



## What Birth Parents Should Know about Adoption Process

**Q: Do the birth parents choose the adoptive parent(s) 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.

maintained by the Ohio Department of Public and Family Services any time during the pregnancy and up to 15 days after the birth of the child. Also, he must file a formal written objection to the adoption in court and be prepared to offer an alternative parenting plan. The birth father should hire an adoption litigation 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, under Ohio law the consent of a minor in adoption cases is treated as though it were made by an adult.

**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 should always have an adoption attorney who can provide representation and 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 strongly advisable for an adoption attorney to represent the birth parents during the signing of 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 and not the birth parent. It is wise for birth parents to have a separate and independent attorney who can represent them and review the papers *before* the signing.

**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 meeting with a certified social worker/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. Either way, the birth parent is strongly

birth parent may have before the papers are signed. Either way, the birth parent is strongly advised to have a separate and independent attorney.

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

**A:** A birth parent may 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 six months 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. So, once a birth parent signs away rights, the birth parent should consider this a final and permanent decision.

**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. After the birth mother signs away her rights, legal custody of the child belongs to the prospective adoptive parents or agency, if it's an agency adoption.

**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. In some cases, the birth parent works with the adoptive parent and together may choose to give the baby the same first and middle name.

**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 if they have all agreed to an open adoption. 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 or their family may put together a scrap book with birth family pictures and a diary to pass on to the child. This could be the single most important thing a birth parent does because, as time goes by, memories may fade and be replaced by myth, mystery and misinformation. Usually, the more information the child and adoptive family has, the better.

**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 specifically skilled in interstate adoptions. 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 and/or legal costs?**

**A:** All medical and/or legal 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, to cover medical costs.

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

**A:** Under Ohio law, a birth mother's living expenses connected with a child's permanent surrender, placement or adoption are allowed. The living expenses cannot exceed \$3,000 and must be incurred during pregnancy and up to 60 days after the child is born. These expenses are limited to rent, mortgage payments, utilities, products or services required for the birth mother's or the child's sustenance or safety, including food, household goods, personal care items and the costs of transportation to and from work or school.

Ohio law (*Ohio Revised Code*, Section 3107.055) now requires a "reasonable and good faith effort" to directly pay the service or product provider for the birth mother's expenses, and only an attorney or adoption agency is permitted to make such payments on the adoptive parents' behalf. Previously, the law allowed adoptive parents to make payments directly to the birth mother for her expenses.

**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 choose the agency wisely and make sure they have separate and independent legal representation.

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*This "Law You Can Use" consumer legal information column provided by the Ohio State Bar Association. It 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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