



Understanding Infant Adoption 7

Montana Adoption Guide for Healthcare Providers & Staff

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Disclaimer: This resource guide is intended for informational purposes only and does not constitute legal advice. It is not a substitute for consultation with hospital legal counsel or a licensed adoption attorney. Adoption laws and procedures vary by jurisdiction and are subject to change. Healthcare providers and staff are strongly encouraged to seek professional legal guidance to ensure compliance with applicable laws and regulations.

Introduction to Adoption

What is Adoption?

Adoption is a legal process where biological parents (also referred to herein as “placing parents” or “birth parents” relinquish their parental rights to their child, allowing the child to be placed in the care of adoptive parents. However, adoption is more than just a legal agreement; it is a life-altering experience that reflects a commitment to a child's love, care, and well-being.

Healthcare providers should have a basic understanding of the three main types of adoption to offer informed support for their patients:

- **Private Adoption:** This is a direct arrangement between birth parents and adoptive parents, often through a licensed adoption agency or attorney. In a private adoption, the birth parents have voluntarily relinquished their parental rights to the child, and the child is placed directly into the legal and physical custody of the adoptive parents. Most private adoptions are “open adoptions,” meaning there will be ongoing contact between the birth parents and adoptive parents. Private adoption is the most common type of adoption that healthcare providers encounter when working in mother-baby and neonatal units.
- **Adoption from Foster Care:** This occurs when a child in state foster care is legally available for adoption after a court has terminated the parental rights of the birth parents. Foster care adoptions often involve older children. Every state has laws and regulations governing foster care and adoption, which are managed by the state's public child welfare agency. If the child is placed for adoption in another state, compliance with the Interstate Compact on the Placement of Children (ICPC) is required.

- **Intercountry Adoption:** The process by which a child born in one country is adopted by a family in another country. The State Department serves as the oversight authority for intercountry adoption in the United States.

For expectant mothers, the adoption journey is filled with complex emotions and culminates in a life-changing decision. The private adoption process allows mothers to create an adoption plan at any point during their pregnancy or after giving birth. In this journey, healthcare providers play a crucial role, providing neutral care and support, facilitating fully informed decision-making, and making ethical referrals to adoption providers. Your role in this process is integral in ensuring the well-being of all patients considering this option.

Important Terminology

The biological parent signs adoption consent or relinquishment, authorizing the court to terminate her parental rights:

- Before adoption consents are signed, refer to the biological parent as an **“expectant parent”** or **“parent”**
- A parent making an adoption plan for their child is called a **“placing parent”**
- After adoption consents are signed, refer to the biological parent as a **“birth parent.”**

Support for Patients Considering Adoption

Expectant parents should have access to a variety of support resources from the moment they begin considering adoption through the completion of the process and beyond. Below is a summary of some of the available services and providers that patients can access to find appropriate support.

➔ Pregnancy Options Counseling

Many non-profit organizations in Montana offer pregnancy options counseling for expectant mothers. The purpose of this counseling is to help women consider their available options during pregnancy. It is important to note that not all pregnancy centers provide the same services. For instance, some pregnancy resource centers do not offer information or referrals for abortion. However, most centers typically provide services such as pregnancy testing, ultrasounds, maternity clothes, parenting assistance, resource referrals, parenting classes, and counseling. Generally, these organizations do not charge fees unless they also operate a licensed medical clinic on site.

➔ Ethical & Effective Referrals

Empowering patients in their decision-making process is key. When making a referral to an adoption provider, it's important to present at least three options. This allows the patient to understand the range of services available and choose the one that best suits her needs. See the Understanding Infant Adoption curriculum handouts [Questions for Healthcare Practitioners to Ask Adoption Agencies and/or Attorneys](#) and [Questions for Patients to Ask Adoption Agencies and/or Attorneys](#) for suggestions.

➔ Choosing an Adoption Provider

The internet is full of adoption providers offering help to expectant parents, but not all of these entities have your patients' best interests at heart. It's essential to understand the different types of adoption professionals available:

- **Licensed Adoption Agencies:** Adoption agencies are licensed by the state to provide adoption services to expectant/birth parents and adoptive families. These services can include social work, home studies, adoption education, pregnancy counseling, adoption matching, and post-placement care. Agencies work to ensure that social and emotional challenges are addressed through social work and counseling, while also ensuring compliance with adoption rules and regulations.

