

1 **AMENDMENTS TO CONCURRENT**
2 **JURISDICTION IN ADOPTION CASES**
3 2001 GENERAL SESSION
4 STATE OF UTAH

5 **Sponsor: Matt Throckmorton**

6 **This act modifies the Juvenile Courts Act to give the juvenile court exclusive original**
7 **jurisdiction in adoption proceedings.**

8 This act affects sections of Utah Code Annotated 1953 as follows:

9 AMENDS:

10 **78-3a-104**, as last amended by Chapter 149, Laws of Utah 2000

11 **78-3a-105**, as last amended by Chapter 149, Laws of Utah 2000

12 **78-3a-119**, as last amended by Chapter 329 and renumbered and amended by Chapter 365,
13 Laws of Utah 1997

14 **78-30-7**, as last amended by Chapter 10, Laws of Utah 1997

15 *Be it enacted by the Legislature of the state of Utah:*

16 Section 1. Section **78-3a-104** is amended to read:

17 **78-3a-104. Jurisdiction of juvenile court -- Original -- Exclusive.**

18 (1) Except as otherwise provided by law, the juvenile court has exclusive original
19 jurisdiction in proceedings concerning:

20 (a) a minor who has violated any federal, state, or local law or municipal ordinance or a
21 person younger than 21 years of age who has violated any law or ordinance before becoming 18
22 years of age, regardless of where the violation occurred, excluding traffic laws and ordinances;

23 (b) a person 21 years of age or older who has failed or refused to comply with an order of
24 the juvenile court to pay a fine or restitution, if the order was imposed prior to the person's 21st
25 birthday; however, the continuing jurisdiction is limited to causing compliance with existing
26 orders;

27 (c) a minor who is an abused child, neglected child, or dependent child, as those terms are



28 defined in Section 78-3a-103;

29 (d) a protective order for a minor who is alleged to be an abused child or neglected child,
30 except as provided in Section 78-3a-105, and unless the petition is filed by a natural parent or
31 stepparent of the minor against a natural parent or stepparent of the minor;

32 (e) the determination of the custody of a minor or to appoint a guardian of the person or
33 other guardian of a minor who comes within the court's jurisdiction under other provisions of this
34 section;

35 (f) the termination of the legal parent-child relationship in accordance with Part 4,
36 Termination of Parental Rights Act, including termination of residual parental rights and duties;

37 (g) the treatment or commitment of a mentally retarded minor;

38 (h) a minor who is a habitual truant from school;

39 (i) the judicial consent to the marriage of a minor under age 16 upon a determination of
40 voluntariness or where otherwise required by law, employment, or enlistment of a minor when
41 consent is required by law;

42 (j) any parent or parents of a minor committed to a secure youth corrections facility, to
43 order, at the discretion of the court and on the recommendation of a secure youth corrections
44 facility, the parent or parents of a minor committed to a secure youth corrections facility for a
45 custodial term, to undergo group rehabilitation therapy under the direction of a secure youth
46 corrections facility therapist, who has supervision of that parent's or parents' minor, or any other
47 therapist the court may direct, for a period directed by the court as recommended by a secure youth
48 corrections facility;

49 (k) a minor under Title 55, Chapter 12, Interstate Compact on Juveniles;

50 (l) the treatment or commitment of a mentally ill child. The court may commit a child to
51 the physical custody of a local mental health authority or to the legal custody of the Division of
52 Mental Health in accordance with the procedures and requirements of Title 62A, Chapter 12, Part
53 2A, Commitment of Persons Under Age 18 to Division of Mental Health. The court may not
54 commit a child directly to the Utah State Hospital;

55 (m) the commitment of a minor in accordance with Section 62A-8-501; ~~and~~

56 (n) de novo review of final agency actions resulting from an informal adjudicative
57 proceeding as provided in Section 63-46b-15[-]; and

58 (o) adoptions conducted in accordance with the procedures described in Title 78, Chapter

59 30. Adoption, when the juvenile court has previously entered an order terminating the rights of a
60 parent and finds that adoption is in the best interest of the minor.

