

Child and Family Services Policy Manual: Adoption Direct Parental Placement Adoption

Definitions	Direct parental placement adoptions means an adoption in which the parent of the child places the child with a prospective adoptive parent personally known and selected by the parent independent of an agency.
Procedure	<p>A prospective adoptive parent who wishes to adopt a child placed directly by the child's parents must obtain a favorable pre-placement evaluation prior to taking custody of a child. The pre-placement evaluation process is initiated by contacting a licensed adoption agency or a Licensed Clinical Social Worker. A court order is not required.</p> <p>In a direct parental placement, prior to relinquishment, the parent must be informed that the fees for any required counseling and legal fees are allowable expenses that may be paid by a prospective adoptive parent, and the birth parent must be provided with a copy of the pre-placement evaluation (adoptive home study).</p> <p>In a direct parental placement, if the parent is a minor the parent must be represented by separate legal counsel from the attorney for the adoptive parent(s). The legal fees charged by the minor parent's attorney are an allowable expense that may be paid by the prospective adoptive parents.</p> <p>Three hours of birth mother counseling is required prior to relinquishment, and must be provided by a staff member of a licensed private adoption agency. If any other parent is involved in an adoptive placement, counseling of that parent is encouraged. This department does not provide this counseling in direct parental placements.</p> <p>Effective July 01, 2006 the court may order the state Office of Public Defender to represent the minor child.</p>
Pre-Placement Evaluation	The prospective adoptive parent(s) are responsible for paying for the evaluation at whatever reasonable cost is set by the evaluator. The pre-placement evaluation must contain all the information required by Mont. Code Ann. § § 42-3-203 through 205 as detailed in Section 602-2, Assessment and Pre-Placement Evaluation, of this manual.
Other factors	The pre-placement evaluation report should also advise the court of any other circumstances and conditions that may affect the adoption. For example:

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1. whether the placement was arranged in violation of state laws requiring licensing of adoption agencies, Mont. Code Ann. § 42-8-103;
2. whether the Interstate Compact applies to the adoption;
3. whether the Indian Child Welfare Act applies to the adoption; or
4. if only one birth parent is making the placement, the status of the other parent's rights.

Step-parent or Relative Adoptions CPS Inquiry

The court may no longer order an investigation for direct parental placement adoptions, including step-parent or relative adoptions, but may order a protective services search for a step-parent or relative petitioning to adopt. In these cases, where CPS involvement is substantiated, the court must be notified.

Pre- and Post-Placement Evaluations

The Department does not conduct investigations (pre-placement or post-placement evaluations) for direct parental placement adoptions, or step-parent or relative adoptions. People with inquiries about this should be directed to the adoption codes in Montana Code Annotated, Title 42, or, when appropriate, referred to a licensed adoption agency or a Certified Licensed Clinical Social Worker who provides these services.

Waiver of counseling and evaluations

The Department may not waive any counseling requirements, pre- or post-placement evaluations, or the post-placement evaluation period. Only the court may waive counseling requirements for good cause.

In a step-parent adoption, the court may waive the requirement of a pre-placement evaluation and the six-month post-placement evaluation report.

In a direct parental placement adoption, the court may waive the requirement of a pre or post-placement evaluation when a parent or guardian places a child for adoption directly with an extended family member of the child.

References

Mont. Code Ann. §§ 42-3-202 through 42-3-205, 42-3-212, 42-4-103, 42-4-309, and 42-4-310