Washington University Law Review

Volume 1958 | Issue 1

January 1958

Ability of Legatee-Husband to Adopt Wife to Bring Her Within Terms of Will

NOTES

ABILITY OF LEGATEE-HUSBAND TO ADOPT WIFE TO BRING HER WITHIN TERMS OF WILL

In her will creating a testamentary trust a mother directed that one half of the trust corpus should be paid to her son during his life, remainder to the son's "heirs at law" according to the law of descent and distribution in force at the time of his death, but if he had no "heirs at law" the property was to pass to certain designated institutions. The son died without children of his own, but at age fifty-eight had adopted his forty-five year old wife to bring her within the term "heir at law." The circuit court upheld the adoption, thus permitting the "wife-daughter" to inherit. The court of appeals, reviewing the statute which provided for the adoption of "any person," rejected the contention that the relationship created violated public policy and affirmed the circuit court's decision.[1]

Adoption was not known to the common law[2] and has arisen in the United States only where there has been statutory authority.[3] Massa-

1. Bedinger v. Graybill's Executor & Trustee, 302 S.W.2d 594 (Ky. 1957). The Kentucky statutes of inheritance give the net personal estate of a male decedent to his child and widow proportionately. If there is no child or other relative capable of taking under the statutes, his widow nevertheless receives only a half share. Ky. Rev. Stat. §§ 391.030, 392.020 (1956). Thus, had there been no adoption in the principal case, the son's widow would have taken as an "heir at law" only one half of the trust remainder, and under the terms of the will the other one half of the remainder would have gone to the designated institutions. The effect of the adoption was to make the wife an heir at law not only as a widow but also as a child, thereby entitling her to the entire remainder of the estate.

2. This fact has been stated by numerous authorities. See, e.g., In re Thornes's Estate, 155 N.Y. 140, 49 N.E. 661 (1898); Madden, Domestic Relations 355 (1931). This was undoubtedly brought about by the inordinately high regard that the English had for relationship by consanguinity. Huard, The Law of Adoption: Ancient and Modern, 9 Vand. L. Rev. 743, 745 (1956). It should be noted, however, that adoption is not a creature of modern society; it was known to the Romans and Athenians, and was even recognized in the Old Testament. Thus, when Joseph went to visit his father Jacob in the land of Goshen, he brought with him his two Egyptian sons, whom Jacob subsequently adopted. Genesis, 41: 50-52. Approximately 2,000 years prior to the birth of Christ the following statement was made in the Code of Hammurabi: "If a man take a child in his name, adopt and rear him as a son, this grown up son may not be demanded back." Huard, op. cit. supra at 744. For an excellent and comprehensive history of adoption, see Hockaday v. Lynn, 200 Mo. 456, 98 S.W. 585 (1906).

3. In re Thompson's Adoption, 290 Pa. 586, 139 Atl. 737 (1927). There seems to be little question that the adoption laws in this country were derived largely

chusetts,[4] generally accredited with having enacted the first adoption statute in this country, declared as its primary purpose furtherance of the general welfare of the child. But other states such as Texas[5] and Alabama,[6] whose statutes were enacted approximately at the same time, specified as their primary purpose the creation of legal heirs.[7] This differentiation in purpose—the general welfare of the child as opposed to the creation of heirs—is undoubtedly the basis for a great deal of the disparity between the adoption statutes in this country today.[8]

The principal case raises three important problems concerning adoption which, because of the above disparity, can be resolved only by examining the different types of adoption statutes. The problems may be stated as follows: (1) May an adult be adopted? (2) What effect, if any, will marriage-prohibitory and incest statutes have in determining whether a wife may be adopted by her husband? (3) Is an adult wife, who has been adopted by her husband, to be included in a will of one other than the adopter when the will provides for distribution to "heirs at law" of the adopter?

The problem whether adults may be adopted can best be analyzed by looking at the interpretations that have been reached under differently worded statutes.[9] Generally the statutes can be divided into four classes:[10] (1) statutes which specifically provide that only "minor children" may be adopted; (2) statutes which specifically provide that both "minors" and "adults" may be adopted; (3) statutes which provide for the adoption of "any person" but make no specific reference to the adoption of adults; and (4) statutes which make no specific

---

from Roman civil law. See Brosman, The Law of Adoption, 22 Col. L. Rev. 332 (1922).

