

INSTRUCTIONS FOR THE ADOPTION OF A MINOR CHILD BY A STEPPARENT

Who Can Use These Forms

You may use these forms and instructions to adopt a child if:

1. the child is under age 18,
2. you are the child's stepparent (meaning you are married to one of the biological¹ parents of the child and you live in the same household as that parent and the child),
3. the child is not an Indian child, as defined in the Indian Child Welfare Act (ICWA)², and
4. you can get written consent to the adoption from all the people whose consent the law requires. This includes:
 - a. your spouse, who is the child's biological mother or father,
 - b. the child's other biological parent,
 - c. any other person or government agency who is lawfully entitled to custody of the child or empowered by law or court order to consent,
 - d. the child, if the child is age 10 or older, and

¹ If your spouse is an adoptive parent of the child rather than a biological parent, AS 25.23.240(11) may not allow you to use stepparent adoption procedures. You may submit a written request to the court asking if you can use this set of forms even though your spouse is the child's adoptive parent and not the child's biological parent. If the court will allow it, you will need to cross out the words "biological parent" on some of the forms and replace them with the words "adoptive parent" or "legal parent" where appropriate.

² The Indian Child Welfare Act (ICWA) is a federal law which establishes special procedures that must be followed whenever the placement of an Indian child is being decided. ICWA includes the following definitions:

"Indian child" means any unmarried person who is under the age of 18 and who is either (a) a member of an Indian tribe, or (b) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.

"Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary [of the Interior] because of their status as Indians, including any Alaska Native village as defined in section 1602(c) of Title 43.

25 USC 1903.

If you need help determining whether a child qualifies as an "Indian child" under ICWA, you may be able to get help from the tribe you think the child might belong to. The federal Bureau of Indian Affairs (BIA) publishes a directory listing the name, address and telephone number of over 200 Alaska tribes. You can also call the Juneau office of the BIA at 1-800-645-8397 and ask for assistance.

- e. the child's spouse, if the child is married.

You may not use these instructions if the parent who will be giving up the child refuses to consent to the adoption or cannot be located.

If you have questions about the legal consequences of an adoption or need help filling out these forms, you should contact an attorney who handles adoptions. To find an attorney who handles adoptions, check the yellow pages of telephone directories or contact the Alaska Bar Association's Lawyer Referral Service at 272-0352 in Anchorage or 1-800-770-9999 outside Anchorage (toll free within Alaska).³

Adoption Procedure

1. Get the following forms from the court, fill them out and have them signed as explained on pages 4-7. Fill out a separate set of forms for each child to be adopted.
 - a. P-405, Petition For Adoption By Stepparent (Non-ICWA)
 - b. P-410, Consent To Stepparent Adoption (From Petitioner's Spouse)
 - c. P-415, Consent To Stepparent Adoption (Parent Giving Up Child)
 - d. If the child is age 10 or older: P-420, Consent To Stepparent Adoption (Consent of Child Age 10 or Older)
 - e. If the child is married or if there is another person who is lawfully entitled to custody of the child (that is, another person or government agency has been appointed legal guardian or custodian of the child): P-425, Consent To Stepparent Adoption (From Child's Spouse/Guardian)
 - f. VS-501, Report of Adoption
 - g. VS-550, Descriptive Information Regarding Biological Parents
2. Get a certified copy of the birth certificate of each child to be adopted from the vital statistics office in the state where the child was born. The address of Alaska's office is: Bureau of Vital Statistics, 5441 Commercial Boulevard., Juneau, Alaska 99801. There is a fee for a certified copy of an Alaska birth certificate. If the child was born in Alaska, you may also be able to obtain a copy of the birth certificate from the local Vital Statistics office nearest to where the child was born. (Ask at the courthouse.) Go to the Alaska Bureau of Vital Statistics website for current information: <http://www.hss.state.ak.us/dph/bvs/> or call (907) 465-3391. The addresses for other states can also be obtained on the Internet at www.cdc.gov/nchs/howto/w2w/w2welcom.htm.

