

Creating a Legal Family Through Stepparent Adoption

When a stepparent wishes to adopt a stepchild, it's usually because they already have a parental relationship with the child. In some instances, the stepparent is the only mother or father the child has ever known. Very often, they already share a home and parenting responsibilities with the child's other parent.

The stepparent may feel and act as a parent, and often are surprised to find out that legal steps must be taken for an adoption to take place. However, stepparent adoption is much less complex than other types of adoption.

The Basic Steps for Stepfamily Adoption

You can adopt as a stepparent if you're currently married to the birth parent of the child, and if the other birth parent's rights are terminated (or can be terminated). The following are the steps you'll need to complete.

1. Contact an adoption competent attorney. Most counties in Wisconsin require you to have an attorney for certain aspects of the process, like the termination of parental rights, which is explained later. For a list of attorneys, [visit our website](#).

2. Contact a licensed adoption agency. Not all private adoption agencies do

stepparent adoptions, so you may need to call and inquire. [You can find a list of state-licensed agencies on our website](#).

The agency you select will be responsible for conducting a study of the stepparent, also known as the investigation. (This is similar to a "home study" in other types of adoptions.) This includes interviews, background checks, letters of reference, and psychological evaluations. This will also include an inspection of the home where the child is or will be living.

3. Petition the court for the termination of parental rights of the birth parent. A stepparent cannot adopt a child unless the rights of the birth father or birth mother have been terminated first. This happens by filing a petition with your county's circuit court and having a judge terminate the rights.



A person's parental rights may be terminated voluntarily if he or she willingly chooses, or involuntarily if the court determines that their rights should be taken away.

If a birth parent is contesting the stepparent adoption, you will need an attorney. If a judge doesn't find that there is abuse or neglect, then a person's parental rights cannot be terminated, and the stepparent

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adoption cannot occur. In situations like these, you can consider an adult adoption once your child is 18. For more information, [please see our tip sheet on adult adoptions](#).

If the non-custodial birth parent is deceased, their rights don't need to be terminated.

4. Petition the court to adopt the child.

Once the investigation is approved, a stepparent can petition the court to adopt the child. This petition will include the investigation results. If the court receives all the necessary information and believes that the adoption is in the best interest of the child, the adoption will be granted. An order of adoption will be created, which is a document that states the stepparent is now the child's legal parent and will assume all the responsibilities that come with this role. This order can also involve a name change if the child and parent wish.

Helping the Process Go Smoothly

The time and price of completing a stepparent adoption will vary based on your family's circumstances. Your agency and/or attorney can help you determine both the fees and the length of time required. Here are some helpful hints from a private agency that include things you can do to help the process go smoothly:

- Submit the paperwork that your agency needs to complete your investigation.
- Have your home ready for the inspection. Your agency can advise you on what this entails, but it typically includes tasks such as safety checks and compliance with building codes.
- Be patient—it can be frustrating to wait for background checks, references, and court dates.

Benefits of Stepparent Adoption

The formation of a legal family is the biggest benefit of stepparent adoption. The stepparent makes a commitment not only to

their partner, but also to the child. This often provides security for your child and solidifies their place within the family. Additionally, the adoptive stepparent assumes all rights and responsibilities of a birth parent.

Benefits include:

- Your child would be eligible to receive an inheritance in the event of death.
- Your child will receive a new birth certificate with the stepparent's name.
- You can make medical decisions for your child.
- Adoption often helps solidify the child's identity within the extended family.
- You'll have the ability to change your child's last name during the adoption, which may create additional feelings of inclusion.
- Adoption can create equality between siblings.

One Wisconsin dad says, "He was already mine. It was just a matter of paperwork."

And a Wisconsin son who was adopted says, "I never think about being adopted; he has just always been my dad."

Is Stepparent Adoption Right for Our Family?

While stepparent adoption has many benefits, it may not be the right choice for every family. It's a decision you make based on the best interests of your child and other family members. If stepparent adoption is something your family is considering, discuss the changes it would bring to your current family situation. Here are some questions to help guide this discussion:

- What are the wishes of the child?
- Would this change the day-to-day living arrangements for the child?
- Would the child choose to change their surname? What are the benefits or limitations of that choice?
- How would stepparent adoption impact

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the relationship with the birth parent whose rights would be terminated?

Bringing your family together through stepparent adoption is a wonderful way to create permanent family bonds. Discussing the matter with all family members and following the steps outlined in this tip sheet can help you achieve your goal of becoming the legal parent of your stepchild.

Please get in touch with us at 1-800-762-8063 or info@wifamilyconnectionscenter.org for more information.

*Special thanks to **Steve Hayes of Grady, Hayes & Neary, LLC Attorneys at Law** and **Diane Boheen of Lutheran Counseling and Family Services** for technical advice.*



Resources

Additional Resources

- [Wisconsin Department of Children and Families](#)
- *Stepparent Adoption: A Resource Book*, by Tim O'Hanlon, Ph.D.