

SUPERIOR COURT OF CALIFORNIA COUNTY OF SOLANO

STEPPARENT ADOPTION PACKET

This packet provides basic information on how to adopt your stepchild. Because every family and every situation is different, you are encouraged to talk with a lawyer whenever you have questions about the adoption process. ***The court cannot give you legal advice.***

➤ **What is a stepparent adoption?**

A stepparent adoption is where a person adopts his or her spouse's or registered domestic partner's child. For example, if Jane and Maria are registered domestic partners and Jane wants to adopt Maria's child, Jane can file a stepparent adoption petition.

If you are not married to or in a registered domestic partnership with the child's legal parent, you cannot do a stepparent adoption. You might want to talk to a lawyer to see what other options you have.

➤ **What forms do I need to file to adopt my stepchild?**

The list of forms that you'll need to file is on pages 4 through 8.

➤ **How much does it cost to adopt my stepchild?**

It depends. First, there is a \$20 fee for each person being adopted. For example, if you want to adopt your spouse's three children, you would pay \$60.00.

Second, there is the court investigation fee for the adoption, which is usually \$500. If the child's other biological or legal parent does not consent to the adoption and you file a petition to terminate his or her parental rights, there will be an additional investigation by the court investigator. This additional investigation can cost anywhere from \$200 to \$400.

The court investigators office will tell you the exact cost of your investigation(s). Each investigation will not start until you have paid the investigation fee in full, so it is best to pay the fee as promptly as possible. The fee(s) may be paid to the Solano County Superior Court through the Family Law Clerk's Office, located on the 2nd floor of the Hall of Justice, 600 Union Avenue, Fairfield, CA 94533.



The filing fees and investigation costs are subject to change, so check with the court for the most current fees.

➤ **How long will the process take?**

The adoption process can be a long one, but how quickly it goes often depends on you. In general, the adoption can take place more quickly if:

- (1) You promptly give your completed *Court Investigator's Information & Referral* form back to the Court Investigators Office;
- (2) Once the Court Investigators Office tells you what paperwork they need, you provide the court investigator with all requested paperwork as soon as possible;
- (3) You keep in touch with the Court Investigators Office on a regular basis.

➤ **I'm having trouble getting all the paperwork that the court investigator needs, or I can't find the other parent. What can I do?**

If you are having trouble finding paperwork or a person, it's important to tell the court investigator what's happening. The court realizes that there may be valid reasons for a delay.

If the court investigator does not hear from you 90 days after you were given the *Court Investigator's Information and Referral* form, or 180 days after the Court Investigators Office tells you what paperwork they need from you, your case will become "inactive." This means that your case will be put aside so that other cases can move ahead. It does not mean that your adoption petition is invalid or has been canceled. Once you provide all the necessary paperwork, your case will become "active" again.

➤ **What happens once I give all the paperwork to the Court Investigators Office?**

The court investigator will investigate your petition for adoption. This will include setting up an appointment to visit with you, your spouse or registered domestic partner, and the child(ren) to be adopted. This visit will take place in your home. The court investigator will then prepare a report and a recommendation and file it with the court. You will receive a copy of the report in the mail.

Once you receive the report, it is up to you to contact the court and schedule a hearing for the adoption. This hearing is important because it is where you will actually adopt the child(ren). ***The adoption process is not complete until you have the adoption hearing with the judge and the adoption order is filed with the court.*** Contact the Family Law Clerk's Office calendar clerk to schedule the hearing.

➤ **Does this process change if the other parent does not agree to the adoption?**

Yes. If the other parent does not consent to you adopting his or her children and you need to ask the court to terminate his or her parental rights, that investigation will take place first. The adoption investigation will only take place if the court grants your petition to terminate the other parent's parental rights.

You can read more information on terminating parental rights on page 10.

➤ **Does this process change if the child's other parent and I were married when the child was born?**

It might. If both you and the other parent were married or in a registered domestic partnership at the time the child was born **and** you are still married or in a domestic partnership at the time the Adoption Request was filed, a home study and a court investigator's report might not be required. (Fam. Code, § 9000.5.)

