

1 **PROVISIONS FOR EMANCIPATION OF A**
2 **MINOR**

3 2005 GENERAL SESSION
4 STATE OF UTAH

5 **Sponsor: Rosalind J. McGee**

7 **LONG TITLE**

8 **General Description:**

9 This bill creates a procedure by which a minor 16 years of age or older may petition the
10 juvenile court for a declaration of emancipation.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ creates a procedure for a minor to petition the court for emancipation;
- 14 ▶ provides criteria for a court in determining whether to emancipate a minor;
- 15 ▶ provides definitions;
- 16 ▶ sets out rights and responsibilities of an emancipated minor; and
- 17 ▶ provides a filing fee of \$50 for the petition.

18 **Monies Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 **AMENDS:**

24 **78-3a-104**, as last amended by Chapter 201, Laws of Utah 2004

25 **78-3a-119**, as last amended by Chapter 8, Laws of Utah 2002, Fifth Special Session

26 **78-7-35**, as last amended by Chapter 2, Laws of Utah 2003, Second Special Session

27 **78-30-7**, as last amended by Chapter 122, Laws of Utah 2004



28 78-45-7.10, as last amended by Chapter 176, Laws of Utah 2003

29 ENACTS:

30 78-3a-1001, Utah Code Annotated 1953

31 78-3a-1002, Utah Code Annotated 1953

32 78-3a-1003, Utah Code Annotated 1953

33 78-3a-1004, Utah Code Annotated 1953

34 78-3a-1005, Utah Code Annotated 1953



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

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

38 **78-3a-104. Jurisdiction of juvenile court -- Original -- Exclusive.**

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

41 (a) a minor who has violated any federal, state, or local law or municipal ordinance or a
42 person younger than 21 years of age who has violated any law or ordinance before becoming
43 18 years of age, regardless of where the violation occurred, excluding traffic laws and boating
44 and ordinances;

45 (b) a person 21 years of age or older who has failed or refused to comply with an order
46 of the juvenile court to pay a fine or restitution, if the order was imposed prior to the person's
47 21st birthday; however, the continuing jurisdiction is limited to causing compliance with
48 existing orders;

49 (c) a minor who is an abused child, neglected child, or dependent child, as those terms
50 are defined in Section 78-3a-103;

51 (d) a protective order for a minor pursuant to the provisions of Title 78, Chapter 3h,
52 Child Protective Orders, which the juvenile court may transfer to the district court if the
53 juvenile court has entered an ex parte protective order and finds that:

54 (i) the petitioner and the respondent are the natural parent, adoptive parent, or step
55 parent of the child who is the object of the petition;

56 (ii) the district court has a petition pending or an order related to custody or parent-time
57 entered under Title 30, Chapter 3, Divorce, Title 30, Chapter 6, Cohabitant Abuse Act, or Title
58 78, Chapter 45a, Uniform Act on Paternity, in which the petitioner and the respondent are

59 parties; and

60 (iii) the best interests of the child will be better served in the district court;

61 (e) appointment of a guardian of the person or other guardian of a minor who comes

62 within the court's jurisdiction under other provisions of this section;

63 (f) the emancipation of a minor in accordance with Part 10, Emancipation;

64 ~~(f)~~ (g) the termination of the legal parent-child relationship in accordance with Part 4,

65 Termination of Parental Rights Act, including termination of residual parental rights and

66 duties;

67 ~~(g)~~ (h) the treatment or commitment of a mentally retarded minor;

68 ~~(h)~~ (i) a minor who is a habitual truant from school;

69 ~~(i)~~ (j) the judicial consent to the marriage of a minor under age 16 upon a

70 determination of voluntariness or where otherwise required by law, employment, or enlistment

71 of a minor when consent is required by law;

72 ~~(j)~~ (k) any parent or parents of a minor committed to a secure youth corrections

73 facility, to order, at the discretion of the court and on the recommendation of a secure youth

74 corrections facility, the parent or parents of a minor committed to a secure youth corrections

75 facility for a custodial term, to undergo group rehabilitation therapy under the direction of a

76 secure youth corrections facility therapist, who has supervision of that parent's or parents'

77 minor, or any other therapist the court may direct, for a period directed by the court as

78 recommended by a secure youth corrections facility;