4. Mass. Acts & Resolves c. 324 (1851).

5. Tex. Gen. Stat. Law 33 (1859).

6. Ala. Code § 385 (1852).

7. The sole purpose of Roman adoption was to perpetuate the family by the creation of heirs. The Texas and Alabama statutes were thus patterned closely after the Roman civil law. See Fairley, Inheritance Rights Consequent To Adoptions, 29 N.C.L. Rev. 227, 228 (1951); Kuhlman, Intestate Succession By And From The Adopted Child, 28 Wash. U.L.Q. 221, 222 (1943).

8. See Kuhlman, supra note 7, at 224-25.

9. Many cases that will subsequently be cited in this note to illustrate various interpretations reached under diversely phrased statutes were decided under statutes that are now superseded. Reference to these cases, however, should be helpful for understanding the problems in jurisdictions which presently have statutes worded the same as or similar to those under which the cases were decided. A reference to the chart, set out in an appendix at notes 47-95 infra, should prove of assistance in determining the phraseology presently used in the statute of any particular state.

10. See chart supported by notes 47-95 infra.

provision concerning the adoptability of adults but provide for the adoption of a "child" or "children."

If the designation in the statute provides only for the adoption of a minor child, it is manifest that an adult may not be adopted.[11] It is also very clear from the wording of the second[12] and third[13] groups that adults and minors both may be adopted. The fourth category is the one that has generally caused confusion. Regarding this group the majority of courts have taken the view that the word "child," rather than connoting a filial relationship, is used in contrast to the word "parent" and thus includes an adult.[14] A few courts, however, have taken the position that the word "child" should be given its literal meaning and that adults are thereby excluded.[15]

It is submitted that the statutes which allow the adoption only of minor children, as did the early Massachusetts statute, must have as their underlying justification the creation of a family relationship; otherwise, the exclusion of adults would as a rule be meaningless. Conversely, statutes which permit the adoption of adults must contemplate the creation of heirs as one purpose of the statute, for otherwise there would generally be no point in authorizing adoption of adults.[16]

The second problem which must be considered is whether the relationship created by a husband adopting his wife as a daughter offends public policy.[17] This contention, strongly urged by the defense in the

11. McCollister v. Yard, 90 Iowa 621, 57 N.W. 447 (1894).

12. Succession of Caldwell, 114 La. 195, 38 So. 140 (1905).

13. The statutory intent in these types of statutes has generally been so apparent that there has been very little litigation concerning them.

14. See, e.g., Sheffield v. Franklin, 151 Ala. 492, 44 So. 373 (1907); State ex rel. Buerk v. Calhoun, 330 Mo. 1172, 52 S.W.2d 742 (1932).

15. First Nat'l Bank v. Mott, 101 Fla. 1224, 133 So. 78 (1931); Williams v. Knight, 18 R.I. 333, 27 Atl. 210 (1893).

16. The fact that some states permit the adoption of adults has led to some bizarre results. For example, in one case a 70 year old man was allowed to adopt three other men whose ages were 43, 39, and 25. Collamore v. Learned, 171 Mass. 99, 50 N.E. 518 (1898). In another case a bachelor was allowed to adopt his married stenographer. Greene v. Fitzpatrick, 220 Ky. 590, 295 S.W. 896 (1927). However, the adoption of an adult wife by her husband is most unusual, if not unique to the Bedinger case.

17. The words "public policy" are not easy to define with precision. Generally, the courts have described public policy as that principle of law declaring that one shall not do what is injurious to the public or the public good, even though his acts are not strictly illegal. Dille v. St. Luke's Hospital, 355 Mo. 436, 196 S.W.2d 615 (1946). An excellent definition is found in Black's Law Dictionary (4th ed. 1951), where it is said:

> The term "policy," as applied to a . . . rule of law . . . refers to its probable effect, tendency or object, considered with reference to the social or political well-being of the state. Thus certain classes of acts

principal case,[18] was based on the implication that the marriage was incestuous.[19] The court refuted this argument by stating that Kentucky incest and marriage-prohibitory statutes apply only to marriage and fornication among *blood* relatives.[20] What would be the result, however, if an adoption such as that consummated in the principal case should be undertaken in a jurisdiction where marriage-prohibitory or incest statutes are held applicable to all relatives—blood or otherwise?

