



Adoptions by Breena Murray

An adoption is a legal proceeding in which the end result creates a parent-child relationship between persons who are not necessarily related. After an adoption is ordered by a Court of Queen's Bench Judge, the adopted child becomes the child of the adoptive parent(s) and ceases to be a child of his or her parent(s) before the adoption was ordered.

Unlike guardianship orders, which can be cancelled by a Queen's Bench Judge, an adoption order is permanent and cannot be reversed after it is granted.

As a result of the adoption, the child becomes entitled to all the rights he or she would have had from the adoptive parents as if the parents had given birth to that child. In return, the adoptive parents have the same rights and responsibilities as parents of natural children.

For example, if a person were to adopt their spouse's child, so that the child becomes their own child, if the spouses were to separate the adoptive parent

would be responsible for paying support for the child as if he or she were their own child. Additionally, the adoptive parent would also be entitled to apply for custody of the child.

The child also becomes a relative to the other family members of the adoptive parents. Thus, if a grandparent left a Will with a provision for inheritance by "my grandchildren", the adopted child would be included in this, and be entitled to inherit along with the other, natural grandchildren.

Adoptions in Manitoba are governed by *The Adoption Act*, which outlines what is required before a judge can grant an order for adoption of a child. The first requirement is that you need the consent of both biological parents and the consent of the child, if she or he is over the age of 12.

There are some exceptions to the requirement for the consent of both parents. The first is where a child and family services agency has been granted a permanent

guardianship order of the child. When this occurs, you no longer need the parents consent, but you do need the consent of the director of child and family services.

The second exception is where a judge has granted an order dispensing with the consent of the parent, usually the birth father. This is done when the parent cannot be located with reasonable effort and has not played a role in the child's life.

The third exception is where a "de facto" adoption is taking place. A de facto adoption occurs when the applicants have had the child in their care for at least two consecutive years. When this occurs, and the child is over the age of 12, then only the child's consent is needed.

The final exception to the rule requiring the consent of the biological parents to the adoption is when the "child" is over the age of 18. In this case, the adoption order can occur so long as the person being adopted has consented, there are a reasonable number of years between the person being

adopted and the person who is adopting, and there is an acceptable reason for the adoption.

As *The Adoption Act* states, adoptions allow for new and permanent family relationships to occur when they are in the best interests of the child being adopted.