

# Stepparent Adoption

If you adopt as a stepparent, you agree to become the legal parent to your spouse's child and to be fully responsible for them. After the adoption occurs, the noncustodial parent (the parent not living with the child) no longer has rights or responsibilities for the child, including child support. This bulletin discusses legal issues associated with stepparent adoption, steps to take to prepare for the adoption, and resources to help stepparents after the adoption is finalized.

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## LEGAL ISSUES

Stepparent adoption, like all forms of adoption in the United States, is governed by State laws. Most States make the adoption process easier for stepparents, but these laws—and the exceptions for stepparents—vary from State to State. For example, State laws may differ regarding whether your family needs to be represented by a lawyer, whether you need to have been married to the child's parent or lived with the child for a certain amount of time, or whether you are required to have a home study. (For an overview of home study requirements by State, see Child Welfare Information Gateway's [Home Study Requirements for Prospective Parents in Domestic Adoption](#).) The following sections provide additional information about laws regarding who must consent to adoption and inheritance rights.

### WHO MUST CONSENT

If you want to adopt a stepchild, you may need the consent (or agreement) of both your spouse and the child's noncustodial parent (requirements vary by State). By giving their consent, the noncustodial parent relinquishes all rights and responsibilities, including child support. In addition, in nearly all States, an older child must consent to being adopted by their stepparent.<sup>1</sup> 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 years.

<sup>1</sup> All adoption consent data in this factsheet are current as of March 2017. Louisiana does not address in law the issue of consent by the minor adoptive child.

The way to obtain consent is different in each State. Some State adoption laws do not require the other parent's consent in certain situations, such as abandonment. In most States, the laws allow for consent to be withdrawn and for an adoption to be challenged or overturned if these requirements are not met or fraud has occurred.

Obtaining agreement for the adoption from the child's other parent can be difficult. Some States allow stepparent adoptions to occur even if the noncustodial parent objects or contests the adoption (e.g., if the noncustodial parent has not contacted the child for a certain period of time). These situations may be complicated, and consulting with a lawyer is advised. If you cannot afford to hire a lawyer, you may be eligible for [free legal help](#), also called pro bono help. In some States, the court also will appoint a guardian ad litem to represent your child. For more information on the issue of consent, see Information Gateway's [Consent to Adoption](#).

### INHERITANCE RIGHTS

State laws also vary on whether and how they address the effect of adoption by a stepparent on the adopted child's inheritance rights. For more information about how each State and territory handles legal inheritance, see Information Gateway's [Intestate Inheritance Rights for Adopted Persons](#).

## Second-Parent Adoption

[Second-parent adoption](#) (also known as “coparent adoption”) is the adoption of a child by a second parent who is not married to the legal parent of the child. LGBTQ+ couples who are not married may benefit from second-parent adoption in the following ways:

- For partners of parents with biological connections to their children (e.g., biological mom or biological dad), second-parent adoption enables the second parent to equally coparent the child.
- Because some agencies prohibit same-sex couples from adopting together, only one parent may be designated as the adoptive parent. Second-parent adoption enables both parents to be legal adoptive parents to their child.
- For some (even married) same-gender couples traveling out of State, proof of adoption determines their legal relationship to their child. It is more legally binding than a parent’s name on a birth certificate.

For more on second-parent adoption, see the following:

- [Co-parent Adoption: A Critical Protection for LGBTQ+ Families](#) discusses the importance of second-parent adoptions to counter outdated ways in which the rights of same-gender parents can be questioned more often than those of a family with a mother and father.
- [Second-Parent Adoption Laws](#) includes a map that identifies States in which parents can petition for second-parent adoption statewide, regardless of marital status.

## 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 discuss your situation and relevant laws and provide guidance on the adoption process. The following resources may help you find information about stepparent adoption laws in your State:

- Information Gateway's [State Laws on Domestic Adoption](#) webpage provides an array of resources on legal issues involved in all types of adoptions, including summaries of State laws.
- The [Academy of Adoption and Assisted Reproduction Attorneys](#) website can help you locate an attorney who specializes in adoption laws in your State.

### 2. Contact the Court in Your County That Handles Adoptions.

An adoption petition must be submitted to the appropriate court in your State, such as the juvenile court, family court, or surrogacy court. To find out which court handles adoptions in your area, see Information Gateway's [Court Jurisdiction and Venue for Adoption Petitions](#).

When you contact the court, 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 provided to you. If the

court does not have a prepared packet, find out whether the court requires you to hire a lawyer—or whether you can represent yourself—and where you can find the required legal forms.

### **3. Find and Submit the Required Legal Forms.**

Many States allow certain publishing companies to stock and sell legal forms to the public for court procedures. Other States make them available online. These forms ask questions about you and the child you want to adopt. For example, they may ask for the following information:

- 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 proof for some 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, they will take care of this step for you.

### **4. Go to the Preliminary Hearing.**

In stepparent adoptions, the preliminary hearing often is waived, but it may be required in some States. After 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 take anywhere from a few weeks to a few months. You may be notified of the date by mail or through your lawyer.

At the hearing, a judge or magistrate will ask questions of everyone involved. In addition, if the child is old enough to be required to give consent in your State, the judge or magistrate may ask the child to confirm that they agree 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.

### **5. Finalize the Adoption.**

In some States, during the time following the 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 expectation of adoption. A final adoption hearing is then scheduled, and that may be a few months (or longer) after the preliminary hearing. At the adoption finalization hearing, the court issues an adoption certificate and/or order, which lists 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 document for your files. Your lawyer or the court will tell you whether 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 their parent.

For more information about the issues a family should consider when completing a stepparent adoption, see the [Family Education Network](https://www.childwelfare.gov/network/).

## ADOPTION OF A FOREIGN SPOUSE'S CHILD

When a U.S. citizen marries a foreign national and wishes to adopt their children and return to the United States, the U.S. citizen will be required to take specific steps to fulfill this process. The American stepparent would need to file a [Form I-130](#), Petition for Alien Relative for a stepchild (spouse's child) to qualify for an immediate relative visa with the U.S. Citizenship and Immigration Services (USCIS) office that has jurisdiction over the petitioner's residence.

For resources and additional information on adopting the child of a spouse who is a foreign national, see the following:

- [U.S. Department of State website](#)
- [USCIS website](#)

The stepchildren of a U.S. citizen married to a foreign citizen will not automatically become U.S. citizens. Please refer to the information provided by the USCIS policy manual, particularly [Chapter 5 – Child Residing Outside of the United States](#).

## HELP FOR PARENTS

Adoption 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." Adoptive families, like all families, face challenges. To access a wide range

of resources addressing issues you may experience, see the following Information Gateway publications:

The [Adoption by Family Type: Second-Parent or Stepparent Adoption](#) webpage provides information and resources concerning stepparent and second-parent adoptions.

[The Impact of Adoption](#) factsheet for families addresses ways in which adopted children and family members may be affected by both the positive elements and challenging issues of adoption.

The [Parenting After Adoption](#) web section provides resources for adoptive families that explain what to expect at various developmental adoption stages.

[National Foster Care & Adoption Directory](#) lists adoption support groups in every State.

### SUGGESTED CITATION:

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