

Frequently Asked Questions About Adoption in Oregon

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 Oregon 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 any time after she is pregnant. ORS 418.270

- 2. Can the birthmother choose the adoptive parents?**
 - Yes. The birthmother chooses the adoptive family and the agency honors her decision. Rarely, the birthmother declines to choose, in which case the agency makes the selection. All adoptive families are required to have completed a home study process.
 - No applicable Oregon statute. This is practice.
 - Agencies receiving Federal funds must not make placement decisions based on race, ethnicity, or culture of the child or adoptive parents. (see Multi-Ethnic Placement Act) Further, a Native American child must be referred to the Tribe for their decision on placement suitability.

- 3. Can the birthmother see and hold the baby after birth?**
 - Yes. A birthparent counselor will talk with her about she would like to happen during her hospital stay.
 - There is not applicable Oregon statute. This is practice.

- 4. What expenses can the adoptive parents pay to or on behalf of the birthmother and child?**
 - Expenses must be directly related to the adoption. Reasonable legal, medical, living, travel, and counseling expenses are allowed. Birthparents are also entitled to three adoption-related counseling sessions prior to the adoption and three counseling sessions after the adoption. ORS 109.311, ORS 109.346

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

- Birthparents who have not yet reached the age of 18 are considered emancipated for the purposes of the adoption, so that no other individual's consent is required. ORS 109.112
- 6. When does the birthmother actually sign the legal documents required for the adoption?**
- Any time after the baby is born. Typically, it is best practice to wait 24-48 hours after the baby is born or until birthmother is deemed "mentally competent" to sign relinquishment papers.
- 7. Can the birthmother change her mind before signing the legal consents to the adoption?**
- Yes. Nothing is legal until she has signed the Surrender, Release and Consent to Adoption and Certificate of Irrevocability, and the child is placed in the physical custody of the adoptive family. ORS 109.312
- 8. Can the birthmother change her mind after signing the legal consents to the adoption?**
- In an agency adoption, once a birthmother has signed the Surrender, Release and Consent to Adoption and Certificate of Irrevocability, and the child is placed in the physical custody of the adoptive family, fraud or duress must be proven in order to revoke consent. ORS 109.312
- 9. Can the birthmother communicate with the adoptive parents and child after the adoption?**
- Yes, if both the birthmother and adoptive family have agreed upon terms of an Open Adoption Agreement.
 - Oregon is one of only a few states using legally enforceable Open Adoption Agreements, which are incorporated into the adoption decree. The adoptive parents have decision-making authority over contact while the adoptive child is a minor, but contact agreements can be enforced by a civil action if the terms of the agreement are not met. Failure to comply with the terms of the agreement is not grounds to set aside a Final Judgment of Adoption or revoke a birthparents' consent. ORS 109.305
- 10. Can a birthmother anonymously surrender a newborn child?**
- A birth parent may anonymously surrender a child to an authorized facility without facing criminal charges for child abandonment. Authorized facilities include: hospitals, birthing centers, doctor's offices, sheriff's stations, police stations, or fire stations. The child must be 30 days old or younger and there must be no evidence of abuse. The authorized facility must then contact DHS within 24 hours to take custody of the child. It is vital that the authorized facility not provide any identifying information about the birth parents, and report the child as "baby Doe". The birth parent will be given a packet of information, including a medical history form that they may complete confidentially. The packet also contains information about what steps the state

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

- In Oregon, an unmarried birthmother may proceed with an adoption plan without the consent of a birthfather if he has not established paternity or asserted his rights in filiation proceedings. In this case the birthmother will sign a Putative Father Affidavit. ORS 109.070, ORS 109.092

BIRTH FATHER RELATED

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

- A putative father (father who has not established paternity) is entitled to notice of adoption proceedings if the child resided with the putative father at any time during the 60 days immediately preceding the adoptive placement or at any time since the child's birth if the child is less than 60 days old; the putative father repeatedly has contributed or tried to contribute to the support of the child; has initiated filiation proceedings prior to the adoptive placement. ORS 109.096

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

- It is common practice to try to include the birthfather in adoption planning whenever possible. He is usually contacted by a birthparent clinician, with the consent of the birthmother.
- If a putative father is entitled to notice, Oregon law requires citation to be served in person if he is in the state. If he is out of the state the citation is to be published or served. ORS 109.330

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

- If the birthfather is a part of the adoption planning process he may work with the birthmother in selecting an adoptive family. All adoptive families are required to have completed a home study process.

