

# GENERAL STATUTES

OF THE

STATE OF MINNESOTA,

IN FORCE JANUARY, 1891.

VOL. 2.

CONTAINING ALL THE LAW OF A GENERAL NATURE NOW IN FORCE AND NOT IN  
VOL. 1, THE SAME BEING THE CODE OF CIVIL PROCEDURE AND ALL REME-  
DIAL LAW, THE PROBATE CODE, THE PENAL CODE AND THE CRIM-  
INAL PROCEDURE, THE CONSTITUTIONS AND ORGANIC ACTS.

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CHAPTER 47.

ADOPTION OF CHILDREN.

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SEC. 3926. **Petition for.**— Any inhabitant of this state may petition the district court, in the county of his residence, for leave to adopt a child not his own, and, if desired, for a change of the child's name; but the prayer of such petition, by a person having a husband or wife, shall not be granted unless the husband or wife joins therein.

1876, ch. 91, § 1: "An act providing for the adoption of children." Approved February 26, 1876.

SEC. 3927. **Consent.**— No such adoption shall be permitted without the consent of such of the parents of the child as may be living, unless it shall appear to the court that either of the parents has abandoned the child, or gone to parts unknown, \* or that either parent is, by reason of having been declared insane, incapacitated from giving such consent, or that the parents of the child have been divorced, and the care and custody of the child has been by judgment of the court granting such divorce, awarded to one of the parents; in which case, such consent may be given by the parent, if any, having the charge and care of the child.\* In case neither of the parents is living, or if both parents have been declared insane, or if both parents or the only living parent shall have abandoned the child, such consent may be given by the guardian, if such child has any; and if there be no guardian, such consent may be given by any of the next of kin of such child residing in this state; and if there be no next of kin residing in this state, or if such next of kin be unknown, such consent may be given by the chairman of the board of county commissioners of the county where the petition is made. In case of a child not born in lawful wedlock, such consent may be given by the mother alone, if she is living and has not abandoned such child.

1876, ch. 91, § 2, as amended 1889, ch. 127. Approved February 14, 1876. Amendment between \*\*.

SEC. 3928. **Same — Of child.**— If the child is of the age of fourteen years or upward, the adoption shall not be made without his consent.

1876, ch. 91, § 3.

SEC. 3929. **Notice of hearing.**— If such child has no parent living, or has been abandoned by its parents, and has no guardian nor next of kin in this state, or if his next of kin, if any, are unknown, the court shall, before hearing the petition, order notice of such hearing and of the time and place thereof, as fixed by the court, to be given by publication thereof in some newspaper of general circulation, published in the county where such petition is presented, at least once in each week for three successive weeks, the last publication to be at least ten days before the time fixed for the hearing. If there be no newspaper published in such county, then the notice may be published, as aforesaid, in some newspaper published at the capital of the state.

1876, ch. 91, § 4.

SEC. 3930. **Hearing — Decree.**— If upon the hearing of the petition so presented and consented unto as aforesaid, the court shall be satisfied of the

identity and relations of the persons concerned, and that the petitioner is, or in case of husband and wife, that the petitioners are, of sufficient ability to bring up the child, and to furnish him suitable nurture and education, and that it is fit and proper that the petition for leave to adopt such child be granted, a decree shall be made setting forth the facts, and ordering that from and after the date of the decree the child shall be deemed and taken to be the child of the petitioner or petitioners, and the court may, if desired, in and by the same decree, change the name of such child.

1876, ch. 91, § 5.

**SEC. 3931. Status of adopted child.**— A child so adopted as aforesaid shall be deemed, as respects all legal consequences and incidents of the natural relation of parent and child, the child of such parent or parents by adoption, the same as if he had been born to them in lawful wedlock; except that such adoption shall not, in itself, constitute such child the heir of such parent or parents by adoption.

1876, ch. 91, § 6.

**SEC. 3932. Same.**— The natural parents of such child shall be deprived by the decree aforesaid of all legal rights respecting the child, and such child shall be free from all obligations of maintenance and obedience respecting his natural parents.

1876, ch. 91, § 7.

**SEC. 3933. Descent of property.**— In case any person heretofore or hereafter adopted either according to the provisions of this chapter or in any other lawful manner, shall die intestate, his property, acquired by himself or by gift from his adopting parent, shall be distributed according to the provisions of the laws in force at the time of decease of such intestate, relating to the title of real property by descent and the distribution of personal estate among the persons who would have been his kindred if he had been born to his adopting parent in lawful wedlock; and property received by gift or inheritance from his natural parents or kindred shall be distributed in the same manner as if no act of adoption had taken place, such distribution to be ascertained in such manner as the court may decree. No person shall, by being adopted, lose his right to inherit from his natural parents or kindred.

1885, ch. 75, approved March 9th, which amended acts 1876, ch. 91, by adding the foregoing section.

**SEC. 3934. Term child defined.**— The term child, or its equivalent, in a grant, trust settlement, devise, or bequest, shall be held to include a child adopted by the settler, grantor or testator, unless the contrary plainly appears by the terms of the instrument; but when the settler, grantor or testator is not himself the adopting parent, the child by adoption shall not have, under such an instrument, the rights of a child born in lawful wedlock to the adopting parent, unless it plainly appears to have been the intention of the settler, grantor or testator to include an adopted child.

1885, ch. 75, approved March 9th, which amended acts 1876, ch. 91, by adding the foregoing section.