

Frequently Asked Questions About Adoption in Wisconsin

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 Wisconsin 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?**
 - At anytime after she is pregnant.

- 2. Can the birth mother choose the adoptive parents?**
 - Yes, she can select an adoptive family or have an adoption agency select a family for her. 48.833 Wis. Stat.

- 3. Can the birth mother see and hold the baby after the birth?**
 - The birth mother can see, hold, and spend as much time with her baby as she wishes.

- 4. What expenses can the adoptive parents pay to or on behalf of the birth mother and child?**
 - Counseling for the birth mother
 - Services provided by a licensed agency in connection with the adoption
 - Medical & hospital care received by the mother and child
 - Legal services
 - Care for the child
 - Transportation related to the pregnancy or adoption
 - Living expenses of the birth mother not to exceed \$5,000
 - Birthing classes
 - Maternity clothes, not to exceed \$300
 - Gift to the birth mother not to exceed \$100
 - 48.913 (1) (a) to (m), 48.837 (6) (b), 48.422 (7) (bm) Wis. Stat.

5. **Can a minor voluntarily terminate her parental rights?**
 - Yes. She will, however, be represented by a Guardian ad Litem who will represent her best interests and make a recommendation at the TPR hearing.

6. **When does the birth mother actually terminate her parental rights?**
 - The birth mother terminates her parental rights in a court hearing. A hearing is scheduled within 30 days of the court's receipt of her petition.
48.427 (3m) (3) Wis. Stat., 48.61 (5) Wis. Stat.

7. **Can the birth mother change her mind before signing the legal consents to the adoption?**
 - Yes, all her parental rights are intact until the judge issues the order terminating her parental rights. 48.837 (6) (d) Wis. Stat.

8. **Can the birth mother change her mind after the TPR hearing?**
 - A birth mother who has consented to the TPR may not appeal based on a change of mind. She may file a motion to appeal within 30 days of the TPR order based on such grounds as legal error, fraud, new evidence, misrepresentation or misconduct. 48.46 (2) & 808.04 (7m) Wis. Stat.

9. **Can the birth mother communicate with the adoptive parents and child after the adoption?**
 - Only if the adoptive parents are willing, and they can change their mind at anytime. There is no legally binding "open" adoption in Wisconsin.

10. **Can a birth mother anonymously surrender a newborn child?**
 - Yes, she may do so within 3 days after birth to a hospital employee, police officer or an emergency medical technician. She may also call 911 and ask for the baby to be picked up. The child will be placed in foster care at that time. 48.195 Wis. Stat. This action provides the court with grounds for termination of parental rights. 48.415 (1m) Wis. Stat.

11. **What happens if the birth parents do not agree that adoption should be the plan?**
 - A termination of parental rights of both birth parents must occur before the child can be adopted. If the birth mother files a petition to voluntarily terminate her rights, the birth father can contest the termination of his parental rights. However, if he does not appear in court in person or by an attorney, his rights may be terminated involuntarily by default.

BIRTH FATHER RELATED

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

- 2. Who needs to be notified of the mother's adoption plan?**
 - Any man who had sexual intercourse with the birth mother during the legal conceptive period must be notified.

- 3. What happens if the birth mother is married at the time of conception?**
 - A birth mother's husband is presumed to be the child's father even if he is not the biological father of the child. The husband must consent to the termination of his parental rights in either case.

- 4. What happens if the mother does not know who the biological father is?**
 - A notification is published to the "unknown father" of the baby with information regarding the termination of parental rights hearing. 48.42 (4) (b) Wis. Stat.

- 5. What happens if the father will not consent to the termination of his parental rights?**
 - If the birth father has been given legal notice and does not appear at the hearing, his rights will be terminated, if the court finds grounds to do so. The birth father may appear in person or by attorney to contest. 48.422 (1) Wis. Stat. If he contests, the court will schedule a hearing to determine whether grounds exist for involuntary termination. 48.422 (2) Wis. Stat. He can request a hearing by jury trial. 48.424 (4) Wis. Stat.

- 6. What happens if the mother refuses to give the name of the biological father?**
 - The mother is required by court to provide as much information as she has about the identity of the father. Notice must be given to any and all alleged fathers.

- 7. Can the biological father of the baby give notice that he intends to parent the baby?**
 - A biological father can file a Declaration of Paternal Interest with the Department of Children and Families in Madison. This will insure that he is notified of any court proceeding regarding the child.

- 8. Can the birth father change his mind before the TPR hearing?**
 - Yes, he can appear and contest the TPR even if he has signed an affidavit consenting to the termination of his parental rights.

- 9. Can the birth father communicate with the adoptive parents and child after the adoption?**
 - If the adoptive parents are willing, but they can change their mind at any time. There is no legally binding "open" adoption in Wisconsin at this time.

- 10. Can a minor father terminate his parental rights without his parent's approval?**
 - Yes. However, a Guardian ad Litem will be appointed to represent his best interests and make a recommendation at the TPR hearing.