➤ **Who can I talk to if I need more help?**

You can speak with a private attorney at your own cost. There are several ways of finding a lawyer, such as asking your friends and family for recommendations or looking through the phone book. You can also call the Solano County Bar Association's Lawyer Referral Service at (707) 422-0127.

Bookstores and libraries usually have books on how to adopt children in California. You can also check with the Solano County Law Library, located on the third floor of the Hall of Justice building in Fairfield.

There are also many resources on the Internet, such as the adoption information website at <http://www.courtinfo.ca.gov/selfhelp/family/adoption/>.

Please remember that the court cannot give you legal advice.

FORMS AND DOCUMENTS NEEDED FOR A STEPPARENT ADOPTION

FORMS TO BE FILED WITH THE COURT AT THE BEGINNING OF YOUR CASE:

- ADOPT-200 “Adoption Request”
 - Fill out one for each child that you are adopting.
- ICWA-010(A) “Indian Child Inquiry Attachment”
 - This form is attached to each Adoption Request form.
- If the child to be adopted is a Native American (Indian) child:
 - A completed *Adoption of Indian Child* (Judicial Council form ADOPT-220) must be attached to the ADOPT-200 form.

FORMS NEEDED TO FINALIZE THE ADOPTION

- ADOPT-210 “Adoption Agreement”
 - This form tells the judge that you, and the child if he or she is age 12 or older, agree to the adoption. Fill this form out but do not sign it until the judge tells you.
- ADOPT-215 “Adoption Order”
 - The judge signs this form if your adoption is approved.

The ADOPT-210 and ADOPT-215 forms aren’t needed until the end of your case. You can “lodge” these forms with the court at any time during the adoption proceeding, or you can hang on to them until the day of the adoption hearing. (To “lodge” a document means that the document is kept in the court file until needed, but is not “filed”.)

FORMS TO BE GIVEN TO THE COURT INVESTIGATORS OFFICE:

(1) A completed Confidential Court Investigators Information and Referral Form.

(2) An original certified copy of each of the following documents:

- a. Birth certificate for:
 1. You;
 2. Your spouse or registered domestic partner; and,
 3. Each child to be adopted.
- b. Marriage license and certificate from your current marriage OR documentation from the Secretary of State confirming your current registered domestic partnership.
- c. The final judgment of dissolution of marriage or nullity of marriage for all prior marriages for you and for your spouse or registered domestic partner.

The Court Investigators Office requires actual certified copies of each document. Certified copies will usually have a colored ink stamp or an embossed seal on it. **Photocopies of a certified document are not acceptable.** If your document is in a foreign language, you must provide a certified copy of the English translation prepared by a certified interpreter. Informal translations by friends or relatives are not acceptable.

These certified documents will not be returned to you unless you specifically request it.

a. Where can I obtain these documents?

Birth certificates and marriage certificates can be obtained from the vital records office (sometimes known as the recorder's office) in the county where the event took place, e.g. where the child was born or where the marriage license was issued.

Judgments of dissolution of marriage or of nullity of marriage can be obtained from the courthouse where the judgment was entered.

Documentation from the Secretary of State for a domestic partnership can be obtained by submitting a form at:

<http://www.sos.ca.gov/webcontact/dp/DPCertRequest.aspx>

(3) Your spouse's or registered domestic partner's written consent for you to adopt his or her child(ren).

A blank copy of the form *Stepparent Adoption – Consent to Adoption by Parent Retaining Custody* (California Department of Social Services form number AD 2) is attached to this packet. Your spouse or registered domestic partner must sign this form in the presence of either the court investigator or the clerk of the court. Once your spouse or partner has signed the form, file it with the court and ask the clerk for an "endorsed filed" copy of the form. Bring this endorsed-filed form to the Court Investigators Office.



Bring extra copies of the consent form with you to the clerk's office to be "endorsed filed". Otherwise, the clerk of the court can make copies for you at the rate of 50 cents per side per page.

