



**INDEPENDENT
ADOPTION**

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****Adoption Counselors also available
in CENTRAL WISCONSIN**

A LOOK AT INDEPENDENT ADOPTION IN WISCONSIN

In the State of Wisconsin, private or independent adoption is legal. This is an adoption where birthparents and adoptive parents meet apart from an agency and decide to make a plan with each other. It is considered an open adoption when there is an exchange of information between the adoptive couple and the birthparents releasing the child to them. Identifying information, such as the names, addresses, ages and income of the adoptive parents may be shared with the birthparents as part of their legal right to know identities and background information. How much information is shared depends on the birthparent's requests and the willingness of adoptive parents to share information, but most birthparents want to know enough to make them feel comfortable in their plan for their child.

Since a completed Termination of Parental Rights severs all legal rights of birthparents, the birthparents may wish to make verbal or written agreements with the adoptive family for receiving periodic information from them, or exchanging pictures, etc. The adoptive parents are under no legal obligation to allow the birthparents to see or contact the child once the adoption is in place. However, it is a moral and ethical arrangement. Often the agreement for contact is mutually agreed upon as being helpful to the child and is an exchange of information regarding the development and health of the child and the birthparents.

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A distinct advantage for adoptive parents in an Independent Adoption exists in that they have the opportunity to meet, exchange information and keep in contact with the birthparents. Questions may arise in the future regarding medical or genetic information. Birthparents often feel confident in the child's placement due to this contact decision, control in parental selection, and they feel they can be reassured in the future that the child is well and happy.

HOW DOES AN INDEPENDENT ADOPTION HAPPEN?

1) Making the Birthparent to Adoptive Parent Connection:

How this connection is made differs with each placement. Often a mutual acquaintance puts a birthparent wishing an Independent Adoption in touch with an adoptive family. This person may be anyone, such as a physician, neighbor, school friend, co-worker, lawyer or pastor. A birthparent may not place a child for adoption for money, promises of future help, or gifts.

It is against the law in Wisconsin for her to receive anything of value other than the cost of certain expenses incurred in connection with the child's birth, such as, hospital and medical care, bridge care, legal and counseling services connected with planning for the child. In addition, Wisconsin law also allows her to be reimbursed for necessary living expenses, and for maternity clothes, mileage, etc. This is meant to protect the best interests of the child and also serves to insure that the birthparent makes a decision free of pressure. The adoptive family is also protected in that they were selected freely, and the agency which represents them in a home study and court report can be objective and fair.

2) Agency Connection with Birthparent(s) and Adoptive Family:

The State of Wisconsin allows a child to be placed in an adoptive parent's home directly from the hospital if a legal risk agreement is signed enabling the family to have temporary care as foster parents until the hearing. In order for this to happen, the parents need to have a home study completed by a licensed child-placing agency in the State of Wisconsin. Each adoptive home needs a foster home license, and the agency's job is to complete a licensing study to determine whether their family and home are appropriate for this placement and licensed according to the state regulations. The home study can be done before the child is born. Be aware that there is no assurance the child will be placed for adoption after the study is done or that the child placed with you from the hospital can stay until the court hearing when the birthparents terminate their rights and the court orders the adoptive placement. This is a voluntary placement by the birthparent and can be revoked at her request.

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It is good to inquire with any agency you are considering if they have restrictions on allowing you to work with a birthparent who is connected with a different agency and the charges and fees you are paying in these cases. Our agency will work cooperatively with another licensed agency who is already connected with your birthparent.

3) Making Legal Contact and Arranging for Legal Requirements:

After choosing an adoption agency and completing your home study, the adoptive family and/or the birthparent(s) will wish to make contact with an attorney as soon as you have determined that all are mutually suited for an Independent placement. This can happen before the child is born. Sometimes the birthparents and adoptive parents are represented by separate attorneys. A birthparent under 18 years of age must be represented by an attorney called a guardian ad litem. A birthparent who is over 18 years can voluntarily waive their right to have legal counsel during the part of the court hearing to terminate parental rights, but this needs to be discussed and agreed upon ahead of time. The child being placed for adoption needs to be represented by a guardian ad litem in the court proceedings as well.

