

## **Adoption**

*This fact sheet explains the law in general. It is not intended as legal advice for your particular problem. Because each person's situation is different, you may need to seek legal advice. A lawyer at MWC reviewed this information in May 2018.*

In their application for permanent residence (PR), caregivers and other migrant workers are required to provide details of all family members even if they are not accompanying the applicant to Canada. Applicants who plan to bring their dependent children to Canada must ensure there are no errors in their supporting documents. It is essential that applicants with adopted children provide **supporting documents** to prove legal adoption.

Here are some **frequently asked questions** that may help clarify concerns:

### **Do I need legal documents for adoption?**

Adoption is a legal process. In most countries, legal adoption can only be granted through a court order ceding custody of the child to the adoptive parent. A valid adoption must be in accordance with the laws of the country in which the adoption took place.

### **I have been raising this child as my own since birth. Do I still need legal adoption papers?**

Being a “parent” since birth, without supporting documents showing there was a legal adoption, is usually not considered a legal adoption. An affidavit of a transfer of custody from the biological parents is also usually not considered a legal adoption. You **will** need adoption papers.

### **Can I just change the biological parent's name to my name on the birth certificate?**

No, you cannot change any names or any other details on the birth certificate. Altering a birth certificate by listing an adoptive parent as the biological parent is not considered a legal adoption. In fact, changing a birth certificate to pass an adoptive parent off as a biological parent can be considered falsifying information. Moreover, falsifying an identity document can be considered a criminal offense for which you can be found inadmissible to Canada. This may result in Immigration, Refugees, and Citizenship Canada (IRCC) denying you permanent residence status.

### **What happens if I don't tell IRCC that my child is 'adopted'?**

Providing any false information or not telling the truth regarding your relationship to the child is considered misrepresentation. Misrepresentation is defined as directly or indirectly misleading or lying to IRCC or withholding important information on an application. In Canadian immigration law, misrepresentation is grounds for inadmissibility.

### **Do I need any other evidence if I have the legal paperwork?**

Yes, you may need more evidence. You need to establish a **genuine parent-child relationship**. Even if you can show that the adoption is legally valid, IRCC has the right to assess the authenticity of the relationship between the adoptive parent and adopted child. If there are reasonable grounds to believe the adoption was primarily for the adopted child to gain PR status, IRCC will refuse the application on the basis that it was an “adoption of convenience.”

### **What does IRCC look at when trying to establish whether the relationship is ‘genuine’?**

When assessing whether an adoption created a genuine parent-child relationship, IRCC will look closely at the characteristics of the parent-child relationship. For example, IRCC will assess whether the adoption created a legal parent-child relationship and completely severed all parental rights of the biological parents.

IRCC may also examine the authenticity of the relationship between the adoptive parent and adopted child. Inquires IRCC may make include:

- Does the adoptive parent make the day-to-day decisions for the child?
- Does the adopted child recognize anyone else as a parental figure?
- Does the adoptive parent provide financial support to the adopted child?
- Does the adoptive parent take an active role in disciplining the adopted child?
- Does the adoptive parent make all decisions regarding the adopted child’s education?

If there is not enough evidence to show that a genuine parent-child relationship exists, IRCC may not accept the child as a dependent or in the worst case scenario, IRCC may reject the caregiver’s application for PR for misrepresenting the relationship to the child (“adoption of convenience”).