

HOW TO ADOPT A CHILD

Who is Eligible to Adopt

Following subjects of the country have the rights to adopt a child in India. Anyone who intends to adopt a child can get legal advice from a Family Lawyer in to gather more information and know how

1. Resident Indian Parents
2. OCI Card Holders
3. Foreigners Living in India
4. NRIs not living in India
- 5 Foreign National living Abroad
6. A Relative of the Child living in India
7. A Relative of the Child who is a Foreign National
8. Stepparents, Widow
9. Unmarried Women are all eligible to Adopt a child
10. An unmarried male cannot adopt a girl child.
- 11 Adoptive parent can be of any religion
12. Adoptive parent can be of any sexual orientation (as long as single)

What Conditions must be Satisfied for Adoption

1. Fitness

- a. The adoptive parents should be Mentally and Financially Sound
- b. The adoptive parents should not have life threatening disease

2. Consent

- a. If married, consent from the spouse is required
- b. Single Mother can adopt child of any gender
- c. Single Father cannot adopt a girl child
- d. If you already have an older child, second child of the same gender cannot be adopted
- e. Parents with three or more children shall not be eligible for adoption.

3. Age Related Criteria

- a. A minor (Less than 18 Yrs. Girl and 21 Yrs. Boy) cannot adopt a child
- b. Maximum age of a single parent shall be less than 45 Years if the child being adopted is up to 4 Years.
- c. Maximum age of a single parent shall be less than 50 Years if the child being adopted is up to 8 Years
- d. Maximum age of a single parent shall be less than 55 Years if the child being adopted is up to 18 Years
- e. In case of a couple adopting the child less than 4 years old, the cumulative age of the adoptive parents shall be less than 90 Years
- f. In case of a couple adopting the child between 4-8 years old, the cumulative age of the adoptive parents shall be less than 90 Years.
- g. In case of a couple adopting the child between 8-18 years, the cumulative age of the adoptive parents shall be less than 90 Years
- h. A person who is completed 18 years in age cannot be adopted
- i. The age gap between the child and adoptive parent shall be at least 25 years.
- j. There are no age-related criteria in case of Stepparents or relatives

Documents Required for Adoption

The following documents will be required by the adoptive parent to complete the adoption procedure.

1. Family photograph
2. Pan card
3. Birth Certificate
- 4 Residence Proof (Passport, DL Voter Id Card, Aadhar Card etc.)
5. Marriage Certificate
6. Medical Certificate
7. Income Proof (3 Yrs. Bank Statements / IT Returns)
8. Divorce Decree (In case of second marriage, or single parent after divorce)
9. Reference Letter from relatives in Support of Adoption
10. Consent of the Older Siblings if any
11. Home study Report - This will be valid for 3 years

Adoptive Parents whose adoption request gets rejected can file a suit against the adoption agency for the rejection of adoption. If such adverse order is passed from the Family court the Adoptive parent can appeal at the Higher Court

Adoption FAQ's - Frequently Asked Questions about Adoption

1. Should I always go through CARA for adoption?

Not necessarily, there are instances when one party can adopt a child from another party following the Give and Take ceremony, followed with an adoption deed

2. Is Adoption Deed enough to complete the Adoption Procedure

Yes, an adoption deed is a valid legal document, such should be registered. The Adoption will be considered valid if all eligibility criteria are met

3. How long does it take to complete the adoption procedure?

If the adoption is through an adoption deed, the cycle time should be less than 15 days (about 2 weeks) if the adoption is through CARA typically the cycle time is 2 to 3 months.

4. Can we adopt a child without the consent of their parents?

No, the consent of biological parents is required for the child to be adopted.

5. Is the Consent of the child required to adopt him/her.

Yes, if the child is over 5 years old, their consent is required before the adoption process is completed.

9. Can we choose which child to adopt?

Yes, the age of child can be a criterion to choose, you cannot choose the gender, colour, caste, language etc. unless such adoption is through an adoptive parent and not an agency

10. I have married a woman who had a child from her first husband. Can I adopt this child?

Yes, you will be a stepfather to the child, and you can adopt it to make it legal, such child should be less than 18 years in age. Also, the consent from the biological father is required. If the Biological father is untraceable or dead in that case you will need consent from the biological grandparents of the child, if there is no consent from any one you can reach the court and get the adoption legalized

11. I have a daughter from my marriage, can I adopt another girl child?

No, if you have a child already from your marriage, you cannot adopt a child of the same gender. While you do not have a right to choose the gender during adoption, the agency will collect this info and route it such way that you can adopt the child of a different gender. The same rule is applicable if you have a boy child you cannot adopt another child which is a boy.

