



**STATE STATUTES**  
CURRENT THROUGH JANUARY 2020

# Who May Adopt, Be Adopted, or Place a Child for Adoption?

To find statute information for a particular State, go to <https://www.childwelfare.gov/topics/systemwide/laws-policies/state/>.

For an adoption to take place, the person available to be adopted must be placed in the home of a person or persons eligible to adopt. All States, the District of Columbia, American Samoa, Guam, Puerto Rico, the Northern Mariana Islands, and the Virgin Islands have laws that specify the persons who are eligible to adopt and the persons who can be adopted. In addition, all States, the District of Columbia, Puerto Rico, and the territories have laws that designate the persons or entities that have the authority to make adoptive placements.

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## WHO MAY ADOPT?

In general, any single adult or a married couple jointly can be eligible to adopt.<sup>1</sup> In addition, a stepparent can adopt the child of his or her spouse if the spouse has legal custody of the child.<sup>2</sup> In Vermont, a person may adopt the child of his or her partner.

In approximately 11 States, American Samoa, and the District of Columbia, there are no additional conditions specified.<sup>3</sup> In some States, married persons may adopt singly if they are legally separated or if their spouse is legally incompetent.

## ELIGIBILITY BY AGE

In approximately seven States and Puerto Rico, prospective parents must be at least age 18 to be eligible to adopt.<sup>4</sup> Three States (Colorado, Delaware, and Oklahoma) and American Samoa set the age at 21; and Georgia and Idaho specify age 25. A few States allow minors to adopt under certain circumstances, such as when the minor is the spouse of an adult adoptive parent.

In approximately six States and the Northern Mariana Islands, the adopting parents must be at least 10 years older than the person to be adopted.<sup>5</sup> In Puerto Rico, the adopting parent must be at least 14 years older; in Idaho, the parent must be at least 15 years older.

## ELIGIBILITY BY RESIDENCY

Approximately 17 States, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands require that petitioners for adoption be State residents.<sup>6</sup> The required period of residency ranges from 60 days to 1 year. There are exceptions to the residency requirement in some of these States. For example, in seven States, a nonresident may adopt a child who has been placed in his or her home by a public child welfare agency in the child's original State of residency.<sup>7</sup> In Minnesota, South Carolina, and Tennessee, a child may be adopted by a nonresident who is the child's relative. Indiana and South Carolina allow a nonresident to adopt a child with special needs. In Illinois, Mississippi, New Mexico, and Rhode Island, a nonresident may adopt through an agency.

<sup>1</sup> Twenty States (Alabama, Alaska, Arizona, Arkansas, Florida, Hawaii, Indiana, Iowa, Kentucky, Massachusetts, Montana, Nebraska, New Hampshire, North Dakota, Ohio, Oklahoma, Rhode Island, Virginia, West Virginia, and Wisconsin), Guam, and the Northern Mariana Islands specifically require that a "husband and wife" petition jointly. The other States use more gender-neutral language in their statutes. In Arizona a married couple must be given preference for placement of a child over a single person when all other considerations are determined equal.

<sup>2</sup> A parent can usually adopt a stepchild without the spouse (the birth parent with legal custody of the child) joining in the petition, as long as the spouse consents to the adoption.

<sup>3</sup> The word "approximately" is used to stress the fact that the statutes are constantly being revised and updated. This information is current as of January 2020. In North Carolina, Pennsylvania, and Texas, any adult may adopt. In Colorado, Connecticut, Louisiana, Maryland, Missouri, Vermont, and Washington, a single adult and married couples jointly may adopt. In Vermont, any adult and a prospective adoptive parent's partner may adopt.

<sup>4</sup> Connecticut, Kentucky, Louisiana, Montana, New Jersey, Tennessee, and Washington

<sup>5</sup> California, Georgia, Nevada, New Jersey, South Dakota, and Utah

<sup>6</sup> Arizona, Delaware, Georgia, Idaho, Illinois, Indiana, Kentucky, Minnesota, Mississippi, New Mexico, Oregon, Rhode Island, South Carolina, Tennessee, Virginia, Wisconsin, and Wyoming have residency requirements. Some States make exceptions to the residency requirements for members of the military. For example, in Illinois, a member of the military can be eligible to adopt after he or she has been domiciled in the State for 90 days. South Carolina waives the residency requirement if one adopting parent is a member of the military stationed in the State. Tennessee will allow a nonresident to adopt in a Tennessee court if the adopting parent was a Tennessee resident prior to entering the military. For more information on adoption by military families, see Information Gateway's [Military Families Considering Adoption](#).

<sup>7</sup> Arizona, Delaware, Georgia, Kentucky, New Mexico, South Carolina, and Virginia

## **ADOPTION BY SAME-SEX COUPLES**

The statutory laws in most States are largely silent on the issue of adoption by gay and lesbian persons as single persons. For same-sex couples who wish to adopt a child together, the situation is less clear as many States require that a husband and wife petition jointly. Whether the language can apply to same-sex couples who are legally married is undetermined. In approximately 23 States, the District of Columbia, and the Virgin Islands, the use of gender-neutral language, including "spouses" or "married couples," serves to allow adoption by same-sex couples.<sup>8</sup> Only Mississippi specifically prohibits adoption by couples of the same gender.

