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Step-Parent Adoptions In Virginia

Often parents want their new husbands or wives to adopt their children from previous relationships. These are step-parent adoptions.

1

Who Can Adopt

Only a new spouse can adopt. You must be legally married to the person who is adopting the child.

2

Must The Biological Parent Consent

The process is immensely easier if the biological parent signs a Consent to Adopt. If the biological parent cannot be located, after a good faith effort to locate the parent is made, they can be served with notice through an Order of Publication that is run in the newspaper. If they refuse to consent, a hearing can be held, at which the court can decide whether the consent is being withheld contrary to the best interests of the child. If the court finds that this is the case, the adoption can proceed even without the consent.

3

Must The Child Consent

If the child is over the age of 14, the child must execute a Consent also.

4

Procedure

A Petition For Adoption (preferably with Consents by all parties) is filed in the Circuit Court in the City/County where the child and adoptive parent live. If there is no contest, an Order will be entered by the court, without the need for a personal appearance in court.

5

Effect of Adoption

The adoption eliminates the biological parent's obligation to provide support for the child, but it does not eliminate any existing child support arrearage. The adoption does NOT eliminate the child's right to inherit from the biological parent. Accordingly, if you want to exclude this child from inheritance, you need to state it explicitly. Adoption eliminates the parental presumption in favor of the natural parent in custody proceedings between the natural parent and the adoptive parent.

6

Common Law Adoption

There is no common law adoption in Virginia. Adoption is purely statutory, and all of the statutory requirements must be complied with in order for the adoption to be valid.

7

Choice of Attorney

Adoption is a specialized area of the law. You should consult an attorney who has specific experience in Adoptions.

Mary Commander has handled Adoptions in Virginia since 1981. She is the author of the Virginia CLE Handbook on Adoptions in Virginia.

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