

FREQUENTLY ASKED LEGAL QUESTIONS ABOUT ADOPTION IN THE STATE OF COLORADO

MOTHER OF THE BABY: BIRTH MOTHER RELATED

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

- In Colorado there are 2 major parts to adoption. First are the voluntary relinquishment and/or involuntary termination of parental rights; and second, is adoption by adoptive parents. A birth mother can start planning an adoption in her pregnancy. The first step in the relinquishment/termination process for the birth mother generally begins the week following delivery.

2. Can the birth mother choose the adoptive parents?

- Yes, she has the choice of whether to choose or not to choose an adoptive family.

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

- Yes, the birth mother has complete parental rights to her child until she releases him/her in a court of law.

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

- Medical and living expenses directly related to the pregnancy may be reimbursed by the adoptive parents on behalf of a birth mother. All such expenses must be disclosed in a court of law.

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

- Yes (Birth father must also voluntarily relinquish or have his parental rights involuntarily terminated.)

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

- There are two types of voluntary relinquishment in Colorado: traditional and expedited. With traditional relinquishment, the birth mother may sign legal documents at any time following the birth of her child and attend a court hearing to give testimony. With expedited relinquishment, the legal documents may not be filed with the court until at least 4 days after the birth of her child. If approved by the court, expedited relinquishment does not require the birth mother to attend a hearing.

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

adoption?

- Yes, the birth mother can change her mind prior to signing legal documents for relinquishment.

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

- Yes. With traditional relinquishment, the birth mother can change her mind at any time up until a court of law rules on her petition for relinquishment of parental rights. With expedited relinquishment, she may change her mind prior to filing the legal paperwork with a court of law. Once a Final Order of Relinquishment has been signed by a court of law, a birth mother cannot change her mind in either case.

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

- Yes, a birth mother can choose the level of openness in her adoption plan; however, at this time, open adoption is not legally enforceable under Colorado law.

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

- Yes, a birth mother may surrender a newborn child to a fire fighter or hospital staff person within 72 hours of the child's birth.

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

- If both parents do not agree, there will be no adoption. If the birth father disagrees with a plan of adoption but has not responded properly to the court about the intent to terminate his parental rights, the court may override his objection. If the birth father has responded properly and objects, there will be no adoption unless the court finds that the birth father:
 - Cannot personally assume legal and physical custody of the child, taking into account the child's age, needs, and individual circumstances;
 - Is unfit;
 - Has not established a substantial, positive relationship with the child; or
 - Has not taken substantial parental responsibility for the child.
 - In considering termination, the court must give paramount consideration to the physical, mental, and emotional conditions and needs of the child.

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

- Yes.

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

- None. Birth grandparents have no legal rights regarding their child's decision to place his/her baby for adoption.

FATHER OF THE BABY: BIRTH FATHER RELATED

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

- He does not have to be notified of the birth. He DOES need to be notified of the adoption plan insofar as Colorado law requires him to receive legal notice of any hearing regarding relinquishment/termination of parental rights.

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

- Generally by the birth mother and/or the adoption agency with whom the birth mother is working.

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

- Yes, if included by the birth mother in the adoption plan and his parental rights have not been terminated by a court of law.

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

- He will receive the same required legal notices of proceedings as the legal father.

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

- The husband/legal father is entitled to legal notice of proceedings whether the child is biologically his or not.

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

- Legal notice of proceedings is given to the unknown birth father by publication in a newspaper.

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

- An adoption cannot proceed if legal notice of proceedings cannot be given to the biological and/or presumed legal father by personal service or publication. The security of an adoption plan depends on a proper relinquishment/termination proceeding.

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

- Yes.

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

- Yes

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

- Yes.

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

- Yes. With traditional relinquishment, the birth father can change his mind at any time up until a court of law rules on his petition for relinquishment of parental rights. With expedited relinquishment, he may change his mind prior to filing the legal paperwork with a court of law. Once a Final Order of Relinquishment or Termination has been signed by a court of law, a birth father cannot change his mind in either case.

12. Can a child born to undocumented alien parents be placed for adoption?

- Yes.

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

- None. Birth grandparents have no legal rights regarding their child's decision to place his/her baby for adoption.

ADOPTIVE PARENT RELATED

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

- In Colorado, you must be at least 21 years of age to be eligible to adopt. You may adopt as a married couple or as a single person. A home study must be completed by a licensed child placement agency or the county Department of Human Services. Adoptive parents may be selected by birth parents.

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

- The birth parents are required to provide social and medical background history to the agency they are working with. This agency, in turn, shares the social and medical history that is applicable to the child with the prospective adoptive family.

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

- A home study report is completed on every potential adoptive family that includes a series of interviews, reference letters, criminal history background and child abuse & neglect registry screening. At the time of the adoption hearing, the court makes a final determination on recommendation and reports provided by a licensed child placement agency and/or the county Department of Human Services.

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

- Yes.

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

- Yes. Open adoption is not legally enforceable in Colorado and any agreements for ongoing contact must be made with consideration for the best interest of the child.

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

- In an open adoption, hopefully communication is ongoing. If the adoption is not open or contact has been lost, an adoptee, at age 21, has the legal right to open his or her own adoption records by requesting a court order from the court that declared the adoption final.

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

- Legally no information is required to be passed to the birth parents; however, in more open relationships, the birth parents may receive the adoptive family profile, may meet the adoptive family face-to-face, and may personally know the adoptive family.

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

- An adoptive placement is supervised by a licensed child placement agency or the county Department of Human Services from the date of placement until the adoption is finalized.

9. When is the adoption final?

- A hearing to finalize an adoption occurs no sooner than 6 months following the placement of the child.