## **WHO MAY BE ADOPTED?**

All States, the District of Columbia, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands permit the adoption of a child. Some States also allow the adoption of an adult, under the circumstances described below.

### **ADOPTION OF A CHILD**

Three States (Colorado, Indiana, and Rhode Island), American Samoa, and the Northern Mariana Islands specify that the child to be adopted must be under age 18. Six States (Colorado, Connecticut, Delaware, Montana, Texas, and Wisconsin), American Samoa, and

Guam specify in statute that the child must be legally free for adoption.<sup>9</sup> Six States (Arizona, Colorado, South Carolina, Texas, Wisconsin, and Wyoming), American Samoa, and the Virgin Islands require that the child to be adopted must be present in the State at the time the petition is filed. Iowa and Nebraska require that the child must have resided for a minimum of 180 days in the home of the prospective adoptive parents.

### **ADOPTION OF AN ADULT**

Approximately 29 States and the District of Columbia allow the adoption of any person, regardless of age.<sup>10</sup> Colorado, Rhode Island, American Samoa, and the Northern Mariana Islands allow parties to petition the court for the adoption of persons over age 18 but under age 21. Massachusetts and Nevada specify that the adult to be adopted must be younger than the adoptive parent. West Virginia and Wisconsin require that the adopting parent be a resident of that State to adopt an adult.

Alabama permits adoption of adults only if the person to be adopted has a permanent and total physical or intellectual disability. Ohio allows adoption of an adult only when the person to be adopted has a total or permanent physical or intellectual disability or is a stepchild or foster child with whom the relationship was established while the person was a minor.

<sup>8</sup> California (by spouse or domestic partner), Colorado, Connecticut, Delaware, Georgia, Idaho, Illinois (spouses and civil union partners), Kansas, Louisiana, Maine, Maryland, Michigan, Minnesota, Missouri, Nevada, New Jersey, New Mexico, New York (spouses and unmarried intimate partners), North Carolina, South Dakota, Tennessee, Utah, and Vermont use gender-neutral language in their statutes. In Utah, the State social services division is required to place a child in its custody with a man and woman married to each other, unless that placement is contrary to the child's best interests.

<sup>9</sup> A child is legally free for adoption when both birth or current legal parents have had their parental rights terminated or have consented the child's adoption.

<sup>10</sup> Alaska, Arkansas, Florida, Georgia, Hawaii, Indiana, Iowa, Kansas, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Hampshire, New York, North Carolina, North Dakota, Oklahoma, Oregon, Pennsylvania, Tennessee, Utah, Texas, Vermont, and Washington

Idaho, Illinois, and South Dakota require that the adopting parent be in a sustained parental relationship for a specified time, ranging from 6 months to 2 years, with the adult to be adopted. Connecticut allows a stepparent to adopt the adult child of his or her spouse. Virginia allows the adoption of an adult stepchild, niece, or nephew, as long as the adopted person resided in the home for at least 3 months prior to reaching adulthood and is at least 15 years younger than the adopting parent.

## WHO MAY PLACE A CHILD FOR ADOPTION?

In general, any person or entity who has the right to make decisions about a child's care and custody may place that child for adoption. Such persons include the birth parents or the child's legal guardian or guardian *ad litem*; legal entities include State departments of social services or licensed child-placing agencies. All States, the District of Columbia, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands specifically designate the persons or entities that hold the authority to make adoptive placements.

## AGENCY AND DEPARTMENT PLACEMENTS

Approximately five States require that all adoptive placements be made by the States' departments of human or social services or child-placing agencies that are licensed by the State or meet certain standards.<sup>11</sup> In four States and Guam, placement must be through an agency unless the child is being adopted by his or her stepparent or a relative.<sup>12</sup>

<sup>11</sup> Colorado, Delaware, Indiana, Ohio, and West Virginia

<sup>12</sup> Kentucky, Louisiana, Missouri, and Rhode Island

<sup>13</sup> Florida, Kentucky, Maryland, Massachusetts, Minnesota, Missouri, New Mexico, Rhode Island, and Wisconsin

<sup>14</sup> For additional information about the use of intermediaries, see Child Welfare Information Gateway's [Use of Advertising and Facilitators in Adoptive Placements](#).

## NONAGENCY PLACEMENTS

Most States allow nonagency placements of children for adoption, which are often referred to as private or independent adoptions. One type of private adoption allowed in most States is the direct placement of a child by the birth parent with an adoptive family. Many States that allow direct placement have detailed statutory regulations to protect the interests of the parties to the adoption. For example, in nine States, parents who wish to make private placements must notify the department or obtain the approval of the department or the court.<sup>13</sup> In Delaware, a parental placement for adoption of a child with a nonrelative must be supervised by the department or a child-placing agency. An exception to these requirements may be made when the child is to be placed with a stepparent or birth relative.

A few States allow the use of intermediaries in arranging private placements. These intermediaries are usually attorneys, and their activities, as well as the compensation they are allowed to accept, are strictly regulated.<sup>14</sup>

This publication is a product of the State Statutes Series prepared by Child Welfare Information Gateway. While every attempt has been made to be complete, additional information on these topics may be in other sections of a State's code as well as agency regulations, case law, and informal practices and procedures.

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