



**XVIII Airborne Corps and Fort Bragg  
Office of the Staff Judge Advocate  
Legal Assistance Office**



## **INFORMATION PAPER – STEPPARENT ADOPTION**

### **STEPPARENT ADOPTION PROCESS AND REQUIREMENTS IN NORTH CAROLINA**

#### **BACKGROUND**

Adoption is the process by which two individuals create a parent-child relationship recognized by law. With a Stepparent adoption, a child is legally adopted by the spouse of one birthparent. Once the stepparent adoption is finalized, the spouse becomes the child's legal parent. The stepparent adoption process is regulated by the state and as such, the process and requirements vary by state. In order to perfect a stepparent adoption in North Carolina, you will need to provide the court with several documents including two copies of your marriage license, all divorce decrees of involved parties, and the child's birth certificate. Should any additional documents be required, be prepared to file at least two copies.

#### **PROCESS**

In North Carolina, the forms to file a stepparent adoption are available online via the North Carolina Department of Health and Human Services. Their website is <http://info.dhhs.state.nc.us/>. Once at the site, click on forms, and then click Division of Social Services. Forms must be complete, correct, and notarized before you can file with the Court. Each form requires more than one copy, so be sure you have the correct number forms before you try and file. You will have the option to complete the forms online. If you choose to hand-write the information, make sure your writing is legible. Do not sign any forms that require a notary stamp until you are in the presence of a notary as they are required to witness you signing the documents. You will produce several copies of these forms, and each copy will require an original notary stamp, not a photocopy of a notarized document. The forms are also available in Spanish. In many cases, a home study will be required before the adoption is finalized.

If you choose to file these forms on your own, it is important to note that you are acting as your own attorney. The staff of the Clerk's Office will not be able to give you legal advice as they are limited to assisting with procedural matters concerning the adoption process only.

#### **OVERVIEW**

Stepparent adoption requires the termination of the other birth parent's parental rights. The parent whose rights are to be terminated may voluntarily consent to such termination. If consent cannot be obtained voluntarily, the process becomes more complicated and it is highly recommended that you work with a civilian attorney. Before the actual adoption process involving the child and spouse of the birthparent can occur, the parental rights of the parent who will not voluntarily consent to the adoption will need to be terminated by the Court. After the Court terminates the parental rights, the next step is to begin the actual stepparent adoption process by completing and filing the forms referenced above. In North Carolina, a petition to adopt a minor stepchild may be granted only if the stepchild consents to the adoption; this consent is required if the child is 12 or more years of age. The process also provides the opportunity to change the child's legal name. Once the stepparent adoption is finalized by the Court, the state will issue a new birth certificate indicating the child's

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new legal name. The new legal parent will also be listed on the birth certificate. Note that if the other birth parent is deceased, you will not need to terminate parental rights.

### STEPPARENT ADOPTION CHECKLIST

(AS PROVIDED BY THE CUMBERLAND COUNTY CLERK’S OFFICE)

FORMS:	NUMBER OF REQUIRED COPIES	
	WITH AGENCY	WITHOUT AGENCY
*DSS-5162 - Petition for Adoption	4	4
*DSS-1807 - Order for Report (This is used only in agency adoptions)	3	2
*DSS-5189 - Consent to Adopt by Spouse	2	1
*DSS-5190 - Consent to Adopt by Parent/Not Spouse	2	1
*DSS-5169 - Consent of Child (12 years or older)	2	1
*DSS-1809 - Affidavit of Parentage	2	1
DSS-5191 - Affidavit of Fees and Expenses	2	1
DSS-1814 - Decree of Adoption	3	2
DSS-1815 - Report to Vital Records	1	1

\*You must also provide two copies of your marriage license, all divorce decrees of involved parties, child’s birth certificate and two copies of any additional documents.

If petitioner has been married at least two years and has no criminal background, then petitioner may file two copies of Motion for Waiver of an Agency Report. You must present two copies of at least a ten year background check to apply for a waiver. Background checks must be certified by a law enforcement agency. If petitioner is in the **military**, a notarized affidavit from a commanding officer will be acceptable if the officer can attest to your history. The motion for waiver is not a state provided form, but is available at the Clerk’s Office.

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## TERMINATION OF PARENTAL RIGHTS

According to North Carolina General Statute § 7B-1111 (Grounds for terminating parental rights), a court may terminate parental rights upon a finding of one or more of the following (this is **NOT** an exhaustive list, just a few examples):

(1) The parent has abused or neglected the juvenile.

(2) One parent has been awarded custody of the juvenile by judicial decree or has custody by agreement of the parents, and the other parent whose parental rights are sought to be terminated has for a period of one year or more next preceding the filing of the petition or motion willfully failed without justification to pay for the care, support, and education of the juvenile, as required by said decree or custody agreement.

(3) The father of a juvenile born out of wedlock has not, prior to the filing of a petition or motion to terminate parental rights:

a. Established paternity judicially or by affidavit which has been filed in a central registry maintained by the Department of Health and Human Services; provided, the court shall inquire of the Department of Health and Human Services as to whether such an affidavit has been so filed and shall incorporate into the case record the Department's certified reply; or

b. Legitimated the juvenile pursuant to provisions of G.S. 49-10 or filed a petition for this specific purpose; or

c. Legitimated the juvenile by marriage to the mother of the juvenile; or

d. Provided substantial financial support or consistent care with respect to the juvenile and mother.

(4) The parent has willfully abandoned the juvenile for at least six consecutive months immediately preceding the filing of the petition or motion. This requirement may differ for infants.

(5) The parental rights of the parent with respect to another child of the parent have been terminated involuntarily by a court of competent jurisdiction and the parent lacks the ability or willingness to establish a safe home

**\*\*It is important to note that the **burden** in such proceedings shall be upon the petitioner or movant to prove the facts justifying such termination by clear and convincing evidence.**

## THREE IMPORTANT POINTS **[IF YOU READ NOTHING ELSE, READ THESE]**

- 1.** Once the stepparent adoption is finalized, the spouse becomes the child's legal parent.
- 2.** Stepparent adoption requires the termination of the other birth parent's parental rights.
- 3.** In North Carolina, the forms to file a stepparent adoption are available online via the North Carolina Department of Health and Human Services.