It is important for all birthparents and adoptive parents to know their legal rights and responsibilities. Legal counsel should advise each party of their part in the adoption process, what they have a right to do and not do, how they terminate their rights and how the court hearing will proceed. A skilled adoption attorney is a wise investment as adoption is complex and specialized.

Temporary bridge care for the child while waiting for the court hearing can be with the adoptive family under a written legal risk agreement. It is considered high risk because a birthparent can change their mind and request their child be returned any time prior to the termination of parental rights. The agency could otherwise provide a licensed bridge care home neutral to the adoption plan or the birthparent or one of the birthparent's close family members may care for the baby prior to the hearing.

Selection of an agency should be done by birthparents and adoptive parents on the basis of what their needs are in their individual situation. All parties should be advised to inquire about the services actually provided by the agency, such as counseling for the birthparents both before and after placement, checking the child out of the hospital, and providing bridge care until the court hearing if necessary, and follow-up with home visits to help the adoptive parents integrate the child into their family. Costs of these services should be outlined for inclusion in the court report where all monies paid and/or to be paid by adoptive parents are disclosed. A couple may have a home study done by one agency and have birthparent counseling provided through another worker or agency if that meets the needs of the situation.

4) Filing the Legal Petitions in Court:

Two papers are signed and submitted to the court to begin the legal process of an Independent Adoption:

- a. **Petition for Adoptive Placement.** This paper is signed by one or both birthparents seeking the placement **and** the prospective adoptive parents.
- b. **Petition for the Termination of Parental Rights.** This paper is signed by the birthparent(s) requesting that their rights be voluntarily terminated by a court hearing **after** the baby is born.

The court will set a hearing date and the agency chosen will be putting together materials to be presented to the court, including information about how the agency has worked with birthparents, the adoptive couple, attorneys involved, etc. Medical/genetic history information, appropriate summary materials about the home study, and the agency's recommendation about the placement must be submitted to the court in writing. This investigative and counseling report regarding the mother **and** child is required by law.

5) The Court Hearing after the Child is Born:

Once the child has been born and the agency report received, the court can hold a hearing at which the report is reviewed and a judgment made as to whether the placement is in the best interests of the child, along with testimony and judgment regarding the birthparents' request for termination of their parental rights. Under Wisconsin law, the court awards guardianship of the child to the agency and then orders the child placed for adoption with the adoptive parents.

6) The Placement of the Child in the Adoptive Home:

If the child is in bridge care or with the birthparent or birthparent's family awaiting the hearing, the child may join the adoptive family any time after the court orders the placement. This usually happens the same day or the next and is arranged ahead of time by the agency and the bridge care parents temporarily caring for the child. If the child is already in the adoptive home, they are already licensed as the bridge care parents.

A bridge care license is issued to every adoptive family as required by state law. A written placement agreement (regarding supervision visits, medical and progress reports to be submitted to the agency) is signed. The agency becomes the legal guardian while the adoptive placement is supervised until finalization by Wisconsin law. This supervision time period is a minimum of six months after placement of the child.

7) Finalization Hearing in the Court:

Once the child has been in the home for at least six months, the agency notifies the adoptive family that a petition to adopt may be presented in court. The agency issues another written report, this time recommending finalization of the adoption and transfer of guardianship from the agency to the family permanently. Since the birthparents have already terminated all rights to the child, only the child, the adoptive parents and their attorney, if they have one, need to be present in court. This hearing takes place in the county where the adoptive parents reside and therefore may be a different county than where the baby was born and the first hearing took place. The agency is not required by law (in most counties) to appear if they submit final reports recommending the adoption. A few counties require an agency representative to be present at the hearing.

