

# Frequently Asked Questions About Adoption in Rhode Island

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**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 Rhode Island 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 a baby begin an adoption plan?**
  - A birth mother can begin planning for an adoption before the birth of her child. When a birth mother voluntarily places her child with an adoption agency, Rhode Island General Law (RIGL) is specific that the time frame for filing a termination of parental rights petition is “not sooner than 15 days after the birth of a child”. (RIGL 15-7-6) In an independent adoption, birth parents do not terminate their parental rights until the finalization of the adoption.
  
- 2. When does the birth mother actually sign the legal documents required for the adoption?**
  - A birth mother can sign the legal documents any time after the birth of the baby; they cannot be submitted to court for an agency adoption, however, until 15 days after the birth have passed. Termination of parental rights is not complete until the birth mother appears in court, and her petition is approved by a judge.
  
- 3. Can the birth mother change her mind before signing the legal consents to the adoption?**
  - Yes.
  
- 4. Can the birth mother change her mind after signing the legal consents to the adoption?**
  - The legal consents are not fully binding until the court approves the Petition to Termination of Parental Rights in an agency placement or approves the Adoption Petition in an independent placement. However, the Rhode Island Supreme Court has stated that the consent is assumed valid and may only be revoked for “good or sufficient cause”. No one may contest the termination of parental rights or an adoption after (90) days.
  
- 5. Can a minor mother independently sign legal documents consenting to an adoption?**

- RIGL 15-7-10 states as follows: “No minor parent may give a binding consent to any adoption petition or to any termination of rights pursuant to 15-7-6 except with the consent of one of the parents, guardian, or guardian ad litem of the minor parent; provided, that is the whereabouts of both of the parents of the minor parents are unknown, that fact shall be sworn to by the petitioners or an unauthorized officer or official of a duly licensed child placement agency or of a governmental child placement agency...”
6. **Can the birth mother see and hold the baby after the birth?**
    - Yes.
  7. **Can the birth mother choose the adoptive parents?**
    - In the case of private agency and independent adoptions the birth mother can choose the adoptive parents. This is not the case if the child is under the custody of DCYF.
  8. **What expenses can the adoptive parents pay to or on behalf of the birth mother and child?**
    - Rhode Island laws do not address financial amounts. Direct cash payments to a birthmother, however, are not allowed.
  9. **Can the birth mother communicate with the adoptive parents and child after the adoption?**
    - Rhode Island has a procedure for an agreement between the birth parents and the adoptive parents for “Post-Adoption Privileges” (RI 15-7-14.1). The law states that the basis for establishing such an agreement is “the best interest of the child.” The birth parents and the adoptive parents may also have an informal open-adoption agreement. Informal open-adoption agreements are not enforceable in Family Court.
  10. **Can a birth mother anonymously surrender a newborn child?**
    - Yes. Rhode Island has a “Safe Haven” law (RIGL 23-13.1)
  11. **What happens if the birth parents do not agree that adoption should be the plan?**
    - Rhode Island laws require that both parents’ consent to an adoption. The adoption cannot proceed without this.

## **BIRTH FATHER RELATED**

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

- Yes. “Notice to natural father” (RIGL 15-7-26) goes into some detail regarding the particulars of notification. If a father is not named on the petition and/or has not consented to the petition, then the court will take steps to ascertain who the father is and to notify him regarding the petition before the court.
2. **How is the father of the baby notified of the mother’s adoption plan?**
    - If it is not possible for a birth mother or someone she designates to contact the birth father directly, then several laws may apply: RIGL 15-7-8 (court summons); RIGL 15-7-9 (advertising); or RIGL 15-7-26 (any other manner that the court may direct)
  3. **What happens if the biological father of the baby is not the baby’s legal father?**
    - In cases involved with DCYF, paternity is determined on the basis of blood tests and/or DNA testing. Both the legal and biological father must sign papers to terminate parental rights in private adoptions.
  4. **What happens if the mother does not know who the biological father is?**
    - The court may order a publication of notice for “all parties of interest”. (RIGL 15-7-26)
  5. **What happens if the mother refuses to give the name of the biological father?**
    - See above
  6. **Can the biological father of the baby give notice that he intends to make an adoption plan for the baby before the baby is born?**
    - Yes.
  7. **Can the birth father change his mind before signing the legal consents to the adoption?**
    - Yes.
  8. **Can the birth father communicate with the adoptive parents and child after the adoption?**
    - Rhode Island has a procedure for an agreement between the birth parents and the adoptive parents for “Post-Adoption Privileges” (RI 15-7-14.1). The law states that the basis for establishing such an agreement is “the best interest of the child.” The birth parents and the adoptive parents may also have an informal open-adoption agreement. Informal open-adoption agreements are not enforceable in Family Court.
  9. **Can a minor father independently sign legal documents placing the child for adoption (consent to the adoption)?**

