



Adoption

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Background

The decision to adopt a child can be one of the most rewarding that an individual or couple can make. As with any rewarding decision, it can be extraordinarily complex. Those who wish to adopt a child must be willing not merely to welcome a new life into their hearts; they must also be willing to deal with legal and bureaucratic issues that can easily take as long as a typical pregnancy. The key to adopting successfully is to do one's homework: finding reputable attorneys and agencies, knowing the pros and cons of different types of adoptions, and understanding the need to be actively involved at every step without allowing impatience or frustration to take control.

People adopt for a variety of reasons. Many adoptive parents cannot have children. Others want to provide a loving environment for children in need of a home; many parents who adopt have already given birth to children. Some people choose to adopt "special needs" children (children with disabilities, for example). The reasons for [ADOPTION](#) notwithstanding, the most important requirement for adoptive parents is that they accept adoption as being as irreversible as the birth process.

Beginning in the last decades of the twentieth century, overseas adoptions became increasingly common. More prospective parents turned to Russia, China, and South and Central America for adoption. This trend was spurred on by several factors, the two most important being easier availability and less fear of legal challenges. Domestic adoptions are not subject to widespread legal challenges, but it is not impossible for birth parents or birth relatives to initiate proceedings to revoke an adoption. For these reasons, it is critically important to work with people who are experienced in the adoption process and who understand what makes for a successful adoption.

Types of Adoption

When people talk about adoption they usually mean "unrelated adoption," the adoption of a child who has no blood or marriage ties to the adoptive parent. Often a grandparent or aunt or uncle will adopt a child whose parents have died or who cannot serve in their role as parents. Step-parents often adopt their step-children as a means of creating a stronger emotional and legal bond within the family. These adoptions are generally much easier and less complicated than a typical unrelated adoption.

When individuals or couples choose to adopt, they have several options.

Domestic Adoptions

People who wish to adopt a child who is as close to them culturally and physically as possible will often opt for domestic adoptions. A white couple may want to adopt a white baby, a black couple a black baby, and so on. Because there are more minority children available for adoption, prospective parents almost always have a longer wait if they wish to adopt a white child.

Multiethnic Adoptions

Often a prospective parent is unconcerned about the race or ethnicity of the child. Or the parent may actively seek a child of a different race or ethnic group. Multiethnic adoptions (also called transethnic or transracial adoptions) are generally easier when the parents seek a minority child, again, because there are more minority children available for adoption.

International Adoptions

Because there are many more children overseas who are waiting to be adopted (in particular, many more who are under one year old), it is often easier for parents to adopt from another country. This action involves extra steps, of course, including dealing with both the U. S. government and the adoptee's government as well. A number of adoption agencies specialize in overseas adoptions.

The costs associated with adoption depend on the type of adoption and the age of the child, among other factors. An agency or other intermediary should be able to give you a detailed breakdown of how much you should expect to pay for the adoption. Agencies are also be able to provide information on sources for funding and possible tax breaks for adoptive parents.

The Adoption Process

Adoption is a complex process, but it follows a fairly predictable sequence of events. The first step for those who are serious about adopting is to contact someone who can provide assistance. Some people try to handle the adoption process themselves. Because the laws are so complex, doing so is illegal in a number of jurisdictions, and the sheer volume of regulations is often more than the average untrained person can handle.

Most people turn to adoption agencies when they decide to adopt a child. Agencies can be public or state-licensed private groups. Some agencies specialize in specific types of adoption, as mentioned above. Agencies place children whose birth parents have voluntarily surrendered their rights to their offspring or whose birth parents have had their parental rights terminated. Because agencies have considerable experience with adoptions, they can often make the process run more smoothly. A number of people, however, turn to "private placement," in which the biological parent or parents place the child directly with the adoptive parents. Often this action involves a third party (typically a lawyer, doctor, or a member of the clergy) who brings the biological and adoptive parents together and who then acts as an intermediary. Private placement is illegal in Connecticut, Delaware, and Massachusetts, and it is strictly regulated in several other states.