IMPORTANT ADVANTAGES OF INDEPENDENT ADOPTION:

- 1) Adoptive parents and birthparents are often able to meet or talk on the phone or write letters and get acquainted before a decision is made for placement. This often makes both feel comfortable about the adoption decision and prepares them for the process ahead of time.
- 2) Since names and addresses are often exchanged, future contact with the parents on either side is possible. If there is need or desire for information, it is made easier because of this previous contact. This is particularly good if a child has some medical problems or difficulty in some area and would be enhanced by more information about the birthparents and their background.
- 3) Birthparents can select a couple without regard to age, length of marriage, income level, or religion. However, each couple does need to be home studied and approved by a licensed child-placing agency through the legally required home study process.
- 4) Often the process for legal placement begins before the birth of the child, and if the county court can hear the petitions early after the child is born, placement can be early in the life of the child.
- 5) Birthparents often feel they have a good deal of control over the adoption process in Independent placements. It is IMPORTANT for the birthparent(s) to get counseling supporting their decisions and the adoption process.

SOME DISADVANTAGES IN INDEPENDENT ADOPTION:

1) There is no assurance that the birthparents will terminate their rights until the actual TPR hearing. They have legal rights to see and contact the child until the termination hearing, and even if the child is placed in bridge care or a legal high risk placement with the prospective adoptive parents, they may decide against placing the child at any time until the hearing is over. Because adoptive parents have been involved in the process, they have often seen the child or at least have information of the birth, etc. The attachment and bonding process is often under way and adoptive parents can be deeply grieved by this change of mind. The child may already be in their home while waiting for the hearing.

2) Expenses in an Independent Adoption can be incurred around the home study, medical expenses, legal expenses, bridge care, birthparent living expenses, and birthparent counseling. If placement occurs, this is fine with adoptive parents. However, if placement does not occur, these costs may have been paid or still remain to be paid and are the responsibilities of the adoptive parents, (except medical bills which usually become the responsibility of the biological parents).

3) The information and knowledge that birthparents and adoptive parents have of one another can sometimes be a disadvantage as well as an advantage. There can be a feeling on the part of adoptive parents that birthparents have too much control, that they are "on the spot" or "on stage" for approval. Sometimes they feel pressured to do things for birthparents, such as be present at the birth, visit the hospital, etc., which they may not want to do. There is a need to stay somewhat objective and to use the agency to help you both plan appropriately for the permanent placement of the child. Plans for future contact should be made with the best interests of the child in mind and in keeping with the goals of the birthparent and the adoptive couple as well.

SERVICES PROVIDED BY ADOPTION CHOICE, INC.

I. We provide the required HOME STUDY preparing you for adoption. Our staff focuses on issues important to you in adoption, parenting style, training education, and resources for you in your family and community. We will provide information, as well as gathering it for the court. We are committed to helping you as a couple to prepare, receive and integrate this child into your family.

II. PROMPT RESPONSE to your request for a study and appropriate contacts with attorneys, birthparents and medical people involved with the child. We know that time is important in Independent placements.

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III. BIRTHPARENT COUNSELING IS ESSENTIAL. Many of the failed placements in Independent adoptions result from lack of sufficient time spent with birthparents to determine readiness for placement, help with the decision-making process, and consideration of alternatives as required by law. A gathering of medical/genetic history information, planning for the child in the hospital, and bridge care are important considerations. Being available for you and your birthparent(s) is an important priority to us.

IV. We PREPARE all written materials required and ATTEND the court hearing for placement.

V. We FACILITATE with attorneys regarding expenses involved and legal papers to be filed with the court, gather medical papers, etc. We will cooperate with another agency plan if you are selected by a birthparent already involved with them.

VI. We ACCEPT GUARDIANSHIP, issue the foster home license, as well as medical and progress reports needed during the supervision time.

VII. We PROVIDE QUALITY FOLLOW-UP SERVICES during the supervision time until the adoption is finalized. We will visit you and your child IN YOUR HOME to help insure adjustment and integration for all family members. We will support you with materials and information about the adjustment, adoption, and parenting. We will be a listening ear when frustration or changes occur.

VIII. We PROVIDE THE FINALIZATION MATERIALS required of the legal guardian for the court hearing, and then complete all forms required for the State of Wisconsin concerning the birth certificate and other paperwork. The agency does not do the LEGAL WORK AT FINALIZATION. A few adoptive families hire an attorney, but the majority file these papers themselves. We will help you with some printed information about the process.