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

80 ~~(l)~~ (m) the treatment or commitment of a mentally ill child. The court may commit a

81 child to the physical custody of a local mental health authority in accordance with the

82 procedures and requirements of Title 62A, Chapter 15, Part 7, Commitment of Persons Under

83 Age 18 to Division of Substance Abuse and Mental Health. The court may not commit a child

84 directly to the Utah State Hospital;

85 ~~(m)~~ (n) the commitment of a minor in accordance with Section 62A-15-301;

86 ~~(n)~~ (o) de novo review of final agency actions resulting from an informal adjudicative

87 proceeding as provided in Section 63-46b-15; and

88 ~~(o)~~ (p) adoptions conducted in accordance with the procedures described in Title 78,

89 Chapter 30, Adoption, when the juvenile court has previously entered an order terminating the

90 rights of a parent and finds that adoption is in the best interest of the minor.

91 (2) In addition to the provisions of Subsection (1)(a) the juvenile court has exclusive
92 jurisdiction over any traffic or boating offense committed by a minor under 16 years of age and
93 concurrent jurisdiction over all other traffic or boating offenses committed by a minor 16 years
94 of age or older, except that the court shall have exclusive jurisdiction over the following
95 offenses committed by a minor under 18 years of age:

- 96 (a) Section 76-5-207, automobile homicide;
- 97 (b) Section 41-6-44, operating a vehicle while under the influence of alcohol or drugs;
- 98 (c) Section 41-6-45, reckless driving or Section 73-18-12, reckless operation;
- 99 (d) Section 41-1a-1314, unauthorized control over a motor vehicle, trailer, or
100 semitrailer for an extended period of time; and
- 101 (e) Section 41-6-13.5 or 73-18-20, fleeing a peace officer.

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

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

- 109 (a) is beyond the control of his parent, guardian, lawful custodian, or school authorities
110 to the extent that his behavior or condition endangers his own welfare or the welfare of others;
111 or
- 112 (b) has run away from home.

113 (5) This section does not restrict the right of access to the juvenile court by private
114 agencies or other persons.

115 (6) The juvenile court has jurisdiction of all magistrate functions relative to cases
116 arising under Section 78-3a-602.

117 (7) The juvenile court has jurisdiction to make a finding of substantiated,
118 unsubstantiated, or without merit, in accordance with Section 78-3a-320.

119 Section 2. Section **78-3a-119** is amended to read:

120 **78-3a-119. Period of operation of judgment, decree, or order -- Rights and**

121 **responsibilities of agency or individual granted legal custody.**

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

124 (a) orders of commitment to the Utah State Developmental Center or to the custody of
125 the Division of Substance Abuse and Mental Health;

126 (b) adoption orders under Subsection 78-3a-104(1)[~~(c)~~];

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

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

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

139 (b) Subsection (2)(a) does not apply to minors who are in the custody of the Division
140 of Child and Family Services, and who are placed in foster care, a secure youth corrections
141 facility, the Division of Substance Abuse and Mental Health, the Utah State Developmental
142 Center, or any agency licensed for child placements and adoptions, in cases where all parental
143 rights of the natural parents have been terminated by the court under Part 4, Termination of
144 Parental Rights Act, and custody of the minor has been granted to the agency for adoption or
145 other permanent placement.

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

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

151 Section 3. Section **78-3a-1001** is enacted to read:

Part 10. Emancipation

78-3a-1001. Purpose.

(1) The purpose of this part is to provide a means by which a minor who has demonstrated the ability and capacity to manage his or her own affairs and to live independent of his or her parents or guardian, may obtain the legal status of an emancipated person with the power to enter into valid legal contracts.

(2) This part is not intended to interfere with the integrity of the family or to minimize the rights of parents or children.

Section 4. Section **78-3a-1002** is enacted to read:

78-3a-1002. Definitions.

As used in this part:

(1) "Guardian" has the same meaning as in Section 75-1-201.

(2) "Minor" means a person 16 years of age or older.

(3) "Parent" means a natural parent as defined in Section 78-3a-103.

Section 5. Section **78-3a-1003** is enacted to read:

78-3a-1003. Petition for emancipation.

