

Adoption of Stepchildren

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Adoption is not only a process whereby couples who cannot have children adopt a child, it is also a process whereby a spouse with a child from another relationship can involve their current spouse in that child's life in more than just a stepparent role. However, the adoption of the stepchild involves more than the intent to make that child your "own."

First, the biological parent and the adoptive parent must be married. The Court is hesitant about granting someone new in a child's life all the rights associated with parenthood if that person is not a constant figure. Therefore, boyfriends and girlfriends who want to adopt will be turned away.

The next hurdle that you must get over is termination of the biological parent's rights. This can be accomplished in two ways: voluntarily and involuntarily.

If the biological parent agrees with the stepparent adopting the child,

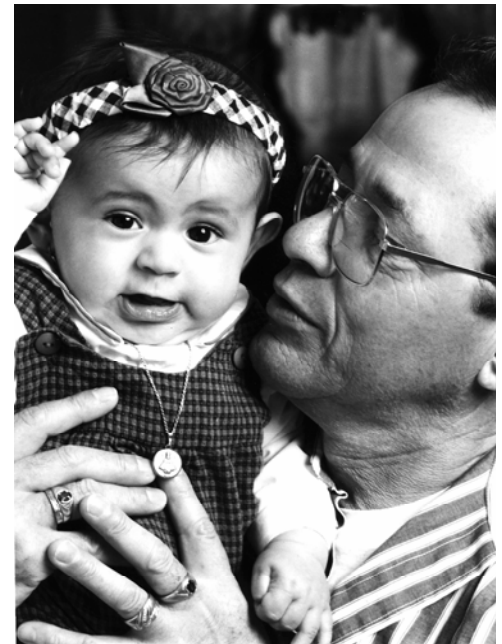
you may proceed with voluntary termination of parental rights.

If the biological parent cannot be found or does not agree with the adoption, one must proceed with involuntary termination of parental rights. Whether it is a voluntary or involuntary termination of parental rights, the procedure is basically the same.

First a **Petition to Terminate Parental Rights** is filled out and filed by the petitioning biological parent. It is sent to the biological parent whose rights are to be terminated.

If that parent agrees with the termination, he or she simply needs to acknowledge that he or she agrees by signing an **Affidavit of Consent** and returning the form. If he or she does not agree to the termination or cannot be found, the procedure becomes a little more difficult.

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At that point, the petitioning parent should get a Court Order to place an advertisement in the local newspaper and legal journal indicating that there will be an involuntary **Termination of Parent Rights Hearing** for that child. The Involuntary Termination of Parental Rights Hearing must be scheduled no less than ten (10) days after the filing of the Involuntary Termination of Parental Rights Petition.

The next step in the process is the Termination Hearing. In a **Voluntary Termination Hearing** where the biological parent whose rights are being terminated agrees with the termination, he or she may attend the hearing and testify to that fact or their signed Affidavit of Consent to the termination of their parental rights will suffice.

In an **Involuntary Termination Hearing** where the biological parent whose rights are to be terminated has not acknowledged receipt of the Termination Petition or Notice of the Hearing or has not signed an Affidavit of Consent, other means must be used to prove that termination of their parental rights are in the child's best interest.

If the biological parent whose rights are to be terminated is not present at the hearing, the other biological parent must testify as to whether the biological parent at issue is the natural parent of the child. This is usually done using the child's birth certificate and/or an Acknowledgement of Paternity Form.

There also must be testimony as to how the biological parent whose rights are being terminated was served with the Petition as

"The biological parent who has just had their parental rights terminated has thirty (30) days to appeal the Judge's Order terminating their parental rights."

well as knowledge of their last known whereabouts and last known contact with the child. Of course, the biological parent whose rights are to be terminated may attend the hearing and testify as to why their rights should not be terminated.

Once the Court is satisfied that the biological parent whose rights are to be terminated either agrees with the termination (voluntary) or has been provided with sufficient notice of the hearing and the desire to terminate their parent rights (involuntary), the Court will make a finding and enter an Order that terminates the parental rights of the biological parent in question.

Once the Court enters this Order terminating parental rights, that biological parent must be provided with a copy of that Order and the completion of the adoption proceedings must wait for thirty days until the appeal period expires. In other words, the biological parent who has just had their parental rights terminated has thirty (30) days to appeal the Judge's Order terminating their parental rights.

In the case of an involuntary termination of parental rights, the Court will only find that a biological parent's rights should be involuntarily terminated if that parent demonstrates that he or she no longer wants to be a parent to that child or refuses or fails to perform their parental duties to that child for a period of at least six months or if the biological parent repeatedly abuses or neglects the child.

Parental duties include, but are not limited to:

- ◆ Paying child support
- ◆ Visiting the child
- ◆ Telephoning the child
- ◆ Sending birthday or holiday gifts to the child.

The third and final step in the process of adoption is the adoption itself.

After the biological parent's parental rights have been terminated, the biological and adoptive parent complete and file an **Adoption Petition** stating that the adoptive parent intends and wants to adopt the child and the biological parent agrees with it. The adoptive parent also indicates that he or she understands that the child will have all rights as any biological child of his or hers would have, including the right to inherit from them.

It is important to note that once a child is adopted by a non-biological parent, that adoptive parent now takes on the role of a biological parent and is responsible for all aspects of that child's life including any child support due to that child should the adoptive and biological parent divorce or separate.

On the other hand, the adoptive parent also has the right to seek custody of that child should the adoptive and biological parents divorce or separate.

At the final adoption hearing, the adoptive parent takes the witness stand and testifies before the Court that he or she understands all the

ramifications of becoming the adoptive parent of the child and wishes to adopt the child.

This hearing is almost always conducted in a private setting in the Judge's Chambers. If the adoptive child is old enough, he or she also attends the adoption hearing and indicates for the Court, on the record, that he or she also wants the adoption to occur.

Once the Court is satisfied with the adoptive parent and the biological parent's intentions, the Court enters an Order stating that the adoptive parent is now the parent of the child in question. The last step is to have the birth certificate of the child changed to reflect the new last name of the child and list the adoptive parent as the mother or father of the child.

For the adoptive parent and the biological parent/spouse, adoption is one of the happiest and most rewarding times. It is also one of the most rewarding times for their attorney.



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