



Adopting Your Step-Child

Note: Use these instructions and forms to adopt your step-child.

These instructions and forms may not be right for your case. They can not take the place of advice from a lawyer. Talk to a lawyer if you have **any** questions.

Do not change these forms. If you change the forms, you might lose language you need.

What Forms Will I Need to Adopt My Step-Child?

You will need to fill out and file the following forms to adopt your step-child:

- Petition for Stepparent Adoption
- Agreement to Accept Temporary Custody
- Waiver of Parental Rights (unless the other parent's rights have already been terminated)
- Consent to Stepparent Adoption
- Child's Consent to Stepparent Adoption (only if your stepchild is 12 or older)
- Order Setting Hearing
- Stepparent Adoption Decree
- Affidavit of Inability to Pay (only if you cannot afford filing fees)

The **Petition** asks the court to create a parent/child relationship between you and your step-child. It also asks the court to end the parent/child relationship between one of the parent's of the child and the child.

The **Agreement to Accept Temporary Custody** tells the parent who is giving up parental rights to the child that you will accept temporary custody of and provide care and support for your stepchild until the Court makes a decision about the adoption.

The **Waiver of Parental Rights** is filled out by the parent giving up custody, care, and control of the child. It tells the court that the parent is knowingly waiving his or her rights to the child.

The **Consent to Stepparent Adoption** is filled out by your spouse, the child's other parent. It tells the court that your spouse wants you to adopt the child and understands that the other natural parent's rights to the child are ended by the stepparent adoption.

The **Child's Consent** must be completed by the child you are adopting if the child is 12 years of age or older. It tells the court that the child wants to be adopted by you.

The **Order Setting Hearing** will be filled out by the Judge after s/he reads your Petition and decides when your hearing should be.

The **Stepparent Adoption Decree** is filled out by the Court once the stepparent adoption is complete. It ends the child's parent/child relationship with one parent and creates a new parent/child relationship between the stepparent and the child.

What Words Do I Need to Know?



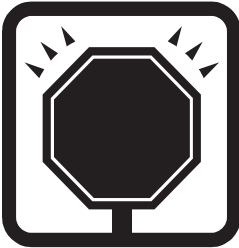
Petitioner- A Petitioner is someone who files an action in court. If you are the stepparent wanting to adopt your stepchild, you are the Petitioner.

Relinquishing Parent- The relinquishing parent is the parent who is giving up custody, care, and control of the child so that the stepparent may adopt.

Who Can Use the Forms?

You can use these forms if:

- your spouse has legal and physical custody of the child; **and**
- the child has lived with you and your spouse during the 60 days before the Petition is filed; **and**
- the other parent of the child agrees in writing to give up his or her parental rights, or, the parental rights of the other parent have already been terminated; **and**
- if the child being adopted is 12 years old or older, he or she wants to be adopted by you.



Note: It may be possible to adopt your stepchild even if you have not met all of the conditions above. However, you can not use these forms to do so. You should talk to a lawyer if you have any questions.

What Do I Do With the Forms?

1 Fill out the Forms

- Fill out all the blanks on the Petition for Stepparent Adoption.
- Sign and date your Petition for Stepparent Adoption.
- Fill out all the blanks on the Agreement to Accept Temporary Custody.
- Sign and date your Agreement to Accept Temporary Custody in front of a Notary Public.
- Fill out the judicial district, county, and caption on all of the other forms (Waiver of Parental Rights, Consent to Stepparent Adoption,

Child's Consent to Stepparent Adoption, Order Setting Hearing, and Stepparent Adoption Decree). The caption looks like this:

Montana _____ Judicial District Court <i>Number of the judicial district where you are filing</i> _____ County <i>Name of the county where you are filing</i>	
In the Matter of the Adoption of _____ <i>(Child's Full Legal Name)</i> A minor child By: _____ Petitioner (<i>Your Name</i>)	Cause No.: _____ <i>Filled out by Clerk of District Court</i> Petition for Stepparent Adoption