³ Tell the Lawyer Referral Service you want to hire a lawyer who is experienced in adoptions. The service will give you the names and telephone numbers of three attorneys who have asked to be listed in the adoptions category. Each attorney has agreed to charge no more than \$50 for the first half-hour consultation. (To get this reduced charge, you must tell the attorney you were referred by the Referral Service.) Thereafter, the fee will have to be agreed upon by both you and the attorney you select.

3. File the forms and the certified copy of the birth certificate in the superior court nearest to where you or the child live. See the list of superior court addresses and telephone numbers on page 8. The filing fee is \$75 regardless of how many children are being adopted.⁴ Make your check payable to "Alaska Court System."
4. When you file the forms, you must ask the court to schedule a hearing on the adoption.

The hearing will usually be held in the court where the forms are filed. However, hearings are sometimes held at district court locations when it is more convenient for the parties. If you would like to have your hearing at a district court location, ask the court if this would be possible. (Not all district court judges and magistrates are authorized to hold adoptions hearings.)

You must attend the hearing. The child should attend as well unless there is good reason for him or her not to be present. If the child is age 10 or older, the child must attend the hearing (unless excused by the judge) so the judge can explain the proceedings to the child and get the child's consent to the adoption.

The hearing is not open to the public.⁵ Only people who are directly involved in the proceeding have a right to be present.⁶ However, the court may allow you to bring friends and family members to the hearing.

If it is not possible for you to attend the hearing in person, you may ask the court if you can participate by telephone.⁷ You will have to make arrangements with the court for scheduling the telephone call, and you must pay any long distance charges.

5. After the hearing, the court will send you a certified copy of the decree. You may request additional certified copies which will be provided to you for a fee.
6. Substitute birth certificate. Paragraph 6 on pages 6-7 describes what you will need to do to get a new birth certificate for the child.

⁴ Administrative Rule 9(b)(3)

⁵ Adoption Rule 11 and AS 25.23.150

⁶ This includes the judge or master, the in-court clerk, you, your attorney (if you have one), the child's parents and anyone who has a right to consent to the adoption. (The persons who have a right to consent are listed on pages 1-2, paragraph 5.)

⁷ Adoption Rule 11(c)

How To Fill Out The Forms

Please type or print neatly using black ink when you fill out the forms. Fill in the tops of the forms as shown in the following sample:

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA	
AT <u>Anchorage</u>	
In the matter of the adoption of)
_____)
<u>James George Gable</u>)
(child's name after adoption))
DOB: <u>1/24/87</u> , A Minor Child,)
By <u>Dan Gable</u>)
Petitioner.)
_____)
CASE NO. _____	
PETITION FOR ADOPTION BY STEPPARENT (NON-ICWA)	

On the "AT" line at the top of the form, fill in the city where the superior court is located (the court where you will file your petition).

On the next line, fill in the name the child will have after the adoption is granted. Then fill in the child's date of birth (DOB) and your name as the petitioner.

Do not fill in the "CASE NO." line. The court clerk will fill that in.

1. P-405, Petition For Adoption By Stepparent (Non-ICWA).

Fill out a separate petition for each child to be adopted. Fill in all the blank lines in paragraphs 1 through 5.

Paragraph 7 concerns the child's property. You only need to list property of significant value, such as real estate, motor vehicles, stocks, bonds, savings accounts, etc. You do not need to list personal belongings such as toys, clothes, books, etc.

Paragraph 8 lists the people who must consent to the adoption. Check the box for each consent form required in your case. You must file all these consents with the court at the same time you file the petition.

Paragraph 10 is your statement that the child is not an "Indian child." (See the definition of "Indian child" in footnote 2 on page 1.) You cannot make this statement and you cannot use this form if you have reason to believe the child is an "Indian child."

