

**ADOPTION OF AN ADULT PROVISIONS**

2007 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: John G. Mathis**

Senate Sponsor: Kevin T. Van Tassell

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**LONG TITLE**

**General Description:**

This bill amends the provisions of the Juvenile Court Act of 1996 relating to the adoption of an adult.

**Highlighted Provisions:**

This bill:

- ▶ describes the requirements that apply to the adoption of an adult;
- ▶ provides for the disclosure, under certain circumstances, of records relating to the adoption of an adult; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

**H→ [None] This bill coordinates with H.B. 51 by providing substantive amendments. ←H**

**Utah Code Sections Affected:**

AMENDS:

**78-30-1**, as last amended by Chapter 208, Laws of Utah 2000

**78-30-15**, as last amended by Chapter 224, Laws of Utah 1999

ENACTS:

**78-30-1.2**, Utah Code Annotated 1953

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

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

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

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

33 (2) ~~[Any]~~ (a) ~~Ĥ~~→ **For purposes of this Subsection (2), "vulnerable adult" means:**

33a **(i) a person 65 years of age or older; or**

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

33d **(A) provide personal protection;**

33e **(B) provide necessities such as food, shelter, clothing, or medical or**  
33f **other health care;**

33g **(C) obtain services necessary for health, safety, or welfare;**

33h **(D) carry out the activities of daily living;**

33i **(E) manage the adult's own resources; or**

33j **(F) comprehend the nature and consequences of remaining in a situation of abuse,**  
33k **neglect, or exploitation.**

33l **(b) ←Ĥ** Subject to this Subsection (2) and Subsection (3), any adult may be  
34 adopted by another adult. ~~[However, all]~~

35 ~~Ĥ~~→ ~~[(b)]~~ (c) ~~←Ĥ~~ The following provisions of this chapter apply to the adoption  
35a of an adult just as

36 though the person being adopted were a minor~~[, except that consent of the parents of an adult~~  
37 ~~person being adopted is not required.]~~:

38 (i) Sections ~~Ĥ~~→ **78-30-1.1**, ~~←Ĥ~~ 78-30-1.2, 78-30-2, 78-30-3, 78-30-4.18, 78-30-6, 78-30-8,  
38a 78-30-8.5,

39 78-30-8.6, 78-30-9, 78-30-10, 78-30-11, and 78-30-15; ~~Ĥ~~→ ~~[and]~~ ~~←Ĥ~~

40 (ii) Subsections 78-30-7(1), (2), and (7), except that the juvenile court does not have  
41 jurisdiction over a proceeding for adoption of an adult, unless the adoption arises from a case  
42 where the juvenile court has continuing jurisdiction over the adult adoptee ~~Ĥ~~→ ~~[:]~~ ; **and**

42a **(iii) if the adult adoptee is a vulnerable adult, Section 78-30-3.5, regardless of**  
42b **whether the adult adoptee resides, or will reside, with the adoptors** ~~Ŝ~~→ , **unless the court,**  
42c **based on a finding of good cause, waives the requirements of Section 78-30-3.5** ~~←Ŝ~~ .

43 ~~[(c)]~~ (d) ~~←Ĥ~~ Before a court enters a final decree of adoption of an adult, the adoptee and the  
44 adoptive parent or parents shall appear before the court presiding over the adoption  
45 proceedings and execute consent to the adoption.

46           ~~H~~→ ~~(d)~~ (e) ←~~H~~ No provision of this chapter, other than those listed or described  
46a in this Subsection  
47 (2) or Subsection (3), apply to the adoption of an adult.

48           (3) (a) A child may be adopted by:

49           (i) adults who are legally married to each other in accordance with the laws of this  
50 state, including adoption by a stepparent; or

51           (ii) any single adult, except as provided in Subsection (3)(b).

52           (b) A child may not be adopted by a person who is cohabiting in a relationship that is  
53 not a legally valid and binding marriage under the laws of this state. For purposes of this  
54 Subsection (3)(b), "cohabiting" means residing with another person and being involved in a  
55 sexual relationship with that person.

56           Section 2. Section **78-30-1.2** is enacted to read:

57           **78-30-1.2. Notice and consent for adoption of an adult.**

58           (1) (a) Consent to the adoption of an adult is required from:

- 59           (i) the adult adoptee;  
60           (ii) any person who is adopting the adult;  
61           (iii) the spouse of a person adopting the adult; and  
62           (iv) any legally appointed guardian or custodian of the adult ~~§~~→ **adoptee** ←~~§~~ .  
63           (b) No person, other than a person described in Subsection (1)(a), may consent, or  
64 withhold consent, to the adoption of an adult.  
65           (2) (a) Except as provided in Subsection (2)(b), notice of a proceeding for the adoption  
66 of an adult shall be served on each person described in Subsection(1)(a) and the spouse of the  
67 adoptee.  
68           (b) The notice described in Subsection (2)(a) may be waived, in writing, by the person  
69 entitled to receive notice.  
70           (3) The notice described in Subsection (2):  
71           (a) shall be served at least 30 days before the day on which the adoption is finalized;  
72           (b) shall specifically state that the person served must respond to the petition within 30  
73 days of service if the person intends to intervene in the adoption proceeding;  
74           (c) shall state the name of the person to be adopted;  
75           (d) may not state the name of a person adopting the adoptee, unless the person  
76 consents, in writing, to disclosure of the person's name;  
77           (e) with regard to a person described in Subsection (1)(a):  
78           (i) except as provided in Subsection (2)(b), shall be in accordance with the provisions  
79 of the Utah Rules of Civil Procedure; and  
80           (ii) may not be made by publication; and  
81           (f) with regard to the spouse of the adoptee, may be made:  
82           (i) in accordance with the provisions of the Utah Rules of Civil ~~§~~→ **[procedure]**  
82a **Procedure ←~~§~~ :**  
83           (ii) by certified mail, return receipt requested; or  
84           (iii) by publication, posting, or other means if:  
85           (A) the service described in Subsection (3)(f)(ii) cannot be completed after two  
86 attempts; and  
87           (B) the court issues an order providing for service by publication, posting, or other  
88 means.  
89           (4) Proof of service of the notice on each person to whom notice is required by this

90 section shall be filed with the court before the adoption is finalized.

91 (5) (a) Any person who is served with notice of a proceeding for the adoption of an  
 92 adult and who wishes to intervene in the adoption shall file a motion in the adoption  
 93 proceeding:

94 (i) within 30 days after the day on which the person is served with notice of the  
 95 adoption proceeding;

96 (ii) that sets forth the specific relief sought; and

97 (iii) that is accompanied by a memorandum specifying the factual and legal grounds  
 98 upon which the motion is made.

99 (b) A person who fails to file the motion described in Subsection (5)(a) within the time  
 100 described in Subsection (5)(a)(i):

101 (i) waives any right to further notice of the adoption proceeding; and

102 (ii) is barred from intervening in, or bringing or maintaining any action challenging, the  
 103 adoption proceeding.

103a ~~H~~→ **(6) S**→ **[After] Except as provided in Subsection (7), after ←S a court enters a final**  
 103ba **decree of adoption of an adult, the adult**

103b **adoptee shall:**

103c **(a) serve notice of the finalization of the adoption, pursuant to the Utah Rules of Civil**  
 103d **Procedure, on each person who was a legal parent of the adult adoptee before the final**  
 103e **decree of adoption described in this Subsection (6) was entered; and**

103f **(b) file with the court proof of service of the notice described in Subsection (6)(a).** ←~~H~~  
 103g **S**→ **(7) A court may, based on a finding of good cause, waive the notification**  
 103h **requirement described in Subsection (6).** ←~~S~~

104 Section 3. Section 78-30-15 is amended to read:

105 **78-30-15. Petition, report, and documents to be sealed -- Exceptions.**

106 The court shall order that the petition for adoption, the written report described in  
 107 Section 78-30-14, and any other documents filed in connection with the hearing be sealed.

108 Those items are not open to inspection or copying except:

109 (1) upon order of the court expressly permitting inspection or copying, after good cause  
 110 has been shown;

111 (2) as provided under Section 78-30-18; [or]

112 (3) those records shall become public on the one hundredth anniversary of the date the  
 113 final decree of adoption was entered[-]; or

114 (4) if the adoptee is an adult at the time the final decree of adoption is entered, the  
 115 documents described in this section are open to inspection and copying without a court order  
 116 by the adoptee or a parent who adopted the adoptee, unless the final decree of adoption is  
 117 entered by the juvenile court under Subsection 78-30-1(2)(b)(ii).

117a            ~~H~~→ Section 4. Coordinating H.B. 92 with H.B. 51 -- Substantive amendments.  
117b            If this H.B. 92 and H.B. 51, Adoption Amendments, both pass, it is the intent of the Legislature  
117c            that the Office of Legislative Research and General Counsel shall prepare the Utah Code  
117d            database for publication by amending Section 78-30-8 to read as follows:  
117e            "78-30-8. Final decree of adoption -- Agreement by adoptive parent or parents.  
117f            ~~[The]~~ (1) Except as provided in Subsection (2), the adoptive parent or parents and the  
117g            child being adopted shall appear before the appropriate court, and an agreement shall be  
117h            executed by the adoptive parent or parents stating that the child shall be adopted and treated  
117i            in all respects as his own lawful child.  
117j            (2) Except as provided in Subsection 78-30-1(2)(d), a court may waive the requirement  
117k            that the adoptive parent or parents and the child being adopted appear before the court if:  
117l            (a) the adoption is not contested; and  
117m            (b) all requirements of this chapter to obtain a final decree of adoption are otherwise  
117n            complied with." ←~~H~~

**Legislative Review Note**  
as of 12-21-06 8:09 AM

**Office of Legislative Research and General Counsel**

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**H.B. 92 - Adoption of an Adult Provisions**

**Fiscal Note**

2007 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**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.

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*1/15/2007, 4:50:13 PM, Lead Analyst: Byrne, D.*

**Office of the Legislative Fiscal Analyst**