



Regulation of Private Domestic Adoption Expenses

An independent or direct-placement adoption is an adoption arranged privately between the birth family and the adoptive family. A placement made between families within the United States is referred to as a domestic adoption. Private adoption agencies or attorneys may assist in completing a private domestic adoption. Unlike adoption of a child from foster care through a public agency, which involves fairly minimal fees, an adoptive family will be expected to pay many of the expenses associated with a private adoption.¹

¹ For a comparison of the types of adoptions and their relative costs, see Information Gateway's Adoption Options: Factsheet for Families at www.childwelfare.gov/pubs/f_adoptoption.cfm.

Electronic copies of this publication may be downloaded at

www.childwelfare.gov/systemwide/laws_policies/statutes/expenses.cfm

To find statute information for a particular State, go to

www.childwelfare.gov/systemwide/laws_policies/state/index.cfm

To find information on all the States and territories, order a copy of the full-length PDF by calling 800.394.3366 or 703.385.7565, or download it at

www.childwelfare.gov/systemwide/laws_policies/statutes/expensesall.pdf



Birth Parent Expenses

Approximately 47 States, the District of Columbia, American Samoa, Guam, the Northern Mariana Islands, and Puerto Rico have laws that provide some regulation of the fees and expenses that adoptive parents are expected to pay when arranging a private placement or independent domestic adoption.² Some of the fees and expenses that are typically addressed in the statutes are some of the expenses of the birth mother during pregnancy and childbirth; placement costs, such as agency fees; and legal and attorney expenses for adoptive and birth parents.

In private placement or independent adoptions, the adoptive parents may pay some of the birth mother's expenses, particularly in the case of a pregnant woman planning to place her infant for adoption. Approximately 45 States, American Samoa, and the Northern Mariana Islands have statutes that specify the type of birth parent expenses a prospective adoptive family is allowed to pay.³ The actual dollar amount is usually limited by the standard "reasonable and customary."

The types of expenses most commonly allowed by statute include:

- Maternity-related medical and hospital costs
- Temporary living expenses of the mother during pregnancy
- Counseling fees
- Attorney and legal fees and guardian *ad litem* fees
- Travel costs, meals, and lodging when necessary for court appearances or accessing services
- Foster care for the child, when necessary

Approximately seven States explicitly prohibit adoptive parents from paying certain types of expenses.⁴ Costs such as educational expenses, vehicles, vacations, permanent housing,

² Hawaii, Rhode Island, Wyoming, and the Virgin Islands do not currently address the issue of adoption expenses in statute. The word approximately is used to stress the fact that States frequently amend their laws. This information is current only through February 2008.

³ Hawaii, Massachusetts, Nebraska, Rhode Island, Wyoming, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands do not currently address the issue of birth parent expenses in statute.

⁴ Illinois, Kentucky, Minnesota, Montana, New Hampshire, North Dakota, and Wisconsin.

or any other payment for the monetary gain of the birth parent often are excluded. In 16 States, the statutes do not exclude specific types of expenses, but do indicate that any expense not expressly permitted by law or considered by the court to be unreasonable cannot be paid by the adoptive parents.⁵

Approximately 17 States specify time limits for the payment of the birth mother's living expenses or psychological counseling.⁶ The time limits set for these payments can range from as little as 30 days to as long as 6 months after the child's birth or placement. For example, Iowa allows postplacement counseling for 60 days but limits payment of living expenses to 30 days. New York limits payment of living expenses to 60 days prior to the child's birth and 30 days after. Oklahoma allows payments for postplacement counseling for up to 6 months but limits other expenses to 2 months beyond placement. In six States, the payment of expenses may not exceed a set dollar amount, unless the court grants an exception.⁷

Agency Costs and Fees

The fees charged by agencies and the extent to which they are regulated by State authorities vary from State to State. In 32 States, the District of Columbia, and the Northern Mariana Islands, the statutes simply authorize agencies to collect fees that are reasonable or cover the actual cost of the adoption services provided.⁸ Approximately 12 States specify a dollar amount for agency fees or specific services that agencies provide.⁹ Approximately 14 States provide for a reduction or waiver of fees for adoptive families that meet specified income

⁵ Arizona, California, Delaware, Kansas, Louisiana, Maine, Missouri, New Mexico, Ohio, Oklahoma, Pennsylvania, South Carolina, Utah, Virginia, West Virginia, and Wisconsin.

⁶ Florida, Idaho, Illinois, Indiana, Iowa, Louisiana, Michigan, Minnesota, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Tennessee, and Vermont.

⁷ Arizona (\$1,000), Connecticut (\$1,500), Florida (\$5,000), Idaho (\$2,000), Indiana (\$3,000), and Wisconsin (\$5,000).

⁸ Alaska, Arizona, Colorado, Connecticut, Delaware, Florida, Georgia, Iowa, Kansas, Louisiana, Maine, Michigan, Minnesota, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, and Wisconsin.