- 11. Can the birth father change his mind after the TPR hearing?**
 - There is no change of mind period after a TPR. A birth father may file a motion to appeal within 30 days of the TPR order based on such grounds as legal error, fraud, new evidence, misrepresentation or misconduct. 48.46 (2) and 808.04 (7m) Wis. Stat.

ADOPTIVE PARENT RELATED

- 1. Who can be an adoptive parent and who selects them?**
 - A single person or married couple who are 21 years or older who have a favorable home study by a licensed adoption agency may adopt. The birth parent(s) or the agency may select the adoptive parent(s). 48.833 Wis. Stat.

- 2. What information about the birth parents and the child must be provided to the adoptive parents?**
 - Medical/genetic history and pregnancy/delivery information forms filled out by birth parents are provided to the adoptive parents with identifying information deleted.

- 3. What procedures are followed to ensure that adoptive parents are fit to adopt a child?**
 - A Home Study is completed by a licensed adoption agency. This included a check of public records, health exams, personal references, and a visit to the home to ensure it meets foster licensing standards.

- 4. Can the potential adoptive parents have the child placed with them prior to the actual court procedures?**
 - Yes, the child can be placed prior to the termination of parental rights if the potential adoptive parents have a favorable home study and preadoptive foster home license. However, they must understand that the birth parents' parental rights have not yet been terminated.

- 5. Can the adoptive parents prevent the birth parents from communicating with the child after the adoption?**
 - Yes, agreements about communication after adoption are not legally enforceable.

- 6. Under what circumstances can an adopted child communicate with the birth parents?**
 - If the adoptee is a minor, the decision would be made by the adoptive parents. At age 18, an adopted person may request a search for his/her birth parent(s) identity and location from the Adoption Records Search Program in Madison. This information will only be released if the birth parent(s) have signed an affidavit of consent.

- 7. What information must the birth parents provide to the adoptive parents?**
 - The adoption agency must make reasonable efforts to obtain non-identifying information which includes: health and genetic family history, pregnancy and delivery information, and hospital birth records.

- 8. Who supervises the adoptive placement and for how long?**
 - The Department of Children and Families, a county human services department or an adoption agency licensed under 48.60, 48.427 (3m) (a) Wis. Stat. The child must reside in the home of the adoptive parents for six months. 48.90 (2) Wis. Stat.

- 9. When is the adoption final?**
 - An adoption is final after the supervisory period is complete, the report and consent to the adoption is filed by the agency with the Court, and the court enters a final order of adoption. 48.91 (3) Wis. Stat.

COURT SPECIFIC PROCEDURES

1. Who initiates the adoption finalization process?

- An attorney or an adoption agency may prepare and file a Petition to Adopt which has been signed by the adopting parents. The agency provides a Report of Investigation and Consent to the adoption to the court. 48.91 (3) Wis. Stat.

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

- The legal adoption papers are filed with the court after the child has resided with the adopting parents for six months.

3. Do the birth parents need to consent to the finalization of the adoption?

- No. When their parental rights were terminated, custody and guardianship of the child was transferred to the agency. The agency provides the required Consent.

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

- In most cases, the birth parents do not sign relinquishments of their rights. They give testimony in open court, and the judge orders the termination of their parental rights if he feels they are making informed and voluntary decisions.

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

- If the birth parents are not in agreement with an adoption plan, the birth father may appear in court and contest the termination of his parental rights. There may then be a hearing to determine whether or not he is unfit to parent the child.

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

- The birth mother needs to consent in person to the termination of her parental rights. The birth father can also consent to the adoption in person or by a notarized affidavit. If he chooses neither of those options, he will be served with notice of the hearing. If he does not appear for the hearing, he will be found in default, and his rights will be terminated.

MISCELLANEOUS QUESTIONS

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

- Wisconsin law provides that birth parents can consent to the release of identifying information by signing an affidavit. The adoptee must be 18 to access this information.

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 Wisconsin, a favorable home assessment is required. Fees are charged but are typically less than for non-relative adoptions.
- Kinship or relative adoptions are a permanent and legal arrangement that is intended to last forever, like all other adoptions.
- This is notably different from the more informal family care, where, for example, the grandmother does most of the parenting for a temporary time until the parent(s) is able to take over parenting responsibility. Kinship adoptions can fall anywhere along the relationship continuum.

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

- Contact between the birth and adoptive family is direct, without the agency as the intermediary.
- Open adoptions most typically imply that there is a trusting relationship between the parties. Some are flexible relationships where the birth parent(s) are considered part of the adoptive family's extended family, and vice versa.
- Get-togethers are based on the lifestyle of the families, much like one would determine the extent of contact with in-laws.

No two open adoptions are the same. Contact between the members of the triad may be spontaneous and initiated by either party at any time. Some may be determined by a previously developed agreement of scheduled contact/visits.