

Article 5.

Adoption of Adults.

§ 48-5-100. Application of Article.

This Article shall apply to the adoption of adults, including married and emancipated minors. (1995, c. 457, s. 2.)

§ 48-5-101. Who may file for a petition to adopt an adult.

(a) An adult may adopt another adult, except for the spouse of the adopting adult, pursuant to this Article.

(b) If a prospective adoptive parent is married, both spouses must join in the petition unless the prospective adoptive parent is the adoptee's stepparent or unless the court waives this requirement for cause. (1967, c. 880, s. 3; 1969, c. 21, ss. 3-6; 1971, c. 1231, s. 1; 1973, c. 849, s. 3; 1975, c. 91; 1981, c. 657; 1989, c. 208; c. 727, s. 219(4); 1993, c. 553, s. 14; 1995, c. 457, s. 2.)

§ 48-5-102. Consent to adoption.

(a) Consent to the adoption of an adult is required only of:

- (1) The adult being adopted; and
- (2) The spouse of the petitioner in an adoption by the adult's stepparent, unless the court waives this requirement for cause.

(b) The consent of the adult being adopted must:

- (1) Be in writing and be signed and acknowledged before an individual authorized to administer oaths or take acknowledgments;
- (2) State that the adult agrees to assume toward the adoptive parent the legal relation of parent and child and to have all of the rights and be subject to all of the duties of that relationship; and
- (3) State that the adult understands the consequences the adoption may have for rights of inheritance, property, or support, including the loss of nonvested inheritance rights which existed prior to the adoption and the acquisition of new inheritance rights.

(c) The consent of the spouse of the petitioner in a stepparent adoption:

- (1) Must be in writing and be signed and acknowledged before an individual authorized to administer oaths or take acknowledgments; and
- (2) Must state that the spouse:
 - a. Consents to the proposed adoption;
 - b. Understands that the adoption may diminish the amount the spouse might take from the petitioner through intestate succession or by dissenting to the petitioner's will and may also diminish the amount of other entitlements that may become due the spouse and any other children of the petitioner through the petitioner; and
 - c. Believes the adoption will be in the best interest of the adult being adopted and the prospective adoptive parent.

(d) Anyone who gives a consent under this Article may revoke the consent at any time before the entry of the decree of adoption by delivering a written notice of revocation to the individual to whom the consent was given. If a petition to adopt has been filed, the notice of revocation shall also be filed with the clerk of court in the county where the petition is pending.

(1967, c. 880, s. 3; 1969, c. 21, ss. 3-6; 1971, c. 1231, s. 1; 1973, c. 849, s. 3; 1975, c. 91; 1981, c. 657; 1989, c. 208; c. 727, s. 219(4); 1993, c. 553, s. 14; 1995, c. 457, s. 2.)

§ 48-5-103. Adoption of incompetent adults.

(a) If an adult being adopted has been adjudicated incompetent, then that adult's guardian shall have authority to consent in place of that adult.

(b) The consent of the guardian must:

- (1) Be in writing and signed and acknowledged before an individual authorized to administer oaths or take acknowledgments;
- (2) State that the guardian understands that the adoption will terminate the legal relationship of parent and child between the adult being adopted and the adult's former parents, including all rights of the adult to inherit as a child from or through the former parents, unless the adoption is by a stepparent, in which case the adoption will terminate the legal relationship of parent and child between the adult and the parent who is not married to the stepparent but will have no effect on the relationship between the adult and the parent who is married to the stepparent;
- (3) State that the guardian understands that the adoption will create the legal relationship of parent and child between the adult and the petitioner, including the right of inheritance by, from, and through each other;
- (4) State that the guardian consents to the proposed adoption and believes the adoption will be in the best interest of the adult; and
- (5) State that the guardian understands that the adoption will not terminate the guardian's rights, duties, and powers.

(c) In any adoption of an adult who has been adjudicated incompetent, the court shall appoint a guardian ad litem other than the guardian to investigate and report to the court on the proposed adoption. (1995, c. 457, s. 2.)