

Frequently Asked Questions about Adoption in Alabama

BIRTH MOTHER RELATED

1. When can the mother of the baby start the adoption process?
 - A. The birth mother can start the adoption process as soon after conception as she wishes.
2. Can the birth mother choose the adoptive parents?
 - A. The birth mother can choose the adoptive parents any time after conception. In Alabama she can sign her consents before birth. Said consent should be signed before a probate judge. After birth it can be signed in front of a notary.
3. Can the birth mother see and hold the baby after the birth?
 - A. The mother can see and hold the child after birth. We usually give the birth mother a two-page questionnaire as to what her desires are in the handling with the baby and what her connection with the child will be in the hospital. This questionnaire is provided to the hospital social worker.
4. What expenses can the adoptive parents pay to or on behalf of the birth mother and child?
 - A. In Alabama the adoptive parents can pay for the necessary medical, legal, and living expenses of the mother. These expenses must be reasonable. There are no differences between expenses paid in an agency and independent adoption. All of them must be legal and necessary involved with the pregnancy.
5. Can a minor mother independently sign legal documents placing the child for adoption (consent to the adoption)?
 - A. The mother can sign a Consent for Adoption either before or after birth, as previously stated. The mother and father sign identical, but separate consents. The Alabama consent form is described in our Statute and we cannot use another state's form. Alabama does not require the parents of the biological mother and father to sign, even if the natural parents are minors.
6. When does the birth mother actually sign the legal documents required for the adoption?
 - A. See answer to Q 5.
7. Can the birth mother change her mind before signing the legal consents to the adoption?
 - A. The birth mother can change her mind at any time, if she has not signed any consents to adoption.
8. Can the birth mother change her mind after signing the legal consents to the adoption?

- A. The birth mother can change her mind up to five (5) days from the time of birth, if signed before birth and five (5) days after signature, if signed after birth. She can also attempt to withdraw her consent from day six (6) to day fourteen (14), if she can show just cause, with reason being it would be in the best interest of the child.
9. Can the birth mother communicate with the adoptive parents and child after the adoption?
- A. The birth mother can request that the adoptive parents communicate with her and meet with her, if desired.
10. Can a birth mother anonymously surrender a newborn child?
- A. The birth mother can sign a consent and not know the name of the adoptive couple and the adoptive couple may not know the name of the mother.
11. What happens if the birth parents do not agree that adoption should be the plan?
- A. If one of the birth parents does not agree that an adoption should be the plan, then either parent may be able to object and stop the adoption.
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. One provision of the Alabama consent allows the birth mother to agree to release identifying information to the adopted child, upon the child's attaining the age of 19. If she checks she agrees to that release, then the child will be able to open the file. If she checks she does not agree, then the child will not be able to open the file, except for medical information.

BIRTH FATHER RELATED

1. Does the father of the baby have to be notified of the birth and the mother's adoption plan?
- A. Alabama does not require the father to be notified as to the mother's adoption plan; however, he is to be given notice of the adoption subsequent to birth, when the Petition for Adoption has been filed. If it is an interstate adoption, the father should be interviewed for family history, and this preferably should be done before the birth of the child.
2. How is the father of the baby notified of the mother's adoption plan?
- A. The father is not necessarily notified of the mother's adoption plan prior to birth; he would be notified of the pending adoption when it is filed in court to give him the opportunity to consent or object. It is the best practice to ask the father prior to birth to sign a consent or a denial, and also as stated above to get the family history for the adoptive couple. After the adoption is filed, the father is either served by personal service, certified mail, or publication.
3. Can the father of the baby choose the adoptive parents?

- A. The father and the mother can choose the adoptive parents; however, if they disagree as to which adoptive parents, the father or the mother can object to the adoption and disrupt the adoption.
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. The biological father's consent is needed as well as the legal father's consent or denial. If the legal father objects and the biological father consents, then the courts can determine that the only consent necessary is the biological father. A legal father is either married to the birth mother by ceremony or by common law marriage, named in a legitimation procedure, or declared as the father under Family Court Proceedings. A father is an alleged father who is who is listed by the mother as the possible father. The birth father can sign the appropriate documents at the hospital to be named on the birth certificate, which makes him a presumed father. The legal and birth father can sign Consent for Adoption, which terminates their rights voluntarily.
5. What happens if the mother does not know who the biological father is?
- A. If the birth mother does not know the identity of the biological father, then there should be a publication for the biological father to give notice to the unknown individual.
6. What happens if the mother refuses to give the name of the biological father?
- A. If the birth mother refuses to give the biological father's name, we will treat the biological father as unknown and still go forward and do a publication. We cannot force the mother to divulge that information.
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. The biological father can register with the Putative Father Registry which is statutory in Alabama. He should register prior to birth or within thirty days after birth. This would give any adoptive couple notice that he plans to claim his rights to said child. If the birth father intends to parent, he must file with the Putative Father Registry, take care of the mother during the pregnancy, and file a request for custody as well as paternity in Family Court.
8. Can the birth father change his mind before signing the legal consents to the adoption?
- A. The biological father does not have to sign his consent at any time, and if he has signed, he can change his mind within (5) days from the time of signature, if after birth, or five (5) days from birth, if signed before birth. He also can withdraw days 6 to 14 with just cause.
9. Can a minor father independently sign legal documents placing the child for adoption (consent to the adoption)?

- A. A biological father can sign his consent placing a child for adoption prior to birth or after birth. His consent is identical to the birth mother's form and he should sign a consent and the birth mother would sign a separate consent.
10. Can the birth father change his mind after signing the legal consents to the adoption?
- A. The biological father can withdraw his consent within five (5) days from birth, if he signs before birth, or five (5) days from the time he signs, if after birth. He also can withdraw days 6 to 14 with just cause shown.
11. Describe the process for doing an involuntary termination of a legal father or named birth father's rights.
- A. With an involuntary termination of a father's rights in Family Court, the process is to file a Petition for Termination and by showing there are good grounds, such as abandonment or abuse, to have said father's rights terminated. In an adoption process, which is not a termination procedure, but is essentially the same thing, you would show that the father has not registered with the Putative Father Registry nor has he taken care of the birth mother during the pregnancy and or taken care of the child subsequent to birth for six months.
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. In order to locate the birth father, the services of process can be certified mail, personal service, or publication if he cannot be located or if he refuses to accept said certified mail.
13. Describe the process for terminating the rights of the birth father in the event of a rape.
- A. Termination of parental rights of a birth father can occur in Family Court due to a rape by filing said petition for custody and termination. There is no provision in the Adoption Code for rape as grounds for granting the adoption and denying the father's rights.

ADOPTIVE PARENT RELATED

1. Who can be an adoptive parent and who selects them?
- A. Any adult can be an adoptive parent and they should be selected by the natural mother and father; however in most scenarios it is the natural mother who selects them. The grandparents do not have any rights to make the determination, but they often have a substantial amount of input.
2. What information about the birth parents and the child must be provided to the adoptive parents?
- A. An interview of both parents by a licensed social worker is required and that information is the family history and medical background. It is a social assessment that is in a similar format used by all states.
3. What procedures are followed to ensure that adoptive parents are fit to adopt a child?

- A. All non-related adoptions are required to have a home study, which is quite extensive and will require child abuse clearances, finger print clearances, as well as numerous recommendations and a current medical evaluation of each resident of the home.
4. Can the potential adoptive parents have the child placed with them prior to the actual court procedures?
- A. Adoptive parents may have the child prior to the petitions being filed, although the Consents should be signed before the adoptive parents have the child for safety purposes.
5. Can the adoptive parents prevent the birth parents from communicating with the child after the adoption?
- A. The adoptive parents may sign an agreement to allow birth parents to communicate with the child. If there is no such agreement, then in that event, the birth parents will have no right to communicate with the child. Even if there is an agreement, it may not be enforced by the courts.
6. Under what circumstances can an adopted child communicate with the birth parents?
- A. An adopted child may communicate with the birth parents, if the adoptive couple allows such. Again, agreements have been drafted allowing communications between the birth parents and the adoptee, but they are not enforceable in our state.
7. What information must the birth parents provide to the adoptive parents?
- A. The birth parent interview will provide the information that is given to the adoptive parents.
8. Who supervises the adoptive placement and for how long?
- A. The social worker who completed the home study on the couple will be doing post placements, after the child is placed in the home. This usually takes place in about one (1) month after the adoption is filed. There may be two home visits by the social worker.
9. When is the adoption final?
- A. The adoption is final when a court proceeding is held in the Probate Court and the Final Decree of Adoption is issued. Usually it is final within about thirty days from filing the Petition.

OTHER ADOPTION RELATED QUESTIONS

1. Who initiates the adoption process?
- A. The adoptive parents should initiate the adoption proceeding by filing a Petition for Adoption.
2. When are the legal adoption papers filed with the court?

- A. The Petition for Adoption should be filed in Court approximately six (6) days after birth.
3. Can the baby be placed for adoption without the consent of the birth mother and/or birth father?
- A. A baby may be placed for adoption with the adoptive parents. Without that, this would be an At-Risk Placement with the possibility the child could be removed from the home. Alabama has implied consent, which means six (6) months with non-significant contact either prior to birth or after birth and either by the birth mother or the birth father this would allow us to complete an adoption without a written consent.
4. What happens if the birth parents do not agree on the adoption plan?
- A. If the birth parents do not agree on an adoption plan, unless you can prove implied consent as previously stated, the adoption should not go forward.
5. Who can charge a fee for bringing birth parents and adoptive parents together?
- A. Alabama requires that a pre-approval of all expenses of the adoption be submitted to the Court for said approval and a disclosure of those expenses paid in the adoption is submitted to the Court.
6. Is the use of a non-licensed facilitator, non-licensed child-placing agencies, permitted to match adoptive families and birth families?
- A. Alabama has not essentially addressed the non-licensed facilitator, or non-licensed child-placing agencies permitted to match by the couples. However, the expenditures by the adoptive parents should be pre-approved by the Court and the facilitator or agency should be licensed or certified.
7. Are independent adoptions allowed?
- A. Yes.
8. How are independent and agency adoptions different?
- A. Independent adoptions essentially mean that an agency is not involved in the placement and the expenditures are the attorney's fees and living expenses allowed by court.
9. How does an adoptee go about requesting access to their adoption file?
- A. When a child attains the age of nineteen (19), the child may petition the court to open the file. The consent signed by the birth parent will have a sentence that the mother and father can agree to have the file open when the child reaches the age of nineteen (19). If they have checked they wish the file to be opened, then in that event, the file will be handed to the child to review.

Frequently Asked Questions about Adoption in Florida

BIRTH MOTHER RELATED

1. When can the mother of the baby start the adoption process?
 - A. As soon as she has a confirmed pregnancy the adoption process can begin. However, she cannot finalize her adoption plan until after the baby is born.
2. Can the birth mother choose the adoptive parents?
 - A. Yes.
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?
 - A. In both agency and independent adoptions, the prospective adoptive parents (and/or agency) may pay “reasonable living expenses” of the birth mother in many situations. Reasonable living expenses include rent, utilities, basic telephone service, food, toiletries, clothing, transportation, insurance, and expenses found by the court to be necessary for the health and well-being of the birth mother and unborn child. These expenses can be paid during the length of the pregnancy and up to six weeks post-partum. In addition to reasonable living expenses, reasonable and necessary medical expenses, legal fees/expenses, court costs, and professional fees, including counselor/therapist fees may be paid for the birth mother. In addition to the expenses listed above, when the adoption is done through an agency, foster care expenses, pre-placement and post-placement social services, and agency facility and administrative costs may also be paid by the prospective adoptive parents IF they are approved by the Department.
5. Can a minor mother independently sign legal documents placing the child for adoption (consent to the adoption)?
 - A. If she is over 14 years of age she may sign independently. Otherwise, if 14 or under, it must be witnessed by a parent, legal guardian, or court appointed Guardian ad Litem.
6. When does the birth mother actually sign the legal documents required for the adoption?
 - A. 48 hours after the baby has been born or the day the birth mother has been notified in writing, either on her patient chart or in release paperwork, that she is fit to be released from the licensed hospital or birth center, whichever is earlier.
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. No but, it may be withdrawn only if the court finds that it was obtained by fraud or duress. In addition, if the child is over 6 months of age the consent for adoption is valid upon execution; however, it is subject to a three day revocation period or may be revoked at any time prior to the placement of the minor with the prospective adoptive parents, whichever is later.
9. Can the birth mother communicate with the adoptive parents and child after the adoption?
- A. Yes, if that was part of the adoption plan that was agreed upon by both parties. This may be subject to change if it can be shown to the court that it is in the child's best interest.
10. Can a birth mother anonymously surrender a newborn child?
- A. Yes, this is called the Safe Haven Act. Within 72 hours of giving birth, a birth mother can drop the child off at a hospital, ambulance station, or fire department and not have to provide any information regarding herself or the child.
11. What happens if the birth parents do not agree that adoption should be the plan?
- A. It depends. If a mother wants to place and the father has not been involved in the process at all until signing, the court could terminate his rights regardless. However, an adoption entity or attorney should place the minor in foster care until a decision could be made by both parties, especially if the father has been involved in the pregnancy with physical and emotional support/or attempts have been made by him to be involved.
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. The Florida Statutes do not require this.

