

## Frequently Asked Questions about Adoption in North Carolina

### BIRTH MOTHER RELATED

1. When can the mother of the baby start the adoption process?
  - A. The mother of the baby cannot sign a Consent to Adoption (private) or a Relinquishment of the Child (agency) until after the baby is born. The mother, however, can initiate the process of finding the adoptive parents or an agency, for purposes of placement, during her pregnancy.
2. Can the birth mother choose the adoptive parents?
  - A. The birth mother can choose the adoptive parents in either a private adoption or an agency adoption.
3. Can the birth mother see and hold the baby after the birth?
  - A. Yes.
4. What expenses can the adoptive parents pay to or on behalf of the birth mother and child? Are there any differences between the payment of expenses in an agency and independent placement?
  - A. Adoptive parents can pay the reasonable and actual fees and expenses for:
    - a) Services of an agency in connection with the adoption;
    - b) Medical, hospital, nursing, pharmaceutical, traveling or other similar expenses incident to the pregnancy and birth;
    - c) Counseling services directly related to the adoption that are provided by qualified individuals;
    - d) Ordinary living expenses of a mother during the pregnancy and for no more than six (6) weeks after birth;
    - e) Expenses incurred in ascertaining background information;
    - f) Legal services, court cost, and traveling or other administrative expenses connected with an adoption; and
    - g) Preparation of the home study and report to the Court.

There is not a practical difference between the fees that may be paid in an independent adoption and an agency adoption.
5. Can a minor mother independently sign legal documents placing the child for adoption (consent to the adoption)?
  - A. Yes.
6. When does the birth mother actually sign the legal documents required for the adoption? Describe the process of signing the legal termination documents.
  - A. The birth mother actually signs the legal documents required for the adoption after the birth of the child. There is no waiting period.

The consent in North Carolina is signed before a notary public or the Clerk of Court. Judicial consent is not required. North Carolina does not terminate parental rights of the birth parents until the adoption decree is entered and the

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adoption is finalized (unless a separate termination of parental rights action is pursued).

7. Can the birth mother change her mind before signing the legal consents to the adoption?
  - A. Yes.
8. Can the birth mother change her mind after signing the legal consents to the adoption?
  - A. The birth mother has seven (7) days to change her mind (the “revocation period”) after signing the legal consents to the adoption in most adoption situations.
9. Can the birth mother communicate with the adoptive parents and child after the adoption?
  - A. Only if permitted by the adoptive parents.
10. Can a birth mother anonymously surrender a newborn child?
  - A. A birth mother cannot anonymously surrender a newborn child for purposes of adoption. An infant under seven (7) days of age, however, may be voluntarily delivered to health care provider, law enforcement officer, social services worker or certified emergency medical service worker without prosecution.
11. What happens if the birth parents do not agree that adoption should be the plan?
  - A. Under certain circumstances, an adoption can be completed without the consent of the father of the child.
12. Will the birth mother be asked to file an affidavit in her adoption papers regarding future contact or the release of identifying information to the adoptee or adoptive parents?
  - A. Yes.

## **BIRTH FATHER RELATED**

1. Does the father of the baby have to be notified of the birth and the mother’s adoption plan?
  - A. The birth father does not have to be notified prior to the adoption placement. In an adoption proceeding where the father of the child has not given his consent, a good faith effort must be made to serve him with notice of the adoption petition.
2. How is the father of the baby notified of the mother’s adoption plan?
  - A. In an adoption proceeding, a diligent effort should be made to serve the father of the minor child with notice of the adoption proceeding (if the father has not already signed a Consent).
3. Can the father of the baby choose the adoptive parents?
  - A. The father of the minor child can participate in the process to choose the adoptive parents. He cannot make placement of the minor child unless he is the custodial parent.

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4. What is the difference between a legal father and a named birth father? How is the process of voluntary termination different for a legal father and a named birth father?
  - A. A legal father is one that is married to the mother. Under North Carolina law, a man who is married to the birth mother is presumed to be the father of the child. This presumption is rebuttable. The birth father or putative father is named by the mother and identified by her.  
Both a legal father and a birth father may sign a Consent to an adoption. Alternatively, a named unmarried birth father may sign a Denial of Paternity. Termination of a father's rights occurs when the adoption decree is entered in the adoption action.
5. What happens if the mother does not know who the biological father is?
  - A. If the mother knows the identity of any possible fathers, a good faith attempt to serve any identified fathers is to be made. Otherwise, a publication is made for the father.
6. What happens if the mother refuses to give the name of the biological father?
  - A. A Court has discretion to require the mother to appear before the Court and testify her knowledge as to the identity of the father. Normally, a Court will not require this information and a publication for the father occurs.
7. Can the biological father of the baby give notice that he intends to plan for the baby before the baby is born? What are the steps the birth father must take if he intends to parent the child?
  - A. A biological father can give notice if a Pre-birth Determination of Consent proceeding occurs.  
An unmarried father that intends to parent the child must acknowledge paternity, provide support, and communicate and visit with the child and mother. Alternatively, he may file a legitimation action or marry the mother.
8. Can the birth father change his mind before signing the legal consents to the adoption?
  - A. Yes.
9. Can a minor father independently sign legal documents placing the child for adoption (consent to the adoption)?
  - A. Yes. A father can sign a Consent to Adoption (private) or a Relinquishment (agency) either before or after the birth of the minor child.
10. Can the birth father change his mind after signing the legal consents to the adoption?
  - A. The birth father has seven (7) days to change his mind (the "revocation period") after signing the legal consents to the adoption in most adoption situations.
11. Describe the process for doing an involuntary termination of a legal father's or named birth father's rights.
  - A. If a father's rights are not terminated by a Decree of Adoption in an adoption proceeding, a separate action for termination of parental rights may be filed in the juvenile court of North Carolina. Grounds for termination (such as

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abandonment or nonsupport) must exist, and the termination must not violate the best interests of the child.

