

Adopting a Stepchild

When two people marry and one or both of them already has children, they become stepparents to each other's children. Although many families are content with the stepparent-stepchild relationship, sometimes a stepparent decides to adopt his or her stepchildren.

Why Adopt a Stepchild?

There are several reasons:

- The stepparent may wish to share his or her last name with the stepchild.
- The parents may believe that the adoption will bring needed stability to the family. For example, since adoption can only occur with the termination of the non-custodial biological parent's rights, any threats of future custody challenges are eliminated.
- The stepparent wants the stepchild to have the same inheritance rights as his or her biological children would have. If the stepparent's will provides an inheritance to his or her "children," the stepchild would be included in that group automatically. If the stepparent died without a will, the stepchild would be legally entitled to the same share of the estate as the stepparent's biological children.
- The stepparent wants all the rights and responsibilities as if the stepchild was his or her biological child. For instance, if the stepparent and the child's biological parent divorced, the stepparent may be required to pay child support for and could seek visitation or custody of the adopted stepchild.

How to Adopt a Stepchild

If you believe that a stepparent adoption is right for your family, an attorney can help guide you through your state's adoption procedure. Generally, the state relaxes its regular process for stepparent adoptions. For example, the state may not require home visits by caseworkers or waiting periods. However, as the adopting stepparent, it is likely that you will still have to:

- File an adoption petition with the court
- Notify your stepchild's biological parents
- For older children, obtain your stepchild's consent (check your state's laws for a child-consent age provision)
- Attend a hearing before the court

Before granting the adoption, the court will terminate the parental rights of your stepchild's non-custodial biological parent (the parent to whom you are not married). There are several ways to accomplish this:

- If that parent is alive, he or she may consent to the termination.
- If the parent refuses to consent or you cannot locate him or her, then you must prove to the court that the parent is unfit. Each state sets its own definition of unfit, but it typically includes parents who are neglectful, abusive or criminal. It also may include those who have been out of contact with their children for a certain length of time (such as one year), have failed to exercise any of their parental rights and/or who have failed to make child-support payments.
- If the parent is the father, you can try to prove that he is not the child's presumed father according to the laws of your state. In some states, the woman's husband at the time of the child's birth is

presumed to be the father; in others, the man named on a child's birth certificate is presumed to be the father. If you can rebut your state's presumption, the court is likely to terminate his rights and grant the adoption.

The Emotional Impact

If your family is considering a stepparent adoption, you may want to first think about how this may affect the child emotionally. If the child has contact with the non-custodial biological parent, the child may feel as if the adoption is shutting out or replacing that parent. It may be hard for the child to reconcile his or her feelings toward the biological parent and the new adoptive stepparent.

The adoption also will affect the non-custodial biological parent. Termination of his or her parental rights means that he or she will no longer have any rights or responsibilities for the child, including the right to make medical, religious and educational decisions for the child, the right to visit or have custody of the child and the responsibility of paying child support.

Resources

- American Bar Association: www.americanbar.org
- Center for Adoption Policy (CAP): www.adoptionpolicy.org
- Child Adoption Laws: www.childadoptionlaws.com
- National Adoption Center: www.adopt.org

Here when you need us.

Call: 877-314-5841

Online: guidanceresources.com

App: GuidanceNowSM

Web ID: TARHEELS

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