BIRTH FATHER RELATED

1. Does the father of the baby have to be notified of the birth and the mother's adoption plan?
- A. Yes if he is the legal father. If his whereabouts are unknown, a search has to be done and the Florida Putative Father Registry has to be checked. No if he is not the legal father, although the Florida Putative Registry has to be checked before making that decision.
- The law states that the interests of the state, the mother, the child, and the adoptive parents outweigh the interest of an unmarried biological father who does not take action in a timely manner to establish and demonstrate a relationship with his child. An unmarried biological father has the primary responsibility to protect his rights and is presumed to know that his child may be adopted without his consent unless he complies with the Florida Putative Father Registry and/or demonstrates a prompt and full commitment to his parental responsibilities.
2. How is the father of the baby notified of the mother's adoption plan?
- A. In writing with a notice of Intended Adoption plan

3. Can the father of the baby choose the adoptive parents?
- A. With the support and agreement of the birth mother unless she is deceased. If that is the case, he can make the decision himself unless the child has been living with others who may be eligible to help make the decision.
4. What is the difference between a legal father and named birth father? How is the process for voluntary termination of parental rights different between a legal father and named birth father?

- A. Generally, a man is the legal father of a child if the minor was conceived/born while the man was married to the child's mother, if the minor is his child by adoption, if the minor has been established in a court proceeding to be his child (ex. paternity action), or if the man has filed an affidavit of paternity. A man who is an unmarried biological father (a/k/a named birth father) has fewer rights and protections in the adoption process than a legal father.

Legal fathers - father's consent to termination of parental rights and adoption is required in writing after the birth of the child. The statutes seem to authorize an irrevocable affidavit of non-paternity prior to the child's birth as an alternative to consent. However, the statute is unclear and because of the ambiguity, some courts will insist on a consent signed after the child's birth.

Unmarried birth father/Non-legal fathers - father's consent is only required if he registers with the Florida Putative Father Registry AND does ALL of the following:

- a) child 6 months or older - develop a substantial relationship with the child, show full responsibility and commitment to parenthood by financially supporting the child and regularly visiting the child or communicating with the person/agency having custody of the child.
- b) child less than 6 months old - execute and file an affidavit accepting responsibility for the child, stating that he is personally willing and able to care for the child, agree to court ordered support and contribution to payment of living/medical expenses for mother's pregnancy and child's birth and if he knew the mother was pregnant, have paid a fair and reasonable amount of her expenses. If an unmarried biological father (non-legal father) does not do ALL of the above, the statutes state that his consent to adoption is NOT required, and his rights can be terminated and the baby adopted without his consent.

NOTE: There is recent case law (2nd District Court of Appeals) which states that unmarried biological fathers, who file paternity actions but do not register with the Florida Putative Father Registry, may be individuals whose consent is required. There is also case law (1st District Court of Appeals) which states that unmarried biological fathers "identified" as the child's father in dependency proceedings are individuals whose consent is required.

5. What happens if the mother does not know who the biological father is?
- A. The birth mother will have to file an affidavit stating any details she might have regarding the biological father. The affidavit must also state whether she was married or cohabitating with anyone at the time of conception. The adoption entity will do its best to do a search with whatever information they have and will also search the Florida Putative Father Registry.
6. What happens if the mother refuses to give the name of the biological father?

- A. Every attempt is made to work with the mother to give the name of the biological father with the knowledge of the importance for the minor child about to be adopted and the risk involved in the adoption if the father later comes forward. If she still refuses the Putative Registry will be checked and a diligent search made based on whatever information was given. In the 8th Judicial Circuit, the judges require that she sign an affidavit stating any details she might have regarding the biological father.
7. Can the biological father of the baby give notice that he intends to plan for the baby before the baby is born?
- A. Yes, He should immediately register with the Florida Putative Father Registry. Additionally, he should file an affidavit and plan of care for the child. He should pay his fair share of reasonable living and medical expenses for the child during the pregnancy and he should establish a relationship with the child. Courts have also suggested that filing a paternity action may protect some of his rights. See Answer to Question 1 for more specifics.
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, if he is over 14. If he is 14 years old or younger, the consent must be witnessed by a parent, legal guardian, or court appointed Guardian Ad Litem.
10. Can the birth father change his mind after signing the legal consents to the adoption?
- A. No unless he can prove duress or fraud or the child is over 6 months of age and he has been a part of the child's life in a supportive way. He would then be allowed three days to revoke his consent or any time prior to the placement of the child with Adoptive Parents, whichever is longer.
11. Describe the process for doing an involuntary termination of a legal or named birth father's rights.
- A. Legal Father - Normally, his consent or an affidavit of non-paternity is required so there are a limited number of ways, as follows, to terminate his rights involuntarily:
- If he is served with notice of the intended adoption plan and has not responded within the designated time period
 - If he has been served notice of the proceedings and has been determined to have abandoned the child
 - If he has been judicially declared incapacitated with restoration of competency found to be medically improbable
 - If he has been served notice of the proceedings but has been found by the court to be unreasonably withholding his consent
- Non-Legal Father (Unmarried Biological Father) - His rights can be involuntarily terminated if he does not follow all the steps listed in the answers to Questions 1 and 2 above.

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. When the identity of the father is known but the location is unknown, the adoption entity must conduct a diligent search, which must include inquiries including the following:
- a) person's current/last address - U.S. Postal Service (Freedom of Information Act)
 - b) Name and address of person's last employer
 - c) Regulatory/licensing agencies (ex. FL Bar if the father is an attorney)
 - d) Names, addresses of relatives
 - e) Information as to whether individual has died and if so, date and location
 - f) Telephone listings in the area where the person last resided
 - g) Inquiries of law enforcement agencies in the area where the person last resided
 - h) Highway patrol records in the state where the person last resided
 - i) Department of Corrections records in the state where the person last resided
 - j) Hospitals in the state where the person last resided
 - k) Records of utility companies, including water, sewer, cable, electric in the area where the person last resided
 - l) Records of the Armed Forces as to whether there is any information as to the person
 - m) Records of the tax assessor and tax collector in the area where the person last resided
 - n) Search of the internet database locator service

An affidavit of diligent search executed by the petitioner and the adoption entity must be filed confirming completion of each of the areas above and specifying the results. If all of the above is completed and the person whose consent is required still cannot be found, the unlocated person must be given constructive notice of the proceedings (publication in a newspaper).

13. Describe the process for termination of the rights of the birth father in the event of a rape.
- A. Depending on his status (non-legal father versus a legal father) his rights would be determined based on what category he falls into (See answer to Question 12). If the mother is alleging that she does not know who the birth father is (unknown identity and unknown name), the court may require the mother to sign an affidavit to that effect, in the interests of protecting the due process rights of the father. Also, if the alleged rapist is not the legal father of the child, his rights would be terminated if he did not do all of the acts listed in answer 1 and 2. The courts do have discretion though when it comes to these kinds of cases.

ADOPTIVE PARENT RELATED

1. Who can be an adoptive parent and who selects them?
- A. A husband and wife jointly, or an unmarried adult. No person eligible to adopt may adopt if he or she is a homosexual. The adoption entity and/or the birth mother/father can select them.

2. What information about the birth parents and the child must be provided to the adoptive parents?
 - A. Social and medical information on the birth parents, their family including siblings and grandparents and the minor child. Whatever is known must be reported.
3. What procedures are followed to ensure that adoptive parents are fit to adopt a child?
 - A. A home study must be completed which includes a minimum of background checks, assessment of the physical environment of the home, financial screening, documentation of counseling and education on adoption, and recent medical reports. After the baby is placed in the home, post placement visits are required to check on the well being of the minor, bonding, and any other issues related to the adoption. These visits must be done every 30 days until the adoption is finalized. A report is written recommending the finalization if everything is going well.
4. Can the potential adoptive parents have the child placed with them prior to the actual court procedures?
 - A. Yes, but it is considered an at-risk placement until the termination of parental rights takes place approximately 30 days after the birth parents consent to the adoption.
5. Can the adoptive parents prevent the birth parents from communicating with the child after the adoption?
 - A. Yes, if it is in the best interest of the child. There is no legal requirement to maintain contact but written agreements are routinely done. A court proceeding may be requested to help determine what is in the best interest of the child if a party is protesting the kind of communication that is taking place. These communication agreements do not affect the validity of the adoption and do not prevent the adoptive parents/child from changing their residence (even out of the state of Florida).
6. Under what circumstances can an adopted child communicate with the birth parents?
 - A. As deemed appropriate by the court and/or by a written or oral agreement during the adoption planning process. If there was a medical emergency when contacting them could be essential, a court would determine this if the adoption was a closed one.
7. What information must the birth parents provide to the adoptive parents?
 - A. Medical and social information on the minor, parents, grandparents and siblings, if known.
8. Who supervises the adoptive placement and for how long?
 - A. The adoption entity for at least 60 days after placement or monthly until the adoption is finalized. If the adoption entity is an attorney, the social worker that performed the home study would be the one to do the post placement visits and report to the court.
9. When is the adoption final?

- A. First, the parental rights of the child's biological parents must be terminated. This can be done at a court hearing as soon as all of the proper consents and affidavits are filed. Then, a petition for adoption is filed and a hearing on the petition to adopt is held. This hearing must occur at least 30 days after the date the judgment of termination of parental rights was entered and at least 90 days after the date the child was placed in the physical custody of the adoptive parents.

OTHER ADOPTION RELATED QUESTIONS

1. Who initiates the adoption process?
 - A. The adoptive couple can initiate the home study process and application with an adoption entity. However, the birth mother/parents are the ones to that would then help pick out the adoptive person or persons or give permission for the adoption agency to seek out the adoptive couple or individual.
2. When are the legal adoption papers filed with the court?
 - A. The legal papers are filed after the baby is born and the birth parents have signed their consents for adoption. Termination of parental rights does not take place for at least 30 days after the papers have been signed. This is in order to allow time to serve the parties notice of the hearing. If the biological parents have already consented and have waived service of process and notice, the TPR hearing can occur in less than 30 days. The final adoption hearing will then occur at least 30 days after the TPR or 90 days after the adoptive parents got physical custody, whichever is longer.
3. Can the baby be placed for adoption without the consent of the birth mother and/or birth father?
 - A. Yes, if the courts terminated parental rights due to abuse or neglect; and or if either parent is deceased.
4. What happens if the birth parents do not agree on the adoption plan?
 - A. If the biological parents are alive and their rights have not been terminated, their consent would still be required. If they do not agree (and do not consent) the adoption would not be approved.
5. Who can charge a fee for bringing birth parents and adoptive parents together?
 - A. It is prohibited to charge a fee that constitutes payment for locating a minor for adoption. However, charges can be made for cost of advertising, application process, and home study process in bringing the parties together.
6. Is the use of a non-licensed facilitator, non-licensed child-placing agencies, permitted to match adoptive families and birth families?
 - A. No unless it is an attorney who is licensed to practice law in Florida.
7. Are independent adoptions allowed?
 - A. Yes

8. How are independent and agency adoptions different?
- A. Independent adoptions are conducted by attorneys. Agency adoptions are handled by a child-placing licensed agency. Usually adoption agencies will have a social worker working with the adoptive couple and one working with the birth mother/father to provide counseling and support. An attorney may be working with both sides at the same time and does not provide counseling.
9. How does an adoptee go about requesting access to their adoption file?
- A. Their adoption file is considered sealed once the adoption is finalized. Many judges are very conservative and will require good cause to unseal the adoption file (i.e. it is rarely done). However, if agreements were made between parties for communication to take place, that would be one way to ask questions or seek answers regarding identifying or non-identifying information.
- An adoptee and/or their parents, if he or she is a minor, can request non-identifying information about themselves and their birth parents by putting in writing their request to the adoption agency, attorney, or the Florida Post Adoption Services Unit located in Tallahassee. However, in recent years, this information has been required at the time of the adoption.
- If they do not know where or who facilitated the adoption, they can register themselves on the Florida Adoption Reunion Registry (for identifying information) or request information from the Florida Post Adoption Services Unit (non-identifying information). The registry is a passive one so both parties would have to have registered in order for information to be shared.

