

**Frequently Asked Questions About Adoption  
In Washington, DC**

***MOTHER OF THE BABY: BIRTH MOTHER RELATED***

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

The mother can start the process at any time of her choosing.

**2. Can the birth mother choose the adoptive parents?**

The child placing agency shall give the birth parent an opportunity to discuss the options available to them regarding the placement of their child.

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

Yes. A mother has all legal rights to the child until the adoption is final.

**4. What expenses can the adoptive parents pay to or on behalf of the birth mother and child?**

A child placing agency may charge an adoptive parent up to \$2500 over and above the \$7500 limit for the actual costs of a domestic adoption for the living expenses of the birthmother, including food, shelter, clothing, counseling and transportation to obtain medical and adoption related services. The child-placing agency may charge the adoptive parent the actual costs of the birth mother's medical expenses.

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

Yes, minority status of the birth mother (under 18) does not require parental consent and does not prevent the mother from signing a relinquishment. An adult may accompany the minor for the purpose of co-signing but an adult signature is not required.

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

No relinquishments of rights can be made within the first 72 hours after the child's birth. The birth mother must first undergo counseling.

**7. Can the birth mother change her mind before signing the legal relinquishment of parental rights?**

Yes.

**8. Can the birth mother change her mind after signing the legal relinquishment of parental rights?**

Yes, any voluntary relinquishment may be automatically revoked by a verified writing submitted to the agency within 10 calendar days. After ten days a simple change of mind or change of circumstances is not sufficient to invalidate the relinquishment. Thereafter a mother must show fraud, coercion, duress and circumstances showing that the relinquishment was not voluntary.

**(a) Revocation of Consent.** A consent to adoption may be revoked or withdrawn only after a judicial determination that the consent was not voluntarily given. The person moving to revoke or withdraw consent has the burden of proof to establish that the consent was not voluntarily given. The Court shall set a separate hearing to determine whether to permit revocation of a consent. If revocation or withdrawal of consent is permitted, the Court shall proceed on an expedited basis to determine whether consent is being withheld contrary to the best interests of the child pursuant to D.C.Code § 16-304(e).

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

Yes they may communicate directly if identifying information was exchanged or indirectly through the agency if this was agreed upon prior to finalization. After the adoption is finalized all adoption records are sealed and cannot be opened without petitioning the court for “good cause”.

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

The District of Columbia does not have an “infant safe haven” law. Therefore, a birth mother may face criminal prosecution.

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

Both birth parents must agree and consent to the adoption. Unless one of the parents abandoned the child or failed to support the child for at least 6 months, has mental incompetence, or a finding of parental unfitness due to abuse or neglect.

## ***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, because the adoption of a child deprives a birth parent of his parental rights, the reporting agency must make diligent efforts to locate an identified birth father to apprise him of the adoption plan.

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

When a birth parent consents to relinquishment of parental rights, the child-placing agency shall accept the relinquishment and make efforts to inform the other birth parent of the relinquishment. The notice to the non-participating birth parent of the adoption plan shall be sent to him at the last known address and documented in the records.

**a) Notice of Adoption Proceedings and Order to Show Cause; Order for Expedited Response; Order of Reference.** Upon the filing of an adoption petition, the following actions shall be taken immediately:

(1) The Clerk shall serve notice of the adoption proceeding and order to show cause on each person whose consent is being withheld and whose identity and address are disclosed in the petition; however, no notice need be served on a parent who has executed a written consent to the adoption or relinquished parental rights or whose parental rights have been terminated.

(2) If the identity and address of a person whose consent to the proposed adoption is being withheld are not disclosed in the petition, the Court shall issue an order for expedited response to the child-placing agency or the Mayor, as set forth in SCR-Adoption 7(c). The order for expedited response shall require the agency or the Mayor to submit to the Court, within 21 days of receipt of the order, the name and address of each person whose consent to the adoption is being withheld and the reasons therefore, if known, or, if the identity or location of a person whose consent to the adoption is being withheld is unknown, the status of the efforts to identify and locate that person. The order for expedited response shall be served by the Clerk by first class mail, postage prepaid, to the appropriate agency or Mayor.

(3) The Court shall issue an order of reference to the appropriate child-placing agency or the Mayor, as set forth in SCR-Adoption 7(c). A copy of the petition shall be attached to this order. The order of reference shall require that within 90 days (or such further time as extended by the Court for good cause shown) after a copy of the order of reference and petition are served upon the child-placing agency or the Mayor, such agency or the Mayor shall provide the Court with the report of investigation and with its recommendation, as required by D.C.Code § 16-307 and SCR-Adoption 7(d). The Clerk shall serve the order of reference with the petition attached by first class mail, postage prepaid, to the appropriate agency or the Mayor. Nothing in this Rule shall negate the authority of the Court to conclude that the requirements of D.C.Code § 16-308 for waiver of a report and recommendation have been met.