Although many jurisdictions provide for the inclusion of non-blood relatives, such as stepchildren and daughters-in-law, within the terms of their marriage-prohibitory and incest statutes,[21] there is very little

---

are said to be "against public policy," when the law refuses to enforce or recognize them, on the ground that they have a mischievous tendency, so as to be injurious to the interests of the state, apart from illegality or immorality.

Public policy is primarily determined by the legislature. 12 Am. Jur., Contracts § 171 (1938). However, when the legislature has not spoken, the courts may determine public policy whenever the need arises. Reed v. Jackson County, 346 Mo. 720, 142 S.W.2d 862 (1940). See also Winfield, Public Policy in the English Common Law, 42 Harv. L. Rev. 76 (1928).

18. 302 S.W.2d at 600.

19. Ibid.

20. Ibid. Cf. Burdue v. Commonwealth, 144 Ky. 428, 138 S.W. 296 (1911).

21. Marriage-prohibitory statutes declare what marriages are to be void or voidable, but usually do not include any criminal penalties. For example, a marriage-prohibitory statute of Maryland reads as follows:

> A man shall not marry: His grandmother, His grandfather's wife, His wife's grandmother, His father's sister, His mother's sister, His mother, His stepmother, His wife's mother, His daughter, His wife's daughter, His son's wife, His sister, His son's daughter, His daughter's daughter, His son's son's wife, His daughter's son's wife, His wife's son's daughter, His wife's daughter's daughter, His brother's daughter, His sister's daughter.

Md. Ann. Code Gen. Laws art. 62, § 2 (1951).

Incest statutes provide criminal sanctions against marriage or fornication between certain designated relatives. For example, the Maryland incest statute reads as follows:

> Every person who shall knowingly have carnal knowledge of another person, *being within the degrees of consanguinity* within which marriages are prohibited by law in this State, shall be deemed guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the penitentiary for a term not less than one nor more than ten years, in the discretion of the court.

Md. Ann. Code Gen. Laws art. 27, § 401 (1951). (Emphasis added.)

It should be noted that not all marriages forbidden by the marriage-prohibitory statutes are deemed incestuous. Thus, according to the Maryland incest statute it is only those marriages proscribed by the marriage-prohibitory statute *and between parties having a blood relationship* that are deemed criminal.

authority whether an adopted child can be so included.[22] In one Mississippi case, where the statute prohibited marriage to a "daughter" or "stepdaughter," the court held that an adopted child was not encompassed by the statute.[23] However, in an early California case the court used "stepdaughter" and "adopted daughter" in the same clause,[24] implying that had the applicable statute encompassed a stepdaughter it would have also included an adopted daughter. Sociologists have long advocated that legislatures and courts broaden their adoption statutes by express legislation or by more liberal interpretation of present statutes.[25] They would desire to have a "complete assimilation" of the adoptee into the adopting family.[26] "Complete assimilation" would entail treating the adopted child exactly the same as a natural child, thus bringing the adopted child within the marriage-prohibitory and incest statutes.

It should be noted that the "complete assimilation" theory of the sociologists presupposes that the primary purpose of adotion is to foster the general welfare of the child. However, as has been demonstrated above in the discussion on adoption of adults, the primary purpose of adoption may be the creation of heirs.[27] This is especially true in the principal case, where the situation was not one where a father married his adopted daughter but one where a man, already married, adopted his wife. In such a situation it is clear that the adoption is primarily if not solely for inheritance purposes, so that regardless of what position is taken on the "complete assimilation" doctrine, it is unrealistic to label this type of marriage incestuous.

It is submitted that even if an adopted child is included within the incest or marriage-prohibitory statutes by express legislation or judicial interpretation, the criminal sanctions imposed by these statutes

---

22. See Annot., 151 A.L.R. 1146 (1944).

23. State v. Lee, 196 Miss. 311, 17 So. 2d 277 (1944).

24. People v. Kaiser, 119 Cal. 456, 457, 51 Pac. 702, 703 (1897).

25. See Kuhlman, supra note 7, at 245, 248; Merrill, Toward Uniformity in Adoption Law, 40 Iowa L. Rev. 299, 300 (1955); Newbold, Jurisdictional and Social Aspects of Adoption, 11 Minn. L. Rev. 605 (1927).

