

---

# *12 THINGS YOU SHOULD KNOW ABOUT PRIVATE ADOPTIONS IN UTAH*

---

PREPARED BY

**KIRTON | M<sup>c</sup>CONKIE**

## 12 THINGS YOU SHOULD CONSIDER IN PRIVATE/INDEPENDENT UTAH ADOPTIONS

1. **Finding a birth mother:** Paid facilitators are illegal in Utah. Only licensed agencies may be paid for matching services under Utah law. Even attorneys may not be paid for matching. Get the word out to family, friends, professionals, and others that you are looking to adopt. Prepare your profile ahead of time. If a situation doesn't work out, use that to your advantage. Verify the pregnancy.
2. **Relinquishments:** When an agency is not involved, the birth mother must sign the relinquishment document in court or before a court-appointed commissioner at least 24 hours after the birth. The adoptive parents may take temporary custody of the child before the birth mother signs the relinquishment. Hospitals have different policies in this regard. The birth father or the birth mother's husband may sign the relinquishment documents before a notary public at any time, even before the child's birth. If the baby is born in another state, the relinquishment or consent may be taken pursuant to the laws of that state.
3. **Birth fathers:** Unwed birth fathers must take steps to establish paternity before their consent to the adoption is required. A birth mother had a right of privacy and does not have to identify the father if she is unmarried. Nevertheless, if the birth mother does not identify the father or the father does not sign a consent to adoption, you should consult with an experienced adoption attorney to find out the legal risks in a particular situation.
4. **Representation:** Adoptive families should retain an experienced adoption attorney to represent them throughout the process. The birth mother or father will require different representation if they want an attorney. The adoptive parents typically pay for this.
5. **Counseling:** Utah law requires adoptive parents to offer to pay counseling costs for a birth parent before he or she signs a relinquishment document. The offer must be for up to three sessions of 55 minutes each, not to exceed \$400, unless the parties agree to provide more. A birth parent may waive his or her right to counseling.
6. **Birth parent expenses:** Adoptive parents are allowed to pay for the birth parents' adoption related expenses. Such expenses may include medical expenses, legal expenses, counseling expenses, prenatal expenses (maternity clothes, vitamins, etc.), travel expenses, temporary living expenses during the pregnancy and recovery period, and other expenses reasonable related to the adoption. It's usually best to work expenses through the attorney. Money paid is considered an act of charity and may not be contingent upon the birth parent's decision to place the child. Expenses must be reported to the court prior to finalization.

7. **Level of openness:** You will need to decide how open you would like the adoption. While private adoptions are often more open due to increased contact between the adoptive parents and the birth mother, even without an agency there are ways to keep the adoption closed or semi-closed if the parties want to. Open adoption agreements are not enforceable in Utah, so make sure you don't entice your birth mother to place with promises of openness.
8. **Grandparent rights:** Grandparents' rights are contingent upon the birth parents' rights. Also, a minor birth mother may place her child for adoption without her parents' consent. However, because grandparents can influence a birth parents' decision regarding placement, it is wise to find out what their involvement has been in the adoption plan.
9. **Multi-state adoptions:** Adoptions involving children born in another state require ICPC approval and may involve laws of another state. Adoptive parents may not travel to their home state with the child until ICPC approval is obtained.
10. **Indian Child Welfare Act:** If the child is a member of an Indian tribe, or eligible for membership and a biological parent is a member of a tribe, a federal state called the Indian Child Welfare Act applies to the placement and overrides state adoption laws. Make sure you retain an attorney experienced with the Indian Child Welfare Act if your birth mother indicates any Indian heritage.
11. **Finalization:** The adoption is not complete until the finalization hearing, which generally occurs 6 months or more after placement. Adoptive families should retain a competent and experienced attorney to file the adoption petition either before or shortly after placement.
12. **Adoption support groups:** There are various organizations throughout the state that benefit adoptive families. On a statewide level, information on the Utah Adoption Council can be found at [www.utahadoptioncouncil.com](http://www.utahadoptioncouncil.com). There are also various community groups comprised of adoptive families. If you can't find one in your community, network with other adoptive families and create your own.

**Information courtesy of:**

**Kirton McConkie  
1800 World Trade Center  
60 East South Temple  
Salt Lake City, Utah 84111  
(801) 328-3600**