



## Stepparent Adoption



Adopting a stepchild is the most common form of adoption. A stepparent who adopts agrees to be fully responsible for his or her spouse's child. After the stepparent adoption occurs, the noncustodial parent (the parent not living with the child) no longer has any rights or responsibilities for the child, including child support.

### What's Inside:

- Legal issues
- Steps to take
- Help for parents



## Legal Issues

Stepparent adoption, like all other forms of adoption in the United States, is governed by State law. Most States make the adoption process a little easier for stepparents. For example, your family may not need to be represented by a lawyer. You may not be required to have a home study, as parents in other types of adoption are. However, every State is different. For example, some States require a criminal background check even if a home study is not required. Be sure to find out what the laws are in your State.

How long your adoption will take also varies by State. Some States will not approve a stepparent adoption unless you have been married to the child's parent for 1 year or longer.

Adoption by a stepparent generally has no effect on a child's legal right to inherit from either birth parent or other family members. For more information about how each State and territory handles legal inheritance, see *Intestate Inheritance Rights for Adopted Children* at [www.childwelfare.gov/systemwide/laws\\_policies/statutes/inheritance.cfm](http://www.childwelfare.gov/systemwide/laws_policies/statutes/inheritance.cfm)

### Consent of the Other Parent

If you want to adopt a stepchild, you must have the consent (or agreement) of both your spouse and the child's other parent. By giving his or her consent, the noncustodial parent gives up all rights and responsibilities, including child support. Sometimes getting the child's other parent to agree to your adoption can be difficult.

The way to obtain consent is different in each State. In many States, the noncustodial parent can give a written statement. In other States, he or she may have to appear before a judge or file papers with the court. Some States require the parent to receive counseling, have the laws and his or her rights explained to him or her, or talk to a lawyer.

Some State adoption laws do not require the other parent's consent in some situations. However, it is important to do everything the law requires to obtain proper consent. Some States' laws allow for consent to be revoked, and for an adoption to be challenged or overturned, if these requirements are not met or fraud has occurred.

Some States' laws allow stepparent adoptions to occur even if the noncustodial parent objects or contests the adoption. For example, this may be allowed if the noncustodial parent has not contacted the child for a certain period of time. These situations may be complicated. You may wish to consult with a lawyer. If you cannot afford to hire a lawyer, you may be eligible for free legal help. In some States, the court will also appoint someone to represent your child (a guardian *ad litem*, sometimes called a "GAL").

### Resources

The Child Welfare Information Gateway State Statutes Series provides summaries of State laws regarding certain aspects of adoption, including:

- *Consent to Adoption*  
[www.childwelfare.gov/systemwide/laws\\_policies/statutes/consent.cfm](http://www.childwelfare.gov/systemwide/laws_policies/statutes/consent.cfm)

- *The Rights of Presumed (Putative) Fathers*  
[www.childwelfare.gov/systemwide/laws\\_policies/statutes/putative.cfm](http://www.childwelfare.gov/systemwide/laws_policies/statutes/putative.cfm)
- *Who May Adopt, Be Adopted, or Place a Child for Adoption?*  
[www.childwelfare.gov/systemwide/laws\\_policies/statutes/parties.cfm](http://www.childwelfare.gov/systemwide/laws_policies/statutes/parties.cfm)
- *Court Jurisdiction and Venue for Adoption Petitions*  
[www.childwelfare.gov/systemwide/laws\\_policies/statutes/jurisdiction.cfm](http://www.childwelfare.gov/systemwide/laws_policies/statutes/jurisdiction.cfm)

Information Gateway's *Online Resources for State Child Welfare Law and Policy* provides links to public websites for full-text State laws and policies related to adoption:  
[www.childwelfare.gov/systemwide/laws\\_policies/statutes/resources.cfm](http://www.childwelfare.gov/systemwide/laws_policies/statutes/resources.cfm)

## Steps to Take

### 1. Check out your State's laws on stepparent adoptions

You may begin by reading the laws discussed in the previous sections. However, nothing can replace the qualified legal advice of an adoption lawyer admitted to the Bar in your State. Adoption lawyers will know the relevant laws and will be able to research how decisions in prior cases might affect your situation.

