

## **Stepparent/Partner Adoptions**

### **Information**

Stepparent/Partner adoptions occur when the stepparent/partner legally adopts their stepchild creating a parent/child relationship between them. The term "partner" has not been defined in the Vermont Adoption Act but it is generally construed to include persons who have been parties to a civil union. Adoption of a child by a stepparent/partner in no way impacts the legal relationship between the child and the biological parent married to/in a civil union with the stepparent/partner. This type of adoption also can allow for the continuing existence of visitation or communication orders between the child and a person related to the child (former parent).

If a stepparent/partner wants to adopt their stepchild, they must have "standing" to adopt. The standing requirements are detailed in 15A VSA § 4-101. Generally, standing occurs when the child is in legal and physical custody of the biological parent (custodial parent) and the child has been in their custody for a matter of months. Another requirement is the termination of the other biological parent's parental rights (the non-custodial parent), either by agreement (consent) or by order of the Court.

### **Instructions:**

A stepparent/partner who wishes to adopt their stepchild must file a Petition to Adopt Minor by Stepparent with the Probate Court. Please download this form or the entire form packet from the link above. These forms are also available at the Probate Court Clerk's office during normal office hours.

Before the Petition to Adopt Minor by Stepparent can be filed, it must be completed and signed by both the stepparent/partner looking to adopt and the spouse/partner of the stepparent/partner in front of a notary public. The petition is then filed along with all accompanying documentation with the Court Clerk. The current filing fee for an adoption is \$75.00. Once it has been determined by the Court staff that all necessary paperwork has been submitted a final adoption hearing will be scheduled. The Court will send notice of the hearing to all interested parties.

Prior to the date of the hearing, several other forms must be completed and certain duties fulfilled. The stepparent/partner must have a criminal record check and be fingerprinted at a police station or sheriff's office. There is a \$24.00 fee (Checks are payable to the Vermont Department of Public Safety) attached to the fingerprinting card to cover the cost of the FBI fingerprint record check. The FBI processing takes approximately 8-10 weeks. A home-study may also be required by the Court to determine the suitability of the adopting parents. A person may petition that this be waived.

The biological parent who is married to, or in a civil union with, the stepparent or partner must complete and sign the Consent of Stepparent's Spouse form in the presence of

the Probate Judge or someone approved by the court to take consents or a notary public.

Consent to the adoption and surrender of parental right of the child's other biological parent (non-custodial parent) must be obtained. Consent is obtained by the non-custodial parent completing the Consent of Parent who is not Stepparent's Spouse. This consent form must be signed in the presence of the judge or in the presence of someone approved by the Court to take consents or in the presence of a notary public. The biological parent whose parental rights will be terminated has a right to legal counsel at the time that they sign the consent. If they choose not to exercise this right, they must also sign a Waiver of Counsel at the time which they sign the consent. The Court should also be provided with a Statement on Disclosure of Identifying Information and Information About Birth Family. These forms disclose whether or not the non-custodial parent would like their identity disclosed to the adoptee later in life. The family information form provides information to the adoptee which might be useful to the adoptee later in life.

If the biological parent whose rights will be terminated by the adoption will not voluntarily consent, a Petition for Termination of Parental Rights may be filed by the Petitioner and served on the opposing parent. Counsel will be appointed for the objecting party if he or she is financially unable to afford an attorney. Termination of legal rights is a complex procedure and it is strongly recommended that all parties retain legal counsel.

If the non-custodial parent is absent and cannot be found, due diligence must be exercised to find the parent. Often inquiry is made through relatives and friends to locate them. If they cannot be personally served with process, then it is likely that the petitioner will have to publish notice to them upon Court order.

If the child to be adopted is 14 years old or older, they must sign a Consent of Minor In Stepparent Adoption form in the presence of the Judge at the final adoption hearing.

If the minor child is under legal guardianship of someone other than his or her biological parents, or has been relinquished to an agency, the legal guardian or the agency must sign a Consent of Guardian or Agency in Stepparent Adoption form in the presence of the Judge before the final adoption hearing.

In addition to the consents and petitions listed above, 15 VSA § 3-305 requires that additional documents be filed with the Court prior to the hearing. To get the text of the statute please click on the Vermont Statutes link above to download a copy. This information is also available at the Probate Court Clerk's Office during business hours.