26. The Uniform Adoption Act, § 12(2), comes very close to providing for a "complete assimilation" of the adoptee into the adopting family.

27. See text supported by notes 2-8 supra.

An example illustrating the consequences of failing to distinguish between the two purposes of adoption statutes is found in Missouri. The Missouri statute, attempting to effect a complete assimilation of the child into the adopting family, provides that an adopted child shall be considered an "heir of the body." Under this statute an adult adopted strictly for inheritance purposes would be deemed an "heir of the body." See Mo. Rev. Stat. § 453.090 (1949). Had more consideration been given to the dual purpose of adoption statutes, this provision of the Missouri statute might well have been drafted to apply only to minor children.

will not be enforced when the purpose of the adoption is, as in the *Bedinger* case, solely for creation of heirs. It is also submitted, however, that once an adopted child is held includible within the incest statutes the court will seize this opportunity to nullify the type of relationship created in the principal case on the ground that it offends public policy—even though the relationship's sole purpose is clearly to establish inheritance rights. The reason courts will be anxious to declare that an adoption of a wife by her husband contravenes public policy is not only because it allows the adopter to defeat the testator's intent but because it invites conflicts with other types of laws, such as those of descent.[28] For example, will a wife adopted as a daughter by her husband take a widow's share, a child's share, or both, in the estate of her husband-father? Consider also that many inheritance statutes expressly or impliedly provide that an adoptee shall not inherit from his natural parents.[29] Does this provision mean that a daughter-wife loses the right to take from her natural parents, or will she in her dual capacity be treated as two separate entities and be able to claim, on the one hand, as both daughter and wife of her husband-father, and on the other hand, as the daughter of her natural parents?

With the above discussion in mind, the chart appearing in an appendix beginning on page 106 should be a useful guide in determining the probabilities of a wife being adopted by her husband in a particular state. The basic premise upon which the chart is based is that those states whose marriage-prohibitory and incest statutes presently contain provisions prohibiting marriage or fornication between certain *non-blood relatives* will be the first willing to bring an adopted child within these statutes. The use of the chart may be illustrated as follows: if, as in Alabama,[30] adoption is limited to minor children, an adult wife may not be adopted; if, as in Connecticut,[31] an adult can be adopted but there is a specific prohibition against adopting a wife, an adult wife may not be adopted; if, as in Iowa,[32] an adult may be adopted and there is no express statutory prohibition against adopting a wife, but both the marriage-prohibitory and incest statutes include non-blood relatives within their terms, the adoption of an adult wife will probably be declared against public policy; if, as in Maryland[33] or Indiana,[34] there is no express statutory prohibition against the adoption of an adult wife, but either the marriage-prohibitory or the incest

28. This was clearly pointed out by the dissenting opinion in the principal case. See 302 S.W.2d at 601.

29. See, e.g., Mo. Rev. Stat. § 453.090 (1949).

30. See chart supported by note 47 infra.

31. See chart supported by note 52 infra.

32. See chart supported by note 60 infra.

33. See chart supported by note 65 infra.

34. See chart supported by note 59 infra.

statute proscribes marriages between non-blood relatives, it is still probable that the adoption of a wife by her husband will be declared against public policy; if, as in Kentucky,[35] there is no express prohibition against the adoption of an adult wife and neither the marriage-prohibitory nor incest statute prohibits marriage or fornication between non-blood relatives, then, as was seen in the principal case, it is distinctly possible that adoption of an adult wife by her husband will be sustained.

