

Step-Parent Adoption Is Permanent

Step-parent adoption in Ohio can be a fairly simple process, and it can be a wonderful step to take, so long as the parties understand the seriousness and permanence of the relationship that is being created and the one that is being terminated. Throughout this article, the term "adoption" will refer to step-parent adoption.

Q: What legal rights and responsibilities will I have if I adopt my husband's child from a previous marriage?

A: Adoption creates a relationship between the adopting step-parent and the child that is the same as if the child were born to the step-parent. The legal relationship between the child and the "other" natural parent (the one not married to the adopting step-parent) is terminated.

A decree of adoption is permanent. In the event of a divorce, the adopting step-parent will be responsible for the child support and is qualified to seek custody and/or visitation. The child is also eligible to inherit through the adopting step-parent. In cases where the child is adopted by his or her step-father, the child's last name can be changed to the step-father's last name. Following an adoption, a new birth certificate is issued for the child, recording any change in last name and listing the adopting step-parent as the child's natural parent.

Q: Where does the adoption take place?

A: Adoptions take place in the court of common pleas in the county where: 1) the child resides; 2) the person seeking the adoption (the step-parent) resides; or 3) where the natural parent resides.

Q: How do I proceed if I wish to adopt my step-child?

A: To start an adoption, you (the "petitioner") would file a Petition for Adoption, which requires basic information about the identity and circumstances of the step-parent and the child to be adopted. In some Ohio counties, a Supplemental Petition containing additional information (such as information about employment, military service, previous marriages, and other children) also must be filed.

Q: What happens after the Petition for Adoption is completed?

A: The Petition for Adoption must be served upon the step-child's "other" natural parent. Both natural parents must sign a written form consenting to the adoption. If the "other" natural parent does not consent to the adoption, the adoption cannot take place. The natural parents must also be served with notice of the date of the adoption hearing.

Q: Are there any exceptions to the rule that the "other" parent must consent to the adoption?

A: Yes. There are two exceptions to this rule. If the "other" natural parent has failed, without justification, to 1) communicate with the child, or 2) financially support the child for a period of one year before the filing of the adoption petition, that parent's consent is not required and the

adoption can proceed. The court must find, by clear and convincing evidence, that the natural parent has failed to provide more than "de minimus" (minimal) contact with the child, or has failed to provide for the child's maintenance and support. Other exceptions may apply to "putative fathers" and parents whose parental rights have been terminated by a juvenile court.

Q: Are there any other requirements after the Petition for Adoption is signed?

A: Yes. These requirements are clearly spelled out by the probate court. An "assessor" assigned by the court will visit the home where the child will be living, and then report to the court his or her opinion about the suitability of home for the child. Also, other documents are required, such as letters of reference from the petitioner's employer, friends, acquaintances and/or clergy. These are all sent directly to the probate court. In addition, the petitioner must obtain a medical report from a physician, and a criminal record check, including fingerprinting, must be performed. Finally, the court will conduct a hearing, where the child, the petitioner, and the petitioner's spouse will be interviewed. After the hearing, the court will issue a judgment entry (or decree) of adoption. The judgment entry may be "interlocutory," or temporary. A temporary decree will become final automatically after six months. In some cases, the court may simply issue a final decree at the conclusion of the hearing. Once an adoption becomes final, it is extremely difficult to overturn.

Q: Does the "other" natural parent have any legal rights after the adoption is finalized?

A: No. After an adoption the "other" natural parent has no legal right to visit the child. The child will no longer inherit through the "other" parent or his/her family. The "other" parent no longer has an obligation to support the child. Any and all legal rights or duties the "other" parent has regarding the child are terminated.

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This "Law You Can Use" legal information column was provided by the Ohio State Bar Association. It was originally prepared by Cleveland attorney Robert C. Wentz, and updated by Cleveland attorney Laurel G. Stein.

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