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

Not addressed in statutes reviewed.

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

Not addressed in statutes reviewed.

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

Not addressed in statutes reviewed.

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

If the birth mother names two or more possible fathers, the child-placing agency shall attempt to locate all of the alleged fathers. All possible birth fathers shall be notified by certified or registered mail. Paternity may be judicially determined. The child-placing agency shall report to the court a birth parent's failure to respond to a notice of a plan for adoption, if the birth parent fails to respond within thirty (30) days of receipt of notification. If a parent is given proper notice and does not appear at the hearing, the judge may proceed without him.

**(b) Missing Parents.** The judicial officer may inquire about additional attempts which have been made to locate a missing parent, and may order further inquiry to be made of any source of information which is reasonably likely to provide information regarding the missing parent. (DCC 16-2323).

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

If a birth mother does not name the other birth parent, the child-placing agency or petitioner shall make a good faith effort to obtain the information from the known parent. If the name of the unknown parent is not given, an affidavit is required by the court. The child-placing agency shall file an affidavit outlining the known parent's reason for refusing to give the information. The consenting parent is told that they may be summoned to the court to verify information provided.

**(b) Missing Parents.** The judicial officer may inquire about additional attempts which have been made to locate a missing parent, and may order further inquiry to be made of any source of information which is reasonably likely to provide information regarding the missing parent. (DCC 16-2323).

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

Yes, the biological father is generally invited to participate in counseling with the birth mother. He is encouraged to discuss his plans for the baby.

**(DCC: §§ 16-2357; 16-304; 16-2359)**

- ✍ Yes, the father can appear at the hearing and express interest in planning for the baby.

**9. Can the birth father change his mind before signing the legal relinquishment?**

Yes, the birth father is free to change his mind prior to signing the relinquishment of parental rights.

SCR-ADOPTION 12. OPPOSITION TO ADOPTION

Any person eligible to be a party to an adoption proceeding, as set forth in SCR-Adoption 17, may oppose an adoption by (1) filing with the Court an opposition to the adoption within 20 days after being served with the notice of the adoption proceedings, or (2) by appearing at the hearing on the order to show cause and stating the party's opposition to the adoption. Such filing or appearance shall cause the adoption to be a "contested case."

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

There is no law in the District of Columbia regarding minors being required to obtain consent of or notify one or both parents prior to an **abortion**.

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**11. Can the birth father change his mind after signing the legal relinquishment of parental rights?**

Any voluntary relinquishment may be automatically revoked by a verified writing submitted to the agency within 10 calendar days. After ten days a simple change of mind or change of circumstances is not sufficient to invalidate the relinquishment. Thereafter a mother must show fraud, coercion, duress and circumstances showing that the relinquishment was not voluntary

## SCR-ADOPTION 70. REVOCATION OF CONSENT OR RELINQUISHMENT

**(a) Revocation of Consent.** A consent to adoption may be revoked or withdrawn only after a judicial determination that the consent was not voluntarily given. The person moving to revoke or withdraw consent has the burden of proof to establish that the consent was not voluntarily given. The Court shall set a separate hearing to determine whether to permit revocation of a consent. If revocation or withdrawal of consent is permitted, the Court shall proceed on an expedited basis to determine whether consent is being withheld contrary to the best interests of the child pursuant to D.C.Code § 16-304(e).

### ***ADOPTIVE PARENT RELATED***

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

Any adult person may adopt but a married person must petition jointly with his spouse. (DCC 16-302)

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

Each child-placing agency shall prepare the adoptive family for the placement of a particular child. The preparation shall include:

- (a) information about the needs, characteristics and expectations of the child, of the child's family, and of the adoptive family;
- (b) review of medical histories of the child and of the child's family; and
- (c) a visit with the child prior to placement

The reporting agency shall provide the following information with respect to the prospective adoptee:

- (A) Full birth name.
- (B) Proposed adopted name.
- (C) Place of birth, including hospital.
- (D) Date of birth.