Paragraph 12 - Inheritance. Because this is an adoption by a stepparent, the adoption does not affect the right of the child or a descendant of the child to inherit by intestate succession from or through the child's biological parents. Therefore,

the child retains the right to inherit from and through the parent giving up the child unless this parent excludes this inheritance in his/her will.⁸

In paragraph 13 you must indicate whether the parent who is giving up the child (or any relative of that parent) will continue to have visitation rights with the child after the adoption. This is something you must work out with that parent (or relative) and describe in that parent's consent form (P-415).

Fill in the blanks and check the appropriate boxes in section 14. The court needs this information to determine whether Alaska courts have jurisdiction (legal authority) to grant the adoption.

You must sign the petition in front of a notary public. The court clerk can provide this notary service for you (at no charge) when you file the petition in court.

2. P-410, Consent From Petitioner's Spouse.

Fill in all the blank lines and check the appropriate boxes. In paragraph 5 fill in the address and telephone number of the court in which you will file your petition. See the list on page 8 of these instructions.

In paragraph 8 (and in the other consent forms), the term "minor" means a person who has not reached the "age of majority." The age of majority for unmarried persons is 18. For married persons, it is 16.⁹

Your spouse must sign the consent form under oath before a notary public or court clerk. You must give your spouse a copy of the filled out form. File the original with the court.

3. P-415, Consent From Parent Giving Up the Child.

Fill in the blanks and check boxes on this form and then ask the parent who is giving up the child to read and sign it. It will have to be signed in front of a notary public or court clerk. You will probably need to discuss paragraph 6 about visitation with this parent in order to know how to fill it out. After the form is filled out and signed, give a copy to the consenting parent.

4. P-420, Consent From Child.

You only need to fill out this form if the child is age 10 or older (or will be 10 by the time of the court hearing). After you fill it out, have the child read it, and try to be sure the child understands and agrees with it. However, do not have the child sign it at this time. It must be provided to the court unsigned so that it can be signed in open court in front of the judge. Before it is signed, the judge is required to determine that the terms and consequences of the consent form have been explained in detail to the child in a language the child understands, that the child understands these terms and consequences, and that the child voluntarily consents to the adoption.

The child will be given a copy of the consent form at the hearing.

⁸ AS 13.12.114(b). Note: The term "intestate" means without a legal will.

⁹ Adoption Rule 2(d), AS 25.20.010 - .020 and AS 25.05.171(a).

Note that if the child is age 10 or older, the decree will not be signed until 10 days after the hearing because the law requires that the child be given 10 days in which to change his/her mind about the adoption.

5. P-425, Consent From Child's Spouse or Guardian.

You only need to fill out this form if the child is married, or the child has a legal guardian other than the child's parents.

6. VS-501, Report of Adoption.

Fill in everything except items 2 and 34 and the three blocks in the upper right corner marked "For Bureau of Vital Statistics Use Only."

Fill in the blocks in the upper left corner as follows:

SUPERIOR COURT DISTRICT: Fill in the judicial district of the court in which you are filing the petition. For example, Anchorage is in the Third District. If you do not know the judicial district of your court, leave this blank.

CITY: Fill in the name of the city in which the court is located.

FILE NO.: Leave this blank. The court will fill in the case number when it is assigned.

Then fill in the numbered sections of the form.

1. Place Adoption Granted. Fill in the city in which the court is located.
2. Date Granted. Leave blank. The court will fill this in.
3. Number of Persons Adopting Child. Fill in "one."
4. Name of Child As Set Forth In The Decree. Fill in the name you want the child to have after the adoption is granted.

Part I. Sections 5 through 14. Get this information from the child's original birth certificate. If any of the information (like social security numbers) is unavailable, write "unknown."

Part II. Sections 15 through 27. Fill in these sections as you want the information to appear on the child's new birth certificate.

28. Do Not Leave This Item Blank. Check the top box in this section if you want a new birth certificate prepared and substituted for the child's original birth certificate.

29-30. Fill these in.

31. Agent Who Arranged This Adoption. Check the "Other" box and fill in "parent."
32. Name. If no attorney represented you in this adoption, fill in "none."

33. Who Signed Consent? Check the "Parent/Guardian" box. If others consented, check the "Other" box too and fill it in.
34. Signature and Seal. Leave 34a and 34b blank.