(1) A minor may petition the juvenile court on his or her own behalf in the district in which he or she resides for a declaration of emancipation. The petition shall be on a form provided by the clerk of the court, and state that the minor is:

(a) 16 years of age or older;

(b) capable of living independently of his or her parents or guardian; and

(c) capable of managing his or her own financial affairs.

(2) Notice of the petition shall be served on the minor's parents, guardian, any other person or agency with custody of the minor, and the Child and Family Support Division of the Office of the Attorney General, unless the court determines that service is unnecessary or impractical.

Section 6. Section **78-3a-1004** is enacted to read:

78-3a-1004. Court procedure.

(1) Upon the filing of a petition in accordance with Section 78-3a-1003, the court shall schedule a pretrial hearing on the matter within 30 days.

(2) The court shall appoint a guardian ad litem in accordance with Section 78-3a-912

183 to represent the minor.

184 (3) At the hearing, the court shall consider the best interests of the minor according to
185 the following:

186 (a) whether the minor is capable of assuming adult responsibilities;

187 (b) whether the minor is capable of living independently of his or her parents, guardian,
188 or custodian;

189 (c) opinions and recommendations from the guardian ad litem, parents, guardian, or
190 custodian, and any other evidence; and

191 (d) whether emancipation will create a risk of harm to the minor.

192 (4) If the court determines by ~~H~~→ [a preponderance of the] clear and convincing ←~~H~~
192a evidence that emancipation is in
193 the best interests of the minor, it shall issue a declaration of emancipation.

194 Section 7. Section **78-3a-1005** is enacted to read:

195 **78-3a-1005. Emancipation.**

196 (1) An emancipated minor may:

197 (a) enter into contracts;

198 (b) buy and sell property;

199 (c) sue or be sued;

200 (d) retain his or her own earnings;

201 (e) borrow money for educational purposes; and

202 (f) obtain healthcare without parental consent.

203 (2) An emancipated minor may not be considered an adult:

204 (a) under the criminal laws of the state unless the requirements of Part 6, Transfer of
205 Jurisdiction, have been met;

206 (b) under the criminal laws of the state when he or she is a victim and the age of the
207 victim in an element of the offense; and

208 (c) for specific constitutional and statutory age requirements regarding voting, use of
209 alcoholic beverages, possession of tobacco or firearms, and other health and safety regulations
210 relevant to the minor because of the minor's age.

211 (3) An order of emancipation prospectively terminates parental responsibilities that
212 accrue based on the minor's status as a minor under the custody and control of a parent,
213 guardian, or custodian, including parental tort liability for the acts of the minor.

214 Section 8. Section **78-7-35** is amended to read:

215 **78-7-35. Civil fees of the courts of record -- Courts complex design.**

216 (1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a
217 court of record not governed by another subsection is \$155.

218 (b) The fee for filing a complaint or petition is:

219 (i) \$50 if the claim for damages or amount in interpleader exclusive of court costs,
220 interest, and attorney fees is \$2,000 or less;

221 (ii) \$95 if the claim for damages or amount in interpleader exclusive of court costs,
222 interest, and attorney fees is greater than \$2,000 and less than \$10,000;

223 (iii) \$155 if the claim for damages or amount in interpleader is \$10,000 or more; and

224 (iv) \$95 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter
225 4, Separate Maintenance.

226 (c) The fee for filing a small claims affidavit is:

227 (i) \$45 if the claim for damages or amount in interpleader exclusive of court costs,
228 interest, and attorney fees is \$2,000 or less; and

229 (ii) \$70 if the claim for damages or amount in interpleader exclusive of court costs,
230 interest, and attorney fees is greater than \$2,000.

231 (d) The fee for filing a counter claim, cross claim, complaint in intervention, third party
232 complaint, or other claim for relief against an existing or joined party other than the original
233 complaint or petition is:

234 (i) \$45 if the claim for relief exclusive of court costs, interest, and attorney fees is
235 \$2,000 or less;

236 (ii) \$75 if the claim for relief exclusive of court costs, interest, and attorney fees is
237 greater than \$2,000 and less than \$10,000;

238 (iii) \$105 if the original petition is filed under Subsection (1)(a), the claim for relief is
239 \$10,000 or more, or the party seeks relief other than monetary damages; and

240 (iv) \$85 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30,
241 Chapter 4, Separate Maintenance.

