

## **USLegal Guide to Adult Adoption**



### **INTRODUCTION**

The desire to adopt an adult often arises when a stepparent-stepchild, foster parent-foster child, or informal parent-child relationship exists. The reasons vary, such as to provide care for the adoptee who may be of diminished capacity or abilities, or to assure rights of inheritance. Adoption is primarily governed by state laws, which vary by state, so local laws should be consulted.

### **EFFECTS OF ADULT ADOPTION**

An adoption creates a new parent-child relationship and terminates the existing relationship with biological parents (or with the non-custodial biological parent only, in the case of stepparent adult adoption). A new birth certificate will possibly be issued. The amended birth certificate will be issued for the adopted person, showing the adoptive parent(s) as

birth parents. Also, there may be a name change, so that the adoptee takes the surname (last name) of adoptive parent(s). Adopted children gain the same inheritance rights as biological children.

### **SEALING OF RECORDS**

Adoption records in adult adoptions generally are treated the same as those for child adoptions in that the records pertaining to the adoption will be sealed according to state law, even though the parties to the adoption are adults and are aware of family details. If this is a significant issue, parties to the adoption should keep copies of all documents relating to the adoption and life events prior to the adoption for in a safe and secure place.

### **CONSENTS**

State laws vary, but typically when the person seeking to adopt is married, the spouse must consent and join in the adoption petition. The adult adoptee's consent is typically required in all adult adoptions.

### **HOME STUDY**

Unlike child adoptions, a home study is typically not required in an adult adoption.

### **STATE LAWS RESTRICTING ADULT ADOPTIONS**

State laws and their requirements vary among states. Restrictions are based on a multitude of varying factors, such as if the adoptive parent and the adopted adult are involved in a sexual relationship, in which case the state's incest laws will apply. If the adoptive parent and adopted adult are involved in a same-sex sexual relationship, sodomy laws may apply.

Some states require a specific age difference between the adoptive parent and adoptee, or specify a maximum age of the adoptee. In some states there are no such restrictions. Selected state examples follow below.

In Illinois, an adult may not adopt another adult in Illinois unless the person to be adopted has lived with the

prospective adopter for at least two years or is a relative.

In Ohio, only those who are permanently disabled or retarded, in the permanent custody of a public children services agency or a private child placing agency at the time of the adult's eighteenth birthday, or those who established a foster child relationship or stepchild relationship while the person to be adopted was still a child may be adopted in Ohio.

In some cases, an adult homosexual may have attempted to adopt another adult homosexual as a way to create a legal relationship if their state doesn't have a domestic partnership or civil union law. However, some courts have denied such petitions on the grounds that such an adoption is not in the best interests of society in general. For example, in 1984 an adoption between homosexuals was denied in New York because of a lack of a

"genuine" parent-child relationship.

At least one state, Louisiana, allows the adoption of adults by creating and registering a private agreement between the two parties.

In California, the person adopting must be at least 10 years older than the adult they are adopting.

Alabama only allows adults over the age of 18 in the following circumstances:

-He or she is are permanently disabled or mentally retarded.

-He or she consents in writing to be adopted and is related in any degree of kinship, as defined by the intestacy laws of Alabama, or is a stepchild by marriage.

-He or she consents in writing to be adopted by an adult man and woman who are husband and wife.

Arizona only allows adult adoptions as follows:

“Any adult person may adopt either another adult person who is at least eighteen years of age and not more than twenty-one years of age and who consents to the adoption or another adult person who is a stepchild, niece, nephew, cousin or grandchild of the adopting person, by an agreement of adoption approved by a decree of adoption of the court in the county in which either the person adopting or the person adopted resides. A foster parent may adopt an adult who was placed in the foster parent's care when the adult was a juvenile if the foster parent has maintained a continuous familial relationship with that person for five or more years.”

Michigan and Nebraska laws don't provide for adult adoptions.

#### GENERAL PROCEDURES

◆ Any person desiring to adopt an adult, as heir at law, shall file a Petition in the appropriate court of the county of that person's residence, the residence of the person to be adopted, or the

prospective adoptee's birthplace, depending on state law.

- ◆ A summons shall be issued as provided in the Rules of Civil Procedure and be served on the person sought to be adopted.
- ◆ The person to be adopted must file a written answer to the Petition either consenting or not to the adoption.
- ◆ If the person to be adopted does not consent to the adoption, the court will dismiss the case.
- ◆ Upon the filing of consent by the person to be adopted or by a legally qualified conservator or other legal representative of such person, the Petition shall be granted if not determined to be against the adoptee's best interests.
- ◆ The Final Decree is typically sufficient to change the name of the adopted person. It is possible in some cases that his/her birth certificate may be requested to be changed.

#### RESOURCES

<http://www.adopting.org/adoptions/adopting-an-adult-state-laws.html>

<http://adopting.adoption.com/child/state-laws-on-adult-adoption.html>