Whether an adoptee should be included in the will of a person other than the adopter[36] when the terms of distribution used are "children," "issue," "heirs at law," or words of similar import, is not a new problem.[37] Provisions for the right of an adoptee to inherit from his adopter are found in every jurisdiction.[38] However, the right of an adopted child to take under the will of one other than the adopter does not necessarily concern the child's right to inherit, but comprises a question of the intent of the testator.[39] If a child is adopted before execution of the will it is presumed that the testator intended to include the adoptee unless specific words of exclusion show otherwise.[40] Similarly, when a child is adopted after the will is executed but before the testator's death, it will be presumed that the testator intended to include the adopted child in the will; otherwise, he would have changed the will specifically to exclude the adoptee.[41] However, when the adoption occurs after the testator's death, as in the *Bedinger* case, courts have had more difficulty. In this last type of situation the

35. See chart supported by note 62 infra.

36. Whether an adult wife adopted by her husband would be includible as a "child" in the husband's own bequest to his children is not considered in this note, because a man generally would not adopt his wife to leave property to her as a "child" when he could much more easily change his will to include her specifically as his wife. It is conceivable, however, that a husband might want to adopt his wife when there is a possibility that his will naming his wife as sole beneficiary might be contested. For example, the laws of intestacy of a particular jurisdiction might provide that a widow takes a half share and a surviving child takes the remaining half share. Without any adoption, the testator's widow would take only a half share if the will was successfully contested, but if she were also an adopted "child" the contestants would have to upset a collateral court decree before they could benefit from breaking the will. It would appear in this type of situation, however, that a testator could just as easily create an inter vivos trust to accomplish his purpose instead of resorting to more complicated adoption procedures.

37. See Annot., 144 A.L.R. 670 (1943).

38. Vernier, 4 American Family Laws § 262 (1936).

39. Brock v. Dorman, 339 Mo. 611, 98 S.W.2d 672 (1936).

40. In re McEvan, 128 N.J. Eq. 140, 15 A.2d 340 (1940); In re Horn's Will, 256 N.Y. 294, 176 N.E. 399 (1931).

41. Beck v. Dickinson, 99 Ind. App. 463, 192 N.E. 899 (1934).

weight of authority holds that an adopted child is not includible within the terms "children" or "issue" when used in a will of a person other than the adopter, because these words connote a blood relationship.[42] If an adopted *child* is not included within the terms "children" or "issue," it is clear that an adopted *adult* or an adopted *adult wife* also will not be included.

In most jurisdictions courts will presume that a testator using the words "heirs" or "heirs at law" intended them to be interpreted by reference to the state's descent and distribution statutes, unless he manifested a contrary intent.[43] This presumption may also include adopted children within the meaning of the words "heirs" or "heirs at law," for as was observed before, every jurisdiction provides that an adoptee is an "heir" of his adopting parent.[44] Quite understandably, then, the presumption that a testator intended the adopted child of a legatee to inherit as an "heir at law" will be stronger if, as in the *Bedinger* case, the testator expressly provided that "heirs" should be determined according to the descent and distribution statutes in force at the time of the legatee's death.[45] Although the foregoing are ostensibly the main criteria that courts use to determine the testator's intent when a limitation such as "heir" or "heir at law" is used, many courts find it easier to allow an adoptee to take under the will of one other than the adopter when the adoption statute provides that the adoptee can take *through* as well as *from* his adopter.[46] It is submitted that courts in jurisdictions whose statutes do not expressly allow the adoptee to inherit *through* his adopter will use this omision as a handy peg should they decide to exclude an adoptee wife-daughter as outside the testator's intent.

In conclusion, it appears that Kentucky is an ideal state for the situation of a husband adopting his wife to arise, because the Kentucky statutes are particularly amenable to permitting such a relation-

42. See, e.g., Leeper v. Leeper, 347 Mo. 442, 147 S.W.2d 660 (1941); Parker v. Carpenter, 77 N.H. 453, 92 Atl. 955 (1915); In re Puterbaugh's Estate, 261 Pa. 235, 104 Atl. 601 (1918). But see the present Missouri statute which includes an adopted child within the term "heir of the body." Mo. Rev. Stat. § 453.090 (1949).

43. Casner, Construction of Gifts to "Heirs" and the Like, 53 Harv. L. Rev. 207, 209 (1939). It is there pointed out that this presumption by courts is necessary, since nowadays the words "heirs" and "heirs at law" have only that meaning which the legislature ascribes to them.