242 (e) The fee for filing a small claims counter affidavit is:

243 (i) \$35 if the claim for relief exclusive of court costs, interest, and attorney fees is
244 \$2,000 or less; and

245 (ii) \$50 if the claim for relief exclusive of court costs, interest, and attorney fees is
246 greater than \$2,000.

247 (f) The fee for depositing funds under Section 57-1-29 when not associated with an
248 action already before the court is determined under Subsection (1)(b) based on the amount
249 deposited.

250 (g) The fee for filing a petition is:

251 (i) \$75 for trial de novo of an adjudication of the justice court or of the small claims
252 department; and

253 (ii) \$55 for an appeal of a municipal administrative determination in accordance with
254 Section 10-3-703.7.

255 (h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or
256 petition for writ of certiorari is \$205.

257 (i) (i) Except for a petition filed under Subsection 77-18-10(2), the fee for filing a
258 petition for expungement is \$65.

259 (ii) There is no fee for a petition filed under Subsection 77-18-10(2).

260 (j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be
261 allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges'
262 Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges'
263 Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement
264 Act.

265 (ii) Two dollars of the fees established by Subsections (1)(a) through (i) shall be
266 allocated by the state treasurer to be deposited in the restricted account, Children's Legal
267 Defense Account, as provided in Section 63-63a-8.

268 (iii) One dollar of the fees established under Subsections (1)(a) through (e), (1)(g), and
269 (1)(r) shall be allocated to and deposited with the Dispute Resolution Fund as provided in
270 Section 78-31b-9.

271 (iv) Fifteen dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv),
272 (1)(d)(iii) and (iv), (1)(g)(ii), (1)(h), and (1)(i) shall be allocated by the state treasurer to be
273 deposited in the restricted account, Court Security Account, as provided in Section 63-63c-102.

274 (v) Five dollars of the fees established by Subsections (1)(b)(i) and (ii), (1)(d)(ii) and
275 (1)(g)(i) shall be allocated by the state treasurer to be deposited in the restricted account, Court

276 Security Account, as provided in Section 63-63c-102.

277 (k) The fee for filing a judgment, order, or decree of a court of another state or of the
278 United States is \$25.

279 (l) The fee for filing probate or child custody documents from another state is \$25.

280 (m) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the
281 Utah State Tax Commission is \$30.

282 (ii) The fee for filing an abstract or transcript of judgment of a court of law of this state
283 or a judgment, order, or decree of an administrative agency, commission, board, council, or
284 hearing officer of this state or of its political subdivisions other than the Utah State Tax
285 Commission, is \$40.

286 (n) The fee for filing a judgment by confession without action under Section 78-22-3 is
287 \$25.

288 (o) The fee for filing an award of arbitration for confirmation, modification, or
289 vacation under Title 78, Chapter 31a, Utah Uniform Arbitration Act, that is not part of an
290 action before the court is \$25.

291 (p) The fee for filing a petition or counter-petition to modify a decree of divorce is \$40.

292 (q) The fee for filing any accounting required by law is:

293 (i) \$10 for an estate valued at \$50,000 or less;

294 (ii) \$20 for an estate valued at \$75,000 or less but more than \$50,000;

295 (iii) \$40 for an estate valued at \$112,000 or less but more than \$75,000;

296 (iv) \$80 for an estate valued at \$168,000 or less but more than \$112,000; and

297 (v) \$150 for an estate valued at more than \$168,000.

298 (r) The fee for filing a demand for a civil jury is \$75.

299 (s) The fee for filing a notice of deposition in this state concerning an action pending in
300 another state under Utah Rule of Civil Procedure 26 is \$25.

301 (t) The fee for filing documents that require judicial approval but are not part of an
302 action before the court is \$25.

303 (u) The fee for a petition to open a sealed record is \$25.

304 (v) The fee for a writ of replevin, attachment, execution, or garnishment is \$35 in
305 addition to any fee for a complaint or petition.

306 (w) (i) The fee for a petition for authorization for a minor to marry required by Section

307 30-1-9 is \$5.

308 (ii) The fee for a petition for emancipation of a minor provided in Title 78, Chapter 3a,
309 Part 10, Emancipation, is \$50.