(4) The written consent of the parent giving up his or her parental rights, or a certified copy of a death certificate showing the parent is deceased.

If the child's other parent is deceased, you need to obtain an original certified copy of his or her death certificate. You can do this by going to the vital records office (sometimes known as the recorder's office) in the county where the parent died.

If the other parent is alive and is voluntarily giving up his or her parental rights, you may use one of three different forms to obtain that parent's consent to the adoption. Which form you use depends on your specific circumstances. Check each form to make sure you are using the right one.

If the other parent will not voluntarily give up his or her parental rights, you may need to consider other alternatives. More information about this is on page 9.

a. If the parent giving up parental rights lives in California...

Use form *Stepparent Adoption – Consent to Adoption by Parent in California Giving Custody to Husband or Wife or Domestic Partner of Other Parent* (California Department of Social Services form number AD 2A).

The parent signing the form must sign it in presence of a notary public, a clerk of the superior court in any county in the State of California, a probation officer, a qualified court investigator, or county welfare department staff member of any county. Family Code Section 9003.

Once the form has been signed, file the original with the court. Be sure to ask the clerk for an "endorsed filed" copy of the form. Bring this endorsed-filed copy to the Court Investigators Office.



Bring extra copies of the consent form with you to the clerk's office to be "endorsed filed". Otherwise, the clerk of the court can make copies for you at the rate of 50 cents per side per page.

b. If the parent giving up parental rights lives outside of California...

Use form *Stepparent Adoption – Consent to Adoption by Parent Outside California Giving Custody to Husband or Wife or Domestic Partner of Other Parent* (California Department of Social Services form number AD 2B).

This form must be signed in the presence of a notary public who is licensed in the state of that parent's residence. The form must also be properly notarized.

Once the form has been signed, file the original with the court and ask the clerk for an "endorsed filed" copy of the form. Bring this endorsed copy to the Court Investigators Office.



Bring extra copies of the consent form with you to the clerk's office to be "endorsed filed". Otherwise, the clerk of the court can make copies for you at the rate of 50 cents per side per page.

c. If the parent giving up parental rights lives outside of California and is in the military...

If the parent:

- (1) Is in the military, and
- (2) Is either

- (a) Located outside of the United States, or
- (b) Located in the United States but is (1) confined to base or post or (2) is otherwise unable to secure the services of a notary public within a reasonable time,

then you can use form *Stepparent Adoption – Consent to Adoption by Parent Outside California in Armed Forces Giving Custody to Husband or Wife or Domestic Partner of Other Parent* (California Department of Social Services form number AD 2D) instead of the other forms (AD 2A or 2B).

This form must be signed in the presence of a military officer who has the powers of a notary public and must be properly notarized by that officer.

Once the form has been signed, file the original with the court and ask the clerk for an “endorsed filed” copy of the form. Bring this endorsed-filed copy to the Court Investigators Office.



Bring extra copies of the consent form with you to the clerk’s office to be “endorsed filed”. Otherwise, the clerk of the court can make copies for you at the rate of 50 cents per side per page.

(5) If the child to be adopted is over the age of 12, the child’s written consent to the adoption.

A copy of the consent form is attached. The child must sign the consent in the presence of a qualified court investigator or the clerk of the court.

Once the form has been signed, file the original with the court and ask the clerk for an “endorsed filed” copy of the form. Bring this endorsed-filed copy to the Court Investigators Office.

(6) Three (3) reference forms concerning you.

These forms are to be filled out by persons who are not related to you, your spouse, or your registered domestic partner. The completed forms need to be given back to the court investigator. The persons completing the forms may either give them back to you to give to the court investigator, or they may mail them directly to the court investigator at:

Court Investigators Office
Superior Court of California, County of Solano
2nd Floor, Hall of Justice
600 Union Avenue
Fairfield, CA 94533
(707) 207-7390

(7) Employment Verification of Military Personnel.

If you are employed, you must submit verification of your employment to the court investigator by submitting your LES with Military ID. If your employer does not have an in-house form that they use for such verifications, the employer should prepare a statement on company letterhead that includes:

- a. Your position with the company;
- b. How long you have been employed by the company;
- c. Your salary; and,
- d. The company's expectation of your continued employment.