- (E) Birth certificate number.
- (F) Neglect case number.
- (G) Court social file number.
- (H) If the combined assets of the prospective adoptee exceed \$3,000, an itemization of the assets.
- (I) Race.
- (J) Religion.
- (K) Whether the Indian Child Welfare Act (ICWA) is known to be applicable to the prospective adoptee.
- (L) Physical, mental and emotional health and development of the prospective adoptee including a prognosis of future needs.
- (M) School information including prospective adoptee's school, grade and achievement.
- (N) Care the prospective adoptee has received in petitioner's home, the prospective adoptee's adjustment to the home and the petitioner's adjustment to the prospective adoptee.
- (O) Relationship of the prospective adoptee to other members of the petitioner's household, peers and other adults.
- (P) Child care arrangements and arrangements for care of the prospective adoptee in the event of the petitioner's death.
- (Q) Prospective adoptee's placement history.
- (5) *Other Circumstances and Conditions.* The reporting agency shall include a written statement concerning any other circumstances and conditions that may have a bearing on the proposed adoption and of which the Court should have knowledge. This statement should include, but is not limited to:
  - (A) Any information which does not appropriately fit into another category listed in this rule.
  - (B) Any concerns by the agency or a social worker that should be further explored by the Court.
  - (C) Any illegal or questionable payment of money in connection with the adoption.

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

An adoption homestudy shall be conducted prior to the placement of a child in a home. After completing the homestudy, the child placing agency will make a recommendation on the approval of the adoption application. After the placement of the child the child-placing agency shall visit the adoptive family at least three times prior to the final decree.

Observations made during the visits shall be used in making recommendations for the finalization of the adoption.

The reporting agency shall make a recommendation for or against the proposed adoption, accompanied by a narrative statement supporting the recommendation. If the reporting agency withholds recommendation pending receipt of missing information, it shall specify what information is needed to complete the recommendation and the steps taken to obtain the information.

(7) *Signatures.* The reporting agency shall include in its report a statement that the information contained in the report is true and correct to the best of its knowledge, a list of names of all persons who assisted in investigating and compiling the information in the report and the signatures of the social worker who prepared the report and the supervisor who approved the report.

(8) *Court Waiver of Specific Requirements.* If any of the information required in the report and recommendation under this paragraph (d) is unknown, not reasonably available or missing, the Court may waive a specific requirement or enter a decree after consideration of a report and recommendation from which some information is missing.

**(e) Supplemental Report and Recommendation.** The reporting agency shall immediately file with the Court a supplemental investigation report and recommendation listing newly-discovered material facts or material changes of circumstances. If the petitioner changes physical residence such supplemental report and recommendation shall include the date and results of an additional home visit



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

Yes, a child is placed with the adoptive parents prior to the court procedures.

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

Yes. The adoptive parents take on all legal rights to the child upon adoption.

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

After the adoption is finalized all adoption records are sealed and cannot be opened without petitioning the court for “good cause”. If the court grants permission to unseal the records, the agency that handled the adoption is appointed to act as an intermediary and to locate the party being sort and ascertain their feelings about having contact.

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

Not addressed in state statutes

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

Each child-placing agency shall supervise the adoptive placement for at least six (6) months prior to finalizing the adoption in court. If the adoption is not finalized after six months the agency shall continue to provide services until the final decree is granted.

**9. When is the adoption final?**

Once the child is found to be legally free for adoption and after the required six months of supervision, the adoption is finalized.

## ***COURT SPECIFIC PROCEDURES***

### **1. Who initiates the adoption process?**

**§4205. Petition.** An adoption proceeding shall be initiated by filing in duplicate with the court, a petition for adoption which is verified by the petitioner. Anyone can be the petitioner.

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

All relinquishments need to be filed in court within twenty (20) days after the expiration of the revocation period.

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

Anytime after the required waiting period of 72 hours following the child's birth.

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

If both parents do not agree on the adoption plan the child is not legally free for adoption. The parent who does not wish to make an adoption plan may concern parenting the child.

*(2) Oppositions.*

(A) Except as provided in subparagraph (2)(B) of this paragraph, any opposition, with accompanying points and authorities, shall be similarly filed and served within 10 days after the date of service of the original motion or such further time as the Court may grant. If an opposition is not filed within the prescribed time, the Court may treat the motion as conceded. If a timely opposition is filed, the motion shall be treated as submitted unless an oral hearing is requested and granted by the Court.

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

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No, both parents must consent to the adoption unless their parental rights have been terminated.

***SPECIAL ISSUES***

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

Under SCR-Adoption Rule 7 (b)(10) The petitioner must specify whether the Indian Child Welfare Act (Title 25 U.S.C. § 1901 et seq.) is applicable to the adoption, and, if so, whether there has been compliance with the Act

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

Yes.

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

Any child who is legally free for adoption can be placed for adoption.

***CHILD WELFARE/SPECIAL NEEDS***

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

Yes.

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

Birth grandparents have no legal rights to their grandchildren.

**3. Who can engage in the practice of adoption?**

According to DCC § 4-1405, the parents, court appointed guardian, a relative within the third degree, or a licensed child placing-agency.