- **Licensed Adoption Attorneys:** Attorneys play a vital role in the adoption process. Ideally, the adoptive parents should have their own attorney, and the expectant or birth parents should be represented by a separate attorney. This ensures that everyone's rights are protected and that there are no conflicts of interest. Attorneys in Montana are licensed by the Montana State Bar Association.
- **Unlicensed Adoption Intermediaries:** Some adoption providers are not licensed to offer adoption services. Unlicensed adoption intermediaries are also referred to as “advertisers,” “matchmakers,” “brokers,” or “marketers.” They solicit expectant and adoptive parents for their services through online ads and other marketing tactics and collect substantial matching fees from hopeful adoptive parents. Working with an unlicensed adoption provider can complicate the process for expectant mothers trying to find suitable adoptive parents for their children and can prevent them from getting adequate support and guidance. It is very appropriate to ask an agency to see a copy of their state-issued child-placing agency license.

More than half of the states in the U.S. have laws prohibiting the use of unlicensed adoption intermediaries, but such laws are frequently overlooked. Montana law prohibits unlicensed adoption facilitators. See [Montana Adoption Laws](#), below, for further information.

- **Out-of-State Adoption Providers:** With the increasing use of the Internet in the adoption process, patients may choose to work with adoption providers located outside of Montana. It's crucial to ensure these out-of-state providers are licensed to provide adoption services and that they work cooperatively with a Montana-licensed adoption agency and attorney to ensure that the placing parents receive local support before, during, and after adoption. This not only ensures legal compliance but also the safety and well-being of the patient and the child.

➔ Choosing Prospective Adoptive Parents

The process of selecting adoptive parents requires careful consideration. Expectant parents often have a specific vision of the type of family they wish to find for their child. A Montana-licensed child-placing agency or attorney can assist expectant parents in identifying potential adoptive families that align with their desired characteristics. Once the expectant parent has reviewed profiles of suitable prospective adoptive parents, she should have the opportunity to meet with them in person whenever possible before making a final decision.

Expectant parents should create a list of questions to ask prospective adoptive parents to ensure they find the right family for their child. However, compiling this list can be overwhelming. See the handout [Questions for Patients to Ask Adoption Agencies and/or Attorneys](#) for suggestions.

Support After Adoption

Birth parents often experience grief and a range of intense emotional and psychological effects after placing a child for adoption. It is important to provide them with mental health support during this time. Support following adoption can take various forms, including individual counseling, group therapy, and support groups.

Montana Adoption Laws

Adoption is a complex legal process. Violating state laws can jeopardize the safety of all parties involved, as well as the child's permanency. Below are frequently asked questions regarding Montana's adoption laws.

Does Montana allow independent (non-agency) adoptions?

Yes. Montana does allow independent (non-agency) adoptions, often referred to as "private" or "independent" adoptions. In these cases, the adoption is arranged directly between the birth parents and the adoptive parents, typically with the assistance of an attorney rather than a licensed adoption agency.

Does Montana allow unlicensed adoption facilitators?

No. Montana law prohibits unlicensed adoption facilitators. [Mont. Code Ann. § 42-7-105\(1\)\(b\) \(2023\)](#)

Does Montana require that placing parents have separate legal representation?

No. However, if the placing parent is a minor, they are required to have separate legal representation. [Mont. Code Ann. § 42-2-408 \(2023\)](#)

Are adoptive parents allowed to pay an expectant mother's living expenses?

Yes, adoptive parents are allowed to pay the expectant mother's counseling, legal expenses, and temporary living expenses. [Mont. Code Ann. § 42-7-101 \(2023\)](#)

When can the placing parents sign the adoption consent or relinquishment?

Placing parents are allowed to sign adoption consents no sooner than 72 hours after the child's birth. [Montana Code Ann. § 42-2-408 \(2023\)](#)

Can placing parents who have consented to an adoption change their mind and revoke their consent?

Possibly. A birth mother may revoke her consent at any time prior to the issuance of an order terminating parental rights, but only if this is mutually agreed upon with the adoption agency or prospective adoptive parents. [Mont. Code Ann. § 42-2-410 \(2023\)](#)

Are post-adoption contact agreements legally binding in Montana?

