

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.

Only the mother of a child born out of wedlock is entitled to custody of the child, unless the father legitimates the child as provided in O.C.G.A. § 19-7-21.1 or § 19-7-22. Otherwise, the mother may exercise all parental power over the child. Unless and until the birthfather acts, she has the sole ability to make a choice for the child's welfare and future.

2. Can the birth mother choose the adoptive parents?

A. Yes. The birth mother 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 birth mother 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 twenty-four (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 birth mother 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, birth parents have ten (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 birth parents 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 birth mother is informed of Georgia's 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 and changed 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 birth fathers must be informed.

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

A. If information is available, the birth father 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 birth mother 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. The biological father has only the rights of a biological father and not the rights of a legal father. There is also a form called the Paternity Acknowledgement Form that, if signed at the hospital with the birth certificate, can help the birthfathers legitimate without going to court.

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 birth father.

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, biological fathers can sign pre-birth surrenders while legal fathers cannot. In addition, if a biological father legitimates his relationship with the child, the birthmother's surrenders are immediately dissolved and parental rights are restored to her and her adoption plan cannot be held against her in the future. Birthfathers can still choose to wait to sign surrenders until 24 hours after the baby is born.

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, birth parents have ten (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. As of July 2007, the birth father can sign surrenders or legal consent at any time BEFORE the birth of the child. He has a ten (10) day revocation period after which the surrenders become legal and binding

11. 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 thirty (30) days after legal notification to a petition to legitimate the child. If he does not do so, and successfully legitimate 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.

- 12. 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.

- 13. 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.

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 (25) years, a resident of the State for more than six (6) months, and more than ten (10) 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 eighteen (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 birth parents. 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 birth parents. 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. All adoptive parents are required to complete a criminal background check. 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/DVDs, 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 two (2) 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 2 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 his/her adoption file from the agency where the 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.

