

Frequently Asked Questions About Adoption In Guam

MOTHER OF THE BABY: BIRTH MOTHER RELATED

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

The mother can start the process at a time of her choosing.

2. Can the birth mother choose the adoptive parents?

Not addressed in state statutes reviewed.

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

Yes. A mother has all legal rights to the child until the adoption is final.

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 express provisions that pertain to the payment of adoption related expenses.

Accounting of Expenses Required by Court

Statute: Tit. 19, § 4221

The division shall report to the court on the compensation paid for placement of the child in its pre-adoptive investigation.

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: Tit. 19 § 4206

- Each parent of the child must consent.
- If there is no parent, the guardian shall consent.
- A minor parent's consent must be concurred by his or her parent or guardian.

Age When Consent of Adoptee is Considered or Required

Statute: Tit. 19 § 4206(c)

A child 12 years of age or older must consent to the adoption.

When Parental Consent is not Needed

Statute: Tit. 19 §§ 4206(b); 4207

- The parents' rights have been previously terminated.

- The court finds that a guardian is withholding consent arbitrarily.

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. 19 § 4208

- Withdrawal of consent is not permitted, except by petition to the court and a finding of the child's best interest.
- Consent becomes irrevocable upon entry of an Order of Adoption.

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

Yes, but she may be prevented from communicating directly with the child.

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?

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Grounds for Termination of Parental Rights

To better understand this issue and to view it across States, see the [Grounds for Termination of Parental Rights](#) ([Printable version - PDF 209KB](#)) publication.

Guam Code Ann. Tit. 19, § 4303 (WESTLAW through 2003 P.L. 26-152)

A petition may be filed by a parent either directly or through the Division. The parent-child relationship may be terminated with respect to the parent by whom or on whose behalf such petition has been filed, where the court finds that such termination is in the best interest of the parent and the child.

A petition for termination of the parent-child relationship with respect to a parent who is not the petitioner may be filed by a petitioner designated in Subsection (c). The petition may be granted where the court finds that one or more of the following conditions exists:

- That the parent has abandoned the child in that the parent has made no effort to maintain a parental relationship with such child;
- That the parent has substantially and continuously or repeatedly neglected the child;
- That the presumptive parent is not a natural parent of the child;
- That the parent is unable to discharge parental responsibilities because of mental illness or mental deficiency, and there are reasonable grounds to believe that such condition will continue for a prolonged indeterminate period.

The petition may be filed by the following:

- Either parent when termination of the parent-child relationship is sought with respect to the other parent;
- The guardian of the person or the legal custodian of the child or the person standing in loco parentis to the child;
- The Division;
- Any other person having a legitimate interest in the matter.

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?

Registry/Paternity Requirements to Receive Notice
Statute: Tit. 19, §§ 13306; 5119(e)

- Any legal parent, natural parent, or other persons who are to be parties to termination proceedings are entitled to notice.
- Such person must attend proceedings or rights will be terminated.
- If the mother's rights are to be terminated, the putative father, if known, is entitled to notice and an opportunity to be heard with respect to his relationship with child.

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

The name and residence of each natural parent and guardian or custodian of the child to be adopted. If unknown the name and residence of the natural parent is unknown, or if deceased, the petition shall so state. If unknown, there shall be annexed to the petition an affidavit of the petitioner or petitioners stating the extent of their inquiry and knowledge with respect thereto and the circumstances under which the child was received into their home. Such affidavit may be omitted if the child to be adopted was received by the petitioner or petitioners from an approved agency. (7 GCA Civil Procedures Appendix (8))

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?

The name and residence of each natural parent and guardian or custodian of the child to be adopted. If unknown the name and residence of the natural parent is unknown, or if deceased, the petition shall so state. If unknown, there shall be annexed to the petition an affidavit of the petitioner or petitioners stating the extent of their inquiry and knowledge with respect thereto and the circumstances under which the child was received into their home. Such affidavit may be omitted if the child

to be adopted was received by the petitioner or petitioners from an approved agency. (7 GCA Civil Procedures Appendix (8))

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

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- Each parent of the child must consent.
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When Parental Consent is not Needed

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- The court finds that a guardian is withholding consent arbitrarily.