Yes. [Mont. Code Ann. § 42-5-301 \(2024\)](#)

What legal rights do birth fathers have in a Montana adoption?

In all states, including Montana, birth fathers' legal rights in adoption depend on various factors, such as their legal relationship with the child's mother and their actions before and after being notified of the adoption proceedings. Birth fathers who wish to understand and enforce their legal rights should consult with a Montana adoption attorney for guidance.

What to do when you suspect a violation in your hospital?

If you witness violations of Montana law in your hospital or healthcare clinic, you should immediately file a report. Where you file the report will depend on the type of entity or individual who has committed the offense. If you are witnessing repeated offenses, alert your healthcare administration office.

Type of Entity	Where to Report	Contact Information
Licensed Adoption Agency	Department of Public Health and Human Services	https://dphhs.mt.gov/CFSD/contacts
Licensed Attorney	Montana State Bar	https://www.montanabar.org/For-the-Public/Legal-Resources-FAQs
Unlicensed Adoption Facilitator	Local Law Enforcement	

Child Protection in Montana

Child Protective Services Referrals

Among mandated reporters in Montana are the following professionals and officials: all physicians, residents, interns, and members of a hospital's staff engaged in the admission, examination, care, or treatment of persons;

nurses, osteopaths, chiropractors, podiatrists, medical examiners, coroners, dentists, or any other health or mental health professionals; and licensed social workers.

Mandated reporters are required to make a report when they have reasonable cause to suspect:

- Child abuse or neglect
- Any infant known to the professional to be affected by a dangerous drug.

[Montana Code Ann. § 42-2-408](#)

Child Abuse, Neglect, and Exploitation Definitions under Montana Law

Under Montana law, a child is any person under the age of 18.

- **Child Abuse or Neglect:** Actual physical or psychological harm to a child, substantial risk of physical or psychological harm to a child, or abandonment. Includes exposing a child to the criminal production or distribution of dangerous drugs as well as any form of child sex trafficking or human trafficking.
- **Physical Abuse:** Intentional act, an intentional omission, or gross negligence resulting in substantial skin bruising, internal bleeding, substantial injury to skin, subdural hematoma, burns, bone fractures, extreme pain, permanent or temporary disfigurement, impairment of any bodily organ or function, or death.
- **Physical Neglect:** Failure to provide basic necessities, including but not limited to appropriate and adequate nutrition, protective shelter from the elements, and appropriate clothing related to weather conditions; failure to provide cleanliness and general supervision, or both; exposing or allowing the child to be exposed to unreasonable physical or psychological risks; allowing sexual abuse or exploitation of the child; or causing malnutrition or a failure to thrive.
- **Psychological Abuse or Neglect:** Severe maltreatment, through acts or omissions, that is injurious to the child's intellectual or psychological capacity to function. Includes but is not limited to the commission of acts of violence against another person residing in the child's home.
- **Physical or Psychological Harm:** Harm that occurs whenever the parent or other person responsible for the child's welfare inflicts or allows to be inflicted on the child physical abuse, physical neglect, or psychological abuse or neglect.
- **Sexual Abuse:** The commission of sexual assault, sexual intercourse without consent, aggravated sexual intercourse without consent, indecent exposure, sexual abuse, ritual abuse of a minor, or incest.
- **Sexual Exploitation:** Allowing, permitting, or encouraging a child to engage in a prostitution offense; allowing, permitting, or encouraging sexual abuse of children; or allowing, permitting, or encouraging sex trafficking.

[Montana Code Ann. § 41-3-102](#)

Mandated Reporter Contact Information

Contact your county's Child & Family Services Division to report incidents of abuse, neglect, or exploitation to the proper state child protection agency.

- **County Office Contacts:** <https://dphhs.mt.gov/CFSD/countyoffice>

Safe Haven/Safe Surrender Laws and Process

Safe Haven/Safe Surrender laws are designed to prevent the abandonment and endangerment of infants by providing a safe and legal way for parents to relinquish unharmed newborns. These laws allow parents to safely

surrender their infant directly to a designated provider, while generally protecting them from criminal liability and prosecution. Additionally, these laws ensure that the relinquishing parent can remain anonymous. It is important to note that Safe Haven/Safe Surrender laws are intended for use in extreme circumstances and are not a substitute for the resources provided in the public child welfare system or private adoption processes.

