state statutes reviewed.
- 8. Can the biological father of the baby give notice that he intends to plan for the baby before the baby is born?**
 - Ohio has a state registry for putative fathers. He can register on the site. He can also contact the attorney or agency providing service to the birth mother.
- 9. Can the birth father change his mind before signing the legal consents to the adoption?**
 - Yes. An adoption is not final until after the documents are signed. He cannot be forced to consent to the adoption.
- 10. Can the birth father communicate with the adoptive parents and child after the adoption?**
 - Yes. A communication plan can be negotiated with the adoptive parent(s). Communication can be part of an open adoption arrangement.
- 11. Can a minor father independently sign legal documents placing the child for adoption (consent to the adoption)?**
 - Some courts may require parental consent as a policy if the birth parent is 12 years old or younger. Otherwise, the consent of a minor in adoption cases is treated as though it were made by an adult under Ohio law. However, minors cannot enter into legal contracts, so many courts require an affidavit signed by the custodian of the minor in addition to the minor's consent.
- 12. Can the birth father change his mind after signing the legal consents to the adoption?**
 - In an attorney-facilitated adoption, a birth parent can try to withdraw consent to the adoption before the Interlocutory Order (usually 30-45 days after the child is placed in the adoptive home) or before the Final Decree goes into effect, which is six months after placement. To exercise this right to withdraw consent, a birth parent must present clear and convincing evidence that the "best interests of the child" have changed. A birth parent may also contest the adoption within one year after the Final Decree, if the birth parent can show that the adoption placement was based on "gross error or fraud." However, attempts to withdraw consent or to contest an adoption are almost never successful. .
 - If the birth father signs a permanent surrender he has no remedy under the law to rescind or reconsider the action.

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

Yes, a birth parent (mother or father) can take a child to a Safe Haven location for anonymous surrender of a newborn. The law provides protection from prosecution only for the child's parents.

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

- An adoption cannot be finalized without the consent of the parents, unless their rights have been terminated by a court. A Certified Adoption Assessor can assist the birthparents to plan cooperatively in the child's best interests. If cooperative planning is not achieved, the courts may become involved. Legal representation for all parties will be necessary and a Guardian Ad Litem will be appointed for the child.

ADOPTIVE PARENT RELATED

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

- In Ohio, the following persons may adopt: husband and wife together, at least one of whom is an adult; an unmarried adult; and a married adult, in a stepparent adoption. The birth parent is encouraged to assist in the selection of the adoptive parents, however, in the absence of the birth parents assistance, the adoption agency selects the parents. (ORC 3107.01 - 3107.44).

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

- If there is a release of information form for the birth parents or siblings, and the fee required by § 3705.241 is paid, identifying information must be provided to the adopted person, age 21 or older, or their adoptive parent if the adopted person is at least age 18 but under age 21 (ORC 3107.47).
- If there is no release of information, only non-identifying information may be shared.

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

- Except as otherwise provided in the law, an adoption assessor shall conduct a home study for the purpose of ascertaining whether a person seeking to adopt a minor is suitable to adopt. A written report of the home study (Pre-Finalization Assessment Report) shall be filed with the court at least ten days before the petition for adoption is heard.
- The report shall contain the opinion of the assessor as to whether the person who is the subject of the report is suitable to adopt a minor and other

information and documents specified in rules adopted by the director of job and family services under [section 3107.032](#) [3107.03.2] of the Revised Code. The assessor shall not consider the person's age when determining whether the person is suitable to adopt if the person is old enough to adopt as provided by [section 3107.03](#) of the Revised Code.

- 4. Can the potential adoptive parents have the child placed with them prior to the actual court procedures?**
 - A child cannot be placed in a non relative home until the completion of the home study unless previously approved for foster care pursuant to Ohio law, which approval must be current.
- 5. Can the adoptive parents prevent the birth parents from communicating with the child after the adoption?**
 - Yes, however, under Section 3107.3 of the Ohio Revised Code, birth parents may request an open 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, which is 18 in Ohio.
- 7. What information must the adoptive parents provide to the birth parents?**
 - No information is required by the adoptive parents, however if it is an Open Adoption, agreements can be made about the sharing of information, see ORC 3107.63
- 8. Who supervises the adoptive placement and for how long?**
 - A Certified Adoption Assessor monitors the adoptive placement for six months.
- 9. When is the adoption final?**
 - The court may issue the Final Decree of Adoption 6 months after placement in the adoptive home provided the home study is approved.

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 finalization 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?**
 - If there is a release of information form for the birth parents or siblings, and the fee required by § 3705.241 is paid, identifying information must be provided to the adopted person, age 21 or older, or their adoptive parent if the adopted person is at least age 18 but under age 21 (ORC **3107.47**).
 - If there is no release of information, only non-identifying information may be shared.
 - No information is required by the adoptive parents, however if it is an Open Adoption, agreements can be made about the sharing of information, see ORC **3107.63**
- 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 Ohio, "Kin" means the following:

- Individuals related by blood or adoption:
 - i. (a) parents, grandparents, including grandparents with the prefix "great", "great-great", "grand", or "great-grand";
 - ii. (b) siblings;
 - iii. (c) aunts, uncles, nephews, and nieces, including such relative with the prefix "great," "great-great," or "great-grand;"
 - iv. (d) cousins and first cousins once removed.
- Stepparents and stepsiblings;

- Spouses and former spouses of individuals named in paragraph (1) of this definition.
- Any nonrelative adult the current custodial caretaker or child identifies as having a familiar and long-standing relationship/bond with the child and/or the family which will ensure the child's social and cultural ties.
Source: ODJFS Family, Children, and Adult Services Manual

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

- No information is required to be shared by the adoptive parents or birthparents, however if it is an Open Adoption, agreements can be made about the sharing of information, see ORC **3107.63** Open adoption agreements are not legally-binding in Ohio.