61 (2) In addition to the provisions of Subsection (1)(a) the juvenile court has exclusive
62 jurisdiction over any traffic offense committed by a minor under 16 years of age and concurrent
63 jurisdiction over all other traffic offenses committed by a minor 16 years of age or older, except
64 that the court shall have exclusive jurisdiction over the following traffic offenses committed by
65 a minor under 18 years of age:

66 (a) Section 76-5-207, automobile homicide;

67 (b) Section 41-6-44, operating a vehicle while under the influence of alcohol or drugs;

68 (c) Section 41-6-45, reckless driving;

69 (d) Section 41-1a-1314, unauthorized control over a motor vehicle, trailer, or semitrailer
70 for an extended period of time; and

71 (e) Section 41-6-13.5, fleeing a peace officer.

72 (3) The court also has jurisdiction over traffic offenses that are part of a single criminal
73 episode filed in a petition that contains an offense over which the court has jurisdiction.

74 (4) The juvenile court has jurisdiction over questions of custody, support, and visitation
75 certified to it by the district court pursuant to Section 78-3a-105.

76 (5) The juvenile court has jurisdiction over an ungovernable or runaway minor who is
77 referred to it by the Division of Child and Family Services or by public or private agencies that
78 contract with the division to provide services to that minor where, despite earnest and persistent
79 efforts by the division or agency, the minor has demonstrated that he:

80 (a) is beyond the control of his parent, guardian, lawful custodian, or school authorities
81 to the extent that his behavior or condition endangers his own welfare or the welfare of others; or

82 (b) has run away from home.

83 (6) This section does not restrict the right of access to the juvenile court by private
84 agencies or other persons.

85 (7) The juvenile court has jurisdiction of all magistrate functions relative to cases arising
86 under Section 78-3a-602.

87 Section 2. Section **78-3a-105** is amended to read:

88 **78-3a-105. Concurrent jurisdiction -- District court and juvenile court.**

89 (1) The district court or other court has concurrent jurisdiction with the juvenile court as

90 follows:

91 (a) when a person who is 18 years of age or older and who is under the continuing
92 jurisdiction of the juvenile court under Section 78-3a-118 violates any federal, state, or local law
93 or municipal ordinance;

94 ~~[(b) in adoption proceedings, when the juvenile court has previously entered an order
95 terminating the rights of a parent, and finds that adoption is in the best interest of the minor,
96 adoption proceedings under this section shall be conducted in accordance with the procedures
97 described in Title 78, Chapter 30, Adoption;]~~

98 ~~[(c)]~~ (b) in establishing paternity and ordering testing for the purposes of establishing
99 paternity, in accordance with Title 78, Chapter 45a, Uniform Act on Paternity, with regard to
100 proceedings initiated under Part 3, Abuse, Neglect, and Dependency Proceedings, or Part 4,
101 Termination of Parental Rights Act; and

102 ~~[(d)]~~ (c) in proceedings brought on behalf of a minor pursuant to Title 30, Chapter 6,
103 Cohabitant Abuse Act, unless the petition is filed by a natural parent or stepparent of the minor
104 against a natural parent or stepparent of the minor.

105 (2) The juvenile court has jurisdiction over petitions to modify a minor's birth certificate
106 if the court otherwise has jurisdiction over the minor.

107 (3) (a) This section does not deprive the district court of jurisdiction to appoint a guardian
108 for a minor, or to determine the support, custody, and visitation of a minor upon writ of habeas
109 corpus or when the question of support, custody, and visitation is incidental to the determination
110 of a cause in the district court.

111 (b) However, if a petition involving the same minor is pending in the juvenile court or the
112 juvenile court has previously acquired continuing jurisdiction over the same minor, the district
113 court shall certify the question of support, custody, and visitation to the juvenile court for
114 determination.

