

## Frequently Asked Questions About Adoption In American Samoa

### *MOTHER OF THE BABY: BIRTH MOTHER RELATED*

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

Not addressed in statutes.

**2. Can the birth mother choose the adoptive parents?**

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

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

**Birth Parent Expenses Allowed**

**Statute: § 45.0430(a)**

Attorney's fees.

Charges and fees as approved by the court.

**Birth Parent Expenses Not Allowed**

**Statute:**

Not addressed in statutes reviewed.

**Allowable Payments for Arranging Adoption**

**Statute: § 45.0430(a)**

No person may offer any money or other consideration in connection with an adoption with the exception of attorney's fees and court fees.

**Allowable Payments for Relinquishing Child**

**Statute: § 45.0430(a)**

No person may charge or accept money in connection with an adoption.

**Allowable Fees Charged by Department/Agency**

**Statute: § 45.0430(a)**

Charges and fees as may be approved by the court are allowed.

**Accounting of Expenses Required by Court**

**Statute: § 45.0420(d)**

A statement of any fee charged relative to the adoption is submitted to the court with the petition

and states that no additional fees are charged.

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

**Who Must Consent to an Adoption**

**Statute: §§ 45.0412(a); 45.0414(a)**

- The parent(s)
- A guardian appointed by the court
- The department of health or a child-placing agency

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

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

Yes.

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

**Revocation of Consent**

**Statute: § 45.0431**

- The final decree of adoption may not be attacked for any procedural defect after 2 years.
- There is no specific provision for revocation of consent.

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

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

Not addressed in statutes.

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

**Who Must Consent to an Adoption**

**Statute: §§ 45.0412(a); 45.0414(a)**

- The parent(s)
- A guardian appointed by the court

- The department of health or a child-placing agency

**When Parental Consent is not Needed**

**Statute: § 45.0401**

A court has terminated the parents' rights upon determination that the child has been neglected.

***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?**

**Who Must Consent to an Adoption**

**Statute: §§ 45.0412(a); 45.0414(a)**

- The parent(s)
- A guardian appointed by the court
- The department of health or a child-placing agency

**When Parental Consent is not Needed**

**Statute: § 45.0401**

A court has terminated the parents' rights upon determination that the child has been neglected.

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

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

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

**5. What happens if the husband (legal father) is not the biological father?**

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

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

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

**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)?**

### **Who Must Consent to an Adoption**

**Statute: §§ 45.0412(a); 45.0414(a)**

- The parent(s)
- A guardian appointed by the court
- The department of health or a child-placing agency

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

### **Revocation of Consent**

**Statute: § 45.0431**

- The final decree of adoption may not be attacked for any procedural defect after 2 years.
- There is no specific provision for revocation of consent.

## ***ADOPTIVE PARENT RELATED***

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

#### **Who May Adopt**

**Statute: § 45.0411**

- Any person age 21 or older
- A minor who petitions the court for approval to adopt

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

#### **Agency or Person Gathering Information or Preparing Report**

**Statute: § 45.0414**

- Department of Health
- Child placement agency

#### **Contents of Report About Person to be Adopted**

**Statute: § 45.0414**

- Physical and mental condition of the adopted person
- Adopted person's family background
- Adopted person's attitude toward adoption
- Length of time the child has been in the care and custody of the petitioner

#### **Contents of Report About Birth Parents**

**Statute: § 45.0414**

- Names of birth parents
- Reasons for terminating parental rights

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

**Contents of Report About Adoptive Parents**  
**Statute: § 45.0414**

- Suitability
- Physical and mental health
- Emotional stability
- Moral integrity
- Ability to promote welfare of the adopted person

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

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

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

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

**Agency or Person Gathering Information or Preparing Report**  
**Statute: § 45.0414**

- Department of Health
- Child placement agency

**Contents of Report About Person to be Adopted**  
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**Contents of Report About Birth Parents**

**Statute: § 45.0414**

- Names of birth parents
- Reasons for terminating parental rights

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

**9. When is the adoption final?**

## ***COURT SPECIFIC PROCEDURES***

**1. Who initiates the adoption process?**

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

**3. When do the birth parents actually sign the legal documents for adoption?**

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

**Who Must Consent to an Adoption**

**Statute: §§ 45.0412(a); 45.0414(a)**

- The parent(s)
- A guardian appointed by the court
- The department of health or a child-placing agency

**When Parental Consent is not Needed**

**Statute: § 45.0401**

A court has terminated the parents' rights upon determination that the child has been neglected.

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

**Who Must Consent to an Adoption**

**Statute: §§ 45.0412(a); 45.0414(a)**

- The parent(s)
- A guardian appointed by the court
- The department of health or a child-placing agency

**When Parental Consent is not Needed**

**Statute: § 45.0401**

A court has terminated the parents' rights upon determination that the child has been neglected.

***SPECIAL ISSUES***

**1. Can a Native American child be placed for adoption without the approval of the Tribe?**

**2. Can children be placed for adoption with parents of a different race, color or national origin?**

**3. Can a child born with birth anomalies or organic impairments be placed for adoption?**

**Who May Be Adopted**

**Statute: § 45.0410**

- Any child under 18 years of age, legally available and present in the territory
- A person older than 18 but under 21, whose adoption is approved by the court

***CHILD WELFARE/SPECIAL NEEDS***

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

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

**3. Who can engage in the practice of adoption?**

***CHILD PROTECTION LAW***

- 1. Under what conditions must a health care professional refer a case of a pregnant child to the State's child protective services agency?**

***MINOR CONSENT LAWS***

**1. What medical procedures may a pregnant minor consent to without parental, legal guardian, or court approval?**

**2. What medical procedures require parental, legal guardian, or court approval, permission or agreement?**

**3. Can a minor consent to medical treatment for her/his child?**

***COMPETENCY LAWS***

**1. Who determines if a patient/client, minor or adult, is competent to consent to medical treatment and decision-making?**

**2. What is the process for making a competency determination?**

***NOTIFICATION/REPORTING LAWS REGARDING ADULTS***

- 1. What events involving adults require the health care professional to report to law enforcement or an administrative agency?**