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What You Should Know about Grandparent Adoption in Ohio

Q: My daughter had a child when she was 15. We have basically raised this grandson, while our daughter has finished school and gone to work. Now our daughter lives with her boyfriend, who is not the father of our grandson, and we are still raising the child, who is now five. My husband and I are both retired, and our income is limited to Social Security and my husband's retirement. Our grandson's father has never seen him or paid us any support.

Our daughter gives us a small amount of money occasionally, and she comes over to visit with her son almost every weekend. We've been thinking about adopting our grandson so we can receive benefits for him. Does Ohio law allow us to adopt him?

A: Yes. Grandparents can adopt their grandchildren in Ohio. A home-study must be conducted, a petition for adoption must be filed, proper notice must be given, and the adoption must be in the child's best interest. Once the adoption is completed, the child's birth certificate will be changed to show you and your husband as the child's parents.

Q: Must my daughter and our grandson's father file so we can adopt?

A: No. Only the people adopting the child, in this case you and your husband, can file the petition to adopt. Generally, if the mother or father have not visited, talked with, or sent any mail (including e-mail) for at least one year, then you do not need their consent—or, if they have visited or communicated, but have not given you any money or items for the child, then you do not need their consent. In your case, since the father has neither communicated nor paid support for more than one year, you most likely will not need his consent. In your daughter's case, the amount of money she provides in support may determine whether or not you need her consent. Some courts say that any support payment, no matter how small, means the parent's consent is necessary. Other courts say that a small amount of money cannot be considered support, and consent is not necessary in cases such as yours. Ask your lawyer how the courts in your area treat such cases.

Q: Can the biological father or his parents get visitation once we've adopted our grandson?

A: No. Once you've adopted your grandson, you, rather than your daughter or the child's biological father, are his legal parents. The biological father and his parents are no longer considered related to the child, so they cannot get court-ordered visitation. Depending on the circumstances, though, you may choose to allow visitation.

Q: What is the effect of our adopting our grandson?

A: Once you have adopted your grandson, you are his parents. This means that he will inherit from you, not as a grandchild but as your son. Further, you are now the persons ultimately responsible for raising and caring for him.

Q: Can our grandson receive benefits through us?

A: Yes. Your grandson can receive any benefits that a naturally born child would have through you. This means he may qualify for Social Security and health care benefits, depending upon your individual situation.

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This "Law You Can Use" legal information column was provided by the Ohio State Bar Association. It was originally prepared by Jerry M. Johnson and Christine Bollinger, attorneys with the Lima law firm of Hunt & Johnson. It was updated by Cleveland attorney Laurel G. Stein of Nee/Bittinger, LLC.

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Address

1700 Lake Shore Drive
Columbus, Ohio 43204

Phone

1-800-282-6556

Staff Directory

Contact Information

Email

osba@ohioabar.org

Hours

8 A.M. - 5 P.M.
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