

ADOPTION AMENDMENTS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Sheryl L. Allen

Senate Sponsor: Carlene M. Walker

LONG TITLE

General Description:

This bill amends the Adoption chapter of the Judicial Code and related provisions.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies the background check requirements with regard to a prospective adoptive parent who is not a resident of Utah;
- ▶ modifies and clarifies requirements necessary for an unmarried biological father to preserve his right to notice and consent for an adoption;
- ▶ modifies requirements relating to notice of an adoption proceeding;
- ▶ describes the circumstances under which an adoption may or may not be contested;
- ▶ expands and describes provisions relating to who may take consents or relinquishments for adoption;
- ▶ provides for, and describes, the jurisdiction of a district court to terminate parental rights under certain circumstances;
- ▶ describes the grounds upon which a district court may terminate parental rights;
- ▶ describes when a birth parent's parental rights and duties are dissolved in relation to a child who is to be adopted;
- ▶ provides that a court may, for good cause, order a final decree of adoption earlier than the six-month and one-year requirements currently provided for by law; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

30 None

31 **Other Special Clauses:**

32 None

33 **Utah Code Sections Affected:**

34 AMENDS:

35 **78-30-3.6**, as enacted by Chapter 101, Laws of Utah 2001

36 **78-30-4.13**, as last amended by Chapters 137 and 150, Laws of Utah 2005

37 **78-30-4.14**, as repealed and reenacted by Chapter 186, Laws of Utah 2006

38 **78-30-4.16**, as last amended by Chapter 137, Laws of Utah 2005

39 **78-30-4.18**, as last amended by Chapter 122, Laws of Utah 2004

40 **78-30-8**, as last amended by Chapter 208, Laws of Utah 1991

41 **78-30-11**, as last amended by Chapters 65 and 245, Laws of Utah 1990

42 **78-30-14**, as last amended by Chapter 186, Laws of Utah 2006

43 **78-45c-103**, as enacted by Chapter 247, Laws of Utah 2000

44 ENACTS:

45 **78-30-7.1**, Utah Code Annotated 1953



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

48 Section 1. Section **78-30-3.6** is amended to read:

49 **78-30-3.6. Prospective parent not a resident -- Preplacement requirements.**

50 (1) When an adoption petition is to be finalized in this state with regard to any
51 prospective adoptive parent who is not a resident of this state at the time a child is placed in
52 that person's home, the potential adoptive parent shall:

53 (a) comply with the provisions of Section 78-30-3.5; and

54 (b) (i) if the child is in state custody, submit fingerprints for a Federal Bureau of
55 Investigation national criminal history record check[-] through the Criminal and Technical
56 Services Division of the Department of Public Safety in accordance with the provisions of
57 Section 62A-2-120; or

58 (ii) subject to Subsection (2), if the child is not in state custody:

59 (A) submit fingerprints for a Federal Bureau of Investigation national criminal history
60 records check as a personal records check; or

61 (B) complete a criminal records check and child abuse database check for each state
62 and, if available, country, where the potential adoptive parent resided during the five years
63 immediately preceding the day on which the adoption petition is to be finalized.

64 ~~[(2) The fingerprints referenced in Subsection (1)(b) shall be submitted to the Federal~~
65 ~~Bureau of Investigation either:]~~

66 ~~[(a) through the Criminal Investigations and Technical Services Division of the~~
67 ~~Department of Public Safety in accordance with the provisions of Section 62A-2-120; or]~~

68 ~~[(b) if the prospective adoptive parent is pursuing the adoption with a private attorney;~~
69 ~~the request shall be submitted to the Federal Bureau of Investigation as a personal records~~
70 ~~check, in accordance with procedures established by the Criminal Investigations and Technical~~
71 ~~Services Division of the Department of Public Safety.]~~

72 (2) For purposes of Subsection (1)(b)(ii):

73 (a) if the adoption is being handled by a human services program, as defined in Section
74 62A-2-101:

75 (i) the criminal history check described in Subsection (1)(b)(ii)(A) shall be submitted
76 in accordance with procedures established by the Criminal Investigations and Technical
77 Services Division of the Department of Public Safety; and