- RIGL15-7-10 regarding the minor mother applies to minor father as well.
- 10. Can the birth father change his mind after signing the legal consents to the adoption?**
  - Refer to #8 for Birth Mother.
- 11. Can the father of the baby choose the adoptive parents?**
  - Yes.
- 12. What happens if the birth parents do not agree about an adoption plan?**
  - In voluntary adoptions both birth parents must agree to an adoption plan or it can not take place.
- 13. Can a child be placed for adoption without the consent of the birth mother and/or birth father?**
  - Only in adoptions through DCYF, following an involuntary petition to terminate parental rights (RIGL 15-7-12)
- 14. Can a Birth father anonymously surrender a newborn child?**
  - No. Rhode Island's "Safe Haven" law (RIGL 23-13.1) only applies to the birth mother.
- 15. What happens if the birth parents do not agree that adoption should be the option?**
  - The adoption plan cannot proceed if both birth mother and birth father do not agree to it.

## **ADOPTIVE PARENT RELATED**

- 1. Who can be an adoptive parent and who chooses them?**
  - Adoptive parents must complete a home study in order to adopt a child. RIGL 15-7-11 outlines in great detail the contents of an adoptive home study, including state and national clearance checks, medical reports, and financial statements. The adoptive family can be selected by the birth parents, the private agency or the state agency.
- 2. What information about the birth parents and the child must be provided to the adoptive parents?**
  - General practice is that all non-identifying information is given in a comprehensive report to the adoptive parents. DCYF Adoption Policy contains a section entitled "Pre-Adoption Report – Disclosure of Information". This goes into great detail regarding the information that must be given to adoptive parents regarding the child to be adopted and genetic

information regarding the birth family. The Office of the Child Advocate has entered legislation amending present adoption law (RIGL 15-7) that addresses disclosure of information. The legislation is modeled on DCYF's policy. Rhode Island agencies should stay informed as to whether or not this bill passes. The bill # is S 0013.

- 3. What procedures are followed to ensure that adoptive parents are fit to adopt a child?**
  - All prospective adoptive parents in Rhode Island must have a homestudy completed by a licensed adoption agency before they can adopt a child.
- 4. Can the potential adoptive parents have the child placed with them prior to the termination of birth parents' parental rights?**
  - Yes.
- 5. Can adoptive parents prevent the birth parents from communicating with the child after the adoption?**
  - Yes, unless there is a formal open adoption agreement. Adoptive parents can also petition the court to modify the agreement based on the best interests of the child (RIGL 15-7-14.10)
- 6. Under what circumstances can an adopted child maintain a relationship with the birth parents?**
  - An open adoption can be created either informally, between birth and adoptive families, or formally. A petition for a formal open adoption agreement can be granted by a judge in family court. (RIGL 15-7-14.10.)
- 7. What information must the birth parents provide to the adoptive parents?**
  - Birth parents are encouraged, but not required, to provide comprehensive psychosocial and health history information.
- 8. Who supervises the adoptive placement and for how long?**
  - The placing agency usually supervises. The amount of time is usually 6 months.
- 9. When is the adoption final?**
  - An adoption can be finalized after the child has resided with the petitioners for six months. The court may wave the six-month waiting period "upon good cause shown"( RIGL 15-7-12)

## **COURT SPECIFIC PROCEDURES**

- 1. Who initiates the adoption finalization 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.

#### **LAWS REGARDING FINALIZATION OF AN ADOPTION:**

- 1. When can an adoption be finalized?**
  - An adoption can be finalized after the child has resided with the petitioners for six months. The court may wave the six-month waiting period “upon good cause shown”( RIGL 15-7-12)
  
- 2. Who initiates the adoption finalization process?**
  - “Any person residing in Rhode Island may petition the family court for leave to adopt as his or her child any person younger than him or herself and under the age of eighteen (18) years...” (RIGL 15-7-4) In most cases, the petition is filed by an attorney, an agent for the state agency or a licensed adoption agency.
  
- 3. Do the birth parents sign the legal documents for adoption?**

- In an agency adoption and in most DCYF adoptions, birth parents do not sign the adoption petition. In private placements birth parents may sign the adoption petition any time after the birth of the child.

**4. Under what conditions must a health care professional refer a case of a pregnant minor to the state's child protective services agency?**

- Rhode Island has a mandatory reporting law for cases of suspected abuse or neglect.

## **MISCELLANEOUS QUESTIONS**

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

- a. Currently Rhode Island does not have any provision for adult adoptees to access the adoption file. There is a passive adoption reunion registry maintained by the family court of Rhode Island.

**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. Rhode Island has no specific law regarding kinship adoption

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

- Post-adoption contact between birth and adoptive parents may be handled informally or through a court-approved Open Adoption Agreement. Court-approved agreements are enforceable; informal agreements are not. They are non-binding post-adoptive agreements regarding the degree of openness.