⁹ Alabama, Arkansas, California, Idaho, Indiana, Kentucky, Maine, Mississippi, New Mexico, North Carolina, Oregon, and Wisconsin specify a dollar amount in statute or regulation for some specific services.

criteria.¹⁰ Nevada and New Mexico will waive fees when the family is adopting a child with special needs.

The services that agencies typically provide are preplacement services, including preparation of home studies of the adoptive family, compiling a social and medical history of the birth family, birth family counseling, and postplacement services. Sometimes agencies also will receive payment for birth parent expenses and make appropriate disbursements.

Payments for Arranging Adoptions

In an independent adoption, an adoptive parent will often use an agent to assist in locating a pregnant woman considering adoption for her child. In an effort to ensure that no person, either the agent acting as intermediary or a member of the birth family, profits from the placement of a child, most States restrict the activities of these agents or intermediaries. Approximately 27 States, American Samoa, the District of Columbia, the Northern Mariana Islands, and Puerto Rico prohibit the payment of any fee for connecting an adoptive family with a pregnant woman or obtaining consent to adoption; in these States, fees may be paid only for the provision of adoption services, such as arranging for the home study.¹¹ An additional 12 States require that the placement of children must be done by licensed child-placing agencies or other authorized professionals.¹²

Payments for Relinquishing a Child

To avoid the appearance of “baby selling,” laws in 30 States, American Samoa, the Northern Mariana Islands, and Puerto Rico disallow any person from offering, or any birth parent from accepting, a payment of money or anything of value in exchange

¹⁰ Alabama, Alaska, Arizona, Arkansas, California, Colorado, Mississippi, Nevada, New Jersey, North Carolina, South Dakota, Virginia, Washington, and Wisconsin.

¹¹ Alabama, Arizona, California, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Louisiana, Maryland, Michigan, Minnesota, Missouri, Montana, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, South Carolina, South Dakota, Vermont, Virginia, West Virginia, and Wisconsin.

¹² Colorado, Illinois, Kentucky, Massachusetts, Mississippi, Nevada, New Jersey, New Mexico, New York, Oklahoma, Tennessee, and Texas. For more information on this issue, see the Information Gateway publication *Use of Advertising and Facilitators in Adoptive Placements* at www.childwelfare.gov/systemwide/laws_policies/statutes/advertising.cfm.

or relinquishing a child for adoption.¹³ Making a payment for anything beyond the expenses authorized in statute is expressly prohibited. California and Nevada prohibit a birth parent from obtaining financial benefit when he or she has no intention of completing the adoption.

In 13 States, payment of allowable expenses cannot be construed to obligate the birth parent to consent to the adoption.¹⁴ However, in Montana, North Carolina, and Vermont, if the adoption is not completed, the adoptive parent is not required to make any additional payment of expenses unless there is a prior written agreement to make a specific payment regardless of the outcome of the adoption proceeding. Idaho is the only State that requires reimbursement of expenses to prospective adoptive parents should the birth parent decide not to place the child for adoption.

Reporting to the Court

Approximately 40 States, American Samoa, Guam, the Northern Mariana Islands, and Puerto Rico require that an accounting of all adoption-related expenses be made to the court that has jurisdiction over the adoption proceedings.¹⁵ Typically, the accounting is made in the form of a sworn statement or affidavit. In some States, this statement is attached to the adoption petition. In other States, the accounting must be filed prior to the court hearing on the adoption. Some statutes specify that receipts for all expenses paid must be attached to the statement. Any expense for which a receipt is not presented may be disallowed.

In private placement and independent adoptions, the court has the discretion to review all disbursements made for adoption-related expenses, including payments made to or on behalf of the birth parents. In five States, the statutes permit the court

¹³ Alabama, Arizona, Arkansas, Colorado, Delaware, Florida, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Minnesota, Missouri, Nevada, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, and Wisconsin.

¹⁴ Florida, Illinois, Louisiana, Maine, Michigan, Minnesota, Montana, New Hampshire, New Jersey, New Mexico, North Carolina, Vermont, and Wisconsin.

¹⁵ Connecticut, Hawaii, Massachusetts, Minnesota, Mississippi, Nebraska, Rhode Island, South Dakota, Texas, Wyoming, the District of Columbia, Puerto Rico, and the Virgin Islands do not currently require an accounting of expenses to the court in their statutes.

to disallow or modify any expense that it finds unreasonable, unnecessary, or not permitted by State law.¹⁶

This publication is a product of the State Statutes Series prepared by Child Welfare Information Gateway. While every attempt has been made to be as complete as possible, additional information on these topics may be in other sections of a State's code as well as in agency regulations, case law, and informal practices and procedures.

¹⁶ Alabama, Arizona, Kansas, Kentucky, and Michigan.