78 (ii) subject to Subsection (3), the criminal history check described in Subsection
79 (1)(b)(ii)(B) shall be submitted in a manner acceptable to the court that will:

80 (A) preserve the chain of custody of the results; and

81 (B) not permit tampering with the results by a prospective adoptive parent or other
82 interested party; and

83 (b) if the adoption is being handled by a private attorney, and not a human services
84 program, the criminal history checks described in Subsection (1)(b)(ii), shall be:

85 (i) submitted in accordance with procedures established by the Criminal Investigations

86 and Technical Services Division of the Department of Public Safety; or

87 (ii) subject to Subsection (3), submitted in a manner acceptable to the court that will:

88 (A) preserve the chain of custody of the results; and

89 (B) not permit tampering with the results by a prospective adoptive parent or other
90 interested party.

91 (3) In order to comply with Subsection (2)(a)(ii) of (b)(ii), the manner in which the
92 criminal history check is submitted shall be approved by the court.

93 Section 2. Section **78-30-4.13** is amended to read:

94 **78-30-4.13. Notice of adoption proceedings.**

95 (1) (a) An unmarried biological father, by virtue of the fact that he has engaged in a
96 sexual relationship with a woman:

97 (i) is considered to be on notice that a pregnancy and an adoption proceeding regarding
98 the child may occur; and

99 (ii) has a duty to protect his own rights and interests.

100 (b) An unmarried biological father is entitled to actual notice of a birth or an adoption
101 proceeding with regard to his child only as provided in this section.

102 (2) Notice of an adoption proceeding shall be served on each of the following persons:

103 (a) any person or agency whose consent or relinquishment is required under Section
104 78-30-4.14, unless that right has been terminated by:

105 (i) waiver;

106 (ii) relinquishment;

107 (iii) consent; or

108 (iv) judicial action;

109 (b) any person who has initiated a paternity proceeding and filed notice of that action
110 with the state registrar of vital statistics within the Department of Health, in accordance with
111 Subsection (3);

112 (c) any legally appointed custodian or guardian of the adoptee;

113 (d) the petitioner's spouse, if any, only if the petitioner's spouse has not joined in the

114 petition;

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

116 (f) any person who, prior to the time the mother executes her consent for adoption or
117 relinquishes the child for adoption, is recorded on the birth certificate as the child's father, with
118 the knowledge and consent of the mother;

119 (g) any person who is:

120 (i) openly living in the same household with the child at the time the consent is
121 executed or relinquishment made; and

122 (ii) holding himself out to be the child's father; and

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

125 (3) (a) In order to preserve any right to notice and consent, an unmarried, biological
126 father may, consistent with Subsection (3)(d):

127 (i) initiate proceedings in a district court of the state of Utah to establish paternity
128 under Title 78, Chapter 45g, Utah Uniform Parentage Act; and

129 (ii) file a notice of the initiation of the proceedings described in Subsection (3)(a)(i)
130 with the state registrar of vital statistics within the Department of Health.

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

134 (c) The Department of Health shall provide forms for the purpose of filing the notice
135 described in Subsection (3)(a)(ii), and make those forms available in the office of the county
136 health department in each county.

137 (d) The action and notice described in Subsection (3)(a):

138 (i) may be filed before or after the child's birth; and

139 (ii) shall be filed prior to the mother's:

140 (A) execution of consent to adoption of the child; or

141 (B) relinquishment of the child for adoption.

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

144 (5) The notice required by this section:

145 (a) may be served immediately after relinquishment or execution of consent;

146 (b) shall be served at least 30 days prior to the final dispositional hearing; ~~and~~

147 (c) shall specifically state that the person served must respond to the petition within 30
148 days of service if he intends to intervene in or contest the adoption[-];

149 (d) shall state the consequences, described in Subsection (6)(b), for failure of a person
150 to file a motion for relief within 30 days after the day on which the person is served with notice
151 of an adoption proceeding;

152 (e) is not required to include, nor be accompanied by, a summons or a copy of the
153 petition for adoption; and

154 (f) shall state where the person may obtain a copy of the petition for adoption.