- Give a copy of your signed Agreement to Accept Temporary Custody to the parent who is agreeing to give up his or her parental rights.
- Have the relinquishing parent fill out the Waiver of Parental Rights. The Waiver must be signed by the relinquishing parent and notarized. If the parent's rights have already been terminated you do not have to use this form
- Have your spouse fill out the Consent to Stepparent Adoption. The Consent must be signed by your spouse and notarized.
- If your stepchild is 12 years or older, have the child fill out the Child's Consent to Stepparent Adoption. The Child's Consent must be signed by the child and notarized.

2 Make Copies

- Make at least one copy of each form once they are filled out and signed.

3 File Forms at the Courthouse

- Go to the Clerk of District Court's office in your county courthouse. Give the Clerk of District Court the original Petition, Agreement to Accept Temporary Custody, Waiver of Parental Rights, Consent to Stepparent Adoption, Child's Consent if your stepchild is 12 years or older, and Order Setting Hearing.
- If you cannot afford the filing fees, ask the Clerk of District Court for an Affidavit of Inability to Pay. This form may be called something different in your county.
- Give the Clerk of Court a self-addressed stamped envelope. Be sure to ask the Clerk of Court to mail two conformed copies of the Order Setting Hearing to you after the judge signs it. If you do not have an Order of Inability to Pay from the judge, you may be charged a fee for these copies.
- Give your copies to the Clerk of District Court and ask her to stamp them as "Filed". Keep the copies in a safe place.

4 Wait for the Judge to Issue an Order Setting Hearing

- When the judge sets a hearing date, you will get an Order Setting Hearing. The Order Setting Hearing will tell you when and where your hearing will be held.

5 Fill out Your Stepparent Adoption Decree

- Fill in all the blanks that you can on the Stepparent Adoption Decree. If the judge grants your stepparent adoption s/he will sign the Decree after your hearing.
- Make one copy of your filled out Stepparent Adoption Decree.

6 Go to Your Hearing

- Bring your stamped copies of the documents you filed with the Court. Also bring your original and copy of your Stepparent Adoption Decree.
- Arrive at the courthouse at least 15 minutes before your scheduled hearing. Dress like you were going to an important job interview.
- Check with the Clerk of Court's office to find the right courtroom for your hearing. Go to that courtroom and wait for the judge to call your name and case number. Remember to address the judge as "Your Honor."
- Be prepared to answer any questions about your stepparent adoption.
- Important:** Immediately after your hearing, take your signed Stepparent Adoption Decree to the Clerk of District Court. You may want to ask the Clerk for several **certified copies** of the order.



Where Can I Get More Information?

The Montana Code Annotated (M.C.A.) contains the law on adopting your stepchild. The laws related to adopting your stepchild can be found in Title 42, Chapter 4, Part 3. The M.C.A. can be found at your local library or on the Montana State Law Library website at www.lawlibrary.mt.gov. Click on the "State Laws" option near the top of the page and select "MCA" from the list.

Where Can I Get Legal Help?

These organizations may be able to help you:

- **Montana Legal Services Association (MLSA)** gives free legal help to low and moderate-income people. To find out if you qualify for MLSA, call the MLSA HelpLine at 1-800-666-6899.

- **The State Bar Lawyer Referral and Information Service (LRIS)** refers people to Montana lawyers who might be able to help. The referral is free. Call LRIS at 1-406-449-6577.
- **The State Law Library** can help you find and use legal resources such as books, forms, and websites. You can visit the Law Library website at www.lawlibrary.mt.gov. Or you can contact a Reference Librarian at 1-800-710-9827 or by email at mtlawlibrary@mt.gov.

Please take a short survey about these forms.

When you are done with the forms, please take our online survey at this address:

http://www.surveymonkey.com/s.aspx?sm=fCBhbJj4MdOWw_2fjsCjlg_3d_3d



Or you can access the survey on the “Forms” page of the State Law Library website, at www.lawlibrary.mt.gov. Your answers will help make the forms better. Thank you!