Frequently Asked Questions about Adoption in Georgia

BIRTH MOTHER RELATED

1. When can the mother of the baby start the adoption process?
 - A. The mother of the baby can start the adoption process at any point in or after her pregnancy. It is advisable that she begins the process with a counselor exploring and exhausting all means to parent. This will help her to be resolved as she moves forward in the adoption process.
2. Can the birth mother choose the adoptive parents?
 - A. Yes. The birthmother can choose the adoptive parents. For agencies who promote open adoption, this is recommended and encouraged.
3. Can the birth mother see and hold the baby after the birth?
 - A. Yes. The birthmother can see and hold the baby.
4. What expenses can the adoptive parents pay to or on behalf of the birth mother and child?
 - A. "Reasonable" living and medical expenses when paid in Georgia through a licensed child-placing agency. Payment of expenses other than medical costs directly related to the pregnancy, birth and medical care of the child are prohibited if a licensed agency is NOT involved in the process. See O.C.G.A. § 19-8-24.
5. Can a minor mother independently sign legal documents placing the child for adoption (consent to the adoption)?
 - A. According to Georgia law, minor birth parents [whether mothers or alleged fathers] are considered adults by virtue of the pregnancy or parentage and can sign legal documents relating to the adoption and relinquishment of their rights. Notice to or consent by any parent of that minor birth parent is not required under Georgia law O.C.G.A. § 19-8-6 (i) although most agencies would not work with a minor without consent or involvement from his/her parents or guardian.
6. When does the birth mother actually sign the legal documents required for the adoption?
 - A. Legal documents are signed no sooner than 24 hours after the birth of the child when a Georgia licensed child-placing agency is working with the parent on the adoption plan. When the adoption is 'independent', 'relative', or 'step-parent' the relinquishment materials may be signed by either birth parent at any time after the baby has been born. .
7. Can the birth mother change her mind before signing the legal consents to the adoption?
 - A. Yes. The birthmother can change her mind before signing the legal consents or surrender documents.

8. Can the birth mother change her mind after signing the legal consents to the adoption?
 - A. Yes. In the State of Georgia, birthparents have 10 days in which to revoke their surrenders or legal consents. Once revoked, custody of the child would be returned to the birth mother.

9. Can the birth mother communicate with the adoptive parents and child after the adoption?
 - A. Yes. If there is an agreement between the adoptive and birth families for communication to occur. This is very common in open adoptions.

10. Can a birth mother anonymously surrender a newborn child?
 - A. The identity of the birth parent (father or mother) can be withheld from the adopting parents but the relinquishment materials which are filed with the Court MUST contain personal, identifying information. Adoptive Court records are not open to public access and are sealed so that, other than the Court, Vital Records, Interstate Compact, and the representatives of the social service investigating agency, there would be no identifying information regarding the birth parent revealed to any source if the birth parent did not wish. Each of those listed entities is under legal obligations of confidentiality.

11. What happens if the birth parents do not agree that adoption should be the plan?
 - A. Other options are explored with the birthparents to help them to determine a suitable plan for their child. Both legal parents must agree to an adoptive plan or a Court must terminate any rights or claims of the parent or prospective parent who does not wish to consent.

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. The birthmother is informed of Georgia's Adoption Reunion Registry and asked to sign a document indicating her preference for future contact. That preference is not binding and may be updated and changed at any time in the future.

13. 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. The birth mother is informed about the Georgia Adoption Reunion Registry and asked to sign a document indicating her preference for future contact. She can fill out a Consent to Contact or an Affidavit of Non-Disclosure. Either preference is non-binding and may be updated at any future date by the birth mother if her feelings or circumstances change in the future.

BIRTH FATHER RELATED

1. Does the father of the baby have to be notified of the birth and the mother's adoption plan?
 - A. Yes. All identifiable possible birthfathers must be informed.

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

- A. If information is available, the birthfather can be contacted by phone. Other options include a personal interview, a certified letter sent to his last known address and/or a publication in the appropriate legal newspaper naming him as the father of the child and advising that an adoption is in progress and will occur unless certain actions are undertaken by him within a specified time period. The Georgia Putative Father Registry must be examined in order to determine whether any man has expressed paternal interest in the child and the information listed, if any, must be followed.
3. Can the father of the baby choose the adoptive parents?
- A. Yes. Generally, if the birth father is involved in the adoption process, he and the birthmother will select the family together.
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 the husband of the birth mother either at the time of conception, time of birth or by marrying her afterwards and recognizing the child as his own. Only a court order disavowing his paternity will change that status. He can voluntarily surrender his rights to the child in much the same way as the birth mother. If he has to be located, the courts are very stringent in enforcing maximum efforts to locate him and inform him of the pending adoption and the potential termination of his rights if he is unwilling to voluntarily surrender them. Terminating a legal father's parental rights, if he is unwilling to voluntarily surrender them, is much more difficult than terminating the rights of a biological father.
- A biological father is just the biological father. Having his name on the birth certificate does not give him any additional rights or even prove that he is the biological father. Terminating his rights (rights, not parental rights, since he only has the right to file a petition to legitimate the child) is much easier than terminating the parental rights of a legal father.
5. What happens if the mother does not know who the biological father is?
- A. Information under oath must be obtained from the birth mother which discloses as many factors about the possible birth father or fathers as she is able to provide. If that information is not adequate to lead to identification of the man, then in connection with a Court proceeding to terminate any possible paternal claims, a search of the Georgia Putative Father Registry must occur and then publication would need to be made to an "unknown father" to fulfill the requirements of notifying the birthfather.
6. What happens if the mother refuses to give the name of the biological father?
- A. When a birth mother refuses to give the name of the biological father, she must be advised of the legal consequences of non-disclosure. At the discretion of the licensed child-placing agency or the adoptive parents, investigation can be made of the birth mother's background and circumstances to determine whether she is concealing the status of a legal or alleged father and there is a registrant on the Georgia Putative Father Registry.

7. Can the biological father of the baby give notice that he intends to plan for the baby before the baby is born?
 - A. Yes. That is preferable, although in the State of Georgia, both birth parents must wait to sign surrenders until after the baby is born. The birthfather can sign surrenders/legal documents 24 hours after the birth of the child in the case of an agency placement.
8. Can the birth father change his mind before signing the legal consents to the adoption?
 - A. Yes. The birth father can change his mind before signing the legal consents or surrender documents
9. Can a minor father independently sign legal documents placing the child for adoption (consent to the adoption)?
 - A. According to Georgia law, minor birth parents [whether mothers or alleged fathers] are considered adults by virtue of the pregnancy or parentage and can sign legal documents relating to the adoption and relinquishment of their rights. Notice to or consent by any parent of that minor birth parent is not required under Georgia law O.C.G.A. § 19-8-6 (i) although most agencies would not work with a minor without consent or involvement from his/her parents or guardian.
10. Can the birth father change his mind after signing the legal consents to the adoption?
 - A. Yes. In the State of Georgia, birthparents have 10 days in which to revoke their surrenders or legal consents. Once revoked, custody of the child would be returned to the birth mother or legal father. A biological father who is not the legal father must obtain a Court Order of Legitimation before he can obtain legal custody of the child.
11. Describe the process of 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. There is no exact process and what is required can vary from jurisdiction to jurisdiction and even judge to judge. Generally efforts include certified mail to the last known previous address, and if that fails, filing a legal advertisement in the newspaper in the town of his last known address. In addition contacting the father's former friends, relatives, employers, and, of course, a search of the internet using people-locating databases is all part of a diligent search.
12. Describe the process for the termination of the rights of the birth father in the event of a rape.
 - A. There is no difference in the process of termination. Obviously, if the attacker is unknown, it is unlikely that he will come forward and, of course, the police are already diligently looking for him. A judge is not going to push the search too hard but will do a search of the putative father registry. If the attacker is known, he has to be served as any other biological father and has the right to petition to legitimate the child. It is unlikely that he would file such a petition and even more unlikely that he would be successful if he did so.
13. Describe the process for doing an involuntary termination of a legal father's or named biological father's rights.

- A. The process differs widely between the two types of fathers. IF the biological father has not lived with the child; not contributed to the child's support; not made any attempt to legitimize the child; and not provided any support or medical care for the mother either during her pregnancy or during her hospitalization for the birth of the child; and in addition not filed with the Putative Father Registry, it is possible for the court to rule that he is not entitled to notice of the termination proceeding and terminate his rights outright. If he is entitled to notice, he has 30 days after legal notification to a petition to legitimize the child. If he does not do so, and successfully legitimize the child, his rights can then be terminated.

It is very different with a legal father. If he doesn't want to surrender his parental rights and intends to parent the child, it will be difficult if not impossible to terminate those rights unless it can be shown that he is an unfit parent.

ADOPTIVE PARENT RELATED

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

- A. Within the state of Georgia anyone over the age of twenty-five years, a resident of the State for more than six months, and more than ten years older than the child to be adopted can apply to become an adoptive parent. If the applicant is married, then the age limit can be reduced to 18 years from 25 years of age. Both spouses must adopt. Georgia law prohibits adoption by one spouse without adoption by the other except in the situation of a step-parent adoption where the other spouse already holds parental rights.

Applicants to adopt must be financially, physically, and emotionally able to parent the child. The applicant cannot have a serious criminal conviction or an infraction which would indicate risk to a minor child. The purpose of the home study and pre-adoption training is to assess suitability for adoptive parenting.

The process of selection varies dependent on the philosophy and practice of the child-placing agency. Within some agencies, selection is made by the child's caseworker. The worker seeks to make a 'good match' based on the needs of the child, and the personalities, resources and situation of the adoptive parents. Within agencies that practice open adoption, selection is usually made by the birthparents. In both of these processes, adoptive parents are also given the opportunity to decide if the situation is right for them.

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

- A. How much information adoptive parents receive is often dictated by how much is available. As much as is possible, adoptive parents are given salient and appropriate information about the situation of the birthparents. This includes medical information, information in relation to hereditary traits and other information pertinent to the child. Agencies are also required to provide as much information as possible with regard to the child. All information must be presented in writing and in a face-to-face meeting. The amount of information available usually differs dependent on the type of adoption. It can range from basic, minimal medical information in international adoption through to the full disclosure of details in an open adoption.

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

- A. The home study process is a rigorous evaluative process which results in a detailed and thorough written report. The evaluation of the home and the prospective adoptive parents/family follows strict guidelines for completion, which includes an examination of their reasons for pursuing an adoption, style of parenting, family background, medical issues, and current resources. Prospective adoptive parents also participate in training workshops and are expected to pursue ongoing training in the form of reading, videos/DVD's and classes as part of their preparation.
4. Can the potential adoptive parents have the child placed with them prior to the actual court procedures?
- A. Children cannot be placed with adoptive parents by licensed child-placing agencies until the parental rights of the birth parents have been voluntarily or involuntarily terminated. Following placement the next set of court procedures would be the finalization of the adoption.
- In placements through the State of Georgia, Department of Human Resources, it is common to have the child in foster care status with the proposed adoptive family prior to official adoptive placement. In independent placements in Georgia the child may be put into the care of the proposed adoptive parents at any time agreed by the birth parent.
5. Can the adoptive parents prevent the birth parents from communicating with the child after the adoption?
- A. Like any other parents, adoptive parents have the right to stipulate who communicates with their children. It would be hoped that, should the birth parents request an agreed means of communication, and this would not be detrimental to the child, adoptive parents would agree to this communication, as it would be in the best interest of the child.
- However, by law in Georgia, the final order of adoption terminates all legal rights and relationships of the birth parents [and their extended families] to the child, including communication.
6. Under what circumstances can an adopted child communicate with the birth parents?
- A. If the child is under 18 years of age, they must first obtain their adopted parents' permission to establish contact with their birth parent. If they are over 18, they are free to communicate with their birth parents without seeking permission; however, the State of Georgia's Reunion Registry will not assist with a search or reunion until the adopted person has reached his or her twenty-first birthday.
7. What information must the birth parents provide to the adoptive parents?
- A. Birth parents are required to provide medical, social and personality background information.
8. Who supervises the adoptive placement and for how long?
- A. The adoption caseworker supervises the child's placement in the adoptive home. By law in Georgia, the first supervision visit must take place within a week of placement. Thereafter, they are conducted on a monthly basis for at least three months. A written report is produced after each visit.

Supervision rules vary for all placement types which are not those of a licensed child-placing agency.