310 (x) The fee for a certificate issued under Section 26-2-25 is \$2.

311 (y) The fee for a certified copy of a document is \$4 per document plus 50 cents per
312 page.

313 (z) The fee for an exemplified copy of a document is \$6 per document plus 50 cents
314 per page.

315 (aa) The Judicial Council shall by rule establish a schedule of fees for copies of
316 documents and forms and for the search and retrieval of records under Title 63, Chapter 2,
317 Government Records Access and Management Act. Fees under this Subsection (1)(aa) shall be
318 credited to the court as a reimbursement of expenditures.

319 (bb) There is no fee for services or the filing of documents not listed in this section or
320 otherwise provided by law.

321 (cc) Except as provided in this section, all fees collected under this section are paid to
322 the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk
323 accepts the pleading for filing or performs the requested service.

324 (dd) The filing fees under this section may not be charged to the state, its agencies, or
325 political subdivisions filing or defending any action. In judgments awarded in favor of the
326 state, its agencies, or political subdivisions, except the Office of Recovery Services, the court
327 shall order the filing fees and collection costs to be paid by the judgment debtor. The sums
328 collected under this Subsection (1)(dd) shall be applied to the fees after credit to the judgment,
329 order, fine, tax, lien, or other penalty and costs permitted by law.

330 (2) (a) (i) From March 17, 1994 until June 30, 1998, the administrator of the courts
331 shall transfer all revenues representing the difference between the fees in effect after May 2,
332 1994, and the fees in effect before February 1, 1994, as dedicated credits to the Division of
333 Facilities Construction and Management Capital Projects Fund.

334 (ii) (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities
335 Construction and Management shall use up to \$3,750,000 of the revenue deposited in the
336 Capital Projects Fund under this Subsection (2)(a) to design and take other actions necessary to
337 initiate the development of a courts complex in Salt Lake City.

338 (B) If the Legislature approves funding for construction of a courts complex in Salt
339 Lake City in the 1995 Annual General Session, the Division of Facilities Construction and
340 Management shall use the revenue deposited in the Capital Projects Fund under this Subsection
341 (2)(a)(ii) to construct a courts complex in Salt Lake City.

342 (C) After the courts complex is completed and all bills connected with its construction
343 have been paid, the Division of Facilities Construction and Management shall use any monies
344 remaining in the Capital Projects Fund under this Subsection (2)(a)(ii) to fund the Vernal
345 District Court building.

346 (iii) The Division of Facilities Construction and Management may enter into
347 agreements and make expenditures related to this project before the receipt of revenues
348 provided for under this Subsection (2)(a)(iii).

349 (iv) The Division of Facilities Construction and Management shall:

350 (A) make those expenditures from unexpended and unencumbered building funds
351 already appropriated to the Capital Projects Fund; and

352 (B) reimburse the Capital Projects Fund upon receipt of the revenues provided for
353 under this Subsection (2).

354 (b) After June 30, 1998, the administrator of the courts shall ensure that all revenues
355 representing the difference between the fees in effect after May 2, 1994, and the fees in effect
356 before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted
357 account.

358 (c) The Division of Finance shall deposit all revenues received from the court
359 administrator into the restricted account created by this section.

360 (d) (i) From May 1, 1995 until June 30, 1998, the administrator of the courts shall
361 transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor
362 Vehicles, in a court of record to the Division of Facilities Construction and Management
363 Capital Projects Fund. The division of money pursuant to Section 78-3-14.5 shall be calculated
364 on the balance of the fine or bail forfeiture paid.

365 (ii) After June 30, 1998, the administrator of the courts or a municipality shall transfer
366 \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in
367 a court of record to the Division of Finance for deposit in the restricted account created by this
368 section. The division of money pursuant to Section 78-3-14.5 shall be calculated on the

369 balance of the fine or bail forfeiture paid.

370 (3) (a) There is created within the General Fund a restricted account known as the State
371 Courts Complex Account.

372 (b) The Legislature may appropriate monies from the restricted account to the
373 administrator of the courts for the following purposes only:

374 (i) to repay costs associated with the construction of the court complex that were
375 funded from sources other than revenues provided for under this Subsection (3)(b)(i); and

376 (ii) to cover operations and maintenance costs on the court complex.

