

# What Birth Parents Should Know about Adoption Process

**Q: Do the birth parents choose the adoptive couple for their child?**

**A:** Yes. Birth parents may choose the adoptive parent(s), or ask the attorney or agency handling the adoption to assist them.

**Q: What happens if the birth father opposes the adoption?**

**A:** The birth father first must register with the Ohio Putative Father Registry that is maintained by the Ohio Department of Job and Family Services anytime during the pregnancy and up to 30 days after the birth of the child. Also, he must file a formal objection to the adoption in court and be prepared to offer an alternative parenting plan. The birth father should hire an attorney to represent him.

**Q: What if the grandparents (parents of a birth parent) oppose the adoption?**

**A:** The child's grandparents cannot prevent a birth parent from following through with an adoption plan, even if the birth parent is a minor.

**Q: Do a minor birth parent's parents have to sign papers in order for the birth parent to place the child for adoption?**

**A:** No. However, some courts may require parental consent as a policy if the birth parent is 12 years old or younger. Otherwise, the consent of a minor in adoption cases is treated as though it were made by an adult under Ohio law.

**Q: Will the birth parent have to go to court to sign adoption placement papers?**

**A:** Possibly. If the adoption is being handled by a private attorney, the papers must be signed in the presence of a probate court judge or magistrate. Because the court understands that adoption can be a very traumatic experience especially after having given birth, judges and magistrates handle the situation and questioning with empathy and compassion. On a rare occasion, the judge or magistrate will go to the hospital. Otherwise, the court will wait until the birth parent is discharged from the hospital. The birth parent will have an adoption attorney who can explain birth parents' rights, and the probate court judge or magistrate can also provide explanations. With agency placements, the signing of adoption papers generally takes place at the agency office, but may take place in probate court as an extra precaution. Because adoption is such an important and permanent decision, it is highly desirable for an adoption attorney to be involved when the birth parents sign the adoption papers, regardless of where the papers are signed. If the birth parents are working through an adoption agency, they should be aware that the agency's attorney represents the agency. It is wise for birth parents to consult with an attorney who can represent them and review the papers before they are signed.

**Q: If the birth parent goes to court, when will this take place?**

**A:** A birth parent goes to court to sign the papers no sooner than 72 hours after the birth of the child and after having met with a social worker or assessor. If it's an agency adoption, the birth

parent may sign the papers at the agency office. It may be more prudent, however, to go through the court where a judge or magistrate is available to answer any legal questions the birth parent may have before the papers are signed.

**Q: Once a birth parent signs the adoption papers, can she change her mind?**

**A:** A birth parent can try to withdraw consent to the adoption before the "interlocutory order" (usually 30-45 days after the child is placed in the adoptive home) or before the final adoption decree goes into effect, which is six months after placement. To exercise this right to withdraw consent, a birth parent must present clear and convincing evidence that the "best interests of the child" have changed. A birth parent may also contest the adoption within one year after the final decree, if the birth parent can show that the adoption placement was based on "gross error or fraud." However, attempts to withdraw consent or to contest an adoption are almost never successful.

**Q: Will the birth mother be able to see the baby in the hospital and/or visit with the baby elsewhere before signing the adoption papers?**

**A:** Yes. The birth mother may see her baby as much as she wishes while the baby is in the hospital. She may also visit the child, wherever the child is, as much as she wishes before signing the papers.

**Q: Are the birth father, grandparents, etc., allowed to see the baby?**

**A:** Yes, but only if the birth mother wishes. Before the papers are signed, only the mother has legal rights, not the father.

**Q: Can a birth parent name the baby, and will the adoptive parents keep that name?**

**A:** A birth parent may name the baby on the original birth certificate, and a birth parent has a right to receive a copy of the original birth certificate. However, the adoptive parents are not required to keep the same name. The birth mother may allow the birth father to sign the original birth certificate and participate in naming the child.

**Q: May a birth parent have a picture of her baby?**

**A:** Yes. The birth parent may take pictures or order the hospital portraits. Also, adoptive parents are encouraged to provide status letters and photos to birth parents on a regular basis. However, Ohio law cannot force them to do so.

**Q: What may a birth parent send with the child (gifts, letters, books, etc.) and can the birth parent have the assurance that the child will receive these items?**

**A:** Birth parents may pass such items to the adoptive couple through the adoption attorney or agency, although they cannot force adoptive parents to pass them along to the child. The birth parents may put together a scrap book with birth family pictures to pass on to the child.

**Q: How long does it take to have an adoption placement completed after the child's birth?**

**A:** A legal placement of the child cannot take place until 72 hours after the birth of the child. The placement hearing usually takes 30 to 45 minutes.

**Q: What if the adoptive parents are from one state, but the birth parents are from**

**another state?**

**A:** Adoption attorneys as well as adoption agencies must obtain proper approval from the Interstate Compact for the Placement of Children. Make sure your attorney is skilled in interstate adoptions. Check with your local bar association for a referral, and ask the attorney about the number and frequency of the interstate adoptions he or she has handled.

**Q: Who pays for the birth parent's medical costs?**

**A:** All medical costs are completely covered by the adoptive parents whether through an agency or a private attorney. The birth mother's or adoptive parents' insurance may be used if available.

**Q: What expenses are allowed to be paid by the adoptive parents?**

**A:** Under Ohio law, the following expenses can be paid: medical expenses; counseling; attorney fees; and court costs. In addition, Ohio law now allows living expenses up to \$3,000 during the pregnancy and up to 60 days following the birth to be paid, and assistance with housing arrangements can be provided if necessary. These expenses can be paid only through the attorney handling the adoption or through an adoption agency's office. Gifts and/or incentives are illegal and cannot be provided.

**Q: What should birth parents know when working with a private adoption agency?**

**A:** Birth parents who choose to work with a private adoption agency should understand that private agencies take the birth parents' consent and permanent surrender of the child outside of court. Usually, the surrender takes place at the agency office, and often no attorneys are present. If no one is representing the birth parents or the adoptive parents, and no judge is overseeing the adoption process, problems may occur and the adoption may be overturned. To reduce this risk when working through a private agency, birth parents should take care to choose the agency wisely and make sure they have attorney representation.

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*Law You Can Use is a weekly consumer legal information column provided by the Ohio State Bar Association. This article was prepared by Columbus attorney Thomas Taneff, who concentrates on adoption and probate law and has served on the Ohio Adoption Commission.*

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