

Frequently Asked Questions About Adoption in Vermont

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 Vermont 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?**
 - An expectant parent may start making an adoption plan once she knows that she is pregnant. She can not relinquish her rights to her child until after the child is born.

- 2. Can the birth mother choose the adoptive parents?**
 - The birth mother has the right and ability to choose the adoptive parents of her child. The adoptive parents must have an approved homestudy performed by a licensed child placing agency. The birthmother also has the right to ask the agency with which she is working to choose a family for her child from the agency's pool of homestudied and approved prospective adoptive families if she prefers not to choose a family herself.

- 3. Can the birth mother see and hold the baby after the birth?**
 - Yes, the birth mother is encouraged to hold and see the baby after birth. The birth mother can spend as much time as she wishes with the baby until her parental rights are terminated.

- 4. What expenses can the adoptive parents pay to or on behalf of the birth mother and child?**
 - 15A V.S.A. 7-103

 - Lawful Payments Related to adoption include:
 - i. Payments for services of an agency in connection with an adoption
 - ii. Medical, hospital, nursing, pharmaceutical or other similar healthcare expenses
 - iii. Counseling services for a reasonable time before and after the birth

- iv. Living expenses of a mother for a reasonable time before the birth and no more than six weeks after the birth
- v. Any expense incurred to obtain social and medical history of the birthparents
- vi. Expenses for legal services, court costs and other administrative expenses directly related to the adoption
- vii. Transportation costs to get to medical appointments, meetings with attorneys, counseling, and court

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

- 15A V.S.A. 2-405
- Yes, but a parent who is a minor has to be represented by an attorney who is not representing the agency or the adoptive parents.

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

- 15A V.S.A. 2-404
- The birth mother cannot sign until 36 hours after the birth of the child. Usually, relinquishments occur within a few weeks of the birth of the child. The relinquishment must be signed in probate court in the presence of a probate judge. The birth mother may revoke her consent within 21 days after the consent by filing a written notice to the court where the consent was executed.

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

- 15A V.S.A. 2-404
- Yes, the birthmother can change her mind about her adoption plan anytime prior to signing the legal consents to the adoption and for up to 21 days after signing.

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

- 15A VSA 2-404

- The birth mother may change her mind any time up until 21 days after the signing of her consents. After the 21 days, her consent is final unless she can prove fraud or the agency allows the consent to be revoked.
- 9. Can the birth mother communicate with the adoptive parents and child after the adoption?**
- Communication may happen through the agency to all triad members or directly between triad members according to a plan agreed upon prior to the placement of the child. This is called a good faith agreement and cannot disrupt the adoption if people do not follow through with the plan for communication. Most often, adoptive parents send letters and pictures to the birthparent(s) through an agency 3 to 4 times during the first couple of years, then once or twice a year until the child is 18.
- 10. Can a birth mother anonymously surrender a newborn child?**
- Yes, a birthmother or person acting on her behalf can bring a baby up to 30 days old to any Safe Haven and personally hand the baby to a volunteer or employee of a Safe Haven in Vermont. A Safe Haven is any: police station, healthcare facility, place of worship, adoption agency licensed in Vermont or a place an emergency responder, contacted through 911, agrees to meet and receive the baby.
- 11. What happens if the birth parents do not agree that adoption should be the plan?**
- 15A V.S.A. 2-401
 - Consent, voluntary relinquishment or termination of parental rights must occur for both parents before an adoption can be finalized. Therefore, if the birthparents cannot reach an agreement about the adoption plan outside of court, a hearing is scheduled in probate court during which both birth parents' plans for the child are presented. The judge makes a ruling after considering all the evidence which plan is in the child's best interest. If the judge rules in favor of the birthmother's plan, the birthfather's rights are terminated. After 30 days the order becomes final if the birthfather does not appeal.

