

**ADOPTION NOTICE CHART**

|   | Category of Individual   | Statute  | Notice Required | Comment   |
|---|--|--|-----------------|---|
| 1 | Person whose consent to adoption was filed with adoption petition.   | IC 31-19-2.5-4(1)  | None            |   |
| 2 | Biological father of child conceived out of wedlock as a result of biological father's rape of mother & biological father was convicted                | IC 31-19-2.5-4(2)(A)<br><br>[referencing IC 31-19-9-8(a)(4)(A)]  | None            |   |
| 3 | Biological father of child conceived out of wedlock as a result of incest; no criminal conviction required   | IC 31-19-2.5-4(2)(B)<br><br>[referencing IC 31-19-9-8(a)(4)(D)]  | None            |   |
| 4 | Putative father who did not file paternity action within 30 days of actual pre-birth notice<br><br>See also #12  | IC 31-19-2.5-4(2)(C)<br><br>[referencing IC 31-19-9-8(a)(5) and IC 31-19-9-15(a)(1)]                       | None            | His consent is irrevocably implied; child does not need to be born within that 30 day period.<br><br>Note: IC 31-19-9-17(b) may provide a situation in which a putative father in this category can establish paternity.  |
| 5 | Putative father who timely filed the paternity petition after actual pre-birth notification, but failed to establish paternity<br><br>See also #12     | IC 31-19-2.5-4(2)(C)<br><br>[referencing IC 31-19-9-8(a)(5) and IC 31-19-9-15(a)(2)]                       | None            | Consent is irrevocably implied; paternity must be established in paternity proceeding under IC 31-14 or laws of another state with jurisdiction over the paternity action.<br><br>Note: IC 31-19-9-17(b) may provide a situation in which a putative father in this category can establish paternity.                       |
| 6 | Biological father who established paternity after adoption petition filed, but did not register with putative father registry within the time allowed. | IC 31-19-2.5-4(2)(D)<br><br>[Referencing IC 31-19-9-8(a)(6)]<br><br>Time frame described by IC 31-19-5-12. | None            | Applies to paternity established by paternity affidavit or by court action.<br><br>Time frame (IC 31-19-5-12) is the later of these two options:<br>(1) within 30 days of child's birth; or<br>(2) whichever comes first, the date of the adoption petition or the date of the termination of the mother's parental rights. |
|   | Category of Individual   | Statute  | Notice Required | Comment   |

|                        |   |  |   |   |
|------------------------|---|--|---|---|
| 7                      | A parent who has relinquished the right to consent as provided in IC 31-19-9. | IC 31-19-2.5-(4)(2)(E)<br><br>[referencing IC 31-19-9-8(a)(7)] | CONFLICTING ANSWERS; best practice is to examine statute under which parent relinquished right to consent to determine if there is any notice provision or requirement. | <p>IC 31-19-2.5-(4)(2)(E) states that notice does not need to be given to parents whose consent is not needed under IC 31-19-9-8(a)(7), and that statute provides that notice does not need to be given to a parent who has relinquished the right to consent as provided in IC 31-19-9, which is the entire consent chapter.</p> <p>IC 31-19-9-8(a)(7) could reference IC 31-19-9-2(c), in which case, there may not be a notice problem, as this statute refers to consent that has already been given at an earlier date in the adoption process.</p> <p>IC 31-19-9-8(a)(7) could reference IC-31-19-9-9, which provides that “a court shall determine that consent to adoption is not required from a parent if the: ...(3) court determines, after notice to the convicted parent and a hearing, that dispensing with the parent’s consent to adoption is in the child’s best interests.”</p> <p>Other statutes where a conflict may exist between the no notice required by IC 31-19-2.5-(4)(2)(E) and the notice provision in the statute which it ultimately references are:<br/> IC 31-19-9-10<br/> IC 31-19-9-12<br/> IC 31-19-9-18</p> |
| Category of Individual |   | Statute  | Notice Required   | Comment   |