9. When is the adoption final?

- A. The finalization of the adoption is a legal procedure which involves the filing of a petition by adoptive parents to legally adopt the child. The petition cannot be filed until the period of supervision has been successfully completed for no less than the period stipulated by law (at least 3 months in GA)) and to the satisfaction of the child-placing agency.

Finalization rules vary for all placement types which are not those of a licensed child-placing agency.

OTHER ADOPTION RELATED QUESTIONS

1. Who initiates the adoption process?

- A. The adoption process is initiated when prospective adoptive parents decide to make their first inquiry about the process with an adoption agency.

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

- A. The petition to finalize the adoption is completed following the successful completion of supervision and termination of parental rights.

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

- A. No. A child cannot be placed for adoption without the voluntary or involuntary termination of parental rights. Consent is knowingly given with the voluntary termination of parental rights. In cases of neglect, abuse, or abandonment, the social service agency can seek the involuntary termination of parental rights.

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

- A. A child cannot be placed for adoption without the voluntary or involuntary termination of parental rights. Consent is knowingly given with the voluntary termination of parental rights. In cases of neglect, abuse, or abandonment, the social service agency can seek the involuntary termination of parental rights.

5. Who can charge a fee for bringing birth parents and adoptive parents together?

- A. Adoption attorneys may only be compensated in adoptions for the legal services provided and may not make introductions or placements for adoption. In Georgia ONLY a licensed child-placing agency can make adoptive placements. Licensed agencies can charge fees to adoptive parents for their services. Fees are not charged to birth parents for placement or adoptive services.

In Georgia under O.C.G.A. § 19-8-24, if a person or entity advertises that it can cause adoptions to occur, match children and proposed parents, or locate children for adoption, and that advertiser is NOT a licensed child-placing agency, it is committing a criminal act for each and every time it publishes a notice or makes the unlawful claim. The crime is a felony, punishable by imprisonment for one to ten years and a fine not to exceed \$10,000

for each act. An attorney or other professional who violates this law can also be disbarred or lose their professional license.

6. Is the use of a non-licensed facilitator, non-licensed child-placing agencies, permitted to match adoptive families and birth families?
 - A. It is illegal for a non-licensed agency or facilitator to match or arrange the meeting of birth and adoptive parents for the purpose of adoption.
7. Are independent adoptions allowed?
 - A. Independent adoptions are legal and allowed within the state of Georgia.
8. How are independent and agency adoptions different?
 - A. Independent adoptions are usually initiated by the birth parent or family and an attorney provides legal services to verify that all requirements are met for legalization of the procedure. Agency adoptions are coordinated through a licensed adoption agency and have the increased safety factors of appropriate counseling to the birth parent throughout the process and a completed pre-placement home study to determine the suitability of the applicant adoptive parents.
9. How does an adoptee go about requesting access to their adoption file?
 - A. For a small processing fee, an adult adopted person can request a 'de-identified' copy of their adoption file from the agency where their adoption was completed. The Georgia Reunion Registry also provides services for opening records, obtaining updated information through confidential communication with the birth parent, or reunion, as may be appropriate.

Frequently Asked Questions about Adoption in Kentucky

BIRTH MOTHER RELATED

1. When can the mother of the baby start the adoption process?
 - A. The birth mother can start the adoption process at any time.
2. Can the birth mother choose the adoptive parents?
 - A. Ideally, the birth mother and birth father agree upon who they choose as the adoptive parents.
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 in the payment of expenses in agency and independent adoptions?
 - A. Reimbursable expenses are based upon actual need. Examples include rent, utilities, and food. Typically, the birth parents must provide documentation to the agency and the agency will pay expenses directly to the provider. (Some agencies choose not to reimburse expenses.)

There are no differences in the particular expenses that can be paid in an agency and in an independent adoption. In an independent adoption, the parents may be asked to place money into escrow for the attorney to use for the birth mother's benefit. In an agency adoption, the adoptive parents may pay a services fee that covers all expenses paid.
5. Can a minor mother independently sign legal documents placing the child for adoption (consent to the adoption)?
 - A. A minor birth mother must have a "next friend" in order for parental rights to be terminated. If the birth mother's parents are not present during court proceedings, a Guardian at Litem will be present.
6. When does the birth mother actually sign the legal documents required for the adoption?
 - A. After the birth of the child, a waiting period of 72 hours is required. The birth mother may sign a petition to voluntarily terminate her parental rights after the 72 hours has passed. At a subsequent court date, the judge's signature is required to terminate the parental rights.

In an agency adoption, the birth mother may sign prior to the 72 hours, but the paperwork may not be filed in court until 72 hours after the birth. After appearance in court and the signing and entry of the order, the birth mother can no longer revoke or change her mind.

In an independent adoption, the birth mother may go to court and it would be as above. Or she may sign a consent no sooner than 72 hours after the birth. After signing, there

is a revocation period. That period runs 20 days after signing. In the case of an interstate adoption the period runs 20 days after signing or 20 days after ICPC approval, whichever comes later.

7. Can the birth mother change her mind before signing the legal consents to the adoption?
 - A. The birth mother can change her mind anytime prior to the judge's signature which terminates the parental rights.
8. Can the birth mother change her mind after signing the legal consents to the adoption?
 - A. For an agency adoption, the birth mother can change her mind at any point before the judge signs the Order terminating her parental rights. In an independent adoption, the consent to adoption signed by the birth mother is final and irrevocable 20 days after the Cabinet for Health and Family Services approves the adoption placement. The consent to adoption may only be withdrawn if written notification is made prior to 20 days after the Cabinet for Health and Family Services approves the adoption placement; i.e., before it becomes final and irrevocable.
9. Can the birth mother communicate with the adoptive parents and child after the adoption?
 - A. Yes. In Kentucky, open adoptions are agreements only and are not legally binding. In Kentucky, open adoptions are simply a "word of honor."
10. Can a birth mother anonymously surrender a newborn child?
 - A. Yes.
11. What happens if the birth parents do not agree that adoption should be the plan?
 - A. Both birth parents must agree to a voluntary adoption plan. Parental rights of both the birth mother and the birth father must be terminated in order for the child to be made available for adoption.
Since it is difficult to do an involuntary termination in Kentucky, if the birth father is contesting the adoption, the adoption will probably not take place.
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. The birth mother is asked to sign a DSS-192 form, which is provided by the Commonwealth of Kentucky.

BIRTH FATHER RELATED

1. Does the father of the baby have to be notified of the birth and the mother's adoption plan?
 - A. No. In Kentucky, a birth mother can choose not to name the birth father. However, birth mothers are encouraged to notify the birth father of the adoption plan.
2. How is the father of the baby notified of the mother's adoption plan?

- A. The birth mother is encouraged to talk with the birth father about a potential adoption plan. If the birth father is known and identified, the court will also appoint a Warning Order Attorney to send a letter and attempt to notify the birth father of the adoption proceedings.
3. Can the father of the baby choose the adoptive parents?
- A. Ideally, the birth mother and birth father agree upon who they choose as the adoptive parents.
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 a man who is married to the birth mother. He may or may not be the biological father, and may or may not be identified on the birth certificate. The birth certificate, while a necessary item, is not necessarily the full truth. A putative father could be the birth father, or there could be multiple putative fathers. In an agency case, the parental rights of both the birth father and the legal father must be terminated in order to allow an adoption. If DNA shows the putative father is the biological father, DNA can overcome the presumption of paternity to the husband. If there is no DNA, both the putative and the legal fathers can sign an entry of appearance or a consent or can voluntarily terminate parental rights in court or both could sign an entry of appearance, denying paternity.
5. What happens if the mother does not know who the biological father is?
- A. The birth mother would be asked to identify potential biological fathers. Testing of DNA on behalf of the child and potential biological father could be obtained. If positive identification of the biological father cannot be determined, the birth mother is allowed to terminate her parental rights. This would be a legal risk adoption. In a case without an identified birth father, the attorney or agency may choose to wait a full 60 days before going to court to terminate the rights of the mother. Should a father assert his rights after 60 post-partum days, it would be a very difficult challenge and would probably not be successful. Five criteria might allow him a successful challenge: if they have lived together, have married, he put his name on the birth certificate, paid medical bills, or he asserts his rights within those first 60 days.
6. What happens if the mother refuses to give the name of the biological father?
- A. The birth mother can terminate her parental rights. This would be a legal risk adoption. (Some adoption agencies choose not to work with birth mothers who refuse to name the biological father.) In a case without an identified birth father, the attorney or agency may choose to wait a full 60 days before going to court to terminate the rights of the mother. Should a father assert his rights after 60 post-partum days, it would be a very difficult challenge and would probably not be successful. Five criteria might allow him a successful challenge: if they have lived together, have married, he put his name on the birth certificate, paid medical bills, or he asserts his rights within those first 60 days.

7. Can the biological father of the baby give notice that he intends to plan for the baby before the baby is born?
 - A. The biological father can make known his intentions to make an adoption plan. However, he must follow the procedure(s) outlined by law to terminate his parental rights.
8. Can the birth father change his mind before signing the legal consents to the adoption?
 - A. The birth father can change his mind anytime prior to the judge's signature terminating parental rights.
9. Can a minor father independently sign legal documents placing the child for adoption (consent to the adoption)?
 - A. A minor birth father must have a "next friend" in order for parental rights to be terminated. If his parents are not present, there is typically a Guardian ad Litem present.
10. Can the birth father change his mind after signing the legal consents to the adoption?
 - A. The birth father cannot change his mind after the judge signs the Order terminating his parental rights.
11. Describe the process for doing an involuntary termination of a legal father or named birth father's rights.
 - A. The agency or attorney would wait 90 days before filing in court. The legal or named birth father would be notified of the proceedings by a court appointed Warning Order Attorney. If he does not show and he meets the statute requirements (he doesn't live with the birth mother, they don't marry, his name is not on the birth certificate, he has not paid any medical bills and he has not asserted his rights within 60 days), it is assumed that he has no rights and the court would do an involuntary termination of his parental rights.
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. The term "diligent effort" is not a phrase in Kentucky law. The agency or attorney would ask the court to appoint a Warning Order Attorney. The Warning Order Attorney has 50 days after the date of appointment to notify the birth father. If he cannot be located, the court would terminate.
13. Describe the process for terminating the rights of the birth father in the event of a rape.
 - A. The process is no different.

ADOPTIVE PARENT RELATED

1. Who can be an adoptive parent and who selects them?
 - A. A Kentucky licensed adoption agency approves adoptive parents based upon KRS 199.640 and 905 KAR 1.310 and the Cabinet for Health and Family Services regulations. Birth parents may choose the adoptive parents. In an independent

adoption, the Cabinet for Health and Family Services issues final approval of the adoptive parents.

2. What information about the birth parents and the child must be provided to the adoptive parents?
 - A. Non-identifying information found on the DSS-191 must be provided to the adoptive parents. Examples include childhood developmental history, hobbies, height, weight, hair and eye color, education, reason for adoption plan, medical history, and drug use (if applicable).
3. What procedures are followed to ensure that adoptive parents are fit to adopt a child?
 - A. The adoptive parents must be in Compliance with KRS 199.640 and 905 KAR 1.310 and the Cabinet for Health and Family Services regulations. For example, personal references, credit references, criminal records checks, child abuse/neglect clearance, physically and mentally healthy.
They can't be on welfare, can't believe in physically punishing a child and they can't have a criminal background.
4. Can the potential adoptive parents have the child placed with them prior to the actual court procedures?
 - A. Yes. If the adoptive parents are also approved as foster parents for the adoption agency, the child may be voluntarily committed to the custody of the adoption agency. The agency can make the foster/adoptive placement prior to termination of parental rights
They can't be on welfare, can't believe in physically punishing a child and they can't have a criminal background.
5. Can the adoptive parents prevent the birth parents from communicating with the child after the adoption?
 - A. The birth parents have no legal rights after termination of their parental rights.
Communication could be prevented by the adoptive parents until the child is of legal age.
6. Under what circumstances can an adopted child communicate with the birth parents?
 - A. In an open adoption agreement, the adopted child can communicate with the birth parents.
7. What information must the birth parents provide to the adoptive parents?
 - A. The birth parents are encouraged to fill out all the information on the DSS-191.
8. Who supervises the adoptive placement and for how long?
 - A. The adoption agency supervises the adoptive placement. This is called post-placement supervision. In an agency adoption, a minimum of two post-placement visits must be made prior to finalization. The law states post-placement visits must be made on a monthly basis, so they will take place until the adoption is finalized. In an independent adoption only one post-placement visit must be made and a court report filed.

9. When is the adoption final?
- A. There is no minimum time frame to wait for the adoption to be finalized provided the birth parents no longer have legal rights to the child and two post-placement visits have been made.