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

- If a birthmother has named the biological father, but he has not established himself as a legal father, it is typical to attempt to notify him that he has been named as the father. If there is no response and filiation proceedings are not initiated prior to the placement of the child into an adoptive home, the adoption can proceed without his involvement. ORS 109.092

- If the birthfather chooses to participate in the adoption planning, even if he's not the legal father, he may consent to the adoption by signing the Surrender, Release and Consent to Adoption and Certificate of Irrevocability. He may sign these documents prior to the birth of the child. ORS 109.116
- 5. What happens if the husband (legal father) is not the biological father?**
- If the birthmother and birthfather are married at the time of conception or birth of the child, it is presumed that he is the birthfather and he must sign legal papers before proceeding with an adoption. However, if the birthparents did not live together at the time of conception or birth, and has not met any other criteria for being the legal father, an adoption can proceed without his consent. In this case, the birthmother would complete a Husband Not Father Affidavit. ORS 109.326
- 6. What happens if the mother does not know who the biological father is?**
- In Oregon, an unmarried birthmother may proceed with an adoption plan without the consent of a birthfather if he has not established paternity or asserted his rights in filiation proceedings. In this case the birthmother will sign a Putative Father Affidavit. ORS 109.070, ORS 109.092
- 7. What happens if the mother refuses to give the name of the biological father?**
- See #6.
- 8. Can the biological father of the baby give notice that he intends to plan for the baby before the baby is born?**
- A putative father who desires to establish paternity may file a filiation proceeding, giving notice to the State Registrar of the Center for Health Statistics that he has done so. He may also file a voluntary acknowledgement of paternity directly with the State Registrar of the Center for Health Statistics. Either filing must be done prior to the placement of the child for adoption.
- 9. Can the birthfather change his mind before signing the legal consents to the adoption?**
- Yes, nothing is legal until he has signed the Surrender, Release and Consent to Adoption and Certificate of Irrevocability, and the child is placed in the physical custody of the adoptive family. However, if the birthfather is a putative father the adoption may proceed, as noted above.
- 10. Can the birth father communicate with the adoptive parents and child after the adoption?**
- If the birthfather signs relinquishment papers, he may also enter into an Open Adoption Agreement with the adoptive family. He may be listed on the same

- 11. Can a minor father independently sign legal documents placing the child for adoption (consent to the adoption)?**
 - Birthparents who have not yet reached the age of 18 are considered emancipated for the purposes of the adoption, so that no other individual's consent is required. ORS 109.112

- 12. Can the birthfather change his mind after signing the legal consents to the adoption?**
 - In an agency adoption, once birthparents have signed the Surrender, Release and Consent to Adoption and Certificate of Irrevocability, and the child is placed in the physical custody of the adoptive family, fraud or duress must be proven in order to revoke consent. ORS 109.312

- 13. Can a birth father anonymously surrender a newborn child?**
 - Yes, according to Oregon's Safe Haven Law, either birth parent can anonymously surrender an infant 30 days old or younger to a staff member at a hospital or a fire station.

- 14. What happens if the birth parents do not agree that adoption should be the plan?**
 - If the birthfather is the legal father, his signature is required for the adoption to proceed. If the birthfather is the putative father, he must establish paternity (see Question #8), if he decides he wants to parent the child and does not support an adoption plan. It is best practice to involve the birthfather in the decision making process if he is in any way involved with the birthmother (e.g. is living with the birthmother, is providing birthmother financial or emotional support, is aware of the pregnancy and claims he would like to be involved in the planning).

