

# ADOPTION

27 August 2010

## Sexuality and the Law in Tasmania fact sheet

Provided by Family Planning Tasmania Inc.

### adoption

Adoption is for children who have a parent or parents who decide not to raise them. It is a process that focuses on the best interests of the child.

In Tasmania there are two services that deal with adoptions:

- The Department of Health & Human Services Adoption and Out of Home Care
- Centacare Catholic Private Adoption Agency

### definition

Adoption is a legal arrangement and it is permanent. The birth parents' rights and responsibilities in relation to the child are changed legally. The adopting family takes on all the rights and responsibilities of parenting and the care of the child. The adopted child will have the same rights as any biological child of the adopting family.

### consent

The mother:

The birth mother's consent is ALWAYS required and consent is given by signing a legal document called a 'General Consent' form.

Consent cannot be given before the baby is born, on the day it is born or in the 7 days following.

Consent can be given any time after the birth of the child.

The father:

If the child's biological parents are not married then his consent is only required if:

- his name is entered on the child's birth certificate or
- there is evidence of his paternity as described in the Adoption Act 1988.

If they are married or were married when the child was conceived or was born then his consent is required after the birth of the child.

Consent can be withdrawn in the 30 days after the signing of the consent forms (the revocation period). The Secretary or Principal Officer must be informed in writing.

Consent cannot be withdrawn after this 30 day period.

### placement

The birth mother can express preferences for the adoptive family including

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religion, race, cultural background and other factors. The adoption agency will consider these preferences when identifying a suitable family. The mother can have the opportunity to choose from a number of approved families but the final decision lies with the Secretary or Principal Officer. The mother may request to meet the family prior to the placement.

Placement will not occur until:

- after the consent forms have been signed
- the revocation period (30 days) has expired
- a suitable family has been found

### contact

The birth mother can decide if she wants contact after the adoption and/or to receive information about the child. She can have an agreed arrangement with the adopting family regarding this.

### finalization

The placement is supervised for about 6 months and, if all is well, the adoption agency will apply to the court for the adoption process to be finalised.

### alternatives to adoption

Foster care is temporary care when another family takes care of the child for a short time if the parent/s are having difficulties caring for their child. The mother (and father) remains the child's legal parent with the right to contact and to visit the child.

Long term care refers to a permanent arrangement where the child is cared for during their dependent years by another person/persons. The mother remains the child's legal parent but her rights and responsibilities change. A legal order or agreement is made under the Family Court of Australia to define the rights and responsibilities of the parent and of the caregivers.

Placement with relatives is when the parents are unable to parent and relatives may agree to bring up the child. The relative responsible may apply to the Family Court regarding legal arrangements such as a parenting order, which is an order about parenting arrangements that must be followed by each person involved.

### after adoption

#### Access and Information Provisions

Many people who are adopted will want to know about - and maybe meet - their birth parents. The law recognises that adopted persons have the right to know their origins and identity and provides for adult adopted persons to have access to their original birth record and other records associated with the adoption. Many birth parents will want to know how the adoption arrangements turned out and what sort of person the child has become or just that they are living and have a reasonable life.

Adoption Information Service and Information Register

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The Register and Information Service are to help all those involved in an adoption – adopted persons, birth parents, adoptive parents and natural relatives to obtain and exchange information about each other and to arrange a meeting, if they wish to do so. The law recognises that all the people concerned have the right to privacy and to be protected from intrusion. The Information Register allows all people affected by adoption to register their wishes about contact and exchange of information. This may include a veto against contact.

All persons seeking information, who are residents of Tasmania, are required to have an interview with a counsellor before receiving any information, to ensure that people:

- Know their rights
- Fully understand the rights of others
- Have considered the issues that may arise from the search and possible reunion

## contact veto

All parties can register a veto on contact. You must include your name, date of birth and address with a request to register a veto but your address will remain confidential. Your identifying information will only be given if the person requesting it signs a legally binding Undertaking not to contact you in any way. You can leave a message with the veto - details of family medical history or information about marital status and parenthood, for example.

## People who have been adopted

On reaching the age of eighteen (18) years you are entitled to:

- A Certificate allowing access to your original birth record, known as your Section 80 Certificate
- Any information that may be held on the record of your adoption, including the name of your birth mother and of your birth father, if recorded

If a contact Veto has been registered, you will be required to sign an Undertaking as mentioned above.

You may register whether or not to:

- Exchange non-identifying information
- Exchange identifying information
- Contact your birth parents or relatives
- Veto on contact

If you are not yet 18, the written agreement of your adoptive parents is required before any information can be given to you. Access to your original birth record and any information which could identify your birth parents, cannot be given to you without the written agreement of the birth parents/s who consented to your adoption/

## Adoptive parents

You can register whether or not to:

- Exchange non-identifying information
- Exchange identifying information
- Contact with the birth parents of your adopted child (if he or she is under 18)
- Support your child's contact with his/her birth parents (if he or she is under 18)

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You may register your wish NOT to be contacted.

### Birth parents and other birth relatives

You are entitled to:

- Information held on the adoptive record about yourself and the adopted person. This will include the adoptive name of your relative. If a contact Veto is in place you will be required to sign an Undertaking as mentioned above. If your relative is under 18, the written agreement of all parents is needed before any identifying information can be given to you. You can ask the Adoption Information Service to seek this written agreement.

### inter-country adoption

Tasmania has signed the Hague Convention on the Rights of Children in Inter-country Adoption.

The Process of Adoption

- Attendance at an information session (All issues of local and inter-country adoption are discussed including

eligibility information and costs. Costs vary between countries.)

- Preparation of initial documentation, including police checks
- Assessment over a period of 6 months by an Adoption Worker
- Preparation of a country project
- Attendance at a weekend workshop
- Approval of the application
- If approved, applicant/s are placed on register, the file for overseas is prepared and the file is sent
- The wait for allocation which may take from 6 months to 2 years
- Travel to the country to collect the allocated child
- Preparation of post placement reports
- Full adoption in the courts

### Eligibility criteria

- Applicants must be under 50 years of age when the file is sent to the country of choice.
- If married, must have been married for 3 years or have cohabited for 3 years
- Must be residents of Tasmania