



Work Life Services Newsletter June 2022

Call our toll-free number 1-800-364-6352 for assistance

Stepparent Adoptions

In most states, a stepparent adoption is easier to complete than other types of adoption, because some steps in the process may be waived or streamlined. For instance, the waiting period, a home study, and even the adoption hearings are sometimes dispensed within a stepparent adoption. The only difficult step may be getting the other birth parent to consent to the adoption.

Getting Consent

In all stepparent adoptions, the child's other birth or legal parent will need to consent to the adoption. If the other birth parent refuses to consent, the adoption will not be allowed unless that parent's rights are terminated for some other reason -- abandonment, unfitness, or failure to support the child, for example.

It may be difficult to get the consent of the other birth parent, because giving consent to the adoption means giving up all parental rights, including any right to visit the child or make decisions regarding issues such as medical treatment or education. Of course, some birth parents are willing to consent to stepparent adoptions because they agree that it's in the child's interest--or because they will no longer be responsible for child support once their parental rights are terminated.

Emotional Issues

Stepparent adoptions can be complicated when the non-custodial biological parent is still alive and in contact with the child. There may be no legal reason why the adoption cannot take place, but the emotional impact of the adoption also needs to be considered.

The impact on the child should be of primary importance. If an adoption will bring stability to your new family and help your child feel more secure, it may be the right choice. However, no matter how well your child gets along with a stepparent, the child may still feel conflicting loyalties between a stepparent and birth parent, and this may be hard to handle. Generally speaking, the less contact a child has with the other birth parent, the more sense it makes to do a stepparent adoption.

Terminating Parental Rights

If the other birth parent refuses to give consent or is out of the picture and cannot be found, there are a few ways to proceed with a stepparent adoption.

Proving the absent parent has abandoned the child.

First, it is possible to go forward without a biological parent's consent if you can prove that the absent parent has not exercised any parental rights or been in contact with the child. Most states' laws allow termination of parental rights when a parent has willfully failed to support the child or has abandoned the child for a period of time, usually a year. Generally, abandonment means that the absent parent hasn't communicated with the child or supported the child financially.

Proving the absent parent is not the presumed father.

If the absent parent is male, another common way to terminate his parental rights is to show that he is not, legally speaking, the presumed father of the child.

Most states have statutes establishing who the presumed father of a child is in certain situations. For instance, in all states, a man who is married to a woman at the time she gives birth is legally presumed to be the child's father. Another way of establishing presumed fatherhood in many states is by marrying the mother after the child has been born and being named as the father on the child's birth certificate.

Rather than trying to prove that the father has abandoned the child, you simply must show that he does not meet the legal definition of presumed father. If you can show that the father doesn't meet any of the tests in your state for presumed fatherhood, the court may terminate his rights and allow you to proceed without his consent. (If, however, the father meets one of the state's tests for presumed fatherhood, you'll need either to obtain the father's consent to the adoption, or to have his rights terminated by proving abandonment, willful failure to support the child, or parental unfitness.)

Domestic Partners and Stepparent Adoptions

In a few states, stepparent adoption procedures are used in adoptions by same-sex partners. For example, in California, registered domestic partners and married couples may adopt their partners' children using stepparent procedures instead of the more cumbersome independent adoption procedures that were previously required. And in Massachusetts, where same-sex couples can also marry, same-sex spouses can also use stepparent adoption procedures.