

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

**ADOPTION AMENDMENTS**

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Timothy D. Hawkes**

Senate Sponsor: Todd Weiler

---

---

**LONG TITLE**

**General Description:**

This bill modifies language related to adoptions.

**Highlighted Provisions:**

This bill:

- ▶ clarifies language regarding when an adult may adopt a child if the adult has been convicted of, pleaded guilty to, or pleaded no contest to certain felonies; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**78B-6-117**, as last amended by Laws of Utah 2017, Chapter 400 and further amended by Revisor Instructions, Laws of Utah 2017, Chapter 400

---

---

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

Section 1. Section **78B-6-117** is amended to read:

**78B-6-117. Who may adopt -- Adoption of minor.**

(1) A minor child may be adopted by an adult person, in accordance with this section



28 and this part.

29 (2) A child may be adopted by:

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

32 (b) subject to Subsection (4), a single adult, except as provided in Subsection (3).

33 (3) A child may not be adopted by a person who is cohabiting in a relationship that is  
34 not a legally valid and binding marriage under the laws of this state.

35 (4) To provide a child who is in the custody of the division with the most beneficial  
36 family structure, when a child in the custody of the division is placed for adoption, the division  
37 or child-placing agency shall place the child with a man and a woman who are married to each  
38 other, unless:

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

40 (i) have applied to adopt a child;

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

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

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

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

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

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

49 (ii) the parent or former parent described in Subsection (4)(d)(i):

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

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

54 (e) it is in the best interests of the child to place the child with a single person.

55 (5) [~~Notwithstanding~~] Except as provided in Subsection (6), an adult may not adopt a  
56 child if, before adoption is finalized, the adult has been convicted of, pleaded guilty to, or  
57 pleaded no contest to a felony or attempted felony involving conduct that constitutes any of the  
58 following:

- 59 (a) child abuse, as described in Section 76-5-109;
- 60 (b) child abuse homicide, as described in Section 76-5-208;
- 61 (c) child kidnapping, as described in Section 76-5-301.1;
- 62 (d) human trafficking of a child, as described in Section 76-5-308.5;
- 63 (e) sexual abuse of a minor, as described in Section 76-5-401.1;
- 64 (f) rape of a child, as described in Section 76-5-402.1;
- 65 (g) object rape of a child, as described in Section 76-5-402.3;
- 66 (h) sodomy on a child, as described in Section 76-5-403.1;
- 67 (i) sexual abuse of a child or aggravated sexual abuse of a child, as described in
- 68 Section 76-5-404.1;
- 69 (j) sexual exploitation of a minor, as described in Section 76-5b-201; or
- 70 (k) an offense in another state that, if committed in this state, would constitute an
- 71 offense described in this Subsection (5).
- 72 (6) (a) For purpose of this Subsection (6), "disqualifying offense" means an offense
- 73 listed in Subsection (5) that prevents a court from considering a person for adoption of a child
- 74 except as provided in this Subsection (6).
- 75 (b) A person described in Subsection (5) may only be considered for adoption of a
- 76 child if the following criteria are met by clear and convincing evidence:
- 77 (i) at least 10 years have elapsed from the day on which the person is successfully
- 78 released from prison, jail, parole, or probation related to a disqualifying offense;
- 79 (ii) during the 10 years before the day on which the person files a petition with the
- 80 court seeking adoption, the person has not been convicted, pleaded guilty, or pleaded no
- 81 contest to an offense greater than an infraction or traffic violation that would likely impact the
- 82 health, safety, or well-being of the child;
- 83 (iii) the person can provide evidence of successful treatment or rehabilitation directly
- 84 related to the disqualifying offense;
- 85 (iv) the court determines that the risk related to the disqualifying offense is unlikely to
- 86 cause harm, as defined in Section 78A-6-105, or potential harm to the child currently or at any
- 87 time in the future when considering all of the following:
- 88 (A) the child's age;
- 89 (B) the child's gender;

- 90 (C) the child's development;
- 91 (D) the nature and seriousness of the disqualifying offense;
- 92 (E) the preferences of a child 12 years of age or older;
- 93 (F) any available assessments, including custody evaluations, homes studies,
- 94 pre-placement adoptive evaluations, parenting assessments, psychological or mental health
- 95 assessments, and bonding assessments; and
- 96 (G) any other relevant information;
- 97 (v) the person can provide evidence of all of the following:
- 98 (A) the relationship with the child is of long duration;
- 99 (B) that an emotional bond exists with the child; and
- 100 (C) that adoption by the person who has committed the disqualifying offense ensures
- 101 the best interests of the child are met; and
- 102 (vi) the adoption is by:
- 103 (A) a stepparent whose spouse is the adoptee's parent and consents to the adoption;
- 104 (B) subject to Subsection (6)(d), a relative of the child as defined in Section [78A-6-307](#)
- 105 and there is not another relative without a disqualifying offense filing an adoption petition.
- 106 (c) The person with the disqualifying offense bears the burden of proof regarding why
- 107 adoption with that person is in the best interest of the child over another responsible relative or
- 108 equally situated person who does not have a disqualifying offense.
- 109 (d) If there is an alternative responsible relative who does not have a disqualifying
- 110 offense filing an adoption petition, the following applies:
- 111 (i) preference for adoption shall be given to a relative who does not have a
- 112 disqualifying offense; and
- 113 (ii) before the court may grant adoption to the person who has the disqualifying offense
- 114 over another responsible, willing, and able relative:
- 115 (A) an impartial custody evaluation shall be completed; and
- 116 (B) a guardian ad litem shall be assigned.
- 117 (7) Subsections (5) and (6) apply to a case pending on March 25, 2017 for which a
- 118 final decision on adoption has not been made and to a case filed on or after March 25, 2017.

**Legislative Review Note**  
**Office of Legislative Research and General Counsel**