ADOPTIVE PARENT RELATED

- 1. Who can be an adoptive parent and who selects them?**
 - Any person 21-years or older, either single or married, may adopt after receiving an approved home study. ORS 418.270

 - The use of adoption facilitators is illegal in Oregon. Physicians, nurse, midwives, etc. are not allowed to engage in child-placing work. ORS 418.300

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

- Before an adoption can be finalized, a medical and social history must be provided to the court. Legally, this must be provided to the adoptive family at the time of finalization. It is practice to provide this information to a family prior to placement. ORS 109.342
- 3. What procedures are followed to ensure that adoptive parents are fit to adopt a child?**
- A home study is completed by a licensed adoption agency. The agency usually provides additional training and support for the family. Oregon Administrative Rules outline minimum standards for adoptive homes. ORS 109.304, ORS 109.306
- 4. Can the potential adoptive parents have the child placed with them prior to the actual court procedures?**
- The child can be placed with an adoptive family once the birthparent(s) have signed the Surrender, Release and Consent to Adopt and Certificate of Irrevocability.
- 5. Can the adoptive parents prevent the birthparents from communicating with the child after the adoption?**
- Adoptive parents have total decision-making authority over contact while the adopted child is a minor. However, if the birthparents and adoptive family have agreed on an Open Adoption Agreement prior to the adoption, that agreement is legally enforceable in Oregon by civil action. Failure to comply with terms of the agreement is not grounds to revoke a birthparent's consent or revoke an adoption. ORS 109.305
- 6. Under what circumstances can an adopted child communicate with the birthparents?**
- See #5.
 - Additionally, Oregon law provides ways that an adult adoptee can obtain information and search for birthparents and siblings. Some services are available at age 18 and other services are available at the age of 21. ORS 109.425 – 109.507
- 7. What information must the birthparents provide to the adoptive parents?**
- The attorney or agency worker must provide medical history of the child and biological parents as complete as possible under the given circumstances. ORS 109.342
- 8. Who supervises the adoptive placement and for how long?**
- The placing agency provides post-placement supervision and prepares a final report to the Court. The agency is responsible to supervise until the adoption becomes final in court. ORS 418.280
- 9. When is the adoption final?**

- An adoption is final after all necessary documents are filed in court and the court enters a final Judgment and Decree of Adoption. ORS 109.350

COURT SPECIFIC PROCEDURES

1. Who initiates the adoption process?

- Once the birthparent(s) sign relinquishment papers and the child is placed with the adoptive family, an attorney hired by the adoptive family files a signed petition with the circuit court to begin the adoption process.

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

- It is best practice for the adoption petition to be filed in the circuit court immediately (within days) of placement.

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

- The birthmother legally may sign papers after the birth of the child. It is best practice to wait 24-48 hours after delivery or when the birthmother is deemed “mentally competent” to sign. A putative father may sign papers before or after the baby is born. A legal father must wait until after the baby is born.

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

- See Question #14—Birth Father Related

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

- Not in the case of a private attorney or agency adoption (also see information on Putative Fathers). DHS adoptions have a different set of criteria – birthparent(s) rights are terminated prior to a child being released for adoption.

MISCELLANEOUS QUESTIONS

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

- Oregon law provides certain ways that an adult adoptee can obtain information and search for birth parents and siblings. At age 18 an adult adoptee can obtain all non identifying information from the agency they were adopted through. At age 21 all adult adoptees can obtain a copy of their pre-adopt birth certificate from the vital records department. Additionally Oregon also has an adoption registry in which the adoptive parents (if adoptee is under 18), adoptee 18 or older and birth parents can register information. The registry is voluntary and nay information can be exchanged between the parties that are registered. ORS 109.425 to 109.507 address eligibility and procedure.

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

- In Oregon relatives as defined by the Oregon administrative rule can adopt utilizing a less intensive process. These adoptions would take place directly through the court.

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

- If both the birthparents and adoptive family have agreed upon terms of an Open Adoption Agreement.
- Oregon is one of only a few states using legally enforceable Open Adoption Agreements, which are incorporated into the adoption decree. The adoptive parents have decision-making authority over contact while the adoptive child is a minor, but contact agreements can be enforced by a civil action if the terms of the agreement are not met. Failure to comply with the terms of the agreement is not grounds to set aside a Final Judgment of Adoption or revoke a birthparents' consent.