



METZ LEWIS

ATTORNEYS AT LAW

OVERVIEW OF ADOPTION PROCESS IN PENNSYLVANIA

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LEGAL ISSUES

I. Terminology. Commonly used terms:

- A. Birth mother, natural mother, biological mother. These terms are used interchangeably and are self-explanatory.
- B. Birth father, natural father, putative father, presumptive or legal father.
 1. "Putative father" is not defined in the Pennsylvania Adoption Code, but is generally used to identify a man who the birth mother has identified to be the father of her child, and who has not filed a claim or acknowledgement of paternity with the Pennsylvania Department of Public Welfare or Bureau of Vital Records.
 2. "Presumptive father" – if the birth mother is married at the time of the birth, or within one year of the birth of the child, her husband is presumed to be the father of the child. Also referred to as the "legal father".
 3. "Intermediary" is the person or agency acting between the parent or parents of the child and the proposed adoptive parents in arranging an adoption placement.

II. Termination of Parental Rights. Pennsylvania law prescribes different methods for terminating parental rights of a birth parent, including procedures for the voluntary relinquishment by a birth parent of his or her parental rights.

- A. The Adoption Code provides a consent form that a birth parent can sign indicating his or her consent to have the child placed for adoption. A birth father can sign the Consent form at any time, even before the birth of the child, but a birth mother may not execute the consent until at least 72 hours following birth.
 1. A birth mother has 30 days from when she signs the consent to revoke it, and a birth father has 30 days from the birth of the child, if he signs before birth, or thirty days from when he signs the consent after birth, to revoke. After the 30-day period, the consent is irrevocable.
 2. Birth parents have to receive a copy of their executed consents and the consent form specifies that a revocation must be in writing and provided to either the Intermediary, the Court, or the attorney handling the adoption.
 3. Even after 30-day revocation period is up, parental rights are not yet terminated. The intermediary or adoptive parents if there is no

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intermediary need to file a Petition to Confirm the Consents and Terminate Parental Rights, the Court will schedule a hearing, and the birth parents must receive notice of the hearing at least 10 days in advance.

4. Challenges to Consents. Even though the consent is irrevocable, a birth parent may challenge the validity of the consent on the bases of fraud or duress, but such challenges must be brought within 60 days after the birth of the child or the execution of the consent, whichever is later. After this 60-day period, the consents appear to be unassailable under recent amendments to the Pennsylvania Adoption Code.
5. Every county in Pennsylvania has its own additional unwritten requirements.
 - a. Affidavit of Paternity
 - b. DNA testing, if feasible.

B. Involuntary termination of parental rights. A common scenario – Birth mother signs a consent; birth father does not, either because he refuses to, or because he cannot be found, or because he ignores attempts to contact him, or for a multitude of other reasons. His rights still can be terminated involuntarily.

1. **Putative father provision.** If person identified by the birth mother as the father will not sign a consent, and has not filed a claim or acknowledgement of paternity, his rights may be terminated involuntarily at the hearing to confirm the consent of the birth mother. The putative father must receive notice of the hearing, and if he fails to appear at the hearing or to provide written objection, his parental rights will be terminated.
2. **Other provisions for involuntary termination:**
 - a. Rape – no waiting period. Some courts require a police report.
 - b. Presumptive father – no waiting period – generally need an Affidavit from the birth mother explaining that her husband or ex-husband is not the father.
 - c. Four month abandonment period in the case of a newborn, but this provision requires that the birth father knows or has reason to know of the birth of the child.
 - d. Six month abandonment period in other cases; does not require that the birth father knows or has reason to know of the child's birth. This provision is used in cases of unknown birth parents.

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3. **Multiple possible putative fathers – A common scenario** – All possible birth fathers' rights must be terminated.
4. Whereabouts of birth father unknown – Can provide notice of the hearing by publication. Requires separate petition and Affidavit of Diligent Search.

C. **Termination Hearing.** Birth parents must receive at least 10 days written notice of hearing.

1. The Petitioners (either the Intermediary or the adoptive parents) must testify at the hearing.
2. Birth parents do not need to attend the hearing.

III. Adoption Process

A. **Report of Intention to Adopt** should be filed on behalf of the adoptive parents within 30 days of placement. The Report of Intention to Adopt provides the Court with information about the adoptive parents. The home study for the adoptive parents must be attached to the Report.

1. The Report of Intention to Adopt also must include a statement whereby the adoptive parents acknowledge that the birth parents have 30 days from when they signed their consents to revoke the consents.
2. If a home study is not completed at the time of placement, a letter from the agency performing the home study must be attached, informing the Court that a home study has been initiated. The home study can be filed upon completion.
3. Criminal, child abuse and FBI clearances should be attached as well.

B. **Report of Intermediary** is filed after parental rights are terminated and includes information regarding the termination of parental rights and the fees paid by the adoptive parents in connection with the adoption.

2. Pennsylvania law is restrictive as to the expenses that are adoptive parents are allowed to pay. These fees and expenses are limited to: fees paid to a licensed adoption agency, attorneys' fees, medical expenses incurred by the birth mother in connection with her pregnancy and childbirth; and medical expenses for the child.
3. Report of Intermediary must be filed within six months of placement of the child with adoptive parents, unless parental rights have not been terminated within that time (because of the six month waiting period for an abandonment).

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- C. Supervisory visits.** Licensed adoption agencies are required to make supervisory visits to supervise and report on the adoption placement. Allegheny County requires at least two supervisory reports to be filed prior to adoption hearing being scheduled. Supervisory visits are not required when the placement is not through a licensed adoption agency unless it is an interstate adoption. All interstate adoptions require home studies and supervisory visits.
- D. Petition for Adoption.** The adoption petition is also filed after parental rights of the birth parents have been terminated.
1. Petitioners are the adoptive parents, and they are asking the Court to enter an Adoption Decree.
 2. The Petition contains information pertaining to the adoptive parents and includes the new name of the child.
 3. The Intermediary must consent to the adoption.
- E. Adoption hearing.** Adoptive parents and child must attend.
1. Testimony from adoptive parents.
 2. Testimony from the Intermediary.
 3. If the child is age 12 or older, the child must testify and consent to the adoption.
 4. After the hearing, the Court issues adoption decree and Certificate of Adoption.
 5. Then, a new birth certificate can be issued that will list the adoptive parents as the child's parents. It will be issued under the child's adopted name.

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