155 (6) (a) Any person who has been served with notice of an adoption proceeding and who
156 wishes to contest the adoption shall file a motion in the adoption proceeding:

157 (i) within 30 days after the day on which the person was served with notice of the
158 adoption proceeding;

159 (ii) that shall set forth specific relief sought; and

160 (iii) that shall be accompanied by a memorandum specifying the factual and legal
161 grounds upon which the motion is based.

162 (b) Any person who fails to file a motion for relief within 30 days after the day on
163 which the person was served with notice of the adoption proceeding:

164 (i) waives any right to further notice in connection with the adoption;

165 (ii) forfeits all rights in relation to the adoptee; and

166 (iii) is barred from thereafter bringing or maintaining any action to assert any interest in
167 the adoptee.

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

169 (a) (i) ~~[With regard to]~~ Subject to Subsection (5)(e), service on a person whose consent

170 is necessary under Section 78-30-4.14~~[, service]~~ shall be in accordance with the provisions of
171 the Utah Rules of Civil Procedure.

172 (ii) If service of a person described in Subsection (7)(a)(i) is by publication, the court
173 shall designate the content of the notice regarding the identity of the parties.

174 (iii) The notice described in this Subsection (7)(a) may not include the name of a
175 person seeking to adopt the adoptee.

176 (b) (i) Except as provided in Subsection (7)(b)(ii) to any other person for whom notice
177 is required under this section, service by certified mail, return receipt requested, is sufficient.

178 (ii) If the service described in Subsection (7)(b)(i) cannot be completed after two
179 attempts, the court may issue an order providing for service by publication, posting, or by any
180 other manner of service.

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

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

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

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

192 (11) Except as to those persons whose consent to an adoption is required under Section
193 78-30-4.14, the sole purpose of notice under this section is to enable the person served to:

194 (a) intervene in the adoption; and

195 (b) present evidence to the court relevant to the best interest of the child.

196 Section 3. Section **78-30-4.14** is amended to read:

197 **78-30-4.14. Necessary consent to adoption or relinquishment for adoption.**

198 (1) Except as provided in Subsection (2), consent to adoption of a child, or
199 relinquishment of a child for adoption, is required from:

200 (a) the adoptee, if the adoptee is more than 12 years of age, unless the adoptee does not
201 have the mental capacity to consent;

202 (b) both parents or the surviving parent of an adoptee who was conceived or born
203 within a marriage;

204 (c) the mother of an adoptee born outside of marriage;

205 (d) any biological parent who has been adjudicated to be the child's biological father by
206 a court of competent jurisdiction prior to the mother's execution of consent to adoption or her
207 relinquishment of the child for adoption;

208 (e) consistent with Subsection (3), any biological parent who has executed and filed a
209 voluntary declaration of paternity with the state registrar of vital statistics within the
210 Department of Health in accordance with Title 78, Chapter 45e, Voluntary Declaration of
211 Paternity Act, prior to the mother's execution of consent to adoption or her relinquishment of
212 the child for adoption;

213 (f) an unmarried biological father of an adoptee, only if he strictly complies with the
214 requirements of Subsections (4) through (8) and (10); and

215 (g) the person or agency to whom an adoptee has been relinquished and that is placing
216 the child for adoption.

217 (2) (a) The consent of a person described in Subsections (1)(b) through (g) is not
218 required if the adoptee is 18 years of age or older.

219 (b) The consent of a person described in Subsections (1)(b) through (f) is not required
220 if the person's parental rights relating to the adoptee have been terminated.

221 (3) For purposes of Subsection (1)(e), a voluntary declaration of paternity is considered
222 filed when it is entered into a database that:

223 (a) can be accessed by the Department of Health; and

224 (b) is designated by the state registrar of vital statistics as the official database for
225 voluntary declarations of paternity.

226 (4) Except as provided in Subsections (5)(a) and (10), and subject to Subsection (8),
227 with regard to a child who is placed with adoptive parents more than six months after birth,
228 consent of an unmarried biological father is not required unless the unmarried biological father:

229 (a) (i) developed a substantial relationship with the child by:

230 (A) visiting the child monthly, unless the unmarried biological father was physically or
231 financially unable to visit the child on a monthly basis; or

232 (B) engaging in regular communication with the child or with the person or authorized
233 agency that has lawful custody of the child;

234 (ii) took some measure of responsibility for the child and the child's future; and

235 (iii) demonstrated a full commitment to the responsibilities of parenthood by financial
236 support of the child of a fair and reasonable sum in accordance with the father's ability; or

237 (b) (i) openly lived with the child:

238 (A) (I) for a period of at least six months during the one-year period immediately
239 preceding the day on which the child is placed with adoptive parents; or

240 (II) if the child is less than one year old, for a period of at least six months during the
241 period of time beginning on the day on which the child is born and ending on the day on which
242 the child is placed with adoptive parents; and

243 (B) immediately preceding placement of the child with adoptive parents; and

244 (ii) openly held himself out to be the father of the child during the six-month period
245 described in Subsection (4)(b)(i)(A).

246 (5) (a) If an unmarried biological father was prevented from complying with a
247 requirement of Subsection (4) by the person or authorized agency having lawful custody of the
248 child, the unmarried biological father is not required to comply with that requirement.

249 (b) The subjective intent of an unmarried biological father, whether expressed or
250 otherwise, that is unsupported by evidence that the requirements in Subsection (4) have been
251 met, shall not preclude a determination that the father failed to meet the requirements of
252 Subsection (4).

253 (6) Except as provided in Subsection (10), and subject to Subsection (8), with regard to

254 a child who is six months of age or less at the time the child is placed with adoptive parents,
255 consent of an unmarried biological father is not required unless, prior to the time the mother
256 executes her consent for adoption or relinquishes the child for adoption, the unmarried
257 biological father:

258 (a) initiates proceedings in a district court of the state of Utah to establish paternity
259 under Title 78, Chapter 45g, Utah Uniform Parentage Act;

260 (b) files with the court that is presiding over the paternity proceeding a sworn affidavit:

261 (i) stating that he is fully able and willing to have full custody of the child;

262 (ii) setting forth his plans for care of the child; and

263 (iii) agreeing to a court order of child support and the payment of expenses incurred in
264 connection with the mother's pregnancy and the child's birth;

265 (c) consistent with Subsection (7), files notice of the commencement of paternity
266 proceedings, described in Subsection (6)(a), with the state registrar of vital statistics within the
267 Department of Health, in a confidential registry established by the department for that purpose;
268 and

269 (d) offered to pay and paid a fair and reasonable amount of the expenses incurred in
270 connection with the mother's pregnancy and the child's birth, in accordance with his financial
271 ability, unless:

272 (i) he did not have actual knowledge of the pregnancy;

273 (ii) he was prevented from paying the expenses by the person or authorized agency
274 having lawful custody of the child; or

275 (iii) the mother refuses to accept the unmarried biological father's offer to pay the
276 expenses described in this Subsection (6)(d).

277 (7) The notice described in Subsection (6)(c) is considered filed when it is entered into
278 the registry described in Subsection (6)(c).

279 (8) Consent of an unmarried biological father is not required under this section if:

280 (a) the court determines, in accordance with the requirements and procedures of Title
281 78, Chapter 3a, Part 4, Termination of Parental Rights Act, that the unmarried biological

282 father's rights should be terminated, based on the petition of any interested party; or

283 (b) (i) a declaration of paternity declaring the unmarried biological father to be the
284 father of the child is rescinded under Section 78-45g-306; and

285 (ii) the unmarried biological father fails to comply with Subsection (6) within ten
286 business days after the day that notice of the rescission described in Subsection (8)(b)(i) is
287 mailed by the Office of Vital Records within the Department of Health as provided in Section
288 78-45g-306.