BIRTH FATHER RELATED

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

- 15A V.S.A. 2-401

- Yes

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

- 15A VSA sections 3-401, 3-402, and 3-403.
- The birthmother, lawyer or agency can notify the birth father about the birth mother's plans to place the child for adoption. This can be done in person, by legal notice or service.

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

- The birthfather has the right and ability to choose the adoptive parents of his child along with the birthmother. The adoptive parents must have an approved homestudy from a licensed child-placing agency.

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

- 15A V.S.A. 2-401
- The legal father, as well as the biological father, must be notified of the adoption plan and his parental rights must be terminated.

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

- 15A V.S.A. 3-404
- A petition would be filed in probate court to terminate the unknown birthfather's rights. A court can terminate the birth father's rights after a public notice process. A notice is placed in the Legal section of the newspaper of the last known address of the birthfather that gives the birth mother's name and states that a child has been born and is being placed for adoption. The unknown birthfather is asked to contact the court by a certain date if he wants to claim his parental rights. If he does not contact the court by the given date, the court can terminate his rights. However, some courts will not terminate unknown birthfather's rights and the adoption will remain legal risk.

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

- The mother is required by the court to provide as much information as she has about the identity of the father. If she knowingly refuses to provide

information, the adoption is put at risk. The judge, the agency, and/or an attorney who may be involved will advise the birth mother regarding the at risk adoption. The adoptive parents will also be informed that the adoption is at risk because the birth father's parental rights are not terminated.

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

- 15A V.S.A. 1-110
- Yes, the father may file a notice claiming paternity in any probate court in the state. The birthfather must specify his name and address, the name and address of the other parent, the name of the child if known and the approximate date of birth of the child. Chittenden County Probate Court serves as the central Paternity Registry of all state notices.

8. Can the birth father change his mind before signing the legal consent to the adoption?

- 15A V.S.A. 2-404.
- Yes, nothing is legal or binding until the consents/ voluntary relinquishments are signed.

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

- As with the birthmother, communication may happen through the agency to all triad members or directly between triad members according to a plan agreed upon prior to the placement of the child. This is called a good faith agreement and cannot disrupt the adoption if people do not follow through with the plan for communication.

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

- 15A V.S.A. 2-405 (c)
- Yes, but a father who is a minor has to be represented by an attorney who is not representing the agency or the adoptive parents.

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

- 15A V.S.A. 2-404.

- The birth father may change his mind any time up until 21 days after the signing of his consents. After the 21 days his consent is final unless he can prove fraud or the agency allows the consent to be revoked.

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

- Yes, the birthfather acting on the birthmother's behalf can bring a baby up to 30 days old to any Safe Haven and personally hand the baby to a volunteer or employee of a Safe Haven in Vermont. A Safe Haven is any: fire or police station, healthcare facility, place of worship, adoption agency licensed in Vermont or a place an emergency responder, contacted through 911, agrees to meet and receive the baby.

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

- 15A V.S.A. 2-401
- Consent, voluntary relinquishment or termination of parental rights must occur for both parents before an adoption can be finalized. Therefore, if birthparents cannot reach an agreement about an adoption plan outside of court, a hearing is scheduled in probate court during which both birth parents' plans for the child are presented. The judge makes a ruling after considering all the evidence which plan is in the child's best interest. If the judge rules in favor of the birthmother's plan, the birthfather's rights are terminated. After 30 days, the order becomes final if the birthfather does not appeal.

ADOPTIVE PARENT RELATED

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

- 15A V.S.A. 1-102
- Single people, married or unmarried couples, and couples in a civil union who have an approved homestudy from a licensed child-placing agency may adopt. The birth parents generally are the ones who select the adoptive parents of their child. If for some reason the birthparents do not want to select, then an agency will select a family from their pool of homestudied prospective adoptive parents.

