

## Family Law Fact Sheet

### Adoption in Queensland

#### Step-parent adoption

The adoption of a child by a step-parent is governed by the provisions of the *Family Law Act 1975* and the *Queensland Adoption Act 2009*.

If you are seeking to adopt a step-child of a marriage or a heterosexual de facto relationship, you must meet initial criteria under the *Adoption Act* as follows:

- You must have lived with your spouse (who is the parent of the child) for a period of three years;
- Your step-child must have lived with you for a period of three years;
- You must have been granted permission from the Family Court of Australia to commence adoption proceedings;
- The child must be at least five years old and not yet turned 17;
- Either you or your spouse must be an Australian citizen; and
- You must be resident or domiciled in Queensland.

Under the *Adoption Act*, same sex couples are ineligible to apply for an adoption order of a step-child.

#### Obtaining the leave of the Family Court to commence adoption proceedings

Prior to making an application under the *Adoption Act*, you must first obtain the leave (or the permission) of the Family Court to adopt a step-child.

The Family Court must consider whether the grant of leave would be in the child's best interests and will consider a number of factors relating to the child's welfare.

#### Adopting a child in Queensland or from overseas

Couples seeking to adopt a child in Queensland or from overseas must lodge an 'expression of interest' application with the Department of Communities.

Couples will be eligible to lodge an application if:

- They are a heterosexual couple;
- They have lived together as either married or de facto spouses continuously for at least two years and are currently living together;
- They are both adults and are resident or domiciled in Queensland;
- At least one applicant is an Australian Citizen;
- The female spouse is not pregnant;
- Neither spouse is undergoing fertility treatment and have not undergone fertility within the previous six months; and
- The couple does not have custody of a child under 1 year of age or a child who has been in their custody for less than a year.

Under Queensland law, same sex couples are ineligible to lodge an expression of interest. If you are in a same sex relationship and seeking to have a child, please refer to our fact sheet about surrogacy arrangements.

#### How adopted parents are selected

After lodging an expression of interest, if the couple is deemed suitable to become adoptive parents, the couple will be placed on an expression of interest register.

From this register, the Department selects the couples who they anticipate will meet the needs of the prospective adoptive child. The Department will consider a range of factors including:

- The child's needs;

- Any preference of the birth parents' about the type of family with whom they would like their child to be placed;
- Placement of the adoptive child with his or her siblings;
- Other children of the prospective adoptive family;
- Characteristics of the prospective adoptive parents;
- Whether the prospective parents are willing to agree for the adoptive child to be placed in their care prior to the final adoption order being made.

### Final adoption order

The prospective adoptive child must have been in the custody of the adoptive parents for at least twelve months before the Children's Court can make a final adoption order,

If the order is made, the adopted child will be a child of the adoptive parents. The legal relationship between the child and its birth parents is terminated when the adoption order is made,

The adoption order will be registered with the Registry of Births, Deaths & Marriages. A new birth certificate will issue in the child's name and includes the name of the child's adoptive parents.

When making a final adoption order the Children's Court may also make orders about changing the child's name.

### Contact:

**Sarah Minnery**  
**Partner**  
**Accredited Family Law Specialist**  
T: +61 7 3002 8714  
F: +61 7 3221 3068  
E: [sarahm@hemhart.com.au](mailto:sarahm@hemhart.com.au)

**Debra Effeney**  
**Senior Associate**  
**Accredited Family Law Specialist**  
T: +61 7 3002 8771  
F: +61 7 3221 3068  
E: [debrae@hemhart.com.au](mailto:debrae@hemhart.com.au)

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