OTHER ADOPTION RELATED QUESTIONS

1. Who initiates the adoption process?
- A. A birth parent may initiate the adoption process.
2. When are the legal adoption papers filed with the court?
- A. After the consents are signed by the birth parents or termination occurs.
3. Can the baby be placed for adoption without the consent of the birth mother and/or birth father?
- A. For a known birth mother and birth father, they must both agree to the termination of parental rights, except in the case of involuntary termination of parental rights.
4. What happens if the birth parents do not agree on the adoption plan?
- A. The birth mother and birth father must agree on the adoption plan, except in the case of involuntary termination of parental rights.
5. Who can charge a fee for bringing birth parents and adoptive parents together?
- A. Licensed adoption agencies may charge a fee.
6. Is the use of a non-licensed facilitator, non-licensed child-placing agencies, permitted to match adoptive families and birth families?
- A. No.
7. Are independent adoptions allowed?
- A. Yes.
8. How are independent and agency adoptions different?
- A. In an independent adoption, the birth parents and adoptive parents have personal contact to initiate an adoption plan. The birth parents may sign a consent to adoption rather than appear in court to terminate their parental rights. The DSS-187 initiates the independent adoption process. For an independent adoption, refer to 922 KAR 1:010. Typically, the birth parent does not receive the support and counseling provided by an adoption agency.
9. How does an adoptee go about requesting access to their adoption file?

- A. The adoptee must contact the Cabinet for Health and Family Services to make an Open Records Request.

Frequently Asked Questions about Adoption in Mississippi

BIRTH MOTHER RELATED

1. When can the mother of the baby start the adoption process?
 - A. The birth mother can do any number of things to plan for an adoption. However, the most important form, the parents' surrender of parental rights and consent to an adoption, cannot be signed until 72 hours after the birth of the child.
2. Can the birth mother choose the adoptive parents?
 - A. Yes
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?
 - A. Adoptive parents can pay legal fees approved by the court, reasonable and actual hospital charges for services rendered in connection with the medical treatment of the child to the physician or the hospital which rendered the services. See Miss. Code Ann. §43-15-23 (4). There are no restrictions whatsoever on a Mississippi licensed adoption agency. Therefore, if a licensed agency is involved, the adoptive parents can funnel the money through the agency and pay for anything. See Miss. Code Ann. § 43-15-23 (2) and (3).
5. Can a minor mother independently sign legal documents placing the child for adoption (consent to the adoption)?
 - A. Birth parents are considered adults for all purposes pertaining to termination of their parental rights and consenting to an adoption. See Miss. Code Ann. §93-15-103 (2) and Miss. Code Ann. §93-17-5 (1).
6. When does the birth mother actually sign the legal documents required for the adoption? Describe the process of signing the legal termination document.
 - A. The birth mother may sign at anytime at least 72 hours after the birth of the child. See Miss. Code Ann. §93-17-5 (1) and Miss. Code Ann. § 93-17-9.
Once the birth mother signs it must be notarized. Once notarized and signed, there is not a revocation period; the surrender is legally binding.
7. Can the birth mother change her mind before signing the legal consents to the adoption?
 - A. The birth mother can change her mind any time up to the point she signs the surrender of parental rights and consent to adoption.
8. Can the birth mother change her mind after signing the legal consents to the adoption?

- A. Once the termination of parental rights has been signed, birth parents cannot change their mind. The signature is irrevocable except in extreme situations such as fraud. See Miss. Code Ann. § 93-17-9.
9. Can the birth mother communicate with the adoptive parents and child after the adoption?
- A. Nothing in Mississippi law prohibits communication between the mother and the child. However, court orders authorizing such communication are not enforceable.
10. Can a birth mother anonymously surrender a newborn child?
- A. Yes
11. What happens if the birth parents do not agree that adoption should be the plan?
- A. Once the birth parents have surrendered their parental rights, they have no rights whatsoever regarding the child. Their agreement or disagreement is irrelevant at that point.
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. Birth parents can file an affidavit either authorizing the state to give or prohibit the state from giving identifying information to the adopted child. There is no provision in Mississippi law that requires that birth parents be informed about these affidavits.

BIRTH FATHER RELATED

1. Does the father of the baby have to be notified of the birth and the mother's adoption plan?
- A. There is no requirement in Mississippi law that the birth father be notified of the birth or of the mother's intention to place the child for adoption. However, withholding this information from the birth father could give him a valid defense to determination of his parental rights. Of course, the birth father must be given legal notice of court proceedings once an action is filed for the termination of his parental rights and/or for the adoption of the child.
2. How is the father of the baby notified of the mother's adoption plan?
- A. As a practical matter, adoptive parents, attorneys, or social workers are usually seeking out the father to try and obtain his consent to the adoption. Of course, the birth father must be given legal notice of court proceedings once an action is filed for the termination of his parental rights and/or for the adoption of the child.
3. Can the father of the baby choose the adoptive parents?
- A. There is nothing in Mississippi law that prohibits the birth father from participating in the choice of adoptive parents.
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 the man that is married to the birth mother at time of conception or delivery.
The named birth father (putative father) is the man that the birth mother names or comes forward and has to prove paternity. The process is not different in Mississippi. Both fathers would sign a waiver.
5. What happens if the mother does not know who the biological father is?
- A. Mississippi law has a specific procedure set out to deal with the parental rights of the father of the child born out of wedlock. Obviously, this would be the situation if the mother does know the identity of the biological father. This procedure is entitled a Petition for Determination of Rights. In this situation the Judge specifies what, if any, notice is to be given to the father of the child. See Miss. Code Ann. §93-17-6 (7).
6. What happens if the mother refuses to give the name of the biological father?
- A. There is no specific provision of Mississippi law dealing with this situation. It would likely be handled under A. §93-17-6 Petition for Determination of Rights as mentioned above.
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 that the birth father must take if he intends to parent the child?
- A. There is no legal procedure in place for the father to give such notice. As a practical matter, a father wishing to avoid an adoption can file a request for a restraining order. This is very effective in preventing the adoption from going forward until he has a full opportunity to be heard in court.
The sole matter for determination under a petition for determination of rights is whether the alleged father has a right to object to an adoption as set out in Section 93-17-5(3)(4). Proof of an alleged father's full commitment to the responsibilities of parenthood would be, in accordance with his means and knowledge of the mother's pregnancy or the child's birth, that he either:
- a) Provided financial support, including, but not limited to, the payment of consistent support to the mother during her pregnancy, contributions to the payment of the medical expenses of pregnancy and birth, and contributions of consistent support of the child after birth; that he frequently and consistently visited the child after birth; and that he is now willing and able to assume legal and physical care of the child; or
 - b) Was willing to provide such support and to visit the child and that he made reasonable attempts to manifest such a parental commitment, but was thwarted in his efforts by the mother or her agents, and that he is now willing and able to assume legal and physical care of the child.
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. Any consent to adoption must be signed at least 72 hours after the birth of the child. See Miss. Code Ann §93-17-5 (1).
10. Can the birth father change his mind after signing the legal consents to the adoption?
- A. Once the birth parents have surrendered their parental rights, they have no rights whatsoever regarding the child. Their agreement or disagreement is irrelevant at that point.
11. Describe the process for doing an involuntary termination of a legal father or named birth father's rights.
- A. Doing a diligent search as described in number 12. Publish in the newspaper the court of jurisdiction uses that rights will be terminated on all known and unknown putative fathers. Submitting to the court the Petition for Termination on all unknown or known putative fathers' rights. Waiting to see if there is a petition for determination of rights.
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. Sending a certified letter to last known address of the birth father, contacting any known relatives of the birth father, contacting all persons in phone book with same last name, checking with local law enforcement agencies for any known information, outstanding warrants, etc., checking with branches of military services for any information on known father. Then last you would publish in the Newspaper the court of jurisdiction uses that rights will be terminated on all known and unknown putative fathers.
13. Describe the process for termination the rights of the birth father in the event of a rape.
- A. There is no specific provision of Mississippi law dealing with this situation. But refer to the process described in number 11 which would be conducted on all unknown fathers.

ADOPTIVE PARENT RELATED

1. Who can be an adoptive parent and who selects them?
- A. Unmarried adults may adopt. Married couples may adopt as long as both of them join in the adoption petition. There is no official selection process in Mississippi. Adoption cases come before the court and the Judge either grants or denies the adoption. Many adoptions involve licensed adoption agencies. In that case, there are many other requirements to being approved as adoptive parents, including a home study. Most adoption agencies allow birth parents to participate in the selection of adoptive parents. Adoption by couples of the same gender is prohibited. See Miss. Code Ann. §93-17-3 (2).
2. What information about the birth parents and the child must be provided to the adoptive parents?
- A. Mississippi law requires that the court be provided with the doctor's certificate, and a sworn statement listing the child's property and a four-page medical and history form. There is technically no requirement that any of this information be provided to the adoptive parents. Of course, good practice dictates that the adoptive parents are given as much information as possible, taking into account confidentiality.

3. What procedures are followed to ensure that adoptive parents are fit to adopt a child?
 - A. Once all legal requirements have been met, the only check on the fitness of the adoptive parents is that the court must find that the adoption is in the best interest of the child. As mentioned above, interstate adoptions and adoptions involving agencies will necessitate a home study.
4. Can the potential adoptive parents have the child placed with them prior to the actual court procedures?
 - A. Yes. Birth mothers routinely sign appropriate forms while in the hospital to allow the child to be released to the adoptive parents, even prior to the 72 hour limit.
5. Can the adoptive parents prevent the birth parents from communicating with the child after the adoption?
 - A. Yes. Court orders which specify visitation or communication are not enforceable.
6. Under what circumstances can an adopted child communicate with the birth parents?
 - A. The parties are free to agree to any type communication or visitation. Even if the adoptive parents agree, birth parents cannot force such communication or visitation period.
7. What information must the birth parents provide to the adoptive parents?
 - A. The medical and social history form must be filed with the adoption and also supplied to the state, but there is no method in forcing a birth parent to giving any substantive information. As practical matter, birth mothers routinely provide the required information as a service to the court, the adoptive parents, the social worker, and their child.
8. Who supervises the adoptive placement and for how long?
 - A. There is no requirement for supervision. Certain interstate adoptions require that post placement visits be performed. Adoptions involving licensed adoption agencies typically will require some level of post placement supervision.
9. When is the adoption final?
 - A. The adoption is final when the Judge signs a Final Decree of Adoption. It is theoretically possible to finalize an adoption 72 hours and a few minutes after the birth of the child. They are usually done 5 or 6 days after the birth of the child if both parents consent.

Mississippi law provides for a 6 month waiting period prior to finalization. This waiting period is routinely waived, especially in infant adoptions. Interstate placements will often necessitate a longer period of time to deal with the appropriate paper work.

OTHER ADOPTION RELATED QUESTIONS

1. Who initiates the adoption process?
 - A. As a practical matter, children available for adoption are very scarce. Thus, there are many adoption agencies, attorneys, doctors, adoption facilitators, and childless couples actively looking for children to place for adoption. A pregnant woman willing to discuss adoptions will find herself with no shortage of offers.
2. When are the legal adoption papers filed with the court?
 - A. Typically, the defining event is obtaining consent from one or both parents. An adoption is typically filed after the consents are obtained.
3. Can the baby be placed for adoption without the consent of the birth mother and/or birth father?
 - A. Yes. The most common situation would be where the child has been taken away from the natural parents by the Department of Human Services or placed at a private residential facility by the parent. Then, a separate action can be instituted against the natural parents to terminate their parental rights. The child can be placed with potential adoptive parents at some point during this process. Often, in cases involving the Department of Human Services, foster parents adopt a child that has been placed in their care months or years previously.
4. What happens if the birth parents do not agree on the adoption plan?
 - A. Presumably, an adoption agency or the potential adoptive parents have filed a Termination of Parental Rights procedure, or an adoption. If one or both parents disagree with the adoption, the burden will be on the agency or the adoptive parents to present proof in court sufficient to terminate their parental rights.
5. Who can charge a fee for bringing birth parents and adoptive parents together?
 - A. Only adoption agencies licensed by the Mississippi Department of Human Services are authorized to charge a fee for this service. See Miss. Code Ann. § 43-15-23 (2).
6. Is the use of a non-licensed facilitator, non-licensed child-placing agencies, permitted to match adoptive families and birth families?
 - A. There are no restrictions on who can match adoptive families and birth parents. However, only licensed agencies can charge a fee for providing these services. (see #5 above)
7. Are independent adoptions allowed?
 - A. Yes.
8. How are independent and agency adoptions different?
 - A. Agency adoptions involve a lengthy and relatively expensive screening procedure for potential adoptive parents. Agencies typically offer a much higher level of services to

birth parents, including counseling, medical care or even room and board at a maternity care center.

Independent adoptions, by definition, are simply adoptions that do not involve an adoption agency. These range from very simple adoptions to very complicated and expensive interstate adoptions. A simple independent adoption might involve the adoption of a child by their grandparents where both natural parents consent. The entire court file might only contain 12 or 15 pages. There is no home study, no waiting period, and very little investigation into the situation. An example of a complicated independent adoption would involve an interstate placement where the adoptive parents travel to another state, pick up the child from the hospital, wait for approval from both states before traveling home (the Interstate Compact for the Placement of Children) and finalize the adoption in their home state. Attorneys from both states will likely have to be hired. ICPC approval would require that a home study be done and many other documents provided.

9. How does an adoptee go about requesting access to their adoption file?
 - A. The Mississippi Bureau of Vital Records maintains adoption records. Birth parents can file affidavits authorizing or prohibiting contact with the adopted child. A procedure is set out in the Mississippi Confidentiality Act. Miss. Code Ann. §93-17-201 et seq. specifies how an adopted child goes about attempting to contact a natural parent. This is essentially how an adoptee requests the information contained in an adoption file. The adopted child (presumably now an adult) makes their request to a licensed adoption agency. The adoption agency then conducts a search, unless the natural parents file an affidavit prohibiting such a search. Medical information and identifying information may be requested of the birth parent, if they can be found. Details of how the search is conducted are found in Miss. Code Ann. §93-17-209 thru 223.

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 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 good faith effort should be made to serve the father of the minor child with notice of the adoption proceeding.
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.
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 legitimization 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 or named birth father's rights.
 - A. A separate action for termination of parental rights must be filed in the juvenile court of North Carolina. Grounds for termination (such as 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, 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 1st or 2nd 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. 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 adoptive 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?
 - A. Birth parents must provide the 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.
- 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 for adoption 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?

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.

Frequently Asked Questions about Adoption in South Carolina

BIRTH MOTHER RELATED

1. When can the mother of the baby start the adoption process?
 - A. As soon as she knows that she is pregnant.
2. Can the birth mother choose the adoptive parents?
 - A. Yes.
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?
 - a) Reimbursement for necessary, actual medical, and reasonable living expenses incurred by the mother and child for a reasonable period of time.
 - b) Fees for obtaining certain investigations and reports required by statute.
 - c) Fees of individuals required to take consents.
 - d) Fees of the Guardian ad Litem.
 - e) Reasonable attorney fees and costs for services actually provided.
 - f) Reasonable fees to child-placing agencies.
 - g) Reasonable fees to sending agencies as defined in the Interstate Compact for the Placement of Children.

There are no differences between allowable expenses in an agency and independent 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?
 - A. Typically, the birth mother signs the day after the delivery or thereafter. Her medical chart should be checked to make sure she is not under the influence of any pain killer that might impair her judgment.
The consent and relinquishment must be explained by an attorney or person certified by the Department of Social Services who does not represent the adoptive couple. The document must be notarized.
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. She can only withdraw her consent with the Court's permission. She would have to prove coercion or duress and that it would be in the best interest of the child for the Court to allow the consent to be withdrawn. See S. C. Code Ann. §20-7-1720 (Cum. Supp. 1992).
9. Can the birth mother communicate with the adoptive parents and child after the adoption?
- A. If allowed by the adoptive parents.
10. Can a birth mother anonymously surrender a newborn child?
- A. Yes. See S. C. Code Ann. §20-7-85 (Cum. Supp. 1992).
11. What happens if the birth parents do not agree that adoption should be the plan?
- A. If the birth father is married to the birth mother he may essentially veto any adoption plan. If the birth father was not married to the birth mother and the child is placed before it is six months old and the birth father lived with the birth mother a continuous period of six months immediately preceding the placement and held himself out to be the father during the six month period or paid a fair and reasonable sum, based on his ability, for the support of the child or expenses incurred in connection with the pregnancy or with the birth of the child then his consent will be required and he may essentially veto the adoption plan. If the birth father was not married to the birth mother and the child is more than six months old at placement, the birth father's consent is necessary but only if he has maintained substantial and continuous contact or repeated contact with the child as demonstrated by payment of support of a fair and reasonable sum based on his financial ability and visits at least monthly when he is able to do so and not prevented from doing so by the person or agency having lawful custody of the child or regular communication by the father with the child or with the person or agency having custody of the child when the father is financially or physically unable to visit the child or when the father is prevented from visiting the child by the person or agency having lawful custody of the child. See S. C. Code Ann. § 20-7-1690 (Cum. Supp. 1992).
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. No.

BIRTH FATHER RELATED

1. Does the father of the baby have to be notified of the birth and the mother's adoption plan?
- A. Yes, but not prior to the birth of the child. After the birth of the child he may have waived any constitutionally protected right to parent the child depending on his marital status to the birth mother and their interactions or lack of it after conception.
2. How is the father of the baby notified of the mother's adoption plan?
- A. Ultimately, Notice of Adoption Proceedings are served on him if he does not Consent.

3. Can the father of the baby choose the adoptive parents?
 - A. Yes.
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 or presumptive father is the legal husband of a birth mother at the time of birth. A named birth father is a person named by the birth mother as the genetic father of a child. A presumptive father's rights can be terminated by proving to the satisfaction of the Court that he is not the genetic father of the child or through the presumptive father's consent or for any of the first ten reasons set forth in § 20-7-1572 (see question # 11)
5. What happens if the mother does not know who the biological father is?
 - A. The Court may allow "John Doe" publication.
6. What happens if the mother refuses to give the name of the biological father?
 - A. If his consent is not required under S. C. Code Ann. §20-7-1690 (Cum. Supp. 1992), then the mother can refuse to name him and a proper "John Doe" publication will be sufficient. See Evans v. Dss, 399 SE2d 156 (1990).
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 that a birth father must take if he intends to parent the child?
 - A. Yes, but there is not a putative father registry in South Carolina.
A birth father who intends to parent the child should either live with the child's mother for six months before the birth of the child and openly hold himself out as the father of the child during this six month period or pay a reasonable sum, based on his ability, for the support of the child or expenses related to the pregnancy or birth, including, but not limited to medical, hospital and nursing expenses. After the child is born, the birth father should maintain substantial and repeated contact with the child by paying support, visiting the child, or communicating with the child or person having lawful custody of the child.
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.
10. Can the birth father change his mind after signing the legal consents to the adoption?
 - A. His consent cannot be withdrawn except by Court Order upon a showing of coercion or duress and that it would be in the best interest of the child.

11. Describe the process for doing an involuntary termination of a legal father or a named birth father's rights.
- A. Parental rights may be involuntarily terminated upon a finding of one or more of the following grounds and a finding that the termination is in the best interest of the child: See § 20-7-1572 Termination of Parental Rights
- a) The child or another child in the home has been harmed as defined in Section 20-7-490, and because of the severity or repetition of the abuse or neglect, it is not reasonably likely that the home can be made safe within twelve months. In determining the likelihood that the home can be made safe, the parent's previous abuse or neglect of the child or another child in the home may be considered;
 - b) The child has been removed from the parent pursuant to Section 20-7-610 or Section 20-7-736, has been out of the home for a period of six months following the adoption of a placement plan by court order or by agreement between the department and the parent, and the parent has not remedied the conditions which caused the removal;
 - c) The child has lived outside the home of either parent for a period of six months, during that time the parent has willfully failed to visit the child. The court may attach little or no weight to incidental visitations, but it must be shown that the parent was not prevented from visiting by the party having custody or by court order. The distance of the child's placement from the parent's home must be taken into consideration when determining the ability to visit;
 - d) The child has lived outside the home of either parent for a period of six months, and during that time the parent has willfully failed to support the child. Failure to support means that the parent has failed to make a material contribution to the child's welfare. A material contribution consists of either financial contributions according to the parent's means or contributions of food, clothing, shelter, or other necessities for the care of the child according to the parent's means. The court may consider all relevant circumstances in determining whether or not the parent has willfully failed to support the child, including requests for support by the custodian and the ability of the parent to provide support;
 - e) The presumptive legal father is not the biological father of the child, and the welfare of the child can best be served by termination of the parental rights of the presumptive legal father;
 - f) The parent has a diagnosable condition unlikely to change within a reasonable time including, but not limited to, alcohol or drug addiction, mental deficiency, mental illness, or extreme physical incapacity, and the condition makes the parent unlikely to provide minimally acceptable care of the child. It is presumed that the parent's condition is unlikely to change within a reasonable time upon proof that the parent has been required by the department or the family court to participate in a treatment program for alcohol or drug addiction, and the parent has failed two or more times to complete the program successfully or has refused at two or more separate meetings with the department to participate in a treatment program;
 - g) The child has been abandoned as defined in Section 20-7-490(21);
 - h) The child has been in foster care under the responsibility of the State for fifteen of the most recent twenty-two months; or
 - i) The physical abuse of a child of the parent resulted in the death or admission to the hospital for in-patient care of that child and the abuse is the act for which the parent has been convicted of or pled guilty or nolo contendere to committing,

aiding, abetting, conspiring to commit, or soliciting an offense against the person as provided for in Title 16, Chapter 3, criminal domestic violence as defined in Section 16-25-20, criminal domestic violence of a high and aggravated nature as defined in Section 16-25-65, or the common law offense of assault and battery of a high and aggravated nature.

- j) A parent of the child pleads guilty or nolo contendere to or is convicted of the murder of the child's other parent.
 - k) Conception of a child as a result of the criminal sexual conduct of a biological parent, as found by a court of competent jurisdiction, is grounds for terminating the rights of that biological parent, unless the sentencing court makes specific findings on the record that the conviction resulted from consensual sexual conduct where neither the victim nor the actor were younger than fourteen years of age nor older than eighteen years of age at the time of the offense.
- 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. An affidavit setting forth diligent efforts to locate a known birth father must accompany any complaint to allow service by publication. The affidavit typically indicates that diligent inquiries have been made at the birth father's last known address, last known place of employment, attempts made to contact him at all known phone numbers and through all known relatives. Affidavits also often include language that common known databases have been searched to no avail.
- 13.** Describe the process for terminating the rights of the birth father in the event of a rape.
- A. South Carolina Code Section 20-7-1695 provides that consent is not required from a biological parent if the child is conceived as a result of that parents' criminal sexual conduct or incest as found by a court of competent jurisdiction unless, with respect to the criminal sexual conduct, the sentencing court make specific findings on the record that the conviction resulted from consensual sexual conduct where neither victim nor the actor were younger than fourteen years of age at the time of the offense

ADOPTIVE PARENT RELATED

- 1.** Who can be an adoptive parent and who selects them?
- A. Any South Carolina resident may petition to adopt a child. Exceptions to the residency requirement are made for a special needs child, if there has been public notoriety concerning the child or child's family, the child is placed with a relative, if at least one of the adoptive parents is in the military service stationed in South Carolina or if there are unusual or exceptional circumstances such that the best interests of the child would be served by the out of state placements. See S. C. Code Ann. §20-7-1760 (Cum. Supp. 1992). In practice the "exceptional circumstances" requirement has generally been liberally and expansively interpreted by our family court judges.

South Carolina is a signatory to the Interstate Compact on The Place of Children.

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

- A. A medical history of the biological family of the adoptee, including parents, siblings and other family members related to the adoptee including ages, sex, race and any known genetic, psychological, metabolic, or familial disorders; and any medical or developmental history of the adoptee. See S. C. Code Ann. §20-7-1740(3) (Cum. Supp. 1992).
3. What procedures are followed to ensure that adoptive parents are fit to adopt a child?
- A. Adoptive parents must be investigated and approved by a person trained and certified by the Department of Social Services to do home studies. Criminal histories, child abuse and sex abuse registries are checked. A Guardian ad Litem is appointed to protect the interest of the child. See S. C. Code Ann. §20-7-1740 (Cum. Supp. 1992).
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. With the permission of the birth parents and adoptive parents if the child is a minor. Court records are sealed and will generally not be opened.
7. What information must the birth parents provide to the adoptive parents?
- A. A licensed social worker will obtain a medical/social history. Often information may be sparse and is not subject to confirmation.
8. Who supervises the adoptive placement and for how long?
- A. A post-placement report would be completed after the filing of the adoption petition. A final hearing cannot be held before ninety days and no later than six months after the petition was filed. See S. C. Code Ann. §20-7-1760 (Cum. Supp. 1992).
9. When is the adoption final?
- A. After the final decree of adoption is entered. See S. C. Code Ann. §20-7-1770 (Cum. Supp. 1992).

