

# QUESTIONS TO ASK AN ADOPTION ATTORNEY BEFORE YOU START PRIVATE PLACEMENT (INDEPENDENT) DOMESTIC ADOPTION

Most law schools have a specialty in family practice, not an adoption specialty. Lawyers develop an expertise in adoption law by devoting time to learning the specifics of private and agency adoption. The range of services offered by an attorney (providing information about networking & advertising, providing advice on how to talk to prospective birthmothers, obtaining medical information, talking to the hospital, evaluating risks of the prospective birthmother changing her mind, etc.) vary greatly amongst adoption attorneys. The American Academy of Adoption Attorneys [www.adoptionattorney.org](http://www.adoptionattorney.org) can provide you with information on attorneys that specialize in adoption law.

**In New York State it is illegal for a lawyer to be financially reimbursed for placement of a child in an adoption. For private placement adoptions a prospective birthparent must contact the prospective adoptive parent first who then asks that the prospective birthparent contact the prospective adoptive parent's lawyer. Attorneys cannot legally make the initial contact to a prospective birthparent in NYS for the purpose of placement. It is legal for a lawyer to advise you on making an adoption search, talking to prospective birthparents, finding a lawyer for the birthparents and other matters to facilitate the adoption process.**

1. What percentage of the attorney's legal practice is private placement adoption?
2. How many years has the attorney been practicing law? How many years doing private adoption? Are they a member of the American Academy of Adoption Attorneys (AAAA)?
3. To verify an adoption attorney is in good standing in NYS call the Office of Court Administration at 212-428-2800.
4. How many families did the attorney work with last year that successfully adopted by doing private placement adoption? How many were successful two years ago?
5. What type of fees does the attorney charge- by the hour or a flat rate? What type of payment schedule do they have? Payments should be made in stages as services occur. Do they have a retainer fee in advance?
6. When the attorney is out of the office, is another knowledgeable attorney available? What policies does the attorney have for contacting them after hours or weekends?
7. What help does the attorney provide in the pre-certification process? Does the attorney have names of social workers that you could use to conduct your home study? Are the social workers experienced in adoption?
8. How long will it take to finalize the adoption after the placement of the child? What is the average amount of time it takes for a family to adopt privately?

9. What procedures are necessary to finalize the adoption? In what state would the adoption be finalized?
10. What can the attorney tell you about birthmother and birthfather parental rights in private placement adoption? How are the birthfather's parental rights terminated if he cannot be located? An attorney should be able to describe how birthparents relinquish their parental rights for any state you might consider adopting from.
11. Does the attorney use post adoption contact agreements (PACA) for open adoptions? If so what are the details of the PACA? Open adoption agreements between birth family members and adoptive parents are binding in NY State when they are part of the PACA.
12. What advice will the attorney provide on networking and advertising?
13. Will the attorney review your advertisement and profile?
14. Will the attorney give you advice on which states to search for a prospective birthmother and which states to avoid? What criteria does the attorney use to determine which states have the best laws for private placement adoption?
15. What can the attorney tell you about the Interstate Compact?
16. What advice will the attorney have about establishing a phone line for your adoption calls?
17. What advice will you receive about talking to a prospective birthparent over the phone?
18. What criteria does the attorney use to determine if the prospective birthparent is serious about making an adoption plan? What are the risk factors that the attorney will use to evaluate whether or not the prospective birthparent may change their mind? How many prospective birthmothers that the attorney worked with last year changed their mind and decided to raise their child after the birth of the baby? How many of these cases were not identified as being at risk? Will the attorney advise you not to proceed if it appears an adoption is at risk or will the attorney leave the decision to you?
19. How often does the attorney talk to prospective birthparents that you work with? What types of things does the attorney review with the prospective birthparents?
20. Does the attorney accept collect calls from prospective birthparents? Does the attorney have a toll free phone number?
21. Does the attorney view counseling of the prospective birthparents as helpful? Will the attorney assist the prospective birthmother in obtaining counseling?
22. Does the attorney request medical records, counseling, HIV tests, drug tests of the prospective birthparents?
23. Will the attorney try to get the prospective birthmother Medicaid if she does not have medical insurance?
24. What is the attorney's role in getting the prospective birthmother legal advice? Birthparents need to have their own attorneys in NYS.
25. Will the prospective birthmother's living expenses be paid directly to the vendor (e.g. landlord, utility company)? What is the attorney's position on how quickly to pay the prospective birthmother's living expenses? Some attorneys believe in paying funds early in the contact with the prospective birthmother to "show interest" in her

and her child. Others believe the prospective birthmother should first complete background paperwork, sign a release for her medical records from the obstetrician so as to allow time for the prospective adoptive parents to have time to evaluate her seriousness in making an adoption plan before paying for living expenses.

26. Will your attorney contact the hospital prior to the child's birth to learn of hospital policies on adoptive parents visiting?
27. Does the attorney believe you should go to the hospital before the prospective birthmother has signed the relinquishment of her parental rights? It is a very personal decision if you decide to be present at the birth before the prospective birthmother signs the relinquishment of her parental rights since some prospective birthmothers decide to parent their child once they have given birth.
28. Can your attorney's office act as an intermediary for post placement exchanges of letters & photos? If not, can your attorney recommend an agency that can help with post placement contact?
29. What will the attorney do if he/she is contacted by a birth relative after finalization?