44. See note 38 supra.

45. Kemp v. New York Produce Exchange, 34 App. Div. 175, 54 N.Y. Supp. 678 (2d Dep't. 1898); In re Bate's Will, 173 Misc. 703, 19 N.Y.S.2d 64 (Surr. Ct. 1940).

46. In re Estate of Clarke, 125 Neb. 625, 251 N.W. 279 (1933). Compare Copeland v. State Bank & Trust Co., 300 Ky. 432, 188 S.W.2d 1017 (1945), with principal case.

ship. Variances from the pattern of the Kentucky statutes, however, may give rise to a different result, especially because most courts will be anxious to avoid the conflicts that might arise between adoption statutes and other laws, such as those of descent. Courts also will be hesitant to allow the adopter to create artificial relationships tending to frustrate the intent of the testator. Therefore, it is suggested that in the future, courts faced with this problem, avoid the result of the principal case, on the premise that it offends public policy.

SUMMARY OF STATUTORY PROVISIONS FOR USE IN DETERMINING WHETHER A WIFE MAY BE ADOPTED BY HER HUSBAND IN A PARTICULAR STATE

State	Statutory Wording As To Who May Be Adopted	Persons Included	Prohibits Adoption Of Certain Relatives	Prohibits Marriage Between Certain Relatives Other Than Those Related By Blood	Designates As Incestuous Fornication Between Certain Relatives Other Than Those Related By Blood
Alabama	"minor child"	minor child	no	yes	yes[47]
Arizona	"minor child"	minor child	no	no	no[48]
Arkansas	"any person of full age"	minor child and adult	no	no	no[49]
California	"any minor child" or "any younger adult person"	minor child and adult	cannot be adopter's spouse	no	no[50]
Colorado	"any person, minor or adult"	minor child and adult	no	no	no[51]
Connecticut	"any minor child" or "any person of full age" younger than adopter	minor child and adult	adoptee cannot be wife, husband, brother, sister, uncle or aunt of the whole or half blood of adopter	yes	yes[52]
Delaware	"a minor child or children"	minor child and adult	may not be natural children of adopter	yes	yes[53]
District of Columbia	"any person, whether a minor or an adult"	minor child and adult	no	yes	no[54]
Florida	"minor children" and "adult"	minor child and adult	no	no	no[55]
Georgia	"child" and "adult person"	minor child and adult	no	yes	yes[56]
Idaho	"minor child"	minor child	no	no	no[57]
Illinois	"minor child"	minor child	no	no	no[58]
Indiana	"any person under twenty-one" and "any person over twenty-one"	minor child and adult	no	no	yes[59]
Iowa	"child" or "adult"	minor child and adult	cannot be child of adopter	yes	yes[60]
Kansas	"any adult" or "minor"	minor child and adult	no	no	no[61]
Kentucky	"child" or "adult"	minor child and adult	no	no	no[62]
Louisiana	"any child" under seventeen, and "any person" over seventeen	minor child and adult	no	no	no[63]

SUMMARY OF STATUTORY PROVISIONS FOR USE IN DETERMINING WHETHER A WIFE MAY BE ADOPTED BY HER HUSBAND IN A PARTICULAR STATE

State	Statutory Wording As To Who May Be Adopted	Persons Included	Prohibits Adoption Of Certain Relatives	Prohibits Marriage Between Certain Relatives Other Than Those Related By Blood	Designates As Incestuous Fornication Between Certain Relatives Other Than Those Related By Blood
Maine	"person regardless of age"	minor child and adult	no	yes	yes[64]
Maryland	"minor or an adult"	minor child and adult	no	yes	no[65]
Massachusetts	"may adopt as his child another person younger than himself"	minor child and adult	adoptee may not be husband, or wife or sister or brother, uncle or aunt, of the whole or half blood of the adopter	yes	no[66]
Michigan	"any minor child"	minor child	no	yes	no[67]
Minnesota	"child or an adult"	minor child and adult	no	no	no[68]
Mississippi	"any person"	minor child and adult	no	yes	yes[69]
Missouri	person may adopt "another person" as his child	minor child and adult	no	no	no[70]
Montana	"any child" or "adult"	minor child and adult	no	no	no[71]
Nebraska	"minor child"	minor child	no	no	no[72]
Nevada	"minor child"	minor child	no	no	no[73]
New Hampshire	"minor child" or "any person" of full age	minor child and adult	adult must not be wife, husband, sister or brother, uncle or aunt of the whole or half blood	yes	yes[74]
New Jersey	"child" or "adult"	minor child and adult	no	no	no[75]
New Mexico	"minor child" or "any unmarried adult person"	minor child and adult	adoptee may not be married	no	no[76]
New York	"another person"	minor child and adult	no	no	no[77]
North Carolina	"minor child"	minor child	no	no	no[78]
North Dakota	"person of any age"	minor child and adult	no	no	no[79]
Ohio	"child"	minor child	no	no	no[80]