You are expected to sign any releases that your employer may need to send this information to the Court Investigators Office.

Your employer may either give the statement back to you to give to the court investigator, or they may mail it directly to the court investigator at:

Court Investigators Office
Superior Court of California, County of Solano
2nd Floor, Hall of Justice
600 Union Avenue
Fairfield, CA 94533
(707) 207-7390

(8) A Request for Live Scan Service form.

The live scan form is used to perform a criminal background check on you. ***You will not be given the form and the background check will not be done until all of the other documents described in items 1 through 7 have been given to the court investigator.***

When you are given the form, fill out only the third section/block with your personal information. Do not complete the rest of the form.

You will be given a list of agencies that perform live scans at the time you are given your live scan form.

After your fingerprints have been processed and electronically submitted to the Department of Justice, you are required to return the second copy of the *Request for Live Scan Service* form to the Court Investigators Office. This is your proof to the court investigator that your fingerprints have been processed. There is a minimal charge for this service that varies depending on the agency.

REMINDER!

The investigation for the adoption will not take place until you have given the court investigator all the documents listed in (1) through (8) and any additional paperwork you have been told to provide. It is your responsibility to make sure that the court investigator has everything he or she needs.

IF A PARENT WILL NOT CONSENT TO THE ADOPTION OF HIS OR HER CHILD

A petition for a stepparent adoption cannot go forward if you are not able to obtain the consent of the other parent. If this is the case for you, you might want to consult with an attorney to see what alternatives you have available to you. For example, a frequently used alternative is to file a petition asking that the child to be adopted be declared “free from parental custody and control” of the other parent. This is another way of asking the court to terminate (end) the other parent’s parental rights. The reasons for terminating a parent’s parental rights vary, and not all of them apply all of the time. Again, you might want to consult with an attorney to see what might work best for you. ***The court cannot give you legal advice.***

If you decide to file a petition to terminate a parent’s rights, the court will require an investigation into whether it is in the child’s best interests to terminate the parent’s rights. The cost of the investigation depends on the child’s age and circumstances. The Court Investigators Office will tell you how much the investigation cost will be. ***The investigation will not start until the fee is paid in full.*** The fee(s) may be paid to the Solano County Superior Court through the Family Law Clerk’s Office, located on the 2nd floor of the Hall of Justice, 600 Union Avenue, Fairfield, CA 94533.

Once the fee is paid, the Court Investigators Office will tell you to set your case for hearing at least 60 days away. ***It is your responsibility to set a hearing date with the calendar clerk in the Family Law Clerk’s Office. Once you have your hearing date, you must notify the Court Investigators Office of that hearing date.*** The investigator will then start the investigation and prepare his or her report for the court.

Once the court grants the petition and terminates the other parent’s parental rights, the court investigator will start working on the adoption investigation ***IF*** you have submitted all the paperwork he or she needs.

ADOPTIONS AND THE INDIAN CHILD WELFARE ACT

A significant number of children in the United States have Native American ancestry, such as Sioux or Cherokee. To make sure that these children don't lose any rights they might have as Native Americans because they were adopted, federal and state law require adopting parents and the court to investigate whether a child might be a Native American (or Indian) child. This law is known as the Indian Child Welfare Act, or ICWA for short.

➤ **Will ICWA apply to my stepparent adoption?**

It might. ICWA will apply whenever a Native American child is being taken away from his or her parents or the Native American parent's parental rights are being terminated. This includes:

- Foster care "placements"
- Child Protective Services (CPS) removals
- Guardianships (both in juvenile court and probate court)
- Adoptions (both in juvenile court and family court)
- Certain juvenile delinquency cases

ICWA does not usually apply to cases where a custody dispute is just between the parents (e.g. a divorce or a paternity case).

