

Parenthood and Inheritance In Virginia

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The status of "parent" and "child" determines whether one has a legal interest under a will, trust, deed or other instrument. The law has been developing and changing as science and society have been changing.

1

Adopted Person

An adopted person is the child of an adopting parent and not of the biological parents. The only exception to this is in the case of a step-parent adoption in which the child is adopted by the spouse of a biological parent.

2

Child Born Out of Wedlock (Mother)

A child born out of wedlock is the child of the mother.

3

Child Born Out Of Wedlock (Father)

A child born out of wedlock is also the child of the father if: a. The parents participated in a marriage ceremony before or after the birth of the child; or b. Paternity is established by clear and convincing evidence, including scientifically reliable genetic testing; however, this will be ineffective to qualify the father and his kindred to inherit from or through the child unless the father has openly treated the child as his and has not refused to support the child.

4

Deceased Parent

Within one year after death of a deceased parent, a child born out of wedlock must file an affidavit alleging parenthood and seeking adjudication of parenthood in the circuit court

where the deceased's property is located. This limitation does not apply in cases in which the father consented to being named on the birth record: there is a court admission by such parent or there have been previous paternity proceedings.

5

Parental Rights Terminated

Unless the order specifies otherwise, an order terminating a parent's rights has the effect of terminating their rights to take from or through the child in question , but it does not affect the right of the child, the child's kindred or the parent's kindred to take from or through the parent or the rights of the parent's kindred to take from and through the child.

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