

ADOPTION OF AN ADULT PROVISIONS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: John G. Mathis

Senate Sponsor: Kevin T. VanTassell

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:

This bill coordinates with H.B. 51 by providing substantive amendments.

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

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

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

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

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

37 (A) provide personal protection;

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

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

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

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

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

44 (b) Subject to this Subsection (2) and Subsection (3), any adult may be adopted by
45 another adult. ~~However, all~~

46 (c) The following provisions of this chapter apply to the adoption of an adult just as
47 though the person being adopted were a minor~~[-except that consent of the parents of an adult~~
48 person being adopted is not required.];

49 (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,
50 78-30-8.5, 78-30-8.6, 78-30-9, 78-30-10, 78-30-11, and 78-30-15;

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

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

57 (d) Before a court enters a final decree of adoption of an adult, the adoptee and the

58 adoptive parent or parents shall appear before the court presiding over the adoption
59 proceedings and execute consent to the adoption.

60 (e) No provision of this chapter, other than those listed or described in this Subsection
61 (2) or Subsection (3), apply to the adoption of an adult.

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

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

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

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

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

71 **78-30-1.2. Notice and consent for adoption of an adult.**

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

73 (i) the adult adoptee;

74 (ii) any person who is adopting the adult;

75 (iii) the spouse of a person adopting the adult; and

76 (iv) any legally appointed guardian or custodian of the adult adoptee.

77 (b) No person, other than a person described in Subsection (1)(a), may consent, or
78 withhold consent, to the adoption of an adult.

79 (2) (a) Except as provided in Subsection (2)(b), notice of a proceeding for the adoption
80 of an adult shall be served on each person described in Subsection (1)(a) and the spouse of the
81 adoptee.

82 (b) The notice described in Subsection (2)(a) may be waived, in writing, by the person
83 entitled to receive notice.

84 (3) The notice described in Subsection (2):

85 (a) shall be served at least 30 days before the day on which the adoption is finalized;

86 (b) shall specifically state that the person served must respond to the petition within 30
87 days of service if the person intends to intervene in the adoption proceeding;

88 (c) shall state the name of the person to be adopted;

89 (d) may not state the name of a person adopting the adoptee, unless the person
90 consents, in writing, to disclosure of the person's name;

91 (e) with regard to a person described in Subsection (1)(a):

92 (i) except as provided in Subsection (2)(b), shall be in accordance with the provisions
93 of the Utah Rules of Civil Procedure; and

94 (ii) may not be made by publication; and

95 (f) with regard to the spouse of the adoptee, may be made:

96 (i) in accordance with the provisions of the Utah Rules of Civil Procedure;

97 (ii) by certified mail, return receipt requested; or

98 (iii) by publication, posting, or other means if:

99 (A) the service described in Subsection (3)(f)(ii) cannot be completed after two
100 attempts; and

101 (B) the court issues an order providing for service by publication, posting, or other
102 means.

103 (4) Proof of service of the notice on each person to whom notice is required by this
104 section shall be filed with the court before the adoption is finalized.

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

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

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

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

113 (b) A person who fails to file the motion described in Subsection (5)(a) within the time

114 described in Subsection (5)(a)(i):

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

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

118 (6) Except as provided in Subsection (7), after a court enters a final decree of adoption
119 of an adult, the adult adoptee shall:

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

123 (b) file with the court proof of service of the notice described in Subsection (6)(a).

124 (7) A court may, based on a finding of good cause, waive the notification requirement
125 described in Subsection (6).

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

127 **78-30-15. Petition, report, and documents to be sealed -- Exceptions.**

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

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

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

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

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

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

140 Section 4. **Coordinating H.B. 92 with H.B. 51 -- Substantive amendments.**

141 If this H.B. 92 and H.B. 51, Adoption Amendments, both pass, it is the intent of the

142 Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah
143 Code database for publication by amending Section 78-30-8 to read as follows:

144 **"78-30-8. Final decree of adoption -- Agreement by adoptive parent or parents.**

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

149 (2) Except as provided in Subsection 78-30-1(2)(d), a court may waive the requirement
150 that the adoptive parent or parents and the child being adopted appear before the court if:

151 (a) the adoption is not contested; and

152 (b) all requirements of this chapter to obtain a final decree of adoption are otherwise
153 complied with."