

28 (d) the petitioner's spouse, if any, only if he has not joined in the petition;

29 (e) the adoptee's spouse, if any;

30 (f) any person who is recorded on the birth certificate as the child's father, with the
31 knowledge and consent of the mother;

32 (g) any person who is openly living in the same household with the child at the time the
33 consent is executed or relinquishment made, and who is holding himself out to be the child's
34 father; and

35 (h) any person who is married to the child's mother at the time she executes her consent
36 to the adoption or relinquishes the child for adoption.

37 (3) (a) In order to preserve any right to notice and consent, an unmarried biological father
38 may initiate proceedings to establish paternity under Title 78, Chapter 45a, Uniform Act on
39 Paternity, and file a notice of the initiation of those proceedings with the state registrar of vital
40 statistics within the Department of Health prior to the mother's execution of consent or her
41 relinquishment to an agency. That action and notice may also be filed prior to the child's birth.

42 (b) If the unmarried biological father does not know the county in which the birth mother
43 resides, he may initiate his action in any county, subject to a change in trial pursuant to Section
44 78-13-7.

45 (c) The Department of Health shall provide forms for the purpose of filing the notice
46 described in Subsection (3)(a), and make those forms available in the office of the county § [clerk]
46a **HEALTH DEPARTMENT** § in
47 each county[, every health care facility, as defined in Section 26-21-2, and licensed child-placing
48 agency].

49 (4) Notice provided in accordance with this section need not disclose the name of the
50 mother of the child who is the subject of an adoption proceeding.

51 (5) The notice required by this section may be served immediately after relinquishment
52 or execution of consent, but shall be served at least 30 days prior to the final dispositional hearing.
53 The notice shall specifically state that the person served must respond to the petition within 30
54 days of service if he intends to intervene in or contest the adoption.

55 (6) (a) Any person who has been served with notice of an adoption proceeding and who
56 wishes to contest the adoption shall file a motion in the adoption proceeding within 30 days after
57 service. The motion shall set forth specific relief sought and be accompanied by a memorandum
58 specifying the factual and legal grounds upon which the motion is based.

59 (b) Any person who fails to file a motion for relief within 30 days after service of notice
60 waives any right to further notice in connection with the adoption, forfeits all rights in relation to
61 the adoptee, and is barred from thereafter bringing or maintaining any action to assert any interest
62 in the adoptee.

63 (7) Service of notice under this section shall be made as follows:

64 (a) With regard to a person whose consent is necessary under Section 78-30-4.14, service
65 shall be in accordance with the provisions of the Utah Rules of Civil Procedure. If service is by
66 publication, the court shall designate the content of the notice regarding the identity of the parties.
67 The notice may not include the name of the person or persons seeking to adopt the adoptee.

68 (b) As to any other person for whom notice is required under this section, service by
69 certified mail, return receipt requested, is sufficient. If that service cannot be completed after two
70 attempts, the court may issue an order providing for service by publication, posting, or by any other
71 manner of service.

72 (c) Notice to a person who has initiated a paternity proceeding and filed notice of that
73 action with the state registrar of vital statistics in the Department of Health in accordance with the
74 requirements of Subsection (3), shall be served by certified mail, return receipt requested, at the
75 last address filed with the registrar.

76 (8) The notice required by this section may be waived in writing by the person entitled to
77 receive notice.

78 (9) Proof of service of notice on all persons for whom notice is required by this section
79 shall be filed with the court before the final dispositional hearing on the adoption.

80 (10) Notwithstanding any other provision of law, neither the notice of an adoption
81 proceeding nor any process in that proceeding is required to contain the name of the person or
82 persons seeking to adopt the adoptee.

83 (11) Except as to those persons whose consent to an adoption is required under Section
84 78-30-4.14, the sole purpose of notice under this section is to enable the person served to intervene
85 in the adoption and present evidence to the court relevant to the best interest of the child.

86 Section 2. Section **78-30-4.18** is amended to read:

87 **78-30-4.18. Persons who may take consents and relinquishments.**

88 (1) A consent or relinquishment by a birth mother or an adoptee shall be signed [~~or~~
89 ~~confirmed under oath~~] before:

90 (a) a judge of any court that has jurisdiction over adoption proceedings, or a public officer
91 appointed by that judge for the purpose of taking consents or relinquishments; or

92 (b) a person who is authorized by a licensed child-placing agency to take consents or
93 relinquishments so long as the signature is notarized or witnessed by two individuals who are not
94 members of the birth mother's immediate family [~~and who are not affiliated with the licensed~~
95 ~~child-placing agency~~].

96 (2) If the consent or relinquishment of a birth mother or adoptee is taken out of state it
97 shall be signed [~~or confirmed under oath~~] before:

98 (a) a person who is authorized by a child-placing agency licensed by that state to take
99 consents or relinquishments; or

100 (b) a person authorized or appointed to take consents or relinquishments by a court of this
101 state that has jurisdiction over adoption proceedings, or a court of that state that has jurisdiction
102 over adoption proceedings.

103 (3) The consent or relinquishment of any other person or agency as required by Section
104 78-30-4.14 may be signed before a Notary Public or any person authorized to take a consent or
105 relinquishment under Subsection (1) or (2).

106 (4) A person, authorized by Subsection (1) or (2) to take consents or relinquishments, shall
107 certify to the best of his information and belief that the person executing the consent or
108 relinquishment has read and understands the consent or relinquishment and has signed it freely and
109 voluntarily.

110 (5) A person executing a consent or relinquishment is entitled to a copy of the consent or
111 relinquishment.

Legislative Review Note
as of 1-3-00 1:54 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel