



Texas Child Adoption FAQs

What is Adoption?

- Adoption is the legal process that establishes a parent-child relationship between legal “strangers.”¹
- Adoption requires court approval before transferring permanent custody of the child to an adoptive parent.²
- Adoption severs the legal relationship between the adopted child and the biological parents; however, the adopted child usually retains inheritance rights.³

Who Can Adopt a Child?

- In general, any adult who meets the Texas Family Code requirements may adopt a child. This includes a relative, foster parent, stepparent, or prospective adoptive parent.⁴
- If the adult seeking to adopt a child is married, both spouses must join the petition for adoption.⁵

Who Can be Adopted in Texas? ⁶

- For purposes of adoption proceedings, a person is generally considered a child if they are under 18 years of age, not married, and have not been married.⁷
- Generally, a child residing in Texas can be adopted if:
 - ◆ The parent-child relationship as to each of the child’s living parents has been terminated or is sought to be terminated with the adoption suit.
 - ◆ The child is at least two years old, the parent-child relationship has been terminated as to one parent, and:
 - ❖ The adult seeking to adopt has been a managing conservator or had “actual care, possession, and control” of the child for 6 months before the adoption, or is the child’s former stepparent, *and* the non-terminated parent consents to adoption,⁸ or
 - ❖ The adult seeking to adopt is the child’s former stepparent and has been a managing conservator or had “actual care, possession, and control” of the child for one year before the adoption.⁹
- Children 12 or older must consent to adoption.¹⁰

1 See Tex. Fam. Code §§ 162.001 et seq.; see also *Trevino v. Garcia*, 627 S.W.2d 147, 148–149 (Tex. 1982).

2 See Tex. Fam. Code § 162.026.

3 See Tex. Fam. Code §§ 161.206(b), 162.001(b)(1); see also *Patton v. Shamburger*, 431 S.W.2d 506, 508 (Tex. 1968).

4 See Tex. Fam. Code §§ 102.003, 162.001(a).

5 See Tex. Fam. Code § 162.002(a).

6 See Tex. Fam. Code § 162.001(b).

7 See Tex. Fam. Code § 101.003(a).

8 See Tex. Fam. Code § 162.010(b)(3).

9 See Tex. Fam. Code § 162.010(b)(4).

10 See Tex. Fam. Code § 162.010(c).



What Are the Types of Adoption?

- **Open:** Biological and adoptive parents maintain direct contact with each other before, during, and after the adoption.
- **Semi-Open:** Biological and adoptive parents can choose the level of contact that works for them (i.e., written correspondence, in-person visits).
- **Closed:** Biological and adoptive parents have no contact before, during, or after the adoption, and no identifying information is shared.

How Do I Match With a Child?

- The Texas Adoption Resource Exchange is managed by the Texas Department of Family and Protective Services (DFPS) and helps match children awaiting adoption with adoptive parents.¹¹
- DFPS has also compiled a list of licensed private adoption agencies throughout Texas.¹²
- Foster care options exist as well, including adoption through foster care and foster to adopt programs.

Where Can I Learn More About the Adoption Process and Adoption Assistance Resources?

- The DFPS offers a variety of adoption assistance resources, including help with defraying adoption costs and connecting families with adoption support programs.¹³
- The U.S. Department of Health & Human Services offers resources for prospective and adoptive parents on a variety of topics relating to domestic and intercountry adoptions.¹⁴



The Texas Child Adoption FAQs is a public service publication by the Texas Young Lawyers Association.

These FAQs are intended to provide general guidance only and are not a substitute for the advice of a lawyer. Remember, an adoption proceeding is a legal proceeding. Please consult a trusted adoption lawyer to advise you if you are considering child adoption.

¹¹ See <https://www.dfps.state.tx.us/Application/TARE/Home.aspx/Default>.

¹² See https://www.dfps.state.tx.us/Adoption_and_Foster_Care/Adoption_Partners/private.asp.

¹³ See https://www.dfps.state.tx.us/Child_Protection/Adoption/adoption_assistance_resources.asp.

¹⁴ See <https://www.childwelfare.gov/topics/adoption/>.