Your name

Your mailing address

City State Zip

Your phone number

Petitioner Pro Se

Montana _____ Judicial District Court

Number of the judicial district where you are filing

_____ County

Name of the county where you are filing

In the Matter of the Adoption of

(Child's Full Legal Name)

A minor child

By:

Petitioner (Your Name)

Cause No.: _____
Filled out by Clerk of District Court

**Petition for
Stepparent
Adoption**

I would like to adopt my stepchild: _____.
(Child's Full Name)

1 Your Name, Address, and Age

Name: _____

Address: _____
(Street Address)

(City) (State) (Zip Code)

How long have you lived at this address? _____

Your Age: _____

2 Marital Status

I am currently married to: _____
(Your spouse's name)

We were married in: _____
(City) (State)

on (mm/dd/yyyy): _____.

3 Child's Information

Full Name: _____

Birthplace: _____
(City) (State)

Birthdate (mm/dd/yyyy): _____.

4 Physical and Legal Custody of the Child

The child lives with: _____
(Name of Natural Parent Child lives with)

This parent has legal and physical custody of the child. The child has lived with this parent since (mm/dd/yyyy): _____.

Check if Applicable:

- A parenting plan or custody agreement regarding this child was entered on (mm/dd/yyyy): _____ by the (Name of Court:) _____ in (County:) _____, (State:) _____

A copy of the order is attached to this Petition.

5 Child's Relationship to Me

My spouse is the Mother/ Father of the child. The child has lived with and been in my physical custody since (mm/dd/yyyy): _____.

6 My Spouse's Consent

My husband's/ wife's consent to my adoption of the child is attached to this Petition.

7 The Other Parent

Choose One:

The child's other parent has relinquished his parental rights and consents to my adoption of the child. The other parent's relinquishment and consent is also attached to this Petition. The other parent waives the right to notice and a hearing.

or

The parental rights of the other child have already been terminated by Court order on (mm/dd/yyyy): _____ by the (Name of Court:) _____ in (County:) _____, (State:) _____ A copy of the order is attached to this Petition.

or

The child's other parent has died.

8 Child's Name Change

- The child's name should stay the same.
- The court should change the child's name to:

_____.
First Middle Last

9 Parent/Child Relationship

I would like the court to establish a parent/child relationship between me and the child. I would like to have all the duties, responsibilities, and legal consequences of the parent/child relationship.

10 Child's Property

Choose One:

The child does not own any property of value.

or

A complete statement of the value of all property owned or possessed by the child is attached to this Petition.

11 Post-Placement Evaluation

This is a stepparent adoption. It is in the child's best interests to waive the post-placement period and evaluation. A final decree of adoption should be entered at the time of hearing.

12 Controlling Law

I have followed any laws controlling this adoption. The child is not an Indian. The Indian Child Welfare Act does not apply. I have not filed any petition before this one to adopt this child or any other child. I believe this adoption is in the child's best interests.

13 Notice

Both parents have consented to this adoption. No other party is entitled to receive notice of this Petition.

I respectfully ask this Court to:

1. Schedule a hearing to decide this matter;
2. Waive the post-placement period;
3. Terminate the parental rights of the non-custodial parent;
4. Grant me a final decree of adoption of the child;
5. Change the child's name if requested; and
6. Order any other relief the Court decides is just and proper.