- **For Immediate Assistance:** Call or text the 24/7 Safe Haven Crisis Helpline at 1-888-510-BABY (2229)

What are the age restrictions for a Safe Haven/Safe Surrender relinquishment in Montana?

The infant must be a newborn no more than 30 days old. [Montana Code Ann. § 40-6-402 \(2023\)](#)

Who can relinquish the infant under Safe Haven/Safe Surrender laws?

The parent of the child may relinquish the infant. [Montana Ann. Code § 40-6-405 \(2023\)](#)

Who are the designated Safe Haven/Safe Surrender providers?

In Montana, a parent may relinquish the infant for a Safe Haven/Safe Surrender through an emergency medical services provider, which includes a uniformed or otherwise identifiable employee of a fire department, hospital, or law enforcement agency, when the individual is on duty inside the premises of the fire department, hospital, or law enforcement agency; or any law enforcement officer who is in uniform or is otherwise identifiable.

[Montana Code Ann. §§ 40-6-402, 40-6-405 \(2023\)](#)

Putative Father Registry

A putative father is a person who claims to be the father of a child and wants to establish paternity. The purpose of a registry is to allow an unmarried father of a born or unborn child to register his name so he will be notified before the child is placed for adoption. The father does not have to be listed on the birth certificate to register.

Montana has a state registry; alleged fathers must submit a registration form to the Vital Statistics Bureau of the Department of Public Health and Human Services in person or by facsimile transmission, mail, private courier, or express delivery service within 72 hours of the child's birth. Failure to file within this timeframe may result in loss of all parental rights to the child. [Mont. Code Ann. §42-2 \(2023\)](#)

Those seeking to establish parentage may learn more about options and procedures at <https://dphhs.mt.gov/cssd/services/patestablishinfo>.

Montana Adoption Service Providers

Licensed Private Adoption Agencies

In Montana, adoption agencies are licensed by the state Department of Public Health and Human Services. The following licensed agencies focus on domestic infant adoption with counseling and/or services available for expectant parents. Some agencies are licensed in multiple states.

* Denotes a for-profit agency.

Contact ascc@adoptioncouncil.org with any additions, corrections, or updates.

- **Catholic Social Services of Montana**
630 N Last Chance Gulch Ste 2200
Helena, MT 59624
Phone: (406) 442-4130
Contact Form: <https://www.cssmt.org/contact/>
<https://www.cssmt.org/pregnant/>

- **The Sacred Portion Children's Outreach dba HopeFull Connections Adoption Services***
2137 W Durston Rd Ste 26
Bozeman, MT 59718
Phone: (406) 586-5773
info@sacredportion.org
<https://sacredportion.org/adoption.php>
- **St. John's United Family Services (formerly Lutheran Social Services of Montana)***
3940 Rimrock Rd
Billings, MT 59102
Phone: (800) 726-3083
Contact Form: <https://www.stjohnsunited.org/contact/>
<https://www.stjohnsunited.org/services/family/adoption/>

Licensed Adoption Attorneys

This listing reflects the current Montana fellows of the [Academy of Adoption & Assisted Reproduction Attorneys](#) and may not be representative of all attorneys in the state working in the field of adoption law. Some attorneys hold licensure in more than one state.

Contact ascc@adoptioncouncil.org with any additions, corrections, or updates.

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Resources

- [Academy of Adoption & Assisted Reproduction Attorneys](#)
- [AdoptChange](#)
- [Child Welfare Information Gateway: State, Territory, and Tribal Resources](#)
- [Montana Department of Public Health and Human Services: Adoption in Montana](#)
- [Montana State Bar](#)
- [Montana State Legislature: Montana Code Annotated](#)

About the Adoption-Sensitive Clinical Care Project

It is critical that expectant parents who may wish to place a child for adoption have access to appropriately trained staff and comprehensive supports throughout the adoption process. The federally-funded Adoption-Sensitive Clinical Care Project and the Understanding Infant Adoption curriculum are being administered by [National Council For Adoption \(NCFA\)](#), [The Adoption & Foster Care Clinic](#), [Spaulding for Children](#), and [University of Washington School of Social Work](#) for the project period 2024-2026.

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