

## STATE OF VERMONT

### SUPERIOR COURT

### PROBATE DIVISION

#### **Stepparent Adoption Information**

The following information is provided to persons who are completing a petition for adoption of a minor by a stepparent. In some cases, this form of adoption is available for partners who are living together as a family unit but are not married. More information about this type of adoption is available at the bottom of this information sheet.

#### **Forms which may be required**

- A. **Petition for Adoption by Stepparent**: The stepparent who is planning to adopt the minor child must file this form with the Probate Division. There is a filing fee. The spouse of the petitioner (usually this is the biological parent of the child) must also sign the petition before it is filed. The petition must be sworn before a notary public or it might be signed before the Register of the Probate Division at the time it is filed. The petition must be filled out completely. If incomplete, it may delay the adoption. A section of the petition requires the names and addresses of the adoptee's grandparents whose legal rights will be terminated by the adoption (these are the parents of the person who is consenting to the adoption who is not married to the petitioner as described in section C below). It is important to provide this information. If there are visitation agreements which are intended to be in effect after the adoption, these should be in writing, signed and submitted as part of the adoption petition.
  
- B. **Consent of Stepparent's Spouse**: The person who is married to the petitioner must sign a consent form. This form demonstrates consent to the adoption and it advises the person signing the form of certain legal rights and consequences of the adoption. This form may be signed before the Probate Judge or a Notary Public.
  
- C. **Consent of the Parent who is not Stepparent's spouse**: Usually in a stepparent adoption, the parental rights and future obligations of support of one of the biological parents will be terminated by the adoption. This is the biological parent who is not the stepparent's spouse. If this biological parent consents to the adoption, they must sign a "Consent of parent who is not Stepparent's spouse." This form must be signed before the Probate Judge or a person authorized by the court. It is important if the form is

signed before anyone other than a judge that the person signing be advised of the legal effect and consequences of signing the form. (Note: If the biological parent who is not part of the adoption refuses to consent to the adoption, the adoption will not go forward unless that parent's rights are terminated by court order. In this case, you are advised to seek the assistance of an attorney for help in filing the petition to terminate parental rights). If the child is under legal guardianship of a person or an agency (Department for Children and Families or an adoption agency), a consent signed by the guardian or the agency will be required. Please contact the court for more information about this form.

- D. Waiver of Legal Counsel: The birth parent whose rights will be terminated by the adoption has the right to legal counsel. A waiver of counsel form must be filed with the court if that birth parent is choosing not to be legally represented.
  
- E. Disclosure of Identifying Information and Information about Birth Family: The parent whose right to the child will be terminated by the adoption should provide the court with a "Statement in Disclosure of Identifying Information" and "Information About Birth Family." These documents may be filed in advance of the hearing, or in advance of the consent to adoption being signed. A birth parent who has wishes about being contacted by the adopted child after the adoption may express these wishes on the "Disclosure of Identifying Information" form. The "Information About Birth Family" provides important information which the adoptee may need in the future. This form may be filled in by a person other than the biological parent.
  
- F. Consent of a Minor: If the adoptee is 14 years or older, he or she must sign a "Consent of Minor in Adoption." This form must be signed in the presence of the judge or a person specifically appointed by the judge. The consent may be signed at the final hearing on the adoption.
  
- G. Evaluation: An evaluation in a stepparent adoption is required unless this requirement is waived by the court. If you want the court to waive this requirement, a request for waiver of an evaluation should be filed when the petition is filed. However, a person who is the subject of a waiver shall be evaluated during the pendency of a proceeding for adoption.

H. Criminal Record Check: Even if the requirement of an evaluation is waived, the law requires that the petitioner must provide the court with a criminal record check. Such a check requires fingerprinting, usually through the local law enforcement agency or sheriff. The petitioner completes the Vermont Crime Information Center (VCIC) Fingerprint Authorization Certificate, along with fee-check payable to VT Superior Court- and the Criminal Record Check Release Form at the Probate Division. This process takes approximately 8-10 weeks. In addition, the court must receive a copy of any previous evaluation which was prepared on behalf of the petitioner and a copy of any prior Relief from Abuse order (restraining order) concerning the petitioner.

### **Additional Documents Required**

In addition to the petition and the forms listed above, each of the documents listed in 15A VSA § 3-305 must be filed with the court in advance of the final hearing. If any document is unavailable or missing, the petitioner should describe why the document is not attached and what efforts have been made to secure it. Please note that a full statement of all fees paid by, or on behalf of the petitioner to another person associated with the adoption must be provided to the court at least 10 days before the final hearing. The document must be signed and sworn to before a notary public. It is particularly important to provide the court with the information concerning prior legal proceedings covering custody or guardianship of the child. If you need court assistance in completing the forms, you should complete them to the best of your ability before speaking with someone at the court.

### **Partner Adoptions**

Under Vermont law, where the family unit consists of a parent and the parent's partner, the partner may adopt the child if the court find it is in the best interests of the child. (§ 1-102(b); 4-101(b)). Where the partners are in a legal relationship (civil union, reciprocal wills, co-owners of property etc.) a detailed description of this relationship should be provided.