

Short notes on:

## **HOW TO LEGALLY ADOPT YOUR STEPCHILD.**

### ***Introduction***

With the increasing occurrence of blended families, we often see the situation of clients asking for our legal assistance in adopting their stepchild.

This often happens when a stepmother or stepfather is more involved in raising the child, and the other biological parent is absent in the child's life. Whether the biological parent is alive or not,

And if the biological parent is alive, they are happy to afford the stepparent full rights and responsibility of the stepchild.

### ***What Does This Mean For The Adoptive Parent?***

This would confer all rights and responsibilities of the child to the adoptive parent and confers the surname of the adoptive parent/stepparent to the adoptive child/stepchild.

It must be noted that this does not permit any marriage or sexual intercourse between the adoptive child and any other person related to the adoptive parent.

### ***Which Child May Be Adopted:***

Section 230 of the *Children's Act 38 of 2005* reads as follows:

230. (1) *Any child may be adopted if-*

- (a) the adoption is in the best interests of the child;*
- (b) the child is adoptable; and*
- (c) the provisions of this Chapter are complied with.*

*(2) An adoption social worker must make an assessment to determine whether a child*

*(3) A child is adoptable if –*

- (a) the child is an orphan and has no guardian or caregiver who is willing to adopt the child;*
- (b) the whereabouts of the child's parent or guardian cannot be established;*
- (c) the child has been abandoned;*
- (d) the child's parent or guardian has abused or deliberately neglected the child, or*  
*has allowed the child to be abused or deliberately neglected; or*
- (e) the child is in need of a permanent alternative placement.*

### **Who May Adopt A Child:**

Section 231 of the *Children's Act 38 of 2005* reads as follows:

*231. (1) A child may be adopted-*

*(a) jointly by-*

*(i) a husband and wife;*

*(ii) partners in a permanent domestic life-partnership; or*

*(iii) other persons sharing a common household and forming a permanent family unit;*

*(b) by a widower, widow, divorced or unmarried person;*

*(c) by a married person whose spouse is the parent of the child or by a person whose permanent domestic life-partner is the parent of the child;*

*(d) by the biological father of a child born out of wedlock; or*

*(e) by the foster parent of the child.*

### **Procedure to Adopt a child:**

The first step in the adoption process is that a notice must be served by the Sheriff on each biological parent and/or guardian requesting consent for the adoption.

Secondly, an interview with a social worker will need to be arranged so that a social worker can compile a report containing information on whether the child can be adopted; if the adoption is in the

best interests of the child; medical information in relation to the child; and the eligibility of the prospective stepparent.

An application for the adoption of a child can be made in the Children's Court and must be accompanied by the social worker's report, a letter from the Provincial Head of Social Development recommending the adoption of the child; and it must include all the necessary consent forms, where applicable. <sup>1</sup>

### ***The Children's Court:***

The Children's Court will take the following factors into account when considering adoption; the community, religious and cultural background of the child, the child's parents, and the prospective parent/s; If the adoption will be in the best interests of the child; and any other relevant information contained in the application.

### ***Adoption Order Granted:***

Once the Children's Court has granted the Adoption Order, the order and the child's birth certificate must be taken to the relevant Home Affairs Office to record the adoption and any change in surname, where applicable.

Contact an attorney at SchoemanLaw Inc for your family law needs!

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<sup>1</sup> Section 239 (1) *Children's Act 38 of 2005*