Note: *You must sign and date this Petition. By signing, you are stating that:*

- *You have read the Petition;*
- *The information in the Petition is true to the best of your knowledge;
and*
- *You are not using this Petition for an improper reason.*

Date: _____
mm/dd/yyyy

Petitioner's Signature: _____
Sign here

Print Name: _____

Stepparent's name

Stepparent's mailing address

City State Zip

Stepparent's phone number

Petitioner Pro Se

Montana _____ Judicial District Court

Number of the judicial district where you are filing

_____ County

Name of the county where you are filing

<p>In the Matter of the Adoption of</p> <p>_____, <i>(Child's Name)</i></p> <p>A minor child</p> <p>By:</p> <p>_____ <i>Petitioner (Stepparent's Name)</i></p>	<p>Cause No.: _____ <i>Filled out by Clerk of District Court</i></p> <p>Agreement to Accept Temporary Custody</p>
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I am the Petitioner. I declare, under penalty of perjury, that the following information is true and correct:

1. My full name is: _____
2. I am married to the Mother/ Father of _____
Child's Full Name

3. The child lives with me.
4. I agree to accept temporary custody and provide support and care for the child until my Petition is granted or denied.

Date: _____ Your Signature: _____
mm/dd/yyyy **Sign here**

Print Name: _____

State of Montana
County of: _____

This Agreement to Accept Temporary Custody was acknowledged before me on (*mm/dd/yyyy*) _____ by _____.
Parent's Name

(Seal)

Name (*printed*): _____
Notary Public for the State of Montana
Residing at _____
My Commission Expires _____

Your name

Your mailing address

City State Zip

Stepparent's phone number

Petitioner Pro Se

Montana _____ **Judicial District Court**
Number of the judicial district where you are filing

_____ **County**
Name of the county where you are filing

<p>In the Matter of the Adoption of _____ <i>(Child's Name)</i></p> <p>A minor child</p> <p>By: _____ <i>Petitioner (Stepparent's Name)</i></p>	<p>Cause No.: _____ <i>Filled out by Clerk of District Court</i></p> <p>Relinquishment of Child and Consent to Adoption</p>
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I, _____, declare, under penalty of perjury,
(Relinquishing Parent's Full Name)

that the following information is true and correct:

1. I am the Mother/ Father of _____.
Child's Full Name

I am over 18 years old. I was born on (mm/dd/yyyy): _____.

My address is: _____
Mailing Address

City State

2. The child was born on (mm/dd/yyyy): _____ in _____
_____.
City State

3. After considering my child's best interests, I am relinquishing or giving all custody, care, and control of the child to the child's Mother/ Father and stepparent. Their names, address, and phone numbers are:
Other parent's full name: _____
Stepparent's full name: _____
Address: _____
Street Address

City State
Phone number: _____

4. By signing this, I know that I am relinquishing or giving up all of my parental rights and agreeing to the stepparent adoption. I am agreeing to the transfer of permanent physical and legal custody to, and the adoption of the child by, the child's stepparent. I am doing this voluntarily and unequivocally. In other words, this is my choice and I have not been forced by anyone to make it. I am completely sure about my decision.

I know that I cannot change my mind once this is signed. Any failure by the stepparent or other parent to allow me to visit or talk with the child will have no affect on my waiver, except as provided for in § 42-2-411, MCA.

5. I know that, upon the child's adoption, all of my parental rights and obligations to the child will be ended, except for any child support that is past due, unless waived.

- 6. I have not been offered money to complete this waiver.
- 7. I waive my right to notice of any court action dealing with the child. This waiver includes any hearing ending my parent/child relationship with the child and awarding custody to the stepparent and the other parent. Any adoption of the child may be heard at any time without giving me notice.
- 8. I have been given a copy of this document.
- 9. I have been given a copy of the adoptive parent's agreement to accept temporary custody of the child and to provide support and care for the child until the adoption is either granted or denied.

