

PROBATE CODE OF 1939 (EXCERPT)
Act 288 of 1939

710.43 Consent to adoption; persons authorized to execute.

Sec. 43. (1) Subject to this section and sections 44 and 51 of this chapter, consent to adoption of a child shall be executed:

(a) By each parent of a child to be adopted or the surviving parent, except under the following circumstances:

- (i) The rights of the parent have been terminated by a court of competent jurisdiction.
- (ii) The child has been released for the purpose of adoption to a child placing agency or to the department.
- (iii) A guardian of the child has been appointed.
- (iv) A guardian of a parent has been appointed.
- (v) A parent having legal custody of the child is married to the petitioner.

(b) By the authorized representative of the department or his or her designee or of a child placing agency to whom the child has been permanently committed by an order of the court.

(c) By the court or by a tribal court having permanent custody of the child.

(d) By the authorized representative of the department or his or her designee or of a child placing agency to whom the child has been released.

(e) By the guardian of the child, subject to subsection (5), if a guardian has been appointed.

(f) By the guardian of a parent, subject to subsection (6), if a guardian has been appointed.

(g) By the authorized representative of a court or child placing agency of another state or country that has authority to consent to adoption.

(2) If the child to be adopted is over 14 years of age, that child's consent is necessary before the court may enter an order of adoption.

(3) If the individual to be adopted is an adult, the individual's consent is necessary before the court may enter an order of adoption, but consent by any other individual is not required.

(4) If the parent of the child to be adopted is an unemancipated minor, that parent's consent is not valid unless a parent, guardian, or guardian ad litem of that minor parent has also executed the consent.

(5) The guardian of the child to be adopted shall not execute a consent to that child's adoption according to subsection (1) unless the guardian has first obtained authority to execute the consent from the court that appointed the guardian.

(6) The guardian of a parent shall not execute a consent to the adoption of the parent's child according to subsection (1) unless the guardian has first obtained authority to execute the consent from the court that appointed the guardian. The consent shall have the same effect as if the consent were executed by the parent.

(7) If the petitioner for adoption is married to the parent having legal custody of the child and that parent has joined the petitioner in filing the petition for adoption, that parent shall not execute a consent to the adoption. The consent of the parent who does not have legal custody of the child and whose parental rights have not been terminated shall be executed before the court may enter an order of adoption under section 56 of this chapter.

History: Add. 1974, Act 296, Eff. Jan. 1, 1975;—Am. 1980, Act 116, Eff. Sept. 12, 1980;—Am. 1980, Act 509, Imd. Eff. Jan. 26, 1981;—Am. 1982, Act 72, Imd. Eff. Apr. 14, 1982;—Am. 1990, Act 175, Imd. Eff. July 2, 1990;—Am. 1994, Act 222, Eff. Jan. 1, 1995;—Am. 1996, Act 409, Eff. Jan. 1, 1998;—Am. 2011, Act 32, Imd. Eff. May 24, 2011.

Popular name: Probate Code