

LEGISLATIVE BILL 510

Approved by the Governor January 31, 1984

Introduced by Beutler, 28

AN ACT relating to adoption; to amend sections 43-101 and 43-109, Reissue Revised Statutes of Nebraska, 1943, and sections 43-102 and 43-104, Revised Statutes Supplement, 1983; to allow the adoption of certain adults; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 43-101, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

43-101. Any minor child may be adopted by any adult person or persons and any adult child may be adopted by the spouse of such child's parent in the cases and subject to the rules prescribed in sections 43-101 to 43-115, except that no person having a husband or wife may adopt a minor child unless the said husband or wife joins in the petition therefor. If the husband or wife so joins in the petition therefor, the adoption shall be by them jointly; PROVIDED, HOWEVER, an adult husband or wife may adopt a child of the other spouse whether born in or out of wedlock.

Sec. 2. That section 43-102, Revised Statutes Supplement, 1983, be amended to read as follows:

43-102. Any person or persons, desiring to adopt a minor child or an adult child of such person's spouse, shall file in the county court of the county in which the person or persons desiring to adopt such child reside, a petition for adoption, signed and sworn to by the person or persons desiring to adopt, together with the consent or consents required by section 43-104 or 43-104.07, and the certificates required by sections 43-104.02 to 43-104.06 or the documents required by section 43-104.07.

Sec. 3. That section 43-104, Revised Statutes Supplement, 1983, be amended to read as follows:

43-104. No adoption shall be decreed unless the petition therefor is accompanied by written consents thereto executed by (1) the minor child, if over fourteen years of age, or the adult child of the adopting person's spouse, (2) any district court or separate juvenile court in the State of Nebraska having jurisdiction of the custody of a minor child by virtue of divorce proceedings had in any district court or separate juvenile court in the State of Nebraska, and (3) both parents, if living; the surviving parent of a child born in lawful wedlock; or, subject to

the provisions of sections 43-104.02 to 43-104.06, the mother of a child born out of wedlock; except that consent shall not be required of any parent who shall (a) have relinquished the child for adoption by a written instrument; (b) have abandoned the child for at least six months next preceding the filing of the adoption petition; (c) have been deprived of his or her parental rights to such child by the order of any court of competent jurisdiction, or prior to July 13, 1967, have been deprived of the custody of such child by an order of any juvenile court of competent jurisdiction by reason of such child having been declared a dependent or neglected child, within the provisions of sections 43-201 to 43-227; or (d) be incapable of consenting.

Sec. 4. That section 43-109, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

43-109. (1) If, upon the hearing, the court shall find that such adoption is for the best interests of such minor child or such adult child of the adopting person's spouse, a decree of adoption shall be entered; PROVIDED, HOWEVER, no decree of adoption shall be entered unless it shall appear that the child has resided with the person or persons petitioning for such adoption for at least six months next preceding the entering of the decree of adoption.

(2) If the adopted child was born out of wedlock, that fact shall not appear in the decree of adoption.

(3) The court may decree such change of name for the adopted child as the petitioner or petitioners may request.

Sec. 5. That original sections 43-101 and 43-109, Reissue Revised Statutes of Nebraska, 1943, and sections 43-102 and 43-104, Revised Statutes Supplement, 1983, are repealed.