

## Frequently Asked Questions About Adoption In Puerto Rico

### *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:**

There are no specific statutory provisions regarding payment of adoption related expenses.

##### **Birth Parent Expenses Not Allowed**

###### **Statute:**

Not addressed in statutes reviewed.

##### **Allowable Payments for Arranging Adoption**

###### **Statute: Tit. 33, § 4245**

It is unlawful for any person to give or receive money or goods in exchange for delivery of a minor for adoption.

##### **Allowable Payments for Relinquishing Child**

###### **Statute: Tit. 33, § 4245**

It is unlawful for any person to give or receive money or goods in exchange for delivery of a minor for adoption.

##### **Allowable Fees Charged by Department/Agency**

###### **Statute: Tit. 32, § 2699e(3)**

The petitioner shall pay a fee when a professional performs the adoption assessment.

The court will determine the fee.

##### **Accounting of Expenses Required by Court**

###### **Statute:**

The statutes do not require an accounting of expenses.

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

- ✓ Biological grandparents must give their consent to adoption before the court when the parents are unemancipated minors. The court shall appoint a public defender for unemancipated minor parents when biological grandparents are not available. **31 P.R. Laws Ann. § 535 (8) (1999)**
- ✓ Adoptee's father, mother or parents possessing patria potestas or adoptee's father or mother not possessing patria potestas due to a divorce must give their consent at moment of adoption. **31 P.R. Laws Ann. § 535 (3) (1999)**
- ✓ Father or mother who acknowledges minor to be his/her adopted child as of petition's filing date must give his/her consent to adoption before the court. **31 P.R. Laws Ann. § 535 (4) (1999)**

**Who May Place a Child for Adoption**  
**Statute: Tit. 31, § 535**

- The child's parent(s)
- The department
- Legal guardian
- The child's grandparents

**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: Tit. 32 § 2699q**

The adoption decree is voidable when parties entitled to notice have not been notified, when there are flaws or defects in the parental consents, or when there has been fraud.

**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?**

**How Consent Must Be Executed**

**Statute: Tit. 32 § 2699b**

Written consent of parents shall be attached to the adoption petition.

**When Parental Consent is not Needed**

**Statute: Tit. 31 § 634a**

The parent:

- Causes or permits substantial harm to the child
- Fails to fulfill parental duties
- Abandons or fails to support the child
- Fails to fulfill a service plan
- Commits any of the felonies listed in the statute

***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?**

Does State have a Putative Father Registry: No

**Registry/Paternity Requirements to Receive Notice**

**Statute: Tit. 32, §§ 2699c; 2699d; 2699g(h)**

- The biological parents are entitled to notice of adoption proceedings. If the whereabouts of a parent are unknown, or if the parent is outside of Puerto Rico, notice shall be published.
- Parents have 15 days from the date the notice is served or received to respond to the adoption petition.
- If the parents fail to attend the hearing for the first appearance, the court may decree the adoption without further summons or hearing.

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

See above.

**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)?**

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

**Revocation of Consent**

**Statute: Tit. 32 § 2699q**

The adoption decree is voidable when parties entitled to notice have not been notified, when there are flaws or defects in the parental consents, or when there has been fraud.

***ADOPTIVE PARENT RELATED***

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

**Who May Adopt**

**Statute: Tit. 31, §§ 531; 532**

The adopter must:

- Be a resident for at least 6 months
- Be of legal age
- Have legal capacity to act
- Be at least 14 years older than the adoptee

A person may not adopt if he is:

- Declared incompetent
- Incarcerated

**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: Tit. 32, § 2699e**

- Department of the Family
- Expert appointed by the court

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

**Statute: Tit. 32, § 2699e**

Social background

**Contents of Report About Birth Parents**

**Statute: Tit. 32, § 2699e**

Social background

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

**Investigation of Placement**

The Department of the Family is required to give court a report on expert social study conducted on adoption of each minor or disabled child. Report is required for petition to be processed by court. **32 P.R. Laws Ann. § 2699e (1999)**

Report shall contain the following:

- Social background of adopters, adoptee and adoptee's parents, including as well any other material fact to case. **32 P.R. Laws Ann. § 2699e (1)(a) (1999)**
- Whether
  - it is convenient to child's best interests to remain in petitioner's custody and under appropriate agency supervision or
  - whether it is best for adoption to proceed or not proceed. **32 P.R. Laws Ann. § 2699e (1)(b) (1999)**
- Report must be submitted within sixty (60) days from petition notice date. **32 P.R. Laws Ann. § 2699e (2) (1999)**

A person desiring to adopt a minor thru the Department must make his/her application thru Adoption Department branch corresponding to his/her place of residency. **8 P.R. Reg. §220.11755 (A) (2000)**

Social study must be completed within sixty (60) days of study application acceptance. **8 P.R. Reg. §220.11755 (B) (2000)**

Once social study is complete applicants will be notified if they were recommended to be adoptive parents or if they were not recommended to be adoptive parents. **8 P.R. Reg. §220.11755 (C) (2000)**

Social study is valid for one year. Study can be renewed for one year based on a written evaluation including a necessary document renewal. This can be done without completing a new application. **8 P.R. Reg. §220.11755 (B) (2000)**

Potential adopters responsibilities when minor is placed in their home prior to adoption being final:

- Potential adopters by assuming responsibility for minor receive all right that go with parenthood, less patrina protestad **8 P.R. Reg. §220.11757 (a) (2000)**
- Potential adopters must receive supervision visits by representative authorized by Department. **8 P.R. Reg. §220.11757 (b) (2000)**
- Potential adopters must return minor to Department so minor can be placed in another home or facility when they do not comply with the responsibilities of having minor placed with them or when minor's well being is affected. Failure to comply with notification from Department will result in the minor's removal and revocation of all covenants signed when minor was placed. **8 P.R. Reg. §220.11757 (C) (2000)**

Placement of minors in homes where adoption may eventually occur depends on minor's well-being and needs. A favorable social study does not guarantee or promise that Department will place minor in determined adoptive home. **8 P.R. Reg. §220.11758 (2000)**

Potential adopters who have applied for minor's placement with them and have had their application denied, have a right to appeal denial themselves or thru their representative. Appeal is in accordance with regulations governing Social Services Department established for adjudication processes. **8 P.R. Reg. §220.11759 (2000)**

**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: Tit. 32, § 2699e**

- Department of the Family

- Expert appointed by the court

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

**Statute: Tit. 32, § 2699e**

Social background

**Contents of Report About Birth Parents**

**Statute: Tit. 32, § 2699e**

Social background

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

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

Finality of Adoption Decree

Adoption decree shall be irrevocable. **32 P.R. Laws Ann. §2699p (1999)**

Adoption decree shall be revocable under the following circumstances:

- Parties who have a right to be notified under §2699-2699s of this title have not received adoption proceedings notification. **32 P.R. Laws Ann. §2699q (1999)**
- There are flaws or defects in biological father or mother's consent. **32 P.R. Laws Ann. §2699q (1999)**
- When fraud has been committed against the court. **32 P.R. Laws Ann. §2699q (1999)**

Any party adversely affected by adoption decree may file an appeal at the Puerto Rico Circuit Court of Appeals. **32 P.R. Laws Ann. §2699n (1999)**

Any course of judicial action sought concerning adoption decree void ability must be prosecuted before one year following adoption decree becoming binding and final. **32 P.R. Laws Ann. §2699r (1999)**

## ***COURT SPECIFIC PROCEDURES***

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

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

Adoption procedure must be completed expeditiously, flexibly and within one hundred and twenty days (120) of adoption petition being filed. **32 P.R. Laws Ann. §2699a (1999)**

Adopter(s) shall file adoption petition with Court of First Instance where adoptee resides. Court of First Instance Judge appointed by Presiding Judge, shall preside over adoption petition. **32 P.R. Laws Ann. § 2699b (1999)**

Court may review petition for authorization when adopter(s) or his/her legal council submits adoption petition. **32 P.R. Laws Ann. § 2699b (1) (1999)**

Adoption petition shall be submitted under oath. Adoption petition shall be submitted to the Part of Court of First Instance where adoptee resides. **32 P.R. Laws Ann. § 2699b (1) (1999)**

### **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?**

- ✓ Parental consent as required by 31 P.R. Laws Ann. § 535 (3) (1999) is not applicable when a parent individually or both parents have been legally deprived of their patrina potestas. **31 P.R. Laws Ann. § 535 (3)(a) (1999)**
- ✓ Parental consent as required by 31 P.R. Laws Ann. § 535 (3) (1999) is not applicable when adoptee meets two criteria: 1) adoptee has been emancipated either by a judicial decree or emancipated by adoptee's father, mother or parents with patrina potestas and 2) when adoptee also qualifies for an adoption. **31 P.R. Laws Ann. § 535 (3)(b) (1999)**
- ✓ Parental consent as required by 31 P.R. Laws Ann. § 535 (3) (1999) is not applicable when one of three conditions regarding father, mother or parents with patrina potentas is met: 1) he/she is disqualified by judicial decree, 2) his/her whereabouts is unknown or 3) he/she is declared absent from Puerto Rico's jurisdiction. **31 P.R. Laws Ann. § 535 (3)(c) (1999)**

### **5. Can the baby be placed for adoption without the consent of the birth mother**

**and/or birth father?**

**When Parental Consent is not Needed**

**Statute: Tit. 31 § 634a**

The parent:

- Causes or permits substantial harm to the child
- Fails to fulfill parental duties
- Abandons or fails to support the child
- Fails to fulfill a service plan
- Commits any of the felonies listed in the statute

***SPECIAL ISSUES***

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

ICWA must be followed.

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

***Open Adoption***

Department of the Family shall give priority when placing a child to a family who is culturally compatible with child and speaks the same language as child. **8 P.R. Laws Ann. § 549 (10) (1999)**

Discrimination in adoption procedure may not occur on the basis of race, color, age, origin, nationality or disability. **8 P.R. Reg. §220.11760 (2000)**

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

**Who May Be Adopted**

**Statute: Tit. 31, § 533**

- Nonemancipated minors and minors emancipated by judicial decree
- An unmarried emancipated minor or person of legal age may be adopted under circumstances specified in statute

***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?**

Grandparents may request to be heard during any proceeding for minor's protection. Court shall grant legitimacy to intervene when

- it is proven that grandparents have maintained or have attempted to maintain a relationship with minor and **8 P.R. Laws Ann. §443f (1999)**
- intervention is in accordance with purpose of this chapter to ensure best interests of minor. **8 P.R. Laws Ann. §443f (1999)**

Biological grandparents must give consent to adoption before the court when parents are unemancipated minors. Court shall appoint a public defender for unemancipated minor parents when biological grandparents are not available. **31 P.R. Laws Ann. § 535 (8) (1999)**

**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?**