Date: _____ Signature: _____
mm/dd/yyyy **Sign here**

Print Name: _____

State of Montana
 County of: _____

This Relinquishment of Child and Consent to Adoption was acknowledged before me on
 (mm/dd/yyyy) _____ by _____.
Parent's Name

(Seal)

 Name (*printed*): _____
 Notary Public for the State of Montana
 Residing at _____
 My Commission Expires _____

Stepparent's name

Stepparent's mailing address

City State Zip

Stepparent's phone number

Petitioner Pro Se

Montana _____ Judicial District Court
Number of the judicial district where you are filing

County
Name of the county where you are filing

<p>In the Matter of the Adoption of _____, <i>(Child's Name)</i></p> <p>A minor child</p> <p>By: _____ <i>Petitioner (Stepparent's Name)</i></p>	<p>Cause No.: _____ <i>Filled out by Clerk of District Court</i></p> <p>Parent's Consent to Stepparent Adoption</p>
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I am the Petitioner's spouse. I declare, under penalty of perjury, that the following information is true and correct:

1. My full name is: _____
2. I am the Mother/ Father of _____
Child's Full Name
3. The child lives with me. I have legal and physical custody of the child.

4. I want my spouse to adopt my child. My consent to the adoption is voluntary and unequivocal. In other words, I am completely sure that I want my spouse to adopt my child.
5. I understand and agree that the adoption will **not** end my parent-child relationship with the child.
6. I understand and agree that the adoption **will** end the parent-child relationship between the other parent and the child. I understand that the adoption will end any existing court orders for custody, visitation, or communication by the other parent and the child.
7. I understand and agree that even after the adoption, the child will still have rights to inherit from the other parent. The child's descendants (children, grandchildren, etc.) will still have rights to inherit from the other parent.
8. I understand and agree that this stepparent adoption will **not** affect court orders for visits or communication with the child by the other parent's family or other people. However, failing to comply with those orders does not affect this consent or the adoption.

Date: _____
mm/dd/yyyy

Signature: _____
Sign here

Print Name: _____

State of Montana
County of: _____

This Consent to Stepparent Adoption was acknowledged before me on
(mm/dd/yyyy) _____ by _____
Parent's Name

(Seal)

Name (*printed*): _____
Notary Public for the State of Montana
Residing at _____
My Commission Expires _____

Stepparent's name

Stepparent's mailing address

City State Zip

Stepparent's phone number

Petitioner Pro Se

Montana _____ Judicial District Court
Number of the judicial district where you are filing

County
Name of the county where you are filing

<p>In the Matter of the Adoption of _____ <i>(Child's Name)</i></p> <p>A minor child</p> <p>By: _____ <i>Petitioner (Stepparent's Name)</i></p>	<p>Cause No.: _____ <i>Filled out by Clerk of District Court</i></p> <p>Child's Consent to Stepparent Adoption</p>
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I am the child named in this Adoption. I am 12 years of age or older. I declare, under penalty of perjury, that the following information is true and correct:

1. My full name is: _____
2. I am the child named in this Adoption.
3. I live with my Mother/ Father and stepparent.
4. I want my stepparent to adopt me. This is my choice. No one has made me agree to this adoption. I am completely sure that I want my stepparent to adopt me.

Date: _____
mm/dd/yyyy

Signature: _____
Sign here

Print Name: _____

State of Montana

County of: _____

This Consent to Stepparent Adoption was acknowledged before me on
(*mm/dd/yyyy*) _____ by _____.
Parent's Name

(Seal)

Name (*printed*): _____
Notary Public for the State of Montana
Residing at _____
My Commission Expires _____

Montana _____ Judicial District Court
Number of the Judicial District where you are filing

County
Name of the county where you are filing

<p>In the Matter of the Adoption of _____ <i>(Child's Full Legal Name)</i></p> <p>A minor child</p> <p>By: _____ Petitioner (<i>Your Name</i>)</p>	<p>Cause No.: _____ Dept. No.: _____</p> <p>Order Setting Hearing</p>
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This Court orders:

Adoption Hearing

The hearing on the Petition for Stepparent Adoption filed in this case is set for:

- Date: _____
mm/dd/yyyy
- Time: _____
- Place: _____ County Courthouse
county name

Date: _____

DISTRICT COURT JUDGE

Montana _____ Judicial District Court
Number of the judicial district where you are filing