289 (9) Unless the adoptee is conceived or born within a marriage, the petitioner in an
290 adoption proceeding shall, prior to entrance of a final decree of adoption, file with the court a
291 certificate from the state registrar of vital statistics within the Department of Health, stating:

292 (a) that a diligent search has been made of the registry of notices from unmarried
293 biological fathers described in Subsection (6)(c); and

294 (b) (i) that no filing has been found pertaining to the father of the child in question; or

295 (ii) if a filing is found, the name of the putative father and the time and date of filing.

296 (10) (a) For purposes of this Subsection (10), "qualifying circumstance" means that, at
297 any point during the time period beginning at the conception of the child and ending at the time
298 the mother executed a consent to adoption or relinquishment of the child for adoption:

299 (i) the child or the child's mother resided, on a permanent or temporary basis, in the
300 state of Utah;

301 (ii) the mother intended to give birth to the child in the state of Utah;

302 (iii) the child was born in the state of Utah; or

303 (iv) the mother intended to execute a consent to adoption or relinquishment of the child
304 for adoption:

305 (A) in the state of Utah; or

306 (B) under the laws of the state of Utah.

307 (b) For purposes of Subsection (10)(c)(i), a court shall consider the totality of the
308 circumstances when determining whether an unmarried biological father has demonstrated a
309 full commitment to his parental responsibilities, including, if applicable:

- 310 (i) efforts he has taken to discover the location of the child or the child's mother;
- 311 (ii) whether he has expressed or demonstrated an interest in taking responsibility for
- 312 the child;
- 313 (iii) whether, and to what extent, he has developed, or attempted to develop, a
- 314 relationship with the child;
- 315 (iv) whether he offered to provide and, if the offer was accepted, did provide, financial
- 316 support for the child or the child's mother;
- 317 (v) whether, and to what extent, he has communicated, or attempted to communicate,
- 318 with the child or the child's mother;
- 319 (vi) whether he has filed legal proceedings to establish his paternity of, and take
- 320 responsibility for, the child;
- 321 (vii) whether he has filed a notice with a public official or agency relating to:
- 322 (A) his paternity of the child; or
- 323 (B) legal proceedings to establish his paternity of the child; or
- 324 (viii) other evidence that demonstrates that he has demonstrated a full commitment to
- 325 his parental responsibilities.

326 ~~(b)~~ (c) Notwithstanding the provisions of Subsections (4) and (6), the consent of an
327 unmarried biological father is required with respect to an adoptee who is under the age of 18 if:

328 (i) (A) the unmarried biological father did not know, and through the exercise of
329 reasonable diligence could not have known, before the time the mother executed a consent to
330 adoption or relinquishment of the child for adoption, that a qualifying circumstance existed;

331 ~~and~~

332 (B) before the mother executed a consent to adoption or relinquishment of the child for
333 adoption, the unmarried biological father fully complied with the requirements to establish
334 parental rights in the child, and to preserve the right to notice of a proceeding in connection
335 with the adoption of the child, imposed by:

336 (I) the last state where the unmarried biological father knew, or through the exercise of
337 reasonable diligence should have known, that the mother resided in before the mother executed

338 the consent to adoption or relinquishment of the child for adoption; or

339 (II) the state where the child was conceived; [~~or~~] and

340 (C) the unmarried biological father has demonstrated, based on the totality of the
341 circumstances, a full commitment to his parental responsibilities, as described in Subsection
342 (10)(b); or

343 (ii) (A) the unmarried biological father knew, or through the exercise of reasonable
344 diligence should have known, before the time the mother executed a consent to adoption or
345 relinquishment of the child for adoption, that a qualifying circumstance existed; and

346 (B) the unmarried biological father complied with the requirements of Subsection (4)
347 or (6) before the later of:

348 (I) 20 days after the day that the unmarried biological father knew, or through the
349 exercise of reasonable diligence should have known, that a qualifying circumstance existed; or

350 (II) the time that the mother executed a consent to adoption or relinquishment of the
351 child for adoption.

352 (11) An unmarried biological father who does not fully and strictly comply with the
353 requirements of this section is considered to have waived and surrendered any right in relation
354 to the child, including the right to:

355 (a) notice of any judicial proceeding in connection with the adoption of the child; and

356 (b) consent, or refuse to consent, to the adoption of the child.

