

Frequently Asked Questions About Adoption in Hawaii

WARNING: Adoption is a serious legal proceeding that involves the termination of the legal parental rights of birth parents and the assumption of legal parental responsibilities by the adoptive parents. Individuals who are contemplating an adoption should consult legal and child welfare professionals before proceeding. The information contained in this document is only a general summary of Hawaii's adoption policies and procedures. It is not intended to substitute for legal advice about any particular individual or situation.

BIRTH MOTHER RELATED

- 1. When can the mother of the baby start the adoption process?**
 - At anytime after she is pregnant.

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

- 3. Can the birth mother see and hold the baby after the birth?**
 - Yes, there is no specific law addressing this. However, the adoption is not final until the birth mother signs the consents for adoption and the Decree of Adoption has been signed by the Judge filed by the court.

- 4. What expenses can the adoptive parents pay to or on behalf of the birth mother and child?**
 - No law on the Hawaii books, but standard is: Up to two months post partum for reasonable expenses connected to the pregnancy and birth of the child. Up to three months or more, if agreeable to adoptive parents, sometimes 4-5 months pre-birth if unable to work, etc. and should provide receipts or explanation. Counseling pre and post birth, reasonable number of sessions.

- 5. Can a minor mother independently sign legal documents placing the child for adoption (consent to the adoption)?**
 - Yes, consent is binding notwithstanding that the birth mother is under sixteen years of age. Recommendation that minor's parents/guardians endorse the adoption consent.

- 6. When does the birth mother actually sign the legal documents required for the adoption?**
 - Anytime following the birth, assuming she is able to give informed consent.
- 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?**
 - In Hawaii there are no specific rules regarding this. Parents may change their mind after signing the consents and before finalization but it does not necessarily mean the court will approve the revocation, particularly if the Adoption Decree was filed.
- 9. Can the birth mother communicate with the adoptive parents and child after the adoption?**
 - Only if the adoptive parents are willing and they can change their minds at anytime. There is no legally binding “open” adoption. All the agreements that are made between the birth parent(s) and adoptive parent(s) are not legally binding, but are based on “good faith” and “trust”, and also in the best interests of the child
- 10. Can a birth mother anonymously surrender a newborn child?**
 - No.
- 11. What happens if the birth parents do not agree that adoption should be the plan?**
 - Consent, voluntary release or termination of parental rights must occur for both parents before an adoption can be finalized. Therefore, an adoption would not occur until an agreement was made.

BIRTH FATHER RELATED

- 1. Does the father of the baby have to be notified of the birth and the mother’s adoption plan?**
 - Yes, the courts must provide legal notice to putative fathers prior to termination of parental rights and adoption finalization.

- 2. How is the father of the baby notified of the mother's adoption plan?**
 - The father, either legal or putative is notified via personal service or publication.

- 3. Can the father of the baby choose the adoptive parents?**
 - Yes, in a private adoption, the father can choose the adoptive parents, though usually in concert with the birth mother's choice.

- 4. What happens if the biological father of the baby is not the baby's legal father?**
 - Both the legal and birth father must consent, in such cases.

- 5. What happens if the husband (legal father) is not the biological father?**
 - Same as #4 above.

- 6. What happens if the mother does not know who the biological father is?**
 - Birth mother must represent why she doesn't know who the birth father is, either through an affidavit and/or court appearance.

- 7. What happens if the mother refuses to give the name of the biological father?**
 - She will likely have to go to court to represent why she refuses to give his name.

- 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, nothing is legal and or binding until the consents/voluntary releases are signed.

- 10. Can the birth father communicate with the adoptive parents and child after the adoption?**
 - Only if the adoptive parents are willing and they can change their minds at anytime. There is no legally binding "open" adoption. All the agreements that are made between the birth parent(s) and adoptive parent(s) are not legally binding, but are based on "good faith" and "trust", and also in the best interests of the child

- 11. Can a minor father independently sign legal documents placing the child for adoption (consent to the adoption)?**
 - Yes.
- 12. Can the birth father change his mind after signing the legal consents to the adoption?**
 - Yes, but it will be up to him to make sure that the attorneys\agency does not file the signed consent forms. He will need to retain his own attorney to represent him in the court action.
- 13. Can a Birth father anonymously surrender a newborn child?**
 - No
- 14. What happens if the birth parents do not agree that adoption should be the option?**
 - Consent, voluntary release or termination of parental rights must occur for both parents before an adoption can be finalized. Therefore, an adoption would not occur until an agreement was made.