SUMMARY OF STATUTORY PROVISIONS FOR USE IN DETERMINING WHETHER A WIFE MAY BE ADOPTED BY HER HUSBAND IN A PARTICULAR STATE

State	Statutory Wording As To Who May Be Adopted	Persons Included	Prohibits Adoption Of Certain Relatives	Prohibits Marriage Between Certain Relatives Other Than Those Related By Blood	Designates As Incestuous Fornication Between Certain Relatives Other Than Those Related By Blood
Oklahoma	"minor child" or "female age 18 to 25" or "male age 21 to 25"	minor child and adult female 18 to 25 and adult male 21 to 25	no	yes	no[81]
Oregon	any person may "another"	minor child and adult	no	no	no[82]
Pennsylvania	"minor or an adult"	minor child and adult	no	yes	yes[83]
Rhode Island	"any person"	minor child and adult	no	yes	no[84]
South Carolina	"child"	minor child and adult	no	yes	yes[85]
South Dakota	"minor child"	minor child	no	yes	no[86]
Tennessee	"any person"	minor child and adult	no	yes	yes[87]
Texas	"minor child" and "adult person"	minor child and adult	no	yes	yes[88]
Utah	"child"	minor child and adult	no	no	no[89]
Vermont	"any other person"	minor child and adult	no	yes	yes[90]
Virginia	"minor child" and adult "step-child"	minor child and adult step-child	no	yes	yes[91]
Washington	"any person"	minor child and adult	no	no	no[92]
West Virginia	"minor child" or "adult"	minor child and adult	no	yes	no[93]
Wisconsin	"adult" and "minor"	minor child and adult	no	no	no[94]
Wyoming	"child" or "adult"	minor child and adult	no	no	yes[95]