12. My brother's lost his wife due to Covid; his daughter resides with us. We also have a child who is a daughter, how can we legally adopt this child?

If your brother is willing to give his daughter for adoption to you, you your spouse can perform the Give, take ritual, and execute an adoption deed to legalize the adoption.

The caution to exercise is, you need to ensure you make a will to avoid any legal dispute in the future. The first child can at some time in future can bring in a civil suit in case of a property dispute if you pass away intestate

Ideally, the adopted child should not be of the same gender, but in exceptional circumstances, as in this case you can because such adoption is through a blood relative.

13. I am a foreigner living abroad, how can I adopt a child from India.

Adoptions from a foreigner are governed by the JJ Act. The A non-resident Indian or overseas citizen of India, or person of Indian origin or a foreigner, who are prospective adoptive parents living abroad, irrespective of their religion, if interested to adopt an orphan or abandoned or surrendered child from India, may apply for the same to an authorized foreign adoption agency, or Central Authority or a concerned Government department in their country of habitual residence, as the case may be, in the manner as provided in the adoption regulations framed by the Authority.

The foreign adoption agency must submit a home study report to determine eligibility. Along with this an NOC from the diplomatic mission of their country in India is required.

14. Is Private Adoption Legal in India, can I adopt a child directly from an Orphanage

Private adoption is illegal in India, you should reach the CWC with the child you intend to adopt, the CWC after the scrutiny and due diligence will guide you on the next steps and formalities as need be if you meet all the eligibility criteria and such decision will be as per the law of the land.

15. What steps are involved for a child to be adopted by foreign national

While there is a detailed lengthy procedure, for the benefit of the reader, here are the high-level ones.

- a. HSR (Home Study Report) from EFAA (Enlisted Foreign Adoption Agency)
- b. RIPA (Recognized Indian Placement Agency) Approval
- c. Clearance from ACA (Adoption Coordinating Agency) - Not applicable for NRI Parents holding Indian Passport
- d. Matching of Child Study Report and Home Study Report
- e. Issuance of NOC
- f. Filing of Petition in the Court + Orders (Cycle Time 2-3 months)
- g. Passport and Visa for the Child

16. The Husband and Wife now have a conflict and are seeking divorce, neither of them wants to continue with the child, can the adopted child be returned.

Yes, while there is a provision to surrender the child provided all the due diligence is done and surrender criteria are met which call out that it is impossible for the child to continue in such an environment, Section 15 of Hindu Adoption and Maintenance act clearly states that a Valid Adoption cannot be cancelled by the adoptive father or mother or any other person, nor can the adopted child renounce his or her status and return to the family of his or her birth

17. A couple who adopted the child passed away due to covid., they do not have any relative, the financial condition at the time of adoption was good but at the time of death they we're reeling under debt. Can such a child be returned back

Yes, there is a provision to surrender the child, the CWC will help execute a surrender deed and complete the process. But, while it does so the process is not only time consuming but will go through strict scrutiny.

18. Can a Single Mother who herself is abandoned and has no means of livelihood give her child for adoption?

Yes, such a person can follow the Safe Surrender rules and give the child for adoption. Such will be governed by the JJ Act in India.

19. A child is born to the parents who were not married but in a Live-in-relationship, the boy is absconding and is not traceable, the girl wishes to surrender the child due to social stigma. Is this possible?

Yes, while there is a moral ground, the girl will go through counselling and the utmost importance will be given to the Welfare and future of the child. After complete scrutiny and due diligence, such parent of the child can surrender the child to the nearest adoption agency and terminate the parental rights.

20. I see a child on the roadside abandoned and wish to adopt it, what shall be the process?

The thought is noble but must follow the law of the land. Meet a qualified lawyer who can assist you in this regard. You can also connect with the Child Helpline that is toll free number 1098, Contact the Local Police to ensure it the child is really abandoned, you can work the Specialized Local Adoption Agency and the CWC (Child Welfare Committee) or the DCPU (District Child Protection Unit). Based on the eligibility criteria you can move forward.