_____ County
Name of the county where you are filing

In the Matter of the Adoption of
_____,
(Child's Name)

A minor child

By:

Petitioner (Your Name)

Cause No.: _____
Filled out by Clerk of District Court

**Stepparent
Adoption Decree**

A Petition for Stepparent Adoption was filed in this case. A hearing was held on (mm/dd/yyyy): _____. Based on the evidence, the court finds:

Findings of Fact:

1 Petitioner

The Petitioner's name is _____.
Your Full Name

The Petitioner is married to _____,
Your Spouse's Name

the natural parent of _____.
Child's Name

The Petitioner, Petitioner's spouse, and the child have lived together as a

family for the 60 days before filing the Petition for Stepparent Adoption.
The Petitioner is the stepparent of the child.

2 Minor Child

The child's name is _____.
Child's Full Name

The child was born in _____
City State

on (mm/dd/yyyy): _____.

3 Physical and Legal Custody of the Child

The child lives with: _____.
(Name of Natural Parent Child lives with)

This parent has legal and physical custody of the child. The child has lived with this parent since (mm/dd/yyyy): _____.

Check if Applicable:

A parenting plan or custody agreement regarding this child was entered on (mm/dd/yyyy): _____ by the
(Name of Court:) _____
in *(County:)* _____, *(State:)* _____

4 Child's Relationship to Petitioner

The Petitioner is married to the child's natural Mother/ Father. The child has lived with and been in the Petitioner's physical custody since (mm/dd/yyyy): _____.

5 Parents' Consent

Both of the child's natural parents filed written consent to this stepparent adoption. The parent the child is not living with has waived notice of the hearing, given up parental rights to the child, and consented to this stepparent adoption.

6 Parent Child Relationship

The Petitioner wants to adopt the child and form a parent/ child relationship. The Petitioner also wants all the rights and duties that go along with a parent/child relationship.

7 Child's Name

The Petitioner would like to:

- change the child's name to: _____
Child's New Name
- keep the child's name the same.

8 Child's Property

The child does not own any property of value.

9 Evaluations

The Petitioner asks the court to waive the pre and post-placement evaluations.

10 Notice

Both parents have consented to this adoption. No other party is entitled to receive notice of this Petition.

Conclusions of Law:

- 1. This court has jurisdiction over this stepparent adoption.
- 2. The Petitioner and child both live in this county. This court is the proper venue for this stepparent adoption.
- 3. It is in the child's best interests to end the rights of the natural:
 - mother.
 - father.

The adoption by the stepparent is in the child's best interests and should be ordered. Montana Code Annotated § 42-5-109(4).

- 4. It is in the child's best interests for the natural:
 - mother

father

to keep all rights as the child's natural parent. Montana Code Annotated § 42-5-202(b).

5. Because the Petitioner is the child's stepparent, it is in the child's best interests for the court to waive the placement evaluation. Montana Code Annotated § 42-5-107.

Order

This Court orders that:

1. The parent/child relationship is ended between the child and the natural:

mother.

father.

This parent no longer has any rights to the child unless there is a court order for visits or communication with someone related to the child through one of the parents. The child keeps the right to inherit from the parent whose rights are ended by this stepparent adoption. The former parent will still owe any past due child support unless it is waived by the other parent.

2. This final decree of adoption creates a parent/child relationship between the Petitioner and the child. All the rights and duties of a parent/child relationship now exist between the Petitioner and the child.

3. The parent/child relationship for purposes of intestate succession is governed by Montana Code Annotated, Title 72.

4. The parent/child relationship that existed before this stepparent adoption between the child and the natural:

mother

father

will stay the same.

5. The post-placement evaluation period and evaluation for this adoption are waived.

6. The child was born:

- in Montana.
 in another state.

If the child was born in Montana and is under twelve, Vital Statistics must issue a new birth certificate to the child.

7. The child's name:

- is changed to: _____
Child's New Name
- will stay the same.

Date: _____

DISTRICT COURT JUDGE