### 2. Contact the court in your county that handles adoptions

In some States adoptions are handled in juvenile court. In other States the family court or surrogacy court handles adoptions. If you are not sure which court handles

adoptions in your area, you may want to read the Information Gateway publication, *Court Jurisdiction and Venue for Adoption Petitions*:  
[www.childwelfare.gov/systemwide/laws\\_policies/statutes/jurisdiction.cfm](http://www.childwelfare.gov/systemwide/laws_policies/statutes/jurisdiction.cfm)

Ask to speak to the court clerk or another person who can give you information about stepparent adoptions. (Court employees may not give legal advice.) Many courts have an information packet that can be mailed to you. If the court does not have a prepared packet, find out during your phone call:

- Whether the court requires you to hire a lawyer, or whether you can represent yourself
- Where you can find the required legal forms (in some States, they will be available online)

### 3. Find and submit required legal forms

Many States allow certain publishing companies to stock and sell legal forms to the public for court procedures. In other States, they are available online.

These forms will ask questions about you and the child you want to adopt. For example, they may ask:

- The child's current name, and what it will be after the adoption
- How long you have been married to the child's parent
- Where the child was born

Typically you will need to provide some proof of this information, such as a child's birth certificate, a marriage license, and a copy of the noncustodial parent's consent. If you hire a lawyer, he or she will take care of this step for you.

#### 4. Go to the hearing

Once your forms have been submitted, a hearing (court) date will be assigned. How long it takes to get a hearing varies based on where you live and how busy the court is. It may be anywhere from a few weeks to a few months. You may be notified of the date by mail or by your lawyer.

You will probably be required to go to this hearing. A judge (or magistrate) will ask questions of everyone involved. Your lawyer can give you more information about what happens during hearings in your area. At the end of this hearing, the judge or magistrate will set a date for the adoption to be finalized.

#### 5. Finalize the adoption

Adoption certificates are issued at a second hearing, which may be a few months (or longer) after the first hearing. You may wish to request extra copies of this legal document for your files. Your lawyer or the court will tell you whether or not you need to go to this hearing.

#### 6. Apply for a new birth certificate

When the adoption is final, you can apply for a new birth certificate for your child. This certificate will have the child's new name, if changed, and list the stepparent as his or her parent.

## Help for Parents

Adoption does not end with finalization. It is a process rather than a one-time event. Your child and family may need time to adjust to being a new kind of “blended family.” Parenting is a lifelong job. Adoptive families, like all families, sometimes face challenges. Child Welfare Information Gateway offers a number of factsheets on issues that some adoptive families share. Some of these include:

- *Adoption and the Stages of Development*  
[www.childwelfare.gov/pubs/f\\_stages/index.cfm](http://www.childwelfare.gov/pubs/f_stages/index.cfm)
- *Adoption and School Issues*  
[www.childwelfare.gov/pubs/f\\_school/index.cfm](http://www.childwelfare.gov/pubs/f_school/index.cfm)
- *Postadoption Services: A Factsheet for Families*  
[www.childwelfare.gov/pubs/f\\_postadoption.cfm](http://www.childwelfare.gov/pubs/f_postadoption.cfm)
- *Parenting the Adopted Adolescent*  
[www.childwelfare.gov/pubs/f\\_adoles/index.cfm](http://www.childwelfare.gov/pubs/f_adoles/index.cfm)
- *Selecting and Working With an Adoption Therapist*  
[www.childwelfare.gov/pubs/f\\_therapist.cfm](http://www.childwelfare.gov/pubs/f_therapist.cfm)

Child Welfare Information Gateway's National Foster Care and Adoption Directory lists adoption support groups in every State. Search it online at [www.childwelfare.gov/nfcad/](http://www.childwelfare.gov/nfcad/)