47. Ala. Code Ann. tit. 27, § 1; tit. 34, § 1; tit. 14, § 325 (1940).

48. Ariz. Rev. Stat. Ann. §§ 8-101, 25-101, 13-471 (1956).

49. Ark. Stat. Ann. §§ 56-121, 41-811, 55-103 (1947).

50. Cal. Civ. Code §§ 221-22, 59 (Deering 1949); Cal. Code Ann. P.C. § 285 (Deering 1949).

51. Colo. Rev. Stat. c. 4, art. 1, § 3; c. 40, art. 9, § 5; c. 90, art. 1, § 2 (1953).

52. Conn. Rev. Gen. Stat. § 2904 (Supp. 1955); §§ 6871, 6872, 8551, 7301 (1949).

53. Del. Rev. Stat. Ann. tit. 13, §§ 903, 101; tit. 11, § 591 (1953).

54. D.C. Code Ann. § 16-212 (Supp. 1956); §§ 22-1901, 30-101 (1951).

55. Fla. Stat. Ann. §§ 72.11, 72.34 (Supp. 1957); § 741.21 (1944).

56. Ga. Code. Ann. §§ 74-401, 74-420 (Supp. 1955); §§ 53-102, 53-105 (1949).

57. Idaho Code Ann. § 16-1501 (Supp. 1957); §§ 18-6602, 32-205-06 (1948).

58. Ill. Rev. Stat. c. 4, § 1; c. 89, § 1 (1957).

59. Ind. Ann. Stat. § 3-115 (Burns Supp. 1957); § 3-124 (Burns 1946); § 10-4206 (Burns 1956); § 44-205 (Burns 1952).

60. Iowa Code Ann. § 600.1 (Supp. 1957); §§ 704.1, 595.19 (1950).

61. Kan. Gen. Stat. Ann. §§ 59-2101, 21-906, 23-102 (1949).

62. Ky. Rev. Stat. Ann. §§ 199.470, 405.390, 436.060, 402.010 (Baldwin 1955).

63. La. Rev. Stat. Ann. §§ 9:422, 9:461, 14:78 (1950); La. Civ. Code Ann. art. 94 (West 1952).

64. Me. Rev. Stat. c. 158, § 36; c. 134, § 2; c. 166, § 1 (1954).

65. Md. Ann. Code Gen. Laws art. 16, § 80; art. 27, § 401; art. 62, § 2 (1951).

66. Mass. Ann. Laws c. 210, § 1; c. 272, § 17; c. 207, § 1 (1956).

67. Mich. Stat. Ann. §§ 27.3178(542), 28.565, 25.3 (1957).

68. Minn. Stat. Ann. §§ 617.13, 517.03 (West 1956); § 259.22 (West Supp. 1957).

69. Miss. Code Ann. §§ 1269.02, 2000, 457 (1942).

70. Mo. Rev. Stat. §§ 453.010, 563.220, 451.020 (1949).

71. Mont. Rev. Code §§ 61-139, 48-105, 94-705 (1947); § 61-202 (Supp. 1957).

72. Neb. Rev. Stat. §§ 43-101, 42-103, 28-905 (1943).

73. Nev. Rev. Stat. §§ 127.020, 122.020, 201.180 (1957).

74. N.H. Rev. Stat. Ann. §§ 461:1, 461:9, 457:1, 579:7 (1955).

75. N.J. Rev. Stat. tit. 2A, c. 22, § 1 (1937); tit. 9, c. 3, §§ 21, 22 (Supp. 1957); tit. 37, c. 1, § 1; tit. 2, c. 139 § 1 (1937).

76. N.M. Stat. Ann. §§ 22-2-1, 22-2-13, 57-1-7, 40-7-3 (1953).

77. N.Y. Dom. Rel. Law §§ 110, 5; N.Y. Penal Code § 1110.

78. N.C. Gen. Stat. §§ 48-3, 51-3, 14-178 (1950).

79. N.D. Rev. Code § 14-1108 (Supp. 1953); §§ 14-0303-05, 12-2206 (1943).

80. Ohio Rev. Code §§ 3107.02 (Baldwin Supp. 1953); §§ 3101.01, 2905.07 (Baldwin 1957).

81. Okla. Stat. Ann. tit. 10, §§ 41-42 (Supp. 1957); tit. 43, § 2; tit. 21, § 885 (1936).

82. Ore. Rev. Stat. §§ 109.310, 106.020, 167.035 (1955).

83. Pa. Stat. Ann. tit. 1, § 1; tit. 48, §§ 1-5, 1-16 (Supp. 1957); tit. 18, § 4507 (1945).

84. R.I. Gen. Laws §§ 15-7-4, 11-6-4, 15-1-1, 15-1-2 (1956).

85. S.C. Code § 32-1129 (Supp. 1957); §§ 10-2581, 20-1, 16-402 (1952).

86. S.D. Code §§ 14.0401, 14.0106, 13-1715 (1939).

87. Tenn. Code Ann. §§ 36-103, 36-401, 39-705 (1956).

88. Tex. Rev. Civ. Stat. Ann. art. 46a, 46b-1 (1947); Tex. Pen. Code Ann. art. 495-97 (1952).

89. Utah Code Ann. §§ 78-30-1, 30-1-1, 76-53-4 (1953).

90. Vt. Rev. Stat. §§ 9937, 3150, 8473 (1947).

91. Va. Code §§ 63-348, 20-38, 18-82 (1950); § 63-348.1 (Supp. 1956).

92. Wash. Rev. Code §§ 26.32.020, 26.04.020, 9.79.090 (1953).

93. W. Va. Code Ann. c. 48, §§ 4680, 4755, 4760(1); c. 61, § 6067 (1955).

94. Wis. Stat. §§ 322.01, 48.81, 245.03, 944.06 (1955).

95. Wyo. Comp. Stat. Ann. §§ 3-5901, 9-502 (1943); §§ 58-201, 58-221 (Supp. 1955).