115 (4) When a question is certified to the juvenile court under Subsection (3), the findings and
116 order of the juvenile court judge are the order of the district court.

117 (5) (a) Where a support, custody, or visitation award has been made by a district court in
118 a divorce action or other proceeding, and the jurisdiction of the district court in the case is
119 continuing, the juvenile court may acquire jurisdiction in a case involving the same minor if the
120 minor is dependent, abused, neglected, or otherwise comes within the jurisdiction of the juvenile

121 court under Section 78-3a-104.

122 (b) The juvenile court may, by order, change the custody, support, and visitation rights
123 previously ordered in the district court as necessary to implement the order of the juvenile court
124 for the safety and welfare of the minor. The juvenile court order remains in effect so long as the
125 jurisdiction of the juvenile court continues.

126 (6) When a copy of the findings and order of the juvenile court has been filed with the
127 district court, the findings and order of the juvenile court are binding on the parties to the divorce
128 action as though entered in the district court.

129 Section 3. Section **78-3a-119** is amended to read:

130 **78-3a-119. Period of operation of judgment, decree, or order -- Rights and**
131 **responsibilities of agency or individual granted legal custody.**

132 (1) A judgment, order, or decree of the juvenile court does not operate after the minor
133 becomes 21 years of age, except for:

134 (a) orders of commitment to the Utah State Developmental Center or to the custody of the
135 Division of Mental Health;

136 (b) adoption orders under [~~Section 78-3a-105~~] Subsection 78-3a-104(1)(o);

137 (c) orders permanently terminating the rights of a parent, guardian, or custodian, and
138 permanent orders of custody and guardianships; and

139 (d) unless terminated by the court, orders to pay any fine or restitution.

140 (2) (a) Except as provided in Part 3, Abuse, Neglect, and Dependency Proceedings, an
141 order vesting legal custody or guardianship of a minor in an individual, agency, or institution may
142 be for an indeterminate period. A review hearing shall be held, however, upon the expiration of
143 12 months, and, with regard to petitions filed by the Division of Child and Family Services, no less
144 than once every six months thereafter. The individual, agency, or institution involved shall file
145 the petition for that review hearing. The court may terminate the order, or after notice and hearing,
146 continue the order if it finds continuation of the order necessary to safeguard the welfare of the
147 minor or the public interest. The findings of the court and its reasons shall be entered with the
148 continuation order or with the order denying continuation.

149 (b) Subsection (2)(a) does not apply to minors who are in the custody of the Division of
150 Child and Family Services, and who are placed in foster care, a secure youth corrections facility,
151 the Division of Mental Health, the Utah State Developmental Center, or any agency licensed for

152 child placements and adoptions, in cases where all parental rights of the natural parents have been
153 terminated by the court under Part 4, Termination of Parental Rights Act, and custody of the minor
154 has been granted to the agency for adoption or other permanent placement.

155 (3) (a) An agency granted legal custody may determine where and with whom the minor
156 will live, provided that placement of the minor does not remove him from the state without court
157 approval.

158 (b) An individual granted legal custody shall personally exercise the rights and
159 responsibilities involved in legal custody, unless otherwise authorized by the court.

160 Section 4. Section **78-30-7** is amended to read:

161 **78-30-7. Jurisdiction of district and juvenile court -- Time for filing.**

162 (1) Adoption proceedings shall be commenced by filing a petition with the clerk of the
163 district court in the district where the person adopting resides, or with the juvenile court as
164 provided in [~~Section 78-3a-105~~] Subsection 78-3a-104(1)(o). All orders, decrees, agreements, and
165 notices in the proceedings shall be filed with the clerk of that court.

166 (2) A petition for adoption shall be filed within 30 days of the date the adoptee is placed
167 in the home of the petitioners for the purpose of adoption, unless the time for filing has been
168 extended by the court, or unless the adoption is arranged by a licensed child placing agency in
169 which case the agency may extend the filing time.

Legislative Review Note
as of 1-31-01 2:21 PM

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

Office of Legislative Research and General Counsel