OTHER ADOPTION RELATED QUESTIONS

1. Who initiates the adoption process?
- A. Typically the birth mother initiates the process of making a responsible adoption plan with the assistance of either a private adoption attorney or a licensed adoption agency.
2. When are the legal adoption papers filed with the court?

- A. The Complaint for Adoption is filed after the Petitioner has received the adoptee into his home. However, if the child is to be placed out of state, a Petition for Special Circumstances allowing the out-of-state placement can be filed before the birth of the child.
3. Can the baby be placed for adoption without the consent of the birth mother and/or birth father?
- A. The birth mother's consent is always required if she is alive and her parental rights have not been judicially terminated.
- The birth father's consent is required if he was married to the birth mother. If the birth father was not married to the birth mother, his consent may or may not be required depending upon the age of the child at placement, whether or not the birth father lived with the child's mother for a continuous period of six months immediately preceding the placement and openly held himself out to be the father of the child or paid a fair and reasonable sum based upon his financial ability for the support of the child or expenses incurred with the pregnancy or birth.
4. What happens if the birth parents do not agree on the adoption plan?
- A. If the birth father's consent is required, he can preclude the adoption. His consent will be required if he is married to the birth mother. If he is not married to the birth mother, whether or not his consent is required will turn on the facts and how they are applied under §20-7-1690 and the case of Abernathy v. Baby Boy - 437 SE 2d 25 (SC 1993).
5. Who can charge a fee for bringing birth parents and adoptive parents together?
- A. §20-7-1690 addresses this issue. It reads as follows:
- (F) Under no circumstances may a child-placing agency or any person receive a fee, compensation, or any other thing of value as consideration for giving a consent or relinquishment of a child for the purpose of adoption and no child-placing agency or person may receive a child for payment of such fee, compensation, or any other thing of value. However, costs may be assessed and payment made, subject to the court's approval, for the following:
- a) Reimbursements for necessary, actual medical, and reasonable living expenses incurred by the mother and child for a reasonable period of time;
 - b) The fee for obtaining investigations and reports as required by section 20-7-1740;
 - c) The fee of the individuals required to take the consent or relinquishment, as required by section 20-7-1705(a);
 - d) The fee of a Guardian ad Litem appointed pursuant to section 20-7-1732;
 - e) Reasonable attorney's fees and costs for actual services rendered;
 - f) Reasonable fees to child-placing agencies; and
 - g) Reasonable fees to sending agencies as defined in section 20-7-1980(2)(b), the interstate compact on the placement of children.
- The court may approve an adoption while not approving unreasonable fees and costs.
6. Is the use of a non-licensed facilitator or non-licensed child-placing agencies, permitted to match adoptive families and birth families?

- A. No. Any non-licensed facilitator or non-licensed child-placing agency that attempts to receive a fee to match adoptive families with birth families would likely run afoul of South Carolina Code Sections 16-3-1060 and 20-7-1690(f). Violating the provisions of these sections is a felony and carries sanctions of up to ten (10) years in prison and fines of up to \$10,000.00 or both.
7. Are independent adoptions allowed?
- A. Yes.
8. How are independent and agency adoptions different?
- A. Independent adoptions typically match adoptive families with a particular birth mother and the adoptive parents bear all of the costs and risks associated with a particular birth mother.
- Many agency adoptions proceed on a flat fee basis and allowable birth mother expenses for a particular birth mother are not passed through directly to the adoptive parents.
9. How does an adoptee go about requesting access to their adoption file?
- A. The file will be kept confidential except upon court order for good cause shown by order of the judge of the court in which the decree of adoption was entered. See § 20-7-1780.
- The court will weigh the privacy rights of the natural parents against the interests of the adopted child to determine whether or not good cause has been shown. A basic desire of the adoptee to know their identity has been found to be insufficient. Bradley v. Children's Bureau of South Carolina, 274 SE2d 418 (1981). There must be a compelling reason for such information to be revealed. Gardner v. Baby Edwards, 342 SE2d 601 (1986).

Frequently Asked Questions about Adoption in Tennessee

BIRTH MOTHER RELATED

1. When can the mother of the baby start the adoption process?
 - A. Legal proceedings cannot begin until at least four (4) days after the birth of the child at the earliest. However, the birth mother may begin the adoption “process” as soon as she wants to. In fact, birth mothers are encouraged to begin the process as early as possible. Early initiation allows the licensed child-placing agency adequate time to find appropriate adoptive parent matches and permits the birth mother the time to evaluate and select an appropriate match for the child.

Further, the sooner that a birth mother begins the process, the sooner that she will be able to take advantage of the many resources that are available to her including: counseling regarding the decision to place the child for adoption, legal counseling regarding the surrender, and reimbursement for legally approved financial expenditures made in connection with the birth of the child.

Additionally, the more time the agency has to prepare for the birth, the more smoothly the transition will occur. A great deal of information must be gathered prior to proceeding with an adoption and all parties are put in a difficult position if the process begins late. Further, to the extent a birth father is able and willing to execute a waiver of interest, such formalities may be completed before birth.
2. Can the birth mother choose the adoptive parents?
 - A. Until the surrender occurs, absent some other Court proceeding, the birth mother remains the legal parent of the child and she can choose to whom she wishes to surrender the child. Of course this is limited by the fact that if the birth mother is determined to surrender, she may be limited in the choices of those individuals who are willing to accept the surrender. Generally, the birth mother may choose to surrender directly to a prospective adoptive couple of whom she approves (independent adoption) or the birth mother may choose to surrender to an agency licensed to place children for adoption in the state of Tennessee (agency adoption). In the event that the birth mother surrenders to a licensed child-placing agency, that agency will have the authority to make the decision as to whom to place the child with for adoption.
3. Can the birth mother see and hold the baby after the birth?
 - A. This can be a delicate issue for both the birth mother and the adoptive parents. Until the surrender occurs, the birth mother remains the legal mother of the child and retains rights to see the child and hold the child if she should request. Typically, a birth mother who intends to allow the adoptive couple to take a child home from the hospital will sign a general power of attorney for health care decisions allowing the adoptive parents to make health care decisions for the child. While unlikely, if the adoptive parents had such a power of attorney, and could show medically that contact with the birth mother would pose a risk to the

health of the child, the adoptive parents could refuse to allow the birth mother contact with the child.

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

- A. Tennessee law permits the adoptive parents to pay the following expenses in connection with the birth of a child:
- a) Reasonable charges or fees for hospital or medical services for the birth of the child, or for medical care and other reasonable birth-related expenses for the mother and/or child incident thereto;
 - b) Reasonable counseling fees for the parents or prospective adoptive parents and/or child for up to one year after placement of the child;
 - c) Reasonable legal services or the reasonable cost of legal proceedings related to the adoption of any child; or
 - d) Reasonable, actual expenses for housing, food, maternity clothing, child's clothing, utilities or transportation for a reasonable period not to exceed ninety (90) days prior to or forty-five (45) days after the birth or surrender or parental consent to the adoption of the child (the parties may submit affidavits for Court approval to receive payments for a longer period).

The expenses reimbursed must be incurred directly in connection with the maternity, birth, and/or placement of the child for adoption, or for legal services or for costs of legal proceedings directly related to the adoption of the child, or for counseling for a period of up to one (1) year for the parent who surrenders the child or consents to the adoption of the child.

In an agency adoption, the agency will typically make payments for the necessary expenses of the birth mother. A licensed child-placing agency is not limited by state statute with respect to the payment of expenses. Therefore, unlike an independent adoption, the Court does not need to review and approve expenses reimbursed through an agency adoption. However, such agencies are licensed and regulated by the Department of Children's Services and therefore many only make payment for appropriate expenditures.

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

- A. Yes. A minor may independently execute a surrender and consent to adoption without parental consent. However, where a minor parent is involved, the Court has the authority to appoint a guardian to represent the minor's interest in Court if it deems proper.

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

- A. If the birth mother chooses to surrender her child for adoption, she can sign the surrender before a judge as early as four (4) days after the birth of the child. The surrender can occur anytime thereafter although surrenders as a general rule should be executed as early as reasonably possible. If the birth mother

terminates her rights by consent, she does so by joining in the Petition for Adoption at the time it is filed.

A surrender takes place in the judges' chambers. By law, the only people permitted to be present during a surrender are the birth mother, her attorney, and the judge. The process is very private. The judge will ask the birth mother for a copy of her driver's license for identity purposes and then swear the birth mother under oath. The judge will then review the background information provided on the surrender form (typically filled out by the attorney before the surrender hearing). The judge will ask the birth mother if she is aware of her rights and all resources available to her should she decide to parent the child. Then the judge will confirm that the birth mother understands the consequences of her actions and that she is not acting under duress in signing the surrender. The birth mother will execute the surrender and will indicate whether she wants to initiate a contact veto. The birth mother and her attorney will leave the room and the adoptive parents will then go before the judge to accept the surrender. The process takes about 15 minutes. The birth mother needs to remain for a short period of time after the surrender is complete so that copies of the documents may be made and one given to the birth mother. This copy contains important information regarding the revocation of a surrender should the birth mother elect that option.

7. Can the birth mother change her mind before signing the legal consents to the adoption?
 - A. Yes. The birth mother is under no legal obligation to surrender her child for adoption.
8. Can the birth mother change her mind after signing the legal consents to the adoption?
 - A. If the birth mother executes a surrender, she will have a ten (10) day window (revocation period) during which she has the absolute right to revoke the surrender, although there is no absolute right that the child will be placed back in her custody. A Court hearing may be required to determine if such placement is in the child's best interests. After the ten (10) day revocation period passes, the surrender is irrevocable. If the birth mother executes a consent by joining in the Petition for Adoption, she can revoke that consent at any time up until the final hearing for adoption.
9. Can the birth mother communicate with the adoptive parents and child after the adoption?
 - A. Typically, the parties will agree, prior to the surrender, whether the adoption will be open (one in which communication and contact may be permitted) or closed (one in which there will be no communication or contact from either side). Regardless of the prior agreements of the parties, once the surrender has been executed, there is no binding requirement that the prospective adoptive parents permit contact.
10. Can a birth mother anonymously surrender a newborn child?

- A. Yes. Under recently passed Tennessee law, a mother may surrender her child anonymously by dropping the child off at certain health care facilities within three (3) days of birth.

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

- A. The termination of both birth parents' rights will be required before an adoption may proceed. If the birth parents do not agree upon the adoption, one parent's rights may be terminated voluntarily and the prospective adoptive parents or licensed child-placing agency may proceed against the other parent to involuntarily terminate parental rights, provided that appropriate grounds exist. If both parents' rights to the child are not terminated, the adoption will fail.

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. If the birth mother proceeds with a surrender, she will be required to file contact veto information in which she will designate whether she wants to release identifying information to the adoptee or adoptive parents and in what form she wants potential contact to take place (written or oral). In addition, the birth mother will be permitted to designate other members of her family for whom she wishes contact information to be disclosed.

If the birth mother consents to termination by joining in the Petition for Adoption, she will not be required to fill out contact veto information, but identifying information will be contained in the Final Order of Adoption to which the adoptee will have access.

13. Will the birth mother be required to file an affidavit regarding the paternity of the child?

- A. The birth mother is required to swear under oath that she has provided the name and all other identifying information relating to the birth father to the Court and prospective adoptive parents. If the birth mother is unsure as to who may be the birth father, she is required to list and identify all potential birth fathers. If the identity of the birth father is unknown, the birth mother must verify that fact. It is illegal in the state of Tennessee for a birth mother to provide false or incomplete information concerning her knowledge of the identity of a birth father.

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's rights must be legally terminated, either voluntarily or involuntarily, prior to final approval of the adoption. In either case, the birth father will receive notice of the adoption plan. While there is no requirement that the birth father receive notice of the birth of the child until there is an attempt to terminate his parental rights, his lack of knowledge of the pregnancy or birth may limit the available grounds for involuntary termination should he not voluntarily consent.

2. How is the father of the baby notified of the mother's adoption plan?
 - A. If the father and mother maintain a good relationship, it is best to allow her to approach the father with her desire to submit to an adoption plan. If the birth mother does not approach the birth father, typically the licensed child-placing agency will approach the birth father concerning the plan and his willingness to voluntarily terminate. If either of these options fails, it will be the duty of the prospective adoptive parents, through their attorney, to approach the birth father regarding termination in order to proceed with the adoption.
3. Can the father of the baby choose the adoptive parents?
 - A. Under Tennessee law, the birth parents have coordinate and equal legal rights to the custody and care of the child. The birth father may participate in the adoption plan, but if the birth parents disagree on the choice of adoptive parents, then it may be up to the Courts to resolve the issue. As a practical matter, a birth father who does not agree with the adoption plan will not typically assert himself in the process until after the mother has surrendered to an agency or the prospective adoptive parents of her choosing.
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 any man who has the responsibility for parenting a child by operation of law. The husband of a birth mother when she has the child (whether or not he is the actual biological father), the man named on the birth certificate as father, and any individual confirmed by a Court to be the father are legal fathers. Any individual named by the mother as the potential biological father of the child is a named birth father. Often a named birth father can also be the legal father. Because the legal father does not have to be the actual biological father of the child, there can often be both legal and named birth fathers for one child.