The next step after choosing a third party in the adoption is to arrange for a "home study." This is an evaluation of the prospective parent's fitness to raise a child. Not surprisingly, the process is detailed. A prospective parent is interviewed, often by several people. The parent's home is visited, and letters of reference and recommendation are asked for. The prospective parent needs to provide information about his or her physical and emotional health, financial status, employment history, marital history, and so on. The process is by necessity extremely thorough.

If the child has not yet been born, the prospective parent or the intermediary (whether an agency or an individual) selects a pregnant woman who has decided to give up her baby for adoption. If the child has been born, the prospective parent is offered a chance to meet him or her (for domestic adoptions). Obviously, a prospective parent may not be able to meet a child from overseas right away, but pictures and often videotapes of the child are made available. Some agencies do require that the prospective parent visits the country of the child's birth to meet with the child before the process is finalized. Meeting the child is an important turning point in the adoption process because it is the first chance for the parent and child to bond, if only for a brief time.

At this point the goal is to make sure all the legal requirements have been met. Many forms need to be filled out and filed with different courts and government agencies. For domestic adoptions, the child may be placed with the adoptive family for supervision to ensure that the adjustment is smooth before the adoption is finalized. This step depends on the state laws and the courts. Overseas adoptions by necessity cannot require a supervised adjustment period, so usually when the parent makes a second trip it is to take [CUSTODY](#) of the child. Before this action can be accomplished, however, the child must be granted U. S. citizenship. This step involves more paperwork but usually does not take long. However, adoptive parents should be prepared to wait just in case, since two government bureaucracies are at work instead of one.

Each state has its own regulations regarding the adoption process, so it is important to learn the laws governing your particular state and also to know that the intermediary you choose has a thorough knowledge of your state's laws and requirements.

Obstacles to the Adoption Process

The adoption process is not thorough simply because bureaucrats like to make people fill out dozens of forms. Adoption is a permanent decision, and each adoption needs to be made ironclad to avoid difficulties later on.

Probably the greatest fear adoptive parents have is that the birth parents will change their minds and petition to get their children back. Although the laws are thorough, sometimes a birth parent will challenge an adoption for any one of a number of reasons. Most states allow birth mothers to revoke or withdraw their consent to give up their children for adoption; in some states this can be done at any time before the adoption has been finalized. By law, birth mothers actually cannot give consent to an adoption until after their babies have been born; Alabama, Hawaii, Washington, and Wisconsin allow prebirth consent in certain circumstances. But there are strict rules regarding consent. A birth parent who has been proved to have deserted the child, for example, has no [LEGAL RIGHT](#) to give or revoke consent.

Putative Fathers

Many adoptees are the children of single women who may not even know the fathers' identity. Sometimes, birth fathers may wish to exercise their rights to claim their children. Unwed, or "putative" fathers can establish certain rights thanks to changes in state laws since the 1970s. That said, a putative father needs to prove that he has actually earned these rights. Putative fathers have to prove their commitment to their children by having signed the birth certificate, provided support for the child, and communicated with him or her, and by having obtained a court order establishing [PATERNITY](#). They should also have submitted their names to a registry of putative fathers in their states. Moreover, in most cases all of these steps need to have been taken *before* a birth mother has made a petition to the court to give up her child for adoption. Court cases involving putative fathers who tried to revoke adoptions after claiming they knew nothing of their children's births have resulted in many states clarifying their laws. Putative fathers may have the law on their side, but again, only if they can prove they are truly concerned for their children's welfare.

Multiethnic Issues

Within pockets of the adoption community the question of whether to allow children of one race or color to be adopted by parents of another race or color is a source of heated controversy. Some people believe that mixed-race adoptions are a good practice because they break down racial, ethnic, and cultural barriers. Others see mixed-race adoptions as a means of diluting the cultural and ethnic heritage of adopted children.