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

- 15A V.S.A. 2-105

- The adoptive parents must be provided with all the information, which is available about the birthparents and the child with the exception of identifying information such as last names, phone numbers and addresses. The information should include:
 - Social, prenatal, birth and health history of the child
 - Social, educational, occupational, and health histories of birthparents
 - Summary of findings of any psychiatric or psychological evaluations
 - History of drug and alcohol use if applicable
 - Physical descriptions and interests/ hobbies of birthparents
 - Extended family health and genetic information
 - Racial, ethnic, and religious backgrounds of birthparents
 - Social and health information on any siblings of child
 - Reasons for making the adoption plan

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

- 15A V.S.A. sections 2-201, 2-203 and 2-204
- All adoptive parents must have an approved homestudy by a licensed child placing agency. The homestudy requires clearance checks with an FBI fingerprint criminal records, a child neglect and abuse registry, family court, driver's records, and Office of Child Support.

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

- Yes, adoptive parents can have a child placed with them after birth, knowing that it is a legal risk placement until the birthparents' parental rights are terminated.

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 decision-making rights for the 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?

- While the child is a minor, the child can communicate with the birthparents if the adoptive parents decide it is in the best interests of the child and give consent and the birthparents have signed a disclosure form releasing their consent for identifying information and communication to occur. As an adult

(18 years of age), the adopted person may seek out their birth parents through filing consents with the Vermont Adoption Registry.

7. What information must the birth parents provide to the adoptive parents?

- 15A V.S.A. 2-105
- The agency worker and or attorney must make reasonable efforts to obtain comprehensive non-identifying information from the birthparents as detailed above in # 2 of this section.

8. Who supervises the adoptive placement and for how long?

- 15A V.S.A. 3-601.
- A worker employed by a licensed adoption agency supervises the placement for a minimum of six months or until the adoption is finalized.

9. When is the adoption final?

- 15A V.S.A. 3-707
- The adoption is final after the probate court judge signs the Adoption Decree stating that it is in the best interest of the child to be adopted. Finalization occurs after the child had resided with the adoptive family for at least six months. Usually, finalization occurs sometime between the child's seventh and eighth month of placement, but it can occur anytime after the mandatory 180 day placement period.

COURT SPECIFIC PROCEDURES

1. Who initiates the adoption process?

- The adoption petitions that are filed in probate court begin the adoption process. The petitions can be filed by an agency, an attorney working on behalf of the adoptive parents or the adoptive parents themselves.

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

- 15 V.S.A. 3-302

- The adoption petitions need to be filed within 45 days of the time that the child is placed with the family.
- 3. When do the birth parents actually sign the legal documents for adoption?**
- 15A V.S.A. 2-404
 - The birth parents are able to sign the consent or relinquishment documents anytime 36 hours after the birth of the baby. The documents must be signed in court in the presence of the Judge.
- 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.
- 5. Can the baby be placed for adoption without the consent of the birth mother and/or birth father?**
- Consent must be provided by the birthparents except with an absent or unknown birthfather or if the baby up to 30 days old has been anonymously but directly handed over by the birthmother or someone acting on her behalf to a volunteer or an employee of a designated Safe Haven in Vermont.

MISCELLANEOUS QUESTIONS

- 1. What is the process for accessing adoption files, including identifying information?**
- In Vermont, an adoptee can access the adoption file from the the Vermont Adoption Registry which is located at the Department for Children and Families in Waterbury, Vermont if the adoption was finalized on or after July 1, 1986, unless the birthparent has requested non-disclosure. For adoptions finalized before July 1986, mutual consent of the adult adoptee and the birthparent or sibling is required.
- 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 Vermont, kinship adoption refers to the adoption of a child by a family member. Kinship adoptions like non-kinship adoptions are handled in Probate court and are permanent, legal arrangements intended to last forever. It is the probate judge's decision whether or not to require a

home study with a kinship adoption. If a home study is required, it may be conducted by any agency licensed as a child placing agency in Vermont. There is a fee to file a petition in probate court for the kinship adoption. If a home study is required, there is a fee for services of the agency conducting the home study.

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 Vermont.