➤ **What makes a child a Native American child?**

A child could be a Native American child if:

- The child is not married; and,
- The child is under the age of 18; and,
- The child is a member of a federally recognized Native American tribe **OR** the child is the biological child of a member of a federally recognized tribe **and** is eligible for tribal membership

➤ **How would I know if my stepchild has Native American ancestry?**

It's not always easy to know. You can ask the child if he or she knows about any relatives who might be Native American. You should ask the child's relatives if there is any Native American heritage in their family. If the child (or any member of his/her family) is receiving benefits from the federal government such as tribal housing or Indian health Services benefits, it is possible the child would qualify as an Indian child.

➤ **I don't know if my stepchild is Native American. Do I still have to fill out the ICWA-010(A)?**

Yes. This form is required for everyone, even those who don't know if the child is Native American or not.

➤ **The child I want to adopt is or might be Native American. What happens now with my adoption petition?**

The child's parents, any Indian custodian, any Native American tribe or tribes to which the child might belong, and the Bureau of Indian Affairs all have a right to know about your adoption petition. To make sure that they know about it, you or your attorney will need to fill out and complete the *Notice of Child Custody Proceeding for Indian Child* (ICWA-030). If you do not have an attorney the court will mail out the completed form as instructed on page 9. Instructions on how to fill out this form and mail it are on the *Information Sheet on Indian Child Inquiry Attachment and Notice of Child Custody Proceeding for Indian Child* (Judicial Council form ICWA-005-INFO).

Once the notices are mailed, the court must wait at least 90 days to give the tribes (or the Bureau of Indian Affairs) a chance to respond. If the tribes do not respond after 90 days, the court can go forward with the adoption.

You will also need to send a *Parental Notification of Indian Status* (Judicial Council form ICWA-020) to the child's parents. The parents are to fill it out and give it back to you or to the court investigator.

Depending on your case, there may be additional requirements for adoption a Native American child. You may want to talk with an attorney about what else you need to do if your stepchild is or might be Native American. **The court cannot give you legal advice.**

➤ **What happens if I know or think that my stepchild is Native American and I don't tell anyone?**

The court takes ICWA very seriously. The court will require that an adopting parent take all necessary steps to make sure that everyone who needs to know about the adoption does know about it. This means that if the court learns that you deliberately did not tell anyone that the child was a Native American child or you concealed facts that would otherwise suggest that the child was an Indian child, you could be subject to court sanctions. Welfare & Institutions Code § 224.2(e).

Furthermore, a tribe that has a right to know about the adoption but wasn't told has the right to come in to court and undo the adoption at any time. See 25 U.S.C. §1914.

LIST OF FORMS IN THIS PACKET

<i>Form Number</i>	<i>Form Title</i>	<i>Last Revision Date</i>
ADOPT-050-INF	How to Adopt a Child in California	January 1, 2016
ADOPT-200	Adoption Request	January 1, 2018
ADOPT-210	Adoption Agreement	January 1, 2016
ADOPT-215	Adoption Order	January 1, 2016
ADOPT-220	Adoption of Indian Child	July 1, 2010
ICWA-005-INFO	Information Sheet on Indian Child Inquiry Attachment and Notice of Child Custody Proceeding for Indian Child	July 1, 2012
ICWA-010(A)	Indian Child Inquiry Attachment	January 1, 2020
ICWA-020	Parental Notification of Indian Status	January 1, 2020
ICWA-030	Notice of Child Custody Proceeding for Indian Child	January 1, 2020
5000	Confidential Court Investigators Information and Referral	August 2008
5005	Reference for Stepparent Adoption	August 2008
5403	Consent of Child to be Adopted	August 2008
CDSS AD-2	Stepparent Adoption – Consent to Adoption by Parent Retaining Custody	June 2002
CDSS AD-2A/2B	Stepparent Adoption – Consent to Adoption by Parent in California Giving Custody to Husband or Wife or Domestic Partner of Other Parent	May 2011
CDSS AD-2D	Stepparent Adoption – Consent to Adoption by Parent Outside California in Armed Forces Giving Custody to Husband or Wife or Domestic Partner of Other Parent	March 2008
VS 44	Court Report of Adoption	January 2008