

Frequently Asked Questions About Adoption In Maryland

MOTHER OF THE BABY: BIRTH MOTHER RELATED

1. When can the mother of the baby start the adoption process?

A mother may start the adoption process once she knows that she is pregnant.

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.

3. Can the birth mother see and hold the baby after the 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?

Adoptive parents can pay reasonable and customary charges or fees for hospital or medical or legal services (5-327(a)(2)).

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

A minor parent may consent to an adoption or guardianship of a child. However, the consent of a minor parent is not valid unless the consent is accompanied by an affidavit of counsel appointed under § 5-323 of this subtitle that the consent of the minor parent is given knowingly and willingly. (MC 5-341; 5-323)

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

The court may not enter a final decree for adoption or for guardianship of an individual before the later of: 30 days after the birth of the individual; or the time period for revocation of consent to adopt under § 5-311 (c) (1) of this subtitle or

revocation of consent to a guardianship under § 5-317 (e) of this subtitle has run (MC 5-324).

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

Yes. The adoption is not final until after the paper have been signed.

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

Except as provided in paragraph (2) of MC 5-311 , within 30 calendar days after the required consent to an adoption is signed, the individual or agency executing the consent may revoke the consent.

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

No, unless arrangements have been made for an open adoption.

10. Can a birth mother anonymously surrender a newborn child?

A mother or person who has the approval of the mother may surrender the child within three days of the child's birth. (MC 5-641).

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

Unless the natural parents' rights have been terminated by a judicial proceeding, an individual may not be adopted without the consent, therefore, both parents have to consent or the child cannot be adopted. (MC 5-311)

FATHER OF THE BABY: BIRTH FATHER RELATED

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

Yes, the natural father is entitled to notice of the filing of an adoption petition.

- ✍ The natural father must acknowledge himself to be the father, orally or in writing, and the natural mother must agree that he is the father.
- ✍ The natural father must file notice of objection to an adoption within the time stated in the show cause order.
- ✍ Failure to receive a response to a petition filed by the local department within 30 days shall be deemed a negative response, if reasonable efforts were made to locate the putative father. (5-322; 5-310)

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

The petitioner shall give notice by entry and service of a show cause order sent to the last known address that the petitioner has for each person whose consent is required. (MC 5-322 (a)(3))

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

The birth parents have the right and ability to choose the adoptive parents of her child.

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

The natural father's consent is required in order for the child to be freed for adoption. (MC 5-310)

5. What happens if the husband (legal father) is not the biological father?

The husband is considered to be the natural father and therefore must terminate his parental rights as well as the birth father for the adoption to be secure. (MC 5-310)

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

Except as otherwise provided in this Rule, the show cause order shall be served in the manner provided by Rule 2-121. If the court is satisfied by

affidavit or testimony that the petitioner or a parent, after reasonable efforts made in good faith, has been unable to ascertain the identity or whereabouts of a parent entitled to service under section (b) of this Rule, the court may order, as to that parent, that the show cause order be published at least one time in one or more newspapers of general circulation published in the county in which the petition is filed and, if different, in the county of that parent's last known address. When a show cause order is published, unless the court orders otherwise, the show cause order shall identify the individual who is the subject of the proceeding only as "a child born to" followed by the name of any known parent of the child and shall set forth the month, year, county, and state of the child's birth, to the extent known. (MC Rule 9-105)

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

This puts the adoption at risk. The judge and attorney will notify the birth mother about this at risk adoption. The adoptive parents have to be informed that the adoption is at risk because the birth father's parental rights are not terminated.

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

Yes.

9. Can the birth father change his mind before signing the legal consents to the adoption?

Yes.

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

A minor parent may consent to an adoption or guardianship of a child. However, the consent of a minor parent is not valid unless the consent is accompanied by an affidavit of counsel appointed under § 5-323 of this subtitle that the consent of the minor parent is given knowingly and willingly. (MC 5-341; 5-323)

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

Except as provided in paragraph (2) of MC 5-311 , within 30 calendar days after the required consent to an adoption is signed, the individual or agency executing the consent may revoke the consent.

ADOPTIVE PARENT RELATED

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

Any adult may petition a court to decree an adoption. A court may not deny a petition for adoption solely because the petitioner is single or does not have a spouse (MC 5-309).

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

The person authorized to place a minor child for adoption shall compile and make available to a prospective adoptive parent and to the adoptive parent a pertinent medical history of the natural parents of the minor child. (MC 5-328).