377 Section 9. Section **78-30-7** is amended to read:

378 **78-30-7. District court venue -- Jurisdiction of juvenile court -- Jurisdiction over**
379 **nonresidents -- Time for filing.**

380 (1) Adoption proceedings shall be commenced by filing a petition with the clerk of the
381 district court either:

382 (a) in the district where the person adopting resides, or if the person adopting is not a
383 resident of this state, in the district where the child was born or in which the child-placing
384 agency that has custody of the child is located; or

385 (b) with the juvenile court as provided in Subsection 78-3a-104(1)[~~(c)~~].

386 (2) All orders, decrees, agreements, and notices in the proceedings shall be filed with
387 the clerk of the court where the adoption proceedings were commenced under Subsection (1).

388 (3) A petition for adoption shall be filed within 30 days of the date the adoptee is
389 placed in the home of the petitioners for the purpose of adoption, unless the time for filing has
390 been extended by the court, or unless the adoption is arranged by a licensed child-placing
391 agency in which case the agency may extend the filing time.

392 (4) (a) If a person whose consent for the adoption is required under Section 78-30-4.14
393 cannot be found within the state, the fact of the minor's presence within the state shall confer
394 jurisdiction on the court in proceedings under this chapter as to such absent person, provided
395 that due notice has been given in accordance with the Utah Rules of Civil Procedure.

396 (b) The notice may not include:

397 (i) the name of the person or persons seeking to adopt the adoptee; or

398 (ii) an unmarried mother without that person's consent.

399 (5) Service of notice as provided in Subsection (6) shall vest the court with jurisdiction

400 over the person served in the same manner and to the same extent as if the person served was
401 served personally within the state.

402 (6) In the case of service outside the state, service completed not less than five days
403 before the time set in the notice for appearance of the person served, shall be sufficient to
404 confer jurisdiction.

405 (7) Computation of periods of time not otherwise set forth in this section shall be made
406 in accordance with the Utah Rules of Civil Procedure.

407 Section 10. Section **78-45-7.10** is amended to read:

408 **78-45-7.10. Adjustment when child becomes emancipated.**

409 (1) When a child becomes 18 years of age[;] or [~~has graduated~~] graduates from high
410 school during the child's normal and expected year of graduation, whichever occurs later, dies,
411 marries, becomes a member of the armed forces of the United States, or is emancipated by
412 court order pursuant to Title 78, Chapter 3a, Part 10, Emancipation, the base child support
413 award is automatically adjusted to [~~reflect~~] the base combined child support obligation [~~shown~~
414 ~~in the table~~] for the remaining number of children due child support, shown in the table that
415 was used to establish the most recent order, using the incomes of the parties as specified in that
416 order or the worksheets, unless otherwise provided in the child support order.

417 (2) The award may not be reduced by a per child amount derived from the base child
418 support award originally ordered.

419 (3) If the incomes of the parties are not specified in the [~~last~~] most recent order or the
420 worksheets, the information regarding the incomes is not consistent, or the order deviates from
421 the guidelines, automatic adjustment of the order does not apply and the order will continue
422 until modified by the issuing tribunal. If the order is deviated and the parties subsequently
423 obtain a judicial order that adjusts the support back to the date of the emancipation of the child,
424 the Office of Recovery Services may not be required to repay any difference in the support
425 collected during the interim.

Legislative Review Note

as of 1-17-05 12:18 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

State Impact

This bill requires a General Fund appropriation of \$9,100 to the Courts to handle the estimated number of cases generated. The increase in the number of cases will also generate approximately \$600 in new General Fund from filing fees. It is estimated that the number of cases, the costs and the revenue may decline the second year.

	<u>FY 2006</u> <u>Approp.</u>	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2006</u> <u>Revenue</u>	<u>FY 2007</u> <u>Revenue</u>
General Fund	\$9,100	\$4,500	\$600	\$300
TOTAL	\$9,100	\$4,500	\$600	\$300

Individual and Business Impact

The impact on the individual can be significant depending on the circumstances from which a person seeks emancipation. This may shift financial responsibilities and benefits from the family to the individual. The amount will vary and cannot be quantified.

Office of the Legislative Fiscal Analyst