



FROM COUNSEL

A Preventive Law Service of the Fort Riley Legal Assistance Office
Keeping You Informed On Personal Legal Affairs

Kansas Stepparent Adoptions



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1. PURPOSE: To provide information to soldiers and family members about the adoption process.

2. FACTS:

a. What is adoption? Adoption is a legal process whereby one person's rights and responsibilities as a parent are terminated, and those rights and responsibilities are bestowed upon another person. Adoption creates a new legally recognized parent-child relationship. This can have important consequences with respect to issues such as taxes and potential rights of inheritance. An adoptive parent enjoys the same legal rights and responsibilities as any biological parent. This means, among other things, that if a couple were to divorce – the adoptive parent would have both the same rights of custody and duty of support toward the child as a biological parent. Furthermore, once an adoption is finalized, the biological parent whose rights have been terminated no longer has an ongoing duty to support the child. However, a state may continue to collect support amounts owing at the time of the adoption (arrearages).

b. How does the adoption process work? Only a court that has proper jurisdiction can order a legally valid adoption. In Kansas, this generally means that the courts will only hear adoption cases involving children who reside in the state. If the court has jurisdiction, then the adopting stepparent submits a petition and supporting consent affidavits asserting that the adoption is in the best interests of the child. If the court finds that everything is in order and agrees that the adoption is in the child's best interest, then the court will grant an order of adoption.

c. Whose consent must I obtain to adopt my stepchild? The court generally requires the consent of both biological parents (if alive) before an adoption of a minor child will be ordered. If one of the biological parents is deceased, then a copy of the death certificate will suffice in lieu of a consent form. If a child to be adopted is between the ages of 14 and 18 years, then the child must also sign a consent form indicating that he or she approves of the proposed adoption. If a child to be adopted is 18 or over, then all that is required is the consent of the child.

d. What if I cannot get a consent form from the biological parent? If a family cannot locate the biological parent whose rights are to be terminated, or the biological parent refuses to consent to the adoption, this does not necessarily mean that the family will not be able to do a stepparent adoption. It does mean that the adoption will be more expensive because the family will need to hire a civilian attorney to handle the case. Kansas law allows

stepparent adoptions to go forth without the consent of the other biological parent in certain cases where the adoption is in the best interests of the child. Specifically, the court *may* allow an adoption if, after knowing of the child's birth, the biological father either failed to provide court-ordered support for the child for a period of two years prior to the filing of adoption petition, or the biological father has failed or refused to assume the duties of parent for two consecutive years prior to the filing of the adoption petition. A civilian attorney would have to present evidence to the court establishing these facts if a family were to pursue an adoption on these grounds.

e. How can the Legal Assistance Office help me with a stepparent adoption? The Legal Assistance Office can assist families who want to do stepparent adoptions if the family knows where the biological parent whose rights are to be terminated lives. A Legal Assistance Attorney will prepare a consent form and contact the biological parent asking him or her to sign the consent form. If the biological parent signs the consent form, then the Legal Assistance Attorney will prepare all of the necessary legal documents for the family to file with the court. The court will charge a filing fee of approximately \$70.50. This should be the only charge associated with the adoption. Once all of the paperwork has been filed, and a judge has had an opportunity to review the documents, the court will schedule a hearing to determine whether the adoption is in the child's best interest. The Legal Assistance Attorney will then provide the family with information about what to expect at the court hearing. The attorney will also prepare a form to mail to the absent biological parent to give him or her notice of the date and time of the hearing. *If the location of the biological parent is unknown, or if that parent refuses to sign the consent form, the Legal Assistance Office will not be able to assist with the adoption. In such a situation, a civilian attorney will need to be hired.*

3. Direct all questions regarding stepparent adoptions to the Legal Assistance Office at 239-3117. This fact sheet is not intended to give legal advice on your specific case. It is only a general reference for Kansas adoption laws.

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FROM COUNSEL is distributed by the Fort Riley Office of the Staff Judge Advocate, Legal Assistance Office, located in Building 216. **Consult an attorney for specific legal advice for your particular situation.** Our office hours are: Mon-Thur 0900 – 1600, Fri 0800-1500. Call 239-3117 for an appointment. See also <http://www.riley.army.mil/Units/Staff/StaffJudgeAdvocate/LegalAssistance.aspx>.