

ADOPTION OF CHILDREN.

CHAPTER 35.

AN ACT TO AUTHORIZE AND REGULATE THE ADOPTION OF CHILDREN.

Be it enacted by the Legislative Assembly of the Territory of Dakota:

Any person may adopt children.

Section 1. Any person competent to make a will is authorized in the manner hereinafter set forth, to adopt, as his own, the minor child of another, conferring thereby upon such child all the rights, privileges, and responsibilities which would pertain to the child if born to the person adopting in lawful wedlock.

The consent of the parent, or of the mayor, or of the county judge must be obtained in writing.

Sec. 2. In order thereto, the consent of both parents, if living and not divorced and separated, and if divorced and separated, or if unmarried, the consent of the parent lawfully having the care and providing for the wants of the child, or if either parent is dead, then the consent of the survivor, or if both parents be dead, or if the child shall have been and remain abandoned by them, the consent of the mayor of the city, where the child is living, or if not in a city, then of the county judge of the county where the child is living, shall be given to such adoption, by an instrument in writing, signed by the party or parties consenting, and stating the name of the parent, if known; the name of the child, if known; the name of the person adopting such child, and the residence of all, if known, and declaring the name by which such child is hereafter to be called and known, and stating also, that such child is given to the person adopting, for the purpose of adopting as his own child.

Instrument of adoption acknowledged and recorded in the same manner as deeds.

Sec. 3. Such instrument in writing shall be also signed by the person adopting, and shall be acknowledged by all the parties thereto, in the same manner as deeds affecting real estate are required to be acknowledged: *Provided*, that when

both parents of the child execute the same, the mother shall be examined apart from her husband, by the officer taking the same, and he shall certify whether or not she executed the same freely and without compulsion, or undue influence of her husband, and if not, the instrument shall not be valid; and when duly acknowledged, the same shall be recorded in the county where the person adopting resides, in the office and with the record of deeds of real estate; and shall be indexed, with the name of the parent by adoption as grantor, and the child as grantee, in its original name, if stated in the instrument.

Sec. 4. Upon the execution, acknowledgment, and record of such instrument, the rights, duties, and relations between the parent and child, by adoption, shall, thereafter, in all respects, including the right of inheritance, be the same that exist by law between parent and child by lawful birth. The relations of child changed.

Sec. 5. In case of maltreatment committed or allowed by the adopted parent, or palpable neglect of duty on his or her part, toward such child, the custody thereof may be taken from him and entrusted to another at his or her expense, if so ordered by the court; and the same proceedings may be had therefor, so far as are applicable, as are authorized by law in such a case, in the relation of master and apprentice; or the court may, on showing of the facts, require from the adopted parent, bond, with security in a sum to be fixed by him, the county being the obligee, and for the benefit of the child, conditioned for the proper treatment and performance of duty toward the child, on the part of the parent: *Provided*, that no action of the court or judge in the premises shall affect or diminish the acquired right of inheritance, on the part of the child, to the extent of such right in a natural child of lawful birth. Maltreatment of subjects. Adopted parent to be deprived of the child.

Sec. 6. This act shall take effect and be in force from and after its passage and approval. Take effect when.

APPROVED January 6, 1863.