357 Section 4. Section **78-30-4.16** is amended to read:

358 **78-30-4.16. Contested adoptions -- Rights of parties -- Determination of custody.**

359 (1) If a person whose consent for an adoption is required pursuant to Subsection
360 78-30-4.14(1)(b), (c), (d), (e), or (f) refused to consent, the court shall determine whether
361 proper grounds exist for the termination of that person's rights pursuant to the provisions of this
362 chapter or Title 78, Chapter 3a, Part 4, Termination of Parental Rights Act.

363 (2) (a) If there are proper grounds to terminate the person's parental rights, the court
364 shall order that the person's rights be terminated.

365 (b) If there are not proper grounds to terminate the person's parental rights, the court

366 shall:

367 (i) dismiss the adoption petition;

368 (ii) conduct an evidentiary hearing to determine who should have custody of the child;

369 and

370 (iii) award custody of the child in accordance with the child's best interest.

371 (3) Evidence considered at the custody hearing may include:

372 (a) evidence of psychological or emotional bonds that the child has formed with a third
373 person, including the prospective adoptive parent; and

374 (b) any detriment that a change in custody may cause the child.

375 (4) The fact that a person relinquished a child for adoption or consented to the adoption
376 may not be considered as evidence that it is not in the child's best interest for custody to be
377 awarded to such person or that:

378 (a) the person is unfit or incompetent to be a parent;

379 (b) the person has neglected or abandoned the child; or

380 (c) the person is not interested in having custody of the child.

381 (5) Any custody order entered pursuant to this section may also:

382 (a) include provisions for:

383 (i) parent-time by a biological parent; or

384 (ii) visitation by an interested third party; and

385 (b) provide for the financial support of the child.

386 (6) (a) If a person or entity whose consent is required for an adoption under Subsection
387 78-30-4.14(1)(a) or (g) refuses to consent, the court shall proceed with an evidentiary hearing
388 and award custody as set forth in Subsection (2).

389 (b) The court may also finalize the adoption if doing so is in the best interest of the
390 child.

391 (7) (a) ~~[An adoption may not be contested]~~ A person may not contest an adoption after
392 the final decree of adoption is entered[-], if that person:

393 (i) was a party to the adoption proceeding;

394 (ii) was served with notice of the adoption proceeding; or
395 (iii) executed a consent to the adoption or relinquishment for adoption.

396 (b) No person may contest an adoption after one year from the day on which the final
397 decree of adoption is entered.

398 (c) The limitations on contesting an adoption action, described in this Subsection (7),
399 apply to all attempts to contest an adoption:

400 (i) regardless of whether the adoption is contested directly or collaterally; and
401 (ii) regardless of the basis for contesting the adoption, including claims of fraud,
402 duress, undue influence, lack of capacity or competency, mistake of law or fact, or lack of
403 jurisdiction.

404 (d) The limitations on contesting an adoption action, described in this Subsection (7),
405 do not prohibit a timely appeal of:

406 (i) a final decree of adoption; or
407 (ii) a decision in an action challenging an adoption, if the action was brought within the
408 time limitations described in Subsections (7)(a) and (b).

409 Section 5. Section **78-30-4.18** is amended to read:

410 **78-30-4.18. Persons who may take consents and relinquishments.**

411 (1) A consent or relinquishment by a birth mother or an adoptee shall be signed before:

412 (a) a judge of any court that has jurisdiction over adoption proceedings, or a person
413 appointed by that judge for the purpose of taking consents or relinquishments; or

414 (b) a person who is authorized by a licensed child-placing agency to take consents or
415 relinquishments so long as the signature is notarized or witnessed by two individuals who are
416 not members of the birth mother's immediate family.