|    |  |  |   |   |
|----|--|--|---|---|
|    | (1) to file a motion to contest the adoption, OR<br>(2) failed to appear for the hearing on the motion to contest the adoption proceeding, OR<br>(3) filed a paternity petition but failed to establish paternity, OR<br>(4) failed to register with the Putative Father Registry within the time limits, when required to do so | [referencing IC 31-19-9-12, subsections (1) through (4)] | notice, since statute itself requires notice.<br><br>For IC 31-19-9-12(2), give notice, since statute itself requires notice.<br><br>For IC 31-19-9-12(3), none needed.<br><br>For IC 31-19-9-12(4), none needed. | situations. But see also <u>In re Adoption of B.W.</u> , 908 N.E.2d 586, 594 (holding that the putative father's filing of a paternity action was sufficient to preclude a finding that his consent to the adoption was irrevocably implied, even though he did not also file a motion to contest the adoption).<br><br>Although IC 31-19-2.5-4(2)(l) says no notice need be given to people whose consent is not necessary under IC 31-19-9-12(1) and (2), those statutes also provides that a putative father has to get notice under IC 31-19-4, and subsection (2) at least implies that the putative father had notice. Subsections (3) and (4) do not appear to have any conflicting notice requirements. |
| 12 | Putative Father registers with the Putative Father Registry <u>after</u> the adoption petition is filed, but <u>before</u> the child is thirty (30) days old.  | IC 31-19-5-12  | YES, notice must be given.  | IC 31-19-5-12 provides that to be entitled to notice of an adoption, a putative father must register with the putative father registry not later than: (1) 30 days after the child's birth; or (2) the earlier of the date of the filing of a petition for the: (A) child's adoption; or (B) termination of the parent-child relationship between the child and the child's mother; whichever occurs later.<br><br><u>See In Re I.J.</u> , 39 N.E.3d 1184 (Ind. Ct. App. 2015) (holding because Putative Father registered before the child was thirty days old, his registration was timely; he was entitled to notice of the adoption and should have been permitted to contest the adoption)                 |
|    | Category of Individual   | Statute  | Notice Required   | Comment   |
| 13 | Putative father whose consent is not needed because  | IC 31-19-2.5-4(2)(J)                                     | None  | IC 31-19-3 is not a required notice to putative   |

|    |   |  |   |   |
|----|---|--|---|---|
|    | <p>of IC 31-19-9-15:<br/> (1) Putative father did not file paternity action within 30 days of receiving actual notice under IC 31-19-3, OR<br/> (2) Putative father filed paternity action within 30 days of receiving actual notice under IC 31-19-3 but failed to establish paternity under that proceeding.</p> <p>See also #4, #5.</p>  | [referencing IC 31-19-9-15]                                  |   | fathers; it is an elective pre-birth notice which may be undertaken by biological mothers and prospective adoptive parents. If they elect to provide pre-birth notice [IC 31-19-3] and the putative father fails to perform his obligations of filing to establish paternity within 30 days and then later establishing paternity, then no more notice of adoption proceedings is necessary. His consent is deemed irrevocably implied at this point, so further notice is necessary. |
| 14 | <p>Person whose consent to adoption is not required by IC 31-19-9-18 because his/her consent is irrevocably implied because:<br/> (1) Person fails to file motion to contest adoption within 30 days after service of notice under IC 31-19-4.5; OR<br/> (2) Person files a motion to contest adoption but fails to appear at the hearing to contest adoption AND fails to prosecute the motion without unreasonable delay.</p> | <p>IC 31-19-2.5-4(2)(K)<br/> [referencing IC 31-19-9-18]</p> | CONFLICTING ANSWERS; best practice is to give notice. | Although IC 31-19-2.5-4(2)(K) says that notice is not required to people whose consent is not needed because of IC 31-19-9-18, that statute itself provides an opportunity for them to file a motion to contest the adoption after service of notice under IC 31-19-4.5. This implies that they must first have been given notice, THEN failed to contest the adoption or failed to prosecute their motion to contest the adoption.   |
| 15 | Putative father waived notice required by IC 31-19-4 in writing, either before or after birth of child.   | <p>IC 31-19-4-8<br/> IC 31-19-2.5-4(1)</p>                   | None  | If notice is waived, then putative father cannot come back and contest or challenge adoption.   |
| 16 | Person waived notice required by IC 31-19-4.5 in writing, with proper acknowledgments, before or after birth of child.  | <p>IC 31-19-4.5-4<br/> IC 31-19-2.5-4(1)</p>                 | None  | If notice is waived, then person cannot come back and contest or challenge adoption.  |
|    | Category of Individual  | Statute  | Notice Required                                       | Comment   |
| 17 | Putative father who did not register with putative father registry; AND mother has not given Putative   | IC 31-19-4-6   | None  |   |