Multiethnic adoption presents a compelling problem for two reasons. One is that, as noted above, there are many more minority children available for adoption (including mixed-race children). The other is that there are many more whites than minorities who are willing to adopt. Insisting on matching race to race can leave many children without available parents to adopt them. For children of mixed ancestry, matching race to race is hardly possible.

Federal law protects parents and children from this dilemma. The Multi-Ethnic Protection Act (MEPA) of 1994 states that no adoption agencies that receive federal funds can deny or delay a placement based on race or ethnicity. Occasionally there are still some court cases that raise the issue, but parents who work with a reputable agency and knowledgeable attorneys should not have to worry.

MEPA does not cover children of American Indian (Native American) ancestry. The Indian Child Welfare Act of 1978 was passed to protect Indian children from being taken away from their families for adoption without parental or tribal consent. This action was apparently not uncommon in years past, and the protection is thus important. Unfortunately, some have read the law to mean that no child with Indian ancestry can be legally adopted, even with the birth parent's consent, without tribal approval. Complicating the matter is the unclear definition of Indian ancestry; some tribes may consider a person with one drop of Indian blood to be Indian. Clearly there are many layers to this issue, and it requires careful evaluation by the prospective parent with the help of knowledgeable intermediaries.

Open Adoption

Open adoption allows the birth family to have visitation rights with the child and the adoptive family. The idea is that maintaining contact with the birth family is beneficial for the child. In some cases it may be, but it can also create uncomfortable situations in which the child ends up being forced to make a choice most children should never have to make. An open adoption can take place only if both the adoptive and birth parents sign an agreement and only if that agreement meets the approval of the court. Different states have different rules about open adoption procedures and also different approaches for addressing whether open adoptions are legally enforceable.

Again, this issue requires careful consideration by prospective parents. In some cases agencies encourage open adoption, but if you wish to adopt a child and open adoption makes you uncomfortable, you should make your concerns known early on.

Searching for Birth Parents

Whether an adopted child may want to know his or her birth parents does not come up at the time of adoption but the question is worth thinking about early on. State laws vary widely on whether adopted children can have access to the names of their biological parents. Often those parents do not want contact with the child. Even if they do, the situation can be problematic for all parties. The issue is not really within the scope of this discussion, but adoption agencies and intermediaries should be able to answer questions about it. Bear in mind that, according to figures from the National Council on Adoption, no more than two percent of adopted adults search for their biological parents.

Getting Information

Probably the best first step is to conduct some research, either through materials available at the public library or over the Internet. There are a number of adoption-related web sites, but keep in mind that not all of them offer the same quality of information. The National Adoption Information Clearinghouse, which is run by the U. S. Department of Health and Human Services' Administration on Children and Families, may be a good starting point. Its web address is <http://www.calib.com/naic>.

Because each state's laws vary so widely, it is critically important to check with state government agencies that regulate adoption to determine your specific rights and responsibilities.

There are numerous adoption agencies, and it makes sense to get information from several before making a decision on which one would be the best option. Once you choose an agency, you will be working with that group for the next several months, so make sure you are comfortable with your choice.

Additional Resources

The Adoption Resource Book. Lois Gilman, HarperPerennial, 1998.

Family Bonds: Adoption and the Politics of Parenting. Elizabeth Bartholet, Houghton Mifflin, 1993.

The Law of Adoption and Surrogate Parenting. Irving J. Sloan, Oceana Publications, 1988.

The Unofficial Guide to Adopting a Child. Andrea Della-Vecchio, IDG Books Worldwide, 2000.

Organizations

National Council for Adoption (NCF)

1930 17th Street NW

Washington, DC 20009 USA

Phone: (202) 328-1200

Fax: (202) 332-0935

URL: <http://www.ncfa-usa.org>

Primary Contact: Patrick Purtill, Chief Executive Officer

U. S. Department of Health and Human Services, Administration for Children and Families

370 L'Enfant Promenade

Washington, DC 20447 USA

Phone: (202) 401-2337

URL: <http://www.acf.dhhs.gov>

Primary Contact: Wade F. Horn, Assistant Secretary for Children and Families

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