



NATIONAL CENTER FOR LESBIAN RIGHTS

California's New Simplified Adoption Process: What You Need To Know

All non-biological parents still need an adoption (or parentage judgment from a court), even if you are married and even if you are listed as a parent on the birth certificate. Being listed on the birth certificate does not necessarily make you a parent under the law.

Even though California provides many protections for non-biological parents who haven't adopted, many states do not. You will still need an adoption to be able to safely travel or move outside of California, even in states with marriage equality. This will still be true even if there is marriage equality in every U.S. state.

New simplified adoption process to protect parentage

A new law allows couples who were married or registered as domestic partners at the time one of the spouses/partners gave birth to use a streamlined process to protect the non-birth parent's rights. It only applies when one of the spouses or partners gave birth to the child. If you are using surrogacy to have a child, you will need to follow a different process.

This new law is part of the Modern Family Act (AB 2344), which was authored by Senator Tom Ammiano and went into effect on January 1, 2015.

How it works

This law created a simplified process that allows you to file papers in court for a stepparent adoption and have that adoption granted without having a home investigation, background check or court hearing. A judge can still order you to go through these additional steps if there is a good reason for it.

What forms do we need to fill out?

California courts provide forms that you can use to file for a simplified adoption. The form ADOPT-050-INFO has a checklist of what forms you need and instructions on filling them out. You can find that form here:

<http://www.courts.ca.gov/documents/adopt050info.pdf>

Each court has a family law facilitator or self-help center that may be able to help review these forms and explain the court process if you do not have an attorney. They cannot provide you with legal advice. You can contact the court to find out contact information and/or hours for the family law facilitator or self-help center.

Do we need an attorney?

This process should be simpler and more affordable. However, the process is still somewhat complicated, and it is extremely important to do it right. We recommend that you consult with an attorney if at all possible because it is very important to do your adoption right.

We strongly recommend that you talk to an attorney **especially if any of the following is true:**

- There is a biological father, especially if he lives outside of California or is in the armed forces;
- The court orders you to have a hearing or home investigation;
- One of the parents or the known donor is or may be eligible to be a member or citizen of an American Indian tribal nation; or
- There is another parent whose rights will be terminated in the adoption who doesn't consent to the adoption or who wants to maintain contact with the child under a Contact After Adoption Agreement.

What if we don't qualify for this simplified process?

If you do not qualify for this simplified process, you still need an adoption to protect your rights as a parent.

- If you married or registered as domestic partners after your child's birth, you can use the regular stepparent adoption process to protect the non-birth or non-biological parent's rights.
- If you are not married or registered as domestic partners, the second, non-biological or non-birth parent can do a "second parent adoption," which is the

same process as an independent adoption. We recommend that you speak with an attorney about the process.

- If your child has more than two parents you can protect all parents' rights through an adoption, but you cannot use the streamlined process. We recommend that you speak with an attorney about the process.
- If there is another parent, such as a biological father, who does not agree to the adoption, you cannot use the simplified process. You must file a regular stepparent or second parent adoption.

If you have any questions about the simplified adoption process in California, you can contact NCLR for more information. You can also contact NCLR for information about LGBT-friendly attorneys near you. Visit our website at <http://www.NCLRights.org/GetHelp> or call 1-800-528-6257