12. Describe the process for making a diligent effort to find the birth father if the birth mother knows the identity of the birth father but he cannot be located.
  - A. A diligent search must be made for the father including criminal record checks, motor vehicle record checks, military locator checks, and people finder searches. If the father can not be found after diligent search, then publication must occur.
13. Describe the process for terminating the rights of the birth father in the event of a rape.
  - A. Conviction of 1<sup>st</sup> or 2<sup>nd</sup> degree rape in North Carolina results in an automatic loss of parental rights of the offender regarding a child conceived as a result of the rape.

### **ADOPTIVE PARENT RELATED**

1. Who can be an adoptive parent and who selects them?
  - A. Any qualified adult may be an adoptive parent, but if an individual is unmarried, no other individual may join in the petition for the adoption. In most third party adoptions, adoptive parents are qualified for adoption by home study ("pre-placement assessment") approval.
2. What information about the birth parents and the child must be provided to the adoptive parents?
  - A. In all adoptions, non-identifying health history information must be provided to the adoptive parents. Agency adoptions may be open (identified) or closed (unidentified). Private adoptions are by definition open (identified) and the birth parents must supply their names to the adoptive parents.
3. What procedures are followed to ensure that adoptive parents are fit to adopt a child?
  - A. Third party (not closely related) adoptive parents must obtain home study approval ("pre-placement assessment") through a licensed child-placing agency.
4. Can the potential adoptive parents have the child placed with them prior to the actual court procedures?
  - A. Yes.
5. Can the adoptive parents prevent the birth parents from communicating with the child after the adoption?
  - A. Yes.
6. Under what circumstances can an adopted child communicate with the birth parents?
  - A. An adopted child can communicate with the birth parents if the adoptive parents give approval for the communication.
7. What information must the birth parents provide to the adoptive parents?

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- A. In private adoptions, birth parents must provide their names, addresses and birth dates on the Consents, and non-identifying background information to the adoptive parents, including health history.
- 8. Who supervises the adoptive placement and for how long?
  - A. A licensed child-placing agency supervises an adoptive placement in both agency and private adoptions until the adoption is finalized.
- 9. When is the adoption final?
  - A. An adoption is supposed to be finalized within six (6) months after the adoption petition is filed.

## **OTHER ADOPTION RELATED QUESTIONS**

- 1. Who initiates the adoption process?
  - A. The prospective adoptive parents file a Petition for Adoption.
- 2. When are the legal adoption papers filed with the court?
  - A. A Petition for Adoption is filed when necessary consents (with accompanying documents) have been obtained (unless that requirement is waived by the Court).
- 3. Can the baby be placed for adoption without the consent of the birth mother and/or birth father?
  - A. A baby can be placed for adoption without consent under certain circumstances. A baby can be placed by the custodial parent without the consent of the other parent. If a Termination Order has been obtained, a baby may be placed without the consent of either parent.
- 4. What happens if the birth parents do not agree on the adoption plan?
  - A. If the birth parents do not agree on the adoption plan, it is possible that one parent can place the baby for adoption and finalization may occur under certain circumstances.
- 5. Who can charge a fee for bringing birth parents and adoptive parents together?
  - A. An agency licensed to perform adoption placement services can charge a fee for placement work.
- 6. Is the use of a non-licensed facilitator, non-licensed child-placing agencies, permitted to match adoptive families and birth families?
  - A. The use of a non-licensed child-placing agency is not permitted. The use of a non-licensed facilitator to match adoptive families and birth families is permitted, but a facilitator is defined as an entity that performs adoption placement services “without charge.”
- 7. Are independent adoptions allowed?
  - A. Yes.
- 8. How are independent and agency adoptions different?

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- A. An independent adoption is by definition open (identified). An agency adoption can be open (identified) or closed (non-identified). Placement in a private adoption is done by means of a Consent. Placement with an agency is done by means of a Relinquishment.
9. How does an adoptee go about requesting access to their adoption file?
- A. An adoptee must file a motion with the Clerk for access to the adoptee's adoptive file. Adoption records are confidential and identifying information may be released only upon good cause shown.

NOTE: The information given above is a general statement of the law and is by no means exhaustive. The information is not given for the purpose of specific legal advice and no person is authorized to rely upon the answers or opinions given herein. By making this information available, the author is not establishing any lawyer/client relationship with the reviewer. Any reviewer or any potential user of this information is actively encouraged to seek competent legal counsel who is licensed to practice in the reviewer's state of residence. Answers given herein are limited to the laws of the State of North Carolina.