Both the legal father and named birth fathers can voluntarily terminate their parental rights through a surrender or by joining in the Petition for Adoption and giving consent to termination of parental rights. A named birth father may also voluntarily terminate his rights by signing a waiver of interest. By this process, a named birth father acknowledges that he wants to terminate his rights in writing. The waiver is irrevocable at the time of its execution and the named birth father is not entitled to further notice of the adoption proceedings. A named birth father is not required to appear before a judge when executing a waiver. While a waiver is irrevocable at execution, the rights of the named birth father are not actually terminated until the adoption is complete. This process of voluntary termination is not available for legal fathers.
5. What happens if the mother does not know who the biological father is?
 - A. The mother is charged with providing as much detailed information concerning the biological father as she can. If multiple individuals are identified as potential

birth fathers, it will be necessary to terminate the rights of each potential birth father identified or seek paternity testing to identify the appropriate birth father.

In addition, prior to the filing of any Petition for Adoption, the prospective adoptive parents must file notice with the putative father's registry and any birth father listed therein with a claim to paternity will be notified.

Further, if no reliable information is available concerning the identity of the birth father, notice will be published in a newspaper of general circulation directed to Unknown Birth Father concerning the potential adoption.

6. What happens if the mother refuses to give the name of the biological father?
 - A. Knowing refusal to provide information concerning the identity of a birth father constitutes a Class A misdemeanor in the state of Tennessee. The birth father would have the ability to challenge a subsequent adoption in the absence of termination of his parental rights. However, the safeguards listed above concerning notice to the putative father's registry and publication may limit the effectiveness of that challenge.

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. Yes. The birth father is entitled to participate in the planning for the child and should do so either through communication with the birth mother or directly through the licensed child-placing agency. In addition, a potential birth father may file his name with the putative father's registry to assure he will receive notice concerning any adoption plan for the child.

In the event a birth father intends to parent a child, he will first be required to establish paternity through DNA testing. This may be done voluntarily but occasionally requires a court order. Presuming the DNA tests confirm that the birth father is the biological father of the child, the birth father will need to file a Petition with the Court for legal and physical guardianship, if he intends to take the child into his home. If the birth mother has not surrendered her rights, she will have the ability to contest that proceeding. Any other custodian of the child may contest that proceeding if they believe that it is not in the best interests of the child to be physically placed with the birth father. In the event the birth father does not want, or is denied physical custody of the child, a child support order will be entered by the Court establishing how much money in support of the child will be paid monthly by the birth father to the physical custodian of the child. In addition, a parenting plan will be established and entered by the Court establishing what co-parenting time (visitation) the birth father will be permitted to enjoy.

8. Can the birth father change his mind before signing the legal consents to the adoption?
 - A. Yes, the birth father has the same rights as the birth mother regarding the execution of a voluntary consent to termination or surrender.

9. Can a minor father independently sign legal documents placing the child for adoption (consent to the adoption)?
- A. Yes. A minor may independently execute a surrender and consent to adoption without parental consent. However, where a minor parent is involved, the Court has the authority to appoint a guardian to represent the minor's interest in Court if it deems proper.
10. Can the birth father change his mind after signing the legal consents to the adoption?
- A. If the birth father executes a surrender, he is entitled to the ten (10) day revocation period to revoke his decision to surrender. If the birth father executes a consent by joining in the Petition for Adoption, he may revoke that consent up until the date of finalization of the adoption. If the birth father executes a waiver of interest, the waiver is irrevocable upon execution.
11. Describe the process for doing an involuntary termination of a legal father or named birth father's rights.
- A. The involuntary termination of a legal or named birth father's rights requires a legal proceeding and judicial determination that grounds for termination exist and that it is in the best interests of the child that termination occur so that the child may be made available for adoption. The prospective adoptive parents must file a petition to terminate parental rights or make a request for termination in the adoption petition and that document is served upon the legal or named birth father. The adoptive parents are required to prove by clear and convincing evidence that one of the legal grounds for termination exists.
- The grounds for termination may be found in the Tennessee Code and parties seeking to terminate or defend against termination should consult an attorney. However, those grounds generally include abandonment, noncompliance with permanency plans, removal of the child from the home of a legal or birth father with little likelihood that the cause of removal will be cured, severe child abuse, where the legal or named birth father has been sentenced to incarceration for two years or more for conduct against the child who is the subject of the petition or their siblings, where the legal or named birth father has been incarcerated for ten years or more and the child is under the age of eight at the time of sentencing, where the legal or named birth father has been found guilty of killing the child's other parent or guardian, and mental impairment rendering a person incapable of caring for a child. In addition, a named birth father's rights may be terminated for failure to support (both pre-natal and after birth) and failure to visit, failure to demonstrate a willingness and ability to parent, posing a risk of substantial physical or psychological harm to the child, and failure to timely seek to establish paternity.
- Typically, actions to involuntarily terminate parental rights, when contested, are harshly contested and end up in long, drawn out and often expensive litigation.
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. The birth mother is required to give any identifying information she can to the adoptive parents in order to locate the birth father. The adoptive parents must then make a diligent search for the birth father (usually including the retention of a private investigator).

If, after diligent search, the birth father cannot be found, the adoptive parents may ask the Court for permission to publish notice of the termination action in the newspaper in the county where the birth father was last known to reside or where the child was conceived if no last known residence is available.

In addition, a search of the Putative Registry will be made for any individual claiming a paternity interest in the child. If no individual claims interest and the birth father does not respond timely to the publication notice, his parental rights will be terminated by default.

13. Describe the process for terminating the rights of the birth father in the event of a rape.

- A. There are no special considerations given to the termination of the parental rights of a birth father in the event of rape. The same process utilized for other birth father terminations is used in these cases although it is much less likely that the birth father will step forward to assert his rights (subjecting himself to possible criminal prosecution) and it is unlikely the Court will have much sympathy for his plight.

A legal action for involuntary termination must still be filed with the Court and a search of the Putative Registry must be made. The birth mother will likely have no information regarding the birth father and therefore a notice to “Unknown Birth Father” will be published, with approval from the Court, in a newspaper in the county where the rape occurred. Presuming the birth father does not respond timely to that notice, the Court will terminate his parental rights by default. If the birth father does respond, he will have to defend the action for termination and likely will be subject to criminal prosecution.

ADOPTIVE PARENT RELATED

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

- A. An adoptive parent must be at least eighteen (18) years of age and a resident of Tennessee for at least six (6) months prior to the filing of the Petition for Adoption. If a person seeking to adopt has a spouse competent to join in a Petition for Adoption, the spouse must join in the Petition. A single person may file to adopt a child. Petitioners for adoption need not be citizens of the United States. A person petitioning for adoption, unless a relative or step-parent, must have a valid home study prepared by a licensed clinical social worker. Gay and lesbian partners are not prohibited from filing for adoption. However, legislation is currently pending which would prohibit gay and lesbian partners from adopting a child. Based upon prior Court decisions, even if such legislation were to pass the General Assembly, there would likely be a challenge to its constitutionality.

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

- A. The adoptive parents are entitled to detailed information concerning the medical and social history of the birth parents and child.

3. What procedures are followed to ensure that adoptive parents are fit to adopt a child?
 - A. Adoptive parents must have a valid home study performed by a licensed child-placing agency, prior to filing a Petition for Adoption. This home study will address the circumstances of the adoptive parents and their fitness for adopting a child. Further, pending final approval of the adoption, the Court will enter an Order of Reference and a licensed clinical social worker will be charged with making follow-up in-home visits. At the time of the adoption, a final court report will be submitted by the licensed clinical social worker. The Court will review the initial home study as well as the final court report prior to granting an adoption.
4. Can the potential adoptive parents have the child placed with them prior to the actual court procedures?
 - A. Yes. With the consent of the biological parents, physical custody may be placed with the adoptive parents immediately upon birth. The adoptive parents will need to obtain a power of attorney to provide for the medical needs of the child. An Order of Guardianship will be submitted in the initial Court proceedings to grant the potential adoptive parents legal custody of the child to go with the physical custody.
5. Can the adoptive parents prevent the birth parents from communicating with the child after the adoption?
 - A. Yes. The adoptive parents, after adoption, are in all respects the legal parents of the child and can, as any parent could, prohibit contact with the child while the child is a minor.
6. Under what circumstances can an adopted child communicate with the birth parents?
 - A. Where a birth parent has filed a request with the Contact Veto Registry allowing contact from the child, the child will have access to identifying information concerning the birth parent and may attempt to contact that parent. In addition, after the age of twenty-one (21), upon written request and the payment of a fee, an adopted child may request clearance from the registry to contact his/her birth parents.
7. What information must the birth parents provide to the adoptive parents?
 - A. The only absolute requirements are the medical and social history of the birth parents and child.
8. Who supervises the adoptive placement and for how long?
 - A. An Order of Reference will be filed with the Petition for Adoption directing a licensed child-placing agency to supervise the adoptive placement and report to the Court regarding the same during the time period the adoption petition is pending. Once the adoption is finalized, there is no further supervision.

9. When is the adoption final?
- A. Upon the final Court hearing, which cannot take place until at least six (6) months have passed from the date of the filing of the Petition for Adoption.

OTHER ADOPTION RELATED QUESTIONS

1. Who initiates the adoption process?
- A. Either the birth parents or the potential adoptive parents may initiate contact to develop the adoption plan. Typically, this is done through a licensed child-placing agency. The actual Petition for Adoption will be filed by the potential adoptive parents who will initiate the process. Surrenders and waivers may be, and typically are, executed by birth parents before the Petition for Adoption is filed.
2. When are the legal adoption papers filed with the court?
- A. The potential adoptive parents must file the Petition for Adoption within thirty (30) days of the execution of the surrender. Even if a surrender is not utilized, a Petition for Adoption may not be filed prior to the birth of the child.
3. Can the baby be placed for adoption without the consent of the birth mother and/or birth father?
- A. If the birth parents do not consent or voluntarily terminate their parental rights, the adoptive parents must seek to terminate those rights involuntarily prior to approval of the adoption.
4. What happens if the birth parents do not agree on the adoption plan?
- A. The termination of both birth parents' rights will be required before an adoption may proceed. If the birth parents do not agree upon the adoption, one parent's rights may be terminated voluntarily and the prospective adoptive parents or licensed child-placing agency may proceed against the other parent to involuntarily terminate parental rights, provided that appropriate grounds exist. If both parents' rights to the child are not terminated, the adoption will fail.
5. Who can charge a fee for bringing birth parents and adoptive parents together?
- A. Only a licensed child-placing agency under the supervision of the Tennessee Department of Children's Services may charge a fee for placing a child. Other entities charging such a fee, and individuals paying such a fee, commit a Class C felony in Tennessee.
6. Is the use of a non-licensed facilitator, non-licensed child-placing agencies, permitted to match adoptive families and birth families?
- A. Yes, provided there is no fee charged. If a fee is charged, it constitutes a Class C felony.

7. Are independent adoptions allowed?
 - A. Yes.
8. How are independent and agency adoptions different?
 - A. In an independent adoption, surrender of the child is made directly to the adoptive parents. In an agency adoption, the Tennessee Department of Children's Services or a licensed child-placing agency acts as an intermediary.
9. How does an adoptee go about requesting access to their adoption file?
 - A. The adoption records are sealed upon finalization. Certified copies of the order granting adoption will be provided to the prospective adoptive parents upon finalization. An adoptee over the age of eighteen (18) may request non-identifying information about the birth parents upon written request to the Tennessee Department of Children's Services. The adoptive parents of an adoptee under the age of eighteen (18) may also request such information through written request. In addition, the Tennessee Department of Children's Services may provide medical updates to an adopted person.

An adoptee over the age of twenty-one (21) may make a request for identifying information upon proof of identification, payment of a fee and a written acknowledgement of the contact veto rules. When an adoptee wants to make contact with a person eligible for contact veto, the adoptee must obtain clearance from the contact veto registry prior to making contact. If a person for whom a contact veto exists is contacted by an adoptee without clearance, the person contacted has the right to sue the adoptee for damages (including punitive), injunctive relief, court costs, and attorney's fees.