## ***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?**

Not addressed in state statutes

### **SCR-ADOPTION 17. PARTIES; INTERESTED PERSONS**

**(a) Parties.** The parties to an adoption proceeding include (1) the person petitioning to adopt the child, (2) the birth parents who have not consented to the adoption or relinquished parental rights, or whose parental rights have not been otherwise terminated, (3) the child for whom the adoption is sought (or, if appointed, a guardian for the child), (4) the Mayor, if (A) the child has been committed in an abuse or neglect proceeding or (B) parental rights to the child have been relinquished to the Mayor pursuant to D.C.Code § 3-117, and, (5) a District of Columbia licensed child-placing agency to whom the child has been relinquished pursuant to D.C.Code § 32-1007.

**(b) Interested Persons.** A person who is not a party under paragraph (a) of this rule may present evidence in a particular case with permission of the Court pursuant to D.C.Code § 16-309(b).

## ***MINOR CONSENT LAWS***

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

Minors living in the District of Columbia may consent to the following medical treatment and services; pregnancy or its lawful termination, contraceptive (other than sterilization) services, prenatal and postnatal services, sexually transmitted diseases, alcohol and/or drug treatment, and out patient mental health services.

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

Not addressed in statutes reviewed.

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

Yes, minors may consent to medical care for their child.

## **COMPETENCY LAWS**

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

TITLE 14. PROOF.

CHAPTER 3. COMPETENCY OF WITNESSES.

**§ 14-301. Parties and other interested persons generally.**

Except as otherwise provided by law, a person is not incompetent to testify in a civil action or proceeding by reason of his being a party thereto or interested in the result thereof. If otherwise competent to testify, he is competent to give evidence on his own behalf and competent and compellable to give evidence on behalf of any other party to the action or proceeding.

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

(a) In the Federal courts in the District of Columbia and District of Columbia courts a physician or surgeon or mental health professional as defined by § 7-1201.01(11) may not be permitted, without the consent of the person afflicted, or of his legal representative, to disclose any information, confidential in its nature, that he has acquired in attending a client in a professional capacity and that was necessary to enable him to act in that capacity, whether the information was obtained from the client or from his family or from the person or persons in charge of him.

TEXT (b)

(b) This section does not apply to:

TEXT (b) (1)

(1) evidence in criminal cases where the accused is charged with causing the death of, or inflicting injuries upon, a human being, and the disclosure is required in the interests of public justice;

TEXT (b) (2)

(2) evidence relating to the mental competency or sanity of an accused in criminal trials where the accused raises the defense of insanity or where the court is required under prevailing law to raise the defense sua sponte, or in the pretrial or posttrial proceedings involving a criminal case where a question arises concerning the mental condition of an accused or convicted person;

TEXT (b) (3)

(3) evidence relating to the mental competency or sanity of a child alleged to be delinquent, neglected, or in need of supervision in any proceeding before the Family Division of the Superior Court; or

TEXT (b) (4)

***(4) evidence in criminal or civil cases where a person is alleged to have defrauded the District of Columbia or federal government in relation to receiving or providing services under the District of Columbia medical assistance program authorized by title 19 of the Social Security Act, approved July 30, 1965 (79 Stat. 343; 42 U.S.C. sec. 1396 et seq.).***

## ***NOTIFICATION/REPORTING LAWS REGARDING ADULTS***

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

(b) Persons required to report such abuse or neglect shall include every physician, psychologist, medical examiner, dentist, chiropractor, registered nurse, licensed practical nurse, person involved in the care and treatment of patients, law-enforcement officer, school official, teacher, social service worker, day care worker, and mental health professional. Whenever a person is required to report in his or her capacity as a member of the staff of a hospital, school, social agency or similar institution, he or she shall immediately notify the person in charge of the institution or his or her designated agent who shall then be required to make the report. The fact that such a notification has been made does not relieve the person who was originally required to report from his or her duty under subsection (a) of this section of having a report made promptly to the Metropolitan Police Department of the District of Columbia or the Child Protective Services Division of the Department of Human Services.

TEXT (c)

(c) In addition to those persons who are required to make a report, any other person may make a report to the Metropolitan Police Department of the District of Columbia or the Child Protective Services Division of the Department of Human Services.

TEXT (d)

(d) In addition to the requirements in subsections (a) and (b) of this section, any health professional licensed pursuant to Chapter 12 of Title 3, or a law enforcement officer, except an undercover officer whose identity or investigation might be jeopardized, shall report immediately, in writing, to the Child Protective Services Division of the Department of Human Services, that the law enforcement officer or health professional has reasonable cause to believe that a child is abused as a result of inadequate care, control, or subsistence in the home environment due to exposure to drug-related activity. The report shall be in accordance with the provisions of § 4-1321.03.