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

Before entering a judgment of adoption or guardianship, the court may require a supplemental written report from the investigating officer or agency (MC Rule 9-111 (c)).

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

Yes, the adoptive parent can have the child placed with them after birth knowing that it is a legal risk placement until the birthparents parental rights are terminated. The court may make an award of temporary custody of a minor prior to a hearing (MC Rule 9-108)

5. Can the adoptive parents prevent the birth parents from communicating with the child after the adoption?

Yes, the adoptive parents have all the right regarding continued contact after the adoption until the child reaches the age of 18 or becomes emancipated.

6. Under what circumstances can an adopted child communicate with the birth parents?

It is up to the adoptive parents, however, the birthparents have signed a disclosure form releasing their consent for identifying information and communication to occur.

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

Birth parents must disclose medical and dental records and their religious background (MC 5-329.1; 5-316).

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

Not addressed in statutes reviewed.

9. When is the adoption final?

The court may not enter a final decree for adoption or for guardianship of an individual before the later of 30 days after the birth of the individual *or* the the time period for revocation of consent to adopt under § 5-311 (c) (1) of this subtitle or revocation of consent to a guardianship under § 5-317 (e) of this subtitle has run. (5-324).

COURT SPECIFIC PROCEDURES

1. Who initiates the adoption process?

Not specified in state statutes reviewed.

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

No sooner than 30 days after the birth of the child.

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

In court no less than 30 days following the child's birth.

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

A child cannot be freed for adoption unless both parents agree to the adoption or if the parental rights of both natural parents have been terminated.

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

Yes, but only if both parents' parental rights have been terminated.

SPECIAL ISSUES

- 1. Can a Native American child be placed for adoption without the approval of the Tribe?**

Not addressed in state statutes reviewed, however, this is not allowable under the federal Indian Child Welfare Act.

- 2. Can children be placed for adoption with parents of a different race, color or national origin?**

Yes a child can be placed for adoption in the home of a family who has an approved. This family can be of a different race, color, or national origin.

- 3. Can a child born with birth anomalies or organic impairments be placed for adoption?**

Yes, any child can be placed for adoption no matter what there condition may be.

CHILD WELFARE/SPECIAL NEEDS

1. Can a child born to illegal/undocumented alien parents be placed for adoption?

Any individual, whether a minor or an adult, may be adopted (MC 5-307)

2. What rights do birth grandparents have in their child's decision to place a child for adoption?

Grandparents have no rights to the adoption of a minor being placed for adoption.

3. Who can engage in the practice of adoption?

A child placement agency as defined and licensed by the Social Services Administration under MC 5-507.

CHILD PROTECTION LAW

- 1. Under what conditions must a health care professional refer a case of a pregnant child to the State's child protective services agency?**

If the pregnant child is under the age of sixteen, child abuse or neglect is evident or suspected. If the pregnant child reports her pregnancy as a rape or non consent.

MINOR CONSENT LAWS

- 1. What medical procedures may a pregnant minor consent to without parental, legal guardian, or court approval?**

A physician may not perform an abortion on an unmarried minor unless the physician first gives notice to a parent or guardian of the minor in most cases. The physician may perform the abortion without notice to a parent or guardian if the minor does not live with a parent or guardian and reasonable efforts have been made to give notice to the parent and in cases where the parents have been emotionally or physically abusive. In the event that a physician in their professional judgment find the minor to be able to give informed consent (MC 20-103).

- 2. What medical procedures require parental, legal guardian, or court approval, permission or agreement?**

All other medical procedures require parental, guardian, or court permission.

- 3. Can a minor consent to medical treatment for her/his child?**

A minor can consent to medical treatment of his/her child unless they have proven to be incompetent to do so by the court.

COMPETENCY LAWS

1. Who determines if a patient/client, minor or adult, is competent to consent to medical treatment and decision-making?

Under the Maryland general rule of competency, except as otherwise provided by law, every person is competent to be a witness. (MC Rule 5-601).

2. What is the process for making a competency determination?

See above.

NOTIFICATION/REPORTING LAWS REGARDING ADULTS

1. What events involving adults require the health care professional to report to law enforcement or an administrative agency?

Notwithstanding any other provision of law, including any law on privileged communications, each health practitioner, police officer, educator, or human service worker, acting in a professional capacity in this State: who has reason to believe that (i) a child has been subjected to abuse, shall notify the local department or the appropriate law enforcement agency, (ii) who has reason to believe that a child has been subjected to neglect, shall notify the local department. (MC 5-704).