ADOPTIVE PARENT RELATED

- 1. Who can be an adoptive parent and who selects them?**
 - In interstate adoptions (ICPC) a licensed adoption agency must select a person or couple who has been assessed as suitable and who has passed state clearances. In intrastate adoptions, any individual can petition the courts to adopt. In private adoptions, the adoptive parents are selected by the birth parent(s). In the State of Hawaii, any proper adult person, not married; any person married to the legal father or mother of a minor child (stepparent); or a husband and wife, jointly. (Hawaii Revised Statutes).
- 2. What information about the birth parents and the child must be provided to the adoptive parents?**
 - 578-14.5 The Hawaii Department of Health “Medical Information Form”
- 3. What procedures are followed to ensure that adoptive parents are fit to adopt a child?**
 - See question #1 above.
- 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.
- 6. Under what circumstances can an adopted child communicate with the birth parents?**
- In private adoptions, the adoptee or the adoptive parents or the birth parents can check the court records (as long as no affidavit is on file preventing release of the identifying information) once the child reaches the age of 18 years old. In Hawaii, contact the Family Court Adoption Unit on the procedures to open and inspect the court records, for when the child is under the age of 18 years old.
- 7. What information must the birth parents provide to the adoptive parents?**
- The adoption agency/attorney must make reasonable efforts to obtain non-identifying information which may include: health and genetic family history, any medical, psychological or psychiatric evaluations available at the time of adoption. The Hawaii Department of Health Medical Information Form.
- 8. Who supervises the adoptive placement and for how long?**
- The State of Hawaii recommends two (2) post placement visits/reports within the first year of placement but does not have legal requirements for such. Inter-state (ICPC) adoptions require two (2) post placement visits/reports within the first year.
- 9. When is the adoption final?**
- When the court grants the adoption petition and enters a final decree of adoption.

COURT SPECIFIC PROCEDURES

- 1. Who initiates the adoption process?**
- Either the birth parents or the prospective adoptive parents can initiate adoption proceeding through an adoption agency or an attorney.
- 2. When are the legal adoption papers filed with the court?**
- Any time immediately following the birth and placement.
- 3. When do the birth parents actually sign the legal documents for adoption?**

- Birth father can sign anytime prior to the birth, birth mother can sign any time after birth, or as soon as she can give informed consent (is mentally stable). Birth father's consent is valid and binding once the child is born and placed for adoption.

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

- An adoption cannot be finalized without the consent of the parents, unless their rights have been terminated by a court.

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

- Yes, if the birth parents' parental rights have been terminated judicially by a court of competent jurisdiction.

MISCELLANEOUS QUESTIONS

1. What is the process for accessing adoption files, including identifying information?

- In Hawaii the birth parents and the adoptee can access one another's contact information through the court records when the child turns 18, if parties desire to be contacted. *Refer to HRS 578-15 and 16*
- Adopted children age 18 or older and their birth parents can ask the Family Court to reveal identity and contact information unless either the child or the birth parents have filed an affidavit requesting confidentiality within ninety (90) days before the child's 18th birthday. The affidavit is good for ten (10) years after which the affidavit can be filed again for the rest of the filer's life.

2. What is considered a kinship adoption? How is kinship adoption handled? Are home studies necessary? Who can conduct them? Is there a fee?

- Culturally in Hawaii, many more relatives, and even non-biological relatives, may be considered kin by the parents. There is no specific state adoption law that defines the definition of kin or a relative.

3. Are contracts or binding agreements between birth and adoptive families regarding openness allowed?

- Birth parents have no legal rights to contact with the child after placement. In open adoption contact is continued due to the trusting relationship all parties have developed.