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

Not addressed in statutes.

ADOPTIVE PARENT RELATED

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

Who May Adopt

Statute: Tit. 19, § 4203

- A husband and wife jointly
- A stepparent
- An unmarried adult
- A married adult if legally separated from his spouse
- Legal residents of Guam

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. 19, § 4210

Division of Social Services

Contents of Report About Person to be Adopted

Statute: Tit. 19, § 4210

- Social history
- Present condition of the child
- Adjustment to petitioner's home, if applicable

Contents of Report About Birth Parents

Not addressed in statutes reviewed; generally, health and genetic history

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

Contents of Report About Adoptive Parents

Statute: Tit. 19, § 4210

- Suitability
- Any other pertinent information

§4210. Social Study. Upon the filing of a petition, the court shall direct that a social study be made by the Division and that a report in writing of such study be submitted to the court prior to the hearing, except that where the child's guardian or the person whose consent to adoption is required is an officer of the Division, it shall file with the court prior to the hearing a report of its social study. The court may order additional social studies if it deems necessary. The social study shall include the social

history, the present condition of the child, the child's placement in the home of the petitioners and his adjustment therein, the suitability of such home and such other information as may be pertinent to the adoption proceeding, and the report submitted shall include a recommendation and the reasons therefore as to whether or not the petition for adoption should be granted and shall be accompanied by a verified transcript of the child's birth certificate. The purpose of the social study is to aid the court in making disposition of the petition and shall be considered by the court prior thereto.

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

Potential adoptive parents can have the child placed with them under protective supervision. Here, legal custody of the child is subject to change. The child is permitted to remain in his home under the supervision of the Division of Social Services and is subject to return to the court during the period of protective supervision. (j)

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

Yes. The adoptive parents take on all legal rights to the child upon 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?

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

(b) Periodic Reports Required. In any action where an award of custody of minor children has been made, the court may in its discretion direct the probation officer or the Department of [Public Health and] Social Services that periodic reports be made to the court as to the status of the custody. Upon the filing of such report, the court may on its own motion and where it deems it necessary, reopen the case and schedule a formal hearing on proper notice to all parties.

(c) Investigation After Award. In any action where an award of custody of minor children has been made the court may, on its own motion when it deems it necessary or where an application is made by either party to modify the award or terms thereof, in its discretion require an investigation to be made by the probation officer or by a social worker of the Department of [Public Health and] Social Services of the status of the custody of the children, the character, fitness and financial circumstances of both parties, and the ability to pay for the support.

9. When is the adoption final?

COURT SPECIFIC PROCEDURES

1. Who initiates the adoption process?

§4205. Petition. An adoption proceeding shall be initiated by filing in duplicate with the court, a petition for adoption which is verified by the petitioner. Anyone can be the petitioner.

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?

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A petition for termination of the parent-child relationship with respect to a parent who is not the petitioner may be filed by a petitioner designated in Subsection (c). The petition may be granted where the court finds that one or more of the following conditions exists:

- That the parent has abandoned the child in that the parent has made no effort to maintain a parental relationship with such child;
- That the parent has substantially and continuously or repeatedly neglected the child;
- That the presumptive parent is not a natural parent of the child;
- That the parent is unable to discharge parental responsibilities because of mental illness or mental deficiency, and there are reasonable grounds to believe that such condition will continue for a prolonged indeterminate period.

The petition may be filed by the following:

- Either parent when termination of the parent-child relationship is sought with respect to the other parent;
- The guardian of the person or the legal custodian of the child or the person standing in loco parentis to the child;
- The Division;

- Any other person having a legitimate interest in the matter.

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: Tit. 19 § 4206

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SPECIAL ISSUES

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

Must adhere to ICWA.

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: Tit. 19, § 4201

Any child who is legally free for adoption

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?

(GCA §13201). Persons Required to Report Suspected Child Abuse or Neglect. (a) Any person who, in the course of his or her employment, occupation or practice of his or her profession, comes into contact with children shall report when he or she has reason to suspect on the basis of his medical, professional or other training and experience that a child is an abused or neglected child.