



Stepparent Adoption



Adopting a stepchild is the most common form of adoption. A stepparent who adopts agrees to become the legal parent and 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



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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 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, many 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. For an overview of home study requirements, see *Home Study Requirements for Prospective Parents in Domestic Adoption* at https://www.childwelfare.gov/systemwide/laws_policies/statutes/homestudyreqs.cfm.

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 and living with the child for 1 year or longer.

In a few States, adoption by a stepparent has no effect on a child's legal right to inherit from either birth parent or other family members. In most States, however, since the child's legal ties to the noncustodial birth parent are severed by the adoption, the child can inherit from the former birth parent only when the former parent makes provision for the child in his or her written will. For more information about how each State and territory handles legal inheritance, see *Intestate Inheritance Rights for Adopted Children* at https://www.childwelfare.gov/systemwide/laws_policies/statutes/inheritance.cfm.

Who Must Consent

If you want to adopt a stepchild, you must have the consent (or agreement) of both your spouse and the child's other parent (the noncustodial parent) unless that parent has abandoned the child. By giving his or her consent, the noncustodial parent gives up all rights and responsibilities, including child support. In addition, in nearly all States, an older child must consent to being adopted by his or her stepparent. The age at which the child must consent varies by State, but in general the minimum age at which the child's consent is needed ranges from 10 to 14.

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, such as abandonment. 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. For more information on the issue of consent, see *Consent to Adoption* at https://www.childwelfare.gov/systemwide/laws_policies/statutes/consent.cfm.

Sometimes getting the child's other parent to agree to your adoption can be difficult. 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 also will appoint someone to represent your child (a guardian *ad litem*, sometimes called a “GAL”).

Resources

The Child Welfare Information Gateway State website provides an array of resources on the legal issues involved in all types of adoptions, including summaries of State laws. See the web section, Relevant Adoption Laws, Policies, and Legal Considerations, at <https://www.childwelfare.gov/adoption/adoptive/considerations.cfm>.

The Family Education Network provides information on its website about the issues a family should consider when contemplating stepparent adoption. See <http://life.familyeducation.com/stepfamilies/adoption/47620.html>.

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 discuss with

you your particular situation and provide guidance on the adoption process. To locate an attorney who specializes in adoption law in your State, visit the website of the American Academy of Adoption Attorneys at <http://www.adoptionattorneys.org/>.

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

An adoption petition must be submitted to the appropriate court in your State. In some States adoptions are handled in juvenile court. In other States the family court or surrogacy court handles adoptions. To find out which court handles adoptions in your area, see Information Gateway’s *Court Jurisdiction and Venue for Adoption Petitions*: https://www.childwelfare.gov/systemwide/laws_policies/statutes/jurisdiction.cfm.

Ask to speak to the court clerk or another staff 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 preliminary hearing.

Once your forms have been submitted, a preliminary hearing (court) date may 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 and your child will probably be required to go to this hearing. A judge (or magistrate) will ask questions of everyone involved. In addition, if your child is old enough to be required to give consent in your State, the judge or magistrate may ask the child to confirm that he or she agrees to the adoption. 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. In stepparent adoptions, this preliminary hearing often is waived.

5. Finalize the adoption.

In some States, during the time following the first adoption hearing, the court may order periodic visits by a social worker to verify that all members of the family are adjusting well to the adoption. A final adoption hearing is then scheduled, and that may be a few months (or longer) after the first hearing. An adoption Certificate and/or Order is issued at this hearing; the certificate will list the stepparent as the legal parent of the child and the child's new name if the adoption petition requested a name change. 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. To access a wide range of resources addressing these issues, see the Child Welfare Information Gateway web section Parenting After Adoption at https://www.childwelfare.gov/adoption/adopt_parenting/.

In addition, Child Welfare Information Gateway’s National Foster Care and Adoption Directory lists adoption support groups in every State. Search it online at <https://www.childwelfare.gov/nfcad/>.

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