

UTAH ADOPTION AMENDMENTS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Rebecca Chavez-Houck

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions of the Judicial Code relating to adoption, who may adopt, and placement for adoption.

Highlighted Provisions:

This bill:

- ▶ deletes provisions prohibiting adoption by cohabiting adults;
- ▶ makes a legislative finding that it is in the best interests of a child to be adopted by a person or persons who are legally married; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78-30-1, as last amended by Laws of Utah 2007, Chapters 255 and 298

78-30-9, as last amended by Laws of Utah 2000, Chapter 208

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

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



28 **78-30-1. Who may adopt -- Adoption of minor -- Adoption of adult.**

29 (1) Any minor child may be adopted by an adult person, in accordance with the
30 provisions and requirements of this section and this chapter.

31 (2) (a) For purposes of this Subsection (2), "vulnerable adult" means:

32 (i) a person 65 years of age or older; or

33 (ii) an adult, 18 years of age or older, who has a mental or physical impairment which
34 substantially affects that person's ability to:

35 (A) provide personal protection;

36 (B) provide necessities such as food, shelter, clothing, or medical or other health care;

37 (C) obtain services necessary for health, safety, or welfare;

38 (D) carry out the activities of daily living;

39 (E) manage the adult's own resources; or

40 (F) comprehend the nature and consequences of remaining in a situation of abuse,
41 neglect, or exploitation.

42 (b) Subject to this Subsection (2) [~~and Subsection (3)~~], any adult may be adopted by
43 another adult.

44 (c) The following provisions of this chapter apply to the adoption of an adult just as
45 though the person being adopted were a minor:

46 (i) Sections 78-30-1.1, 78-30-1.2, 78-30-2, 78-30-3, 78-30-4.18, 78-30-6, 78-30-8,
47 78-30-8.5, 78-30-8.6, 78-30-9, 78-30-10, 78-30-11, and 78-30-15;

48 (ii) Subsections 78-30-7(1), (2), and (7), except that the juvenile court does not have
49 jurisdiction over a proceeding for adoption of an adult, unless the adoption arises from a case
50 where the juvenile court has continuing jurisdiction over the adult adoptee; and

51 (iii) if the adult adoptee is a vulnerable adult, Section 78-30-3.5, regardless of whether
52 the adult adoptee resides, or will reside, with the adoptors, unless the court, based on a finding
53 of good cause, waives the requirements of Section 78-30-3.5.

54 (d) Before a court enters a final decree of adoption of an adult, the adoptee and the
55 adoptive parent or parents shall appear before the court presiding over the adoption
56 proceedings and execute consent to the adoption.

57 (e) No provision of this chapter, other than those listed or described in this Subsection
58 (2) [~~or Subsection (3)~~], apply to the adoption of an adult.

59 ~~[(3) (a) A child may be adopted by:]~~

60 ~~[(i) adults who are legally married to each other in accordance with the laws of this~~
61 ~~state, including adoption by a stepparent; or]~~

62 ~~[(ii) subject to Subsection (4), any single adult, except as provided in Subsection~~
63 ~~(3)(b):]~~

64 ~~[(b) A child may not be adopted by a person who is cohabiting in a relationship that is~~
65 ~~not a legally valid and binding marriage under the laws of this state. For purposes of this~~
66 ~~Subsection (3)(b), "cohabiting" means residing with another person and being involved in a~~
67 ~~sexual relationship with that person.]~~

68 ~~[(4)]~~ (3) In order to provide a child who is in the custody of the division with the most
69 beneficial family structure, when a child in the custody of the division is placed for adoption,
70 the division or child-placing agency shall place the child with a man and a woman who are
71 married to each other, unless:

72 (a) there are no qualified married couples who:

73 (i) have applied to adopt a child;

74 (ii) are willing to adopt the child; and

75 (iii) are an appropriate placement for the child;

76 (b) the child is placed with a relative of the child;

77 (c) the child is placed with a person who has already developed a substantial
78 relationship with the child;

79 (d) the child is placed with a person who:

80 (i) is selected by a parent or former parent of the child, if the parent or former parent
81 consented to the adoption of the child; and

82 (ii) the parent or former parent described in Subsection ~~[(4)]~~ (3)(d)(i):

83 (A) knew the person with whom the child is placed before the parent consented to the
84 adoption; or

85 (B) became aware of the person with whom the child is placed through a source other
86 than the division or the child-placing agency that assists with the adoption of the child; or

87 (e) it is in the best interests of the child to place the child ~~[with a single person]~~ in
88 another placement.

89 Section 2. Section **78-30-9** is amended to read:

90 **78-30-9. Decree of adoption -- Best interest of child -- Legislative findings.**

91 (1) The court shall examine each person appearing before it in accordance with this
92 chapter, separately, and, if satisfied that the interests of the child will be promoted by the
93 adoption, ~~[it]~~ the court shall enter a final decree of adoption declaring that the child is adopted
94 by the adoptive parent or parents and shall be regarded and treated in all respects as the child of
95 the adoptive parent or parents.

96 (2) The court shall make a specific finding regarding the best interest of the child,
97 taking into consideration information provided to the court pursuant to the requirements of this
98 chapter relating to the health, safety, and welfare of the child and the moral climate of the
99 potential adoptive placement.

100 (3) (a) The Legislature specifically finds that it is ~~[not]~~ in a child's best interest to be
101 adopted by a person or persons who are ~~[cohabiting in a relationship that is not a legally valid
102 and binding marriage under the laws of this state]~~ legally married.

103 (b) Nothing in this section limits or prohibits the ~~[court's placement of]~~ court from
104 placing a child with ~~[a single]~~ an adult who ~~[is not cohabiting as defined in Subsection (3)(b):~~

105 ~~[(b) For purposes of this section, "cohabiting" means residing with another person and
106 being involved in a sexual relationship with that person.]~~

107 (i) is not legally married; and

108 (ii) is otherwise qualified to adopt the child.

Legislative Review Note
as of 1-14-08 12:04 PM

Office of Legislative Research and General Counsel

H.B. 318 - Utah Adoption Amendments

Fiscal Note

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