417 (2) If the consent or relinquishment of a birth mother or adoptee is taken out of state it
418 shall be signed before:

419 (a) a person who is authorized by a child-placing agency to take consents or
420 relinquishments; ~~or~~

421 (b) a person authorized or appointed to take consents or relinquishments by a court of

422 this state that has jurisdiction over adoption proceedings~~[-or]~~;

423 (c) a court [of that state] that has jurisdiction over adoption proceedings[:] in the state
424 where the consent or relinquishment is taken; or

425 (d) a person authorized, under the laws of the state where the consent or relinquishment
426 is taken, to take consents or relinquishments of a birth mother or adoptee.

427 (3) The consent or relinquishment of any other person or agency as required by Section
428 78-30-4.14 may be signed before a Notary Public or any person authorized to take a consent or
429 relinquishment under Subsection (1) or (2).

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

434 (5) A person executing a consent or relinquishment is entitled to receive a copy of the
435 consent or relinquishment.

436 Section 6. Section **78-30-7.1** is enacted to read:

437 **78-30-7.1. District court jurisdiction over certain termination of parental rights**
438 **proceedings.**

439 (1) A district court has jurisdiction to hear and decide a petition to terminate parental
440 rights in a child if the party who filed the petition is seeking to terminate parental rights in a
441 child for the purpose of facilitating the adoption of the child.

442 (2) A petition to terminate parental rights under this section may:

443 (a) be joined with a proceeding on an adoption petition; or

444 (b) be filed as a separate proceeding.

445 (3) A court may enter a final order terminating parental rights before a final decree of
446 adoption is entered.

447 (4) (a) Nothing in this section limits the jurisdiction of a juvenile court relating to
448 proceedings to terminate parental rights as described in Section 78-3a-104.

449 (b) This section does not grant jurisdiction to a district court to terminate parental

450 rights in a child if the child is under the jurisdiction of the juvenile court in a pending abuse,
451 neglect, dependency, or termination of parental rights proceeding.

452 (5) The district court may terminate a person's parental rights in a child if:

453 (a) the person executes a voluntary consent to adoption, or relinquishment for
454 adoption, of the child, in accordance with:

455 (i) the requirements of this chapter; or

456 (ii) the laws of another state or country, if the consent is valid and irrevocable;

457 (b) the person is an unmarried biological father who is not entitled to consent to
458 adoption, or relinquishment for adoption, under Section 78-30-4.14;

459 (c) the person:

460 (i) received notice of the adoption proceeding relating to the child under Section
461 78-30-4.13; and

462 (ii) failed to file a motion for relief, under Subsection 78-30-4.13(6), within 30 days
463 after the day on which the person was served with notice of the adoption proceeding;

464 (d) the court finds, under Section 78-45g-607, that the person is not a parent of the
465 child; or

466 (e) the person's parental rights are terminated on grounds described in Title 78, Chapter
467 3a, Part 4, Termination of Parental Rights Act.

468 Section 7. Section **78-30-8** is amended to read:

469 **78-30-8. Final decree of adoption -- Agreement by adoptive parent or parents.**

470 ~~[The]~~ (1) Except as provided in Subsection (2), the adoptive parent or parents and the
471 child being adopted shall appear before the appropriate court, and an agreement shall be
472 executed by the adoptive parent or parents stating that the child shall be adopted and treated in
473 all respects as his own lawful child.

474 (2) A court may waive the requirement that the adoptive parent or parents and the child
475 being adopted appear before the court if:

476 (a) the adoption is not contested; and

477 (b) all requirements of this chapter to obtain a final decree of adoption are otherwise

478 complied with.

479 Section 8. Section **78-30-11** is amended to read:

480 **78-30-11. Birth parent's rights and duties dissolved.**

481 ~~[The]~~ A birth ~~[parents]~~ parent of an adopted child ~~[are, from the time the final decree of~~
482 ~~adoption is entered,]~~ is released from all parental duties toward and all responsibilities for the
483 adopted child, and ~~[have]~~ has no further rights with regard to that child~~[-]~~ at the earlier of:

484 (1) the time the parent's parental rights are terminated; or

485 (2) the time the final decree of adoption is entered.