|    |  |                 |                            |  |
|----|--|-----------------|----------------------------|--|
|    | Father's name or address or both to attorney or licensed child placing agency, on or before the day Mother signs adoption consents.  |                 |                            |  |
| 18 | Putative father, to whom IC 31-19-4 would apply, was already given ACTUAL notice of potential adoption under IC 31-19-3.<br><br>See also #12.  | IC 31-19-4-9(1) | None                       | Putative father was already given actual notice under the elective pre-birth notice statutes, making duplicate notice under IC 31-19-4 unnecessary.  |
| 19 | Someone attempted to give putative father, to whom IC 31-19-4 would apply, notice under IC 31-19-3 AND putative father could not be located at the address provided, UNLESS putative father registered that address with the putative father registry. | IC 31-19-4-9(2) | None                       |  |
| 20 | Putative father of a child, where mother of that child is considering potential adoptive placement, before the child is born.  | IC 31-19-3-1    | Notice <b>MAY</b> be given | Elective notice; this notice does not obligate mother to go through with the adoptive placement. [IC 31-19-3-1]. If notice done through this chapter, attorneys/LCPA filing adoption petition must submit affidavit detailing circumstances around service of notice [IC 31-19-3-3]. |
| 21 | On or before signing adoption consents, mother gave name and address of putative father to attorney/LCPA, AND putative father has not had his rights terminated, AND putative father has not given consent.  | IC 31-19-4-1    | YES, notice must be given. | If notice was given to putative father according to TR 4.1, no further notice is necessary, even if putative father did not get actual notice. [IC 31-19-4-7]  |
|    | <b>Category of Individual</b>  | <b>Statute</b>  | <b>Notice Required</b>     | <b>Comment</b>   |
| 22 | On or before signing adoption consents, mother did not give name or address or both of putative father   | IC 31-19-4-2    | YES, notice must be given. | If notice was given to putative father according to TR 4.1, no further notice is   |

|    |   |                      |   |   |
|----|---|----------------------|---|---|
|    | to attorney/LCPA, AND putative father registered with the putative father registry, AND he has not consented or had his rights terminated   |                      |   | necessary, even if putative father did not get actual notice. [IC 31-19-4-7]  |
| 23 | On or before signing adoption consents, mother tells attorney/LCPA that child was conceived outside of Indiana, AND does not disclose name or address or both of putative father, AND the putative father has not consented AND putative father is not registered with the putative father registry | IC 31-19-4-3         | YES, notice must be given (service by publication). | Service on putative father is done by publication; if notice was given to putative father according to TR 4.13, no further notice is necessary, even if putative father did not get actual notice. [IC 31-19-4-7] |
| 24 | Adoption petition alleges that consent of a parent is not necessary and was not obtained because of: IC 31-19-9-8(a)(1) [abandonment of child six months immediately before filing of adoption petition]  | IC 31-19-2.5-2(b)(1) | YES, notice must be given.                          |   |
| 25 | Adoption petition alleges that consent of a parent is not necessary and was not obtained because of: IC 31-19-9-8(a)(2) [parent fails without justifiable cause to communicate significantly with child when able to do so or knowingly fails to provide support when able and required to do so].  | IC 31-19-2.5-2(b)(2) | YES, notice must be given.                          |   |
| 26 | Adoption petition alleges that consent of a biological father is not necessary and was not obtained because of IC 31-19-9-8(a)(4)(B) [biological father of a child born out of wedlock who was conceived as a result of child molesting (IC 35-42-4-3)]   | IC 31-19-2.5-2(b)(3) | YES, notice must be given.                          |   |
| 27 | Adoption petition alleges that consent of a biological father is not necessary and was not obtained because of IC 31-19-9-8(a)(4)(C) [[biological father of a child born out of wedlock who was conceived as a result of sexual misconduct with a minor (IC 35-42-4-9)].                            | IC 31-19-2.5-2(b)(4) | YES, notice must be given.                          |   |
|    | <b>Category of Individual</b>   | <b>Statute</b>       | <b>Notice Required</b>                              | <b>Comment</b>  |
| 28 | Adoption petition alleges that consent of a parent is not necessary and was not obtained because of IC 31-19-9-8(a)(9) [parent judicially declared incompetent or mentally defective, if court dispenses  | IC 31-19-2.5-2(b)(5) | YES, notice must be given.                          |   |

|    |   |   |                            |  |
|----|---|---|----------------------------|--|
|    | with parent's consent to adoption]  |   |                            |  |
| 29 | Adoption petition alleges that consent of a parent is not necessary and was not obtained because of IC 31-19-9-8(a)(11) [parental unfitness and adoption in child's best interests]   | IC 31-19-2.5-2(b)(6)                    | YES, notice must be given. |  |
| 30 | Grandparent of a child sought to be adopted who has: (1) <u>an existing right to petition</u> for visitation under IC 31-17-5-1(the Grandparent Visitation Act); and (2) a right to visitation that will not be terminated after the adoption pursuant to IC 31-17-5-9 [adoption by child's stepparent or biological relative]. | IC 31-19-4.5-1(3) and IC 31-19-2.5-3(a) | YES, notice must be given. | <p>These statutes require that the grandparent be sent a notice of the filing of a petition for adoption in a form substantially similar to the form prescribed by IC 31-19-4.5-3. IC 31-19-4.5-1.5 states that the required notice is: (1) limited to the issue of visitation and may not be used to contest an adoption; and (2) not required if the child has been placed in the care, custody, or control of DCS.</p> <p><u>See Walker v. Knight</u>, 119 N.E.3d 573 (Ind. Ct. App. 2019), clarified and rehearing denied at 120 N.E.3d 1157 (Ind. Ct. App. 2019).</p> |