The court will send the VS-501 form to the Bureau of Vital Statistics in Juneau after the adoption is granted.

Substitute Birth Certificate. If you checked the top box in section 28, requesting that a new birth certificate be substituted for the child's original birth certificate, you will probably also want to request a certified copy of the new certificate. To do so, do the following:

- a. Alaska. If the child was born in Alaska and you want a certified copy of the new certificate, check the box on the back of the VS-501 form. Attach a check payable to "Alaska Bureau of Vital Statistics" when you file the form with the court. If you want more than one certified copy of the birth certificate, write this on the form and add the appropriate amount for each additional copy. Call the Bureau at (907) 465-3391 and ask for the cost of a certified copy (and additional copies, if you want them.).
- b. Outside Alaska. If the child was born in another state, you will need to call the vital statistics office in that state to find out what they charge for substitute birth certificates in adoptions, who the check should be made out to, and whether they will accept Alaska's Report of Adoption form (which Alaska's Bureau of Vital Statistics will forward to them) or require a different form. The clerk of court has a booklet which lists the telephone numbers of the out-of-state vital statistics offices, as well as their addresses, and possibly some of the other information you will need. Also see the websites listed in the first paragraph on page 3. Attach to your filled out VS-501 form a check made out to the correct state office in the correct amount.

7. **VS-550, Descriptive Information Regarding Biological Parents.**

The child's new name should be used on this form.

Ask the parent giving up the child to fill out the parts of the form that apply to him/her. If he/she does not do so, fill out those sections to the best of your ability. Because this is a stepparent adoption, it is only necessary to provide information about the parent giving up the child.

Note that in section IX this parent can provide "other information . . . for disclosure to the child, which may include such items as photographs, letters, and a statement explaining the reasons for the adoption."¹⁰

The court will send this form to the Bureau of Vital Statistics in Juneau after the adoption is granted. Alaska Statute 25.23.185 requires that this information be provided to the Bureau and that the Bureau attach it to the child's original birth certificate. AS 18.50.510 requires the Bureau to give the information to the adoptive parents and to the child after the child reaches age 18 if either of these parties requests it.

¹⁰ AS 18.50.510

Superior Court Locations

Anchorage

Probate Office
Boney Courthouse
303 K Street Room 239
Anchorage, AK 99501-2083
Phone: 264-0433

Kodiak

Clerk of Court
204 Mission Road Room 124
Kodiak, AK 99615-7312
Phone: 486-1600

Barrow

Clerk of Court
Box 270
Barrow, AK 99723-0270
Phone: 852-4800

Kotzebue

Clerk of Court
Box 317
Kotzebue, AK 99752-0317
Phone: 442-3208

Bethel

Clerk of Court
Box 130
Bethel, AK 99559-0130
Phone: 543-1105

Nome

Clerk of Court
Box 1110
Nome, AK 99762-1110
Phone: 443-5216

Dillingham

Clerk of Court
Box 909
Dillingham, AK 99576-0909
Phone: 842-5215

Palmer

Clerk of Court
435 South Denali
Palmer, AK 99645-7759
Phone: 746-8127

Fairbanks

Probate Office
101 Lacey Street
Fairbanks, AK 99701-4761
Phone: 452-9256

Petersburg

Clerk of Court
Box 1009
Petersburg, AK 99833-1009
Phone: 772-3824

Juneau

Clerk of Court
Box 114100
Juneau, AK 99811-4100
Phone: 463-4707

Sitka

Clerk of Court
304 Lake Street Room 203
Sitka, AK 99835-7759
Phone: 747-3291

Kenai

Clerk of Court
125 Trading Bay Drive Suite 100
Kenai, AK 99611-7723
Phone: 283-3110

Wrangell

Clerk of Court
Box 869
Wrangell, AK 99929-0869
Phone: 874-2311

Ketchikan

Clerk of Court
415 Main Street Room 400
Ketchikan, AK 99901-6399
Phone: 225-3195