486 Section 9. Section **78-30-14** is amended to read:

487 **78-30-14. Division of Child and Family Services -- Duties -- Report -- Fee.**

488 (1) At the request of the court, the division, through its field agents, persons licensed
489 by the division for the care and placement of children, or through the probation officer of the
490 juvenile court or court of like jurisdiction of the county, under the division's supervision, shall:

491 (a) verify the allegations of the petition for adoption of a minor child;

492 (b) make a thorough investigation of the matter; and

493 (c) report the division's findings in writing to the court.

494 (2) (a) When the court requests an investigation under Subsection (1), the court shall
495 serve a copy of the petition, together with a statement containing the names and addresses of
496 the child and petitioners, on the division by certified mail.

497 (b) The division, or the person appointed by the division, shall complete the
498 investigation described in Subsection (2)(a) and submit a written report to the court within 60
499 days after the day that the petition is served on the division.

500 (3) (a) The division shall charge the petitioner a reasonable fee for the services
501 provided under this section.

502 (b) Fees collected shall be deposited in the General Fund.

503 (4) The written report submitted to the court under this section shall state:

504 (a) why the birth parents, if living, desire to be released from the care, support, and
505 guardianship of the child;

506 (b) whether the birth parents have abandoned the child or are morally unfit for custody;

507 (c) whether the proposed adoptive parent or parents are financially able and morally fit
508 to have the care, supervision, and training of the child;

509 (d) the physical and mental condition of the child, so far as that may be determined;

510 and

511 (e) any other facts and circumstances pertaining to the child and the child's welfare.

512 (5) (a) The court shall conduct a full hearing on the petition for adoption and examine
513 the parties in interest under oath.

514 (b) The court may adjourn the hearing from time to time as the nature of the case
515 requires.

516 (6) If the report submitted by the division under Subsection (2) disapproves of the
517 adoption of the child by the petitioner, the court may dismiss the petition.

518 (7) (a) Except as provided in Subsection (7)(b), a final decree of adoption may not be
519 entered until the child has lived in the home of the adoptive parent or parents for six months,
520 unless, based on a finding of good cause, the court orders that the final decree of adoption may
521 be entered at an earlier time.

522 (b) If the adoptive parent is the spouse of the birth parent, a final decree of adoption
523 may not be entered until the child has lived in the home of that adoptive parent for one year,
524 unless, based on a finding of good cause, the court orders that the final decree of adoption may
525 be entered at an earlier time.

526 (c) In the event the child dies during the time that the child is placed in the home of an
527 adoptive parent or parents for the purpose of adoption, the court has authority to enter a final
528 decree of adoption after the child's death upon the request of the adoptive parents.

529 (d) The court may enter a final decree of adoption declaring that a child is adopted by
530 both a deceased and a surviving adoptive parent if, after the child is placed in the home of the
531 child's adoptive parents:

532 (i) one of the adoptive parents dies;

533 (ii) the surviving adoptive parent requests that the court enter the decree; and

534 (iii) the decree is entered after the child has lived in the home of the surviving adoptive
535 parent for at least six months.

536 (e) Upon request of a surviving birth parent, or a surviving parent for whom adoption
537 of a child has been finalized, the court may enter a final decree of adoption declaring that a
538 child is adopted by a deceased adoptive parent who was the spouse of the surviving parent at
539 the time of the adoptive parent's death.

540 (f) The court may enter a final decree of adoption declaring that a child is adopted by
541 both deceased adoptive parents if:

542 (i) both of the adoptive parents die after the child is placed in the adoptive parent's
543 home; and

544 (ii) it is in the best interests of the child to enter the decree.

545 (8) Nothing in this section shall be construed to grant any rights to the birth parents of
546 a child to assert any interest in the child during the six-month or one-year periods described in
547 this section.

548 Section 10. Section **78-45c-103** is amended to read:

549 **78-45c-103. Proceedings governed by other law.**

550 (1) For purposes of this section, "adoption proceeding" means any proceeding under
551 Title 78, Chapter 30, Adoption.

552 (2) This chapter does not govern:

553 [~~(1)~~] (a) an adoption proceeding; or

554 [~~(2)~~] (b) a proceeding pertaining to the authorization of emergency medical care for a
555 child.