

**Representative Ann W. Hardy** proposes the following substitute bill:

**SPECIAL NEEDS ADOPTION -  
PREPLACEMENT EVALUATIONS**

2004 GENERAL SESSION

STATE OF UTAH

**Sponsor: Ann W. Hardy**

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**LONG TITLE**

**General Description:**

This bill modifies adoption provisions in the Judicial Code.

**Highlighted Provisions:**

This bill:

▶ requires that the preplacement evaluation of a special needs child be conducted by the ~~H [Division of Child and Family Services]~~ **DEPARTMENT OF HUMAN SERVICES** ~~h~~ or a licensed child placing agency

contracted by the division to conduct preplacement evaluations; and

▶ requires the adoptive parent or parents to pay for any fee assessed by the evaluating agency.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**78-30-3.5**, as last amended by Chapter 101, Laws of Utah 2001

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*Be it enacted by the Legislature of the state of Utah:*



26 Section 1. Section **78-30-3.5** is amended to read:

27 **78-30-3.5. Preplacement and postplacement adoptive evaluations -- Exceptions.**

28 (1) (a) Except as otherwise provided in this section, a child may not be placed in an  
29 adoptive home until a preplacement adoptive evaluation, assessing the prospective adoptive  
30 parent and the prospective adoptive home, has been conducted in accordance with the  
31 requirements of this section.

32 (b) The court may, at any time, authorize temporary placement of a child in a potential  
33 adoptive home pending completion of a preplacement adoptive evaluation described in this  
34 section.

35 (c) Subsection (1)(a) does not apply if a birth parent has legal custody of the child to be  
36 adopted and the prospective adoptive parent is related to that child as a step-parent, sibling by  
37 half or whole blood or by adoption, grandparent, aunt, uncle, or first cousin, unless the  
38 evaluation is otherwise requested by the court. The prospective adoptive parent described in  
39 this Subsection (1)(c) shall, however, obtain the information described in Subsections (2)(a)  
40 and (b), and file that documentation with the court prior to finalization of the adoption.

41 (d) The requirements of Subsection (1)(a) are satisfied by a previous preplacement  
42 adoptive evaluation conducted within three years prior to placement of the child, or an annual  
43 updated adoptive evaluation conducted after that three-year period or within one year after  
44 finalization of a previous adoption.

45 (2) The preplacement adoptive evaluation shall include:

46 (a) criminal history record information regarding each prospective adoptive parent and  
47 any other adult living in the prospective home, received from the Criminal Investigations and  
48 Technical Services Division of the Department of Public Safety, in accordance with Section  
49 53-10-108, no earlier than 18 months immediately preceding placement of the child;

50 (b) a report from the Department of Human Services containing all information  
51 regarding reports and investigation of child abuse, neglect, and dependency, with respect to  
52 each prospective adoptive parent and any other adult living in the prospective home, obtained  
53 no earlier than 18 months immediately preceding placement of the child, pursuant to waivers  
54 executed by those parties; [~~and~~]

55 (c) an evaluation conducted by an expert in family relations approved by the court or a  
56 certified social worker, clinical social worker, marriage and family therapist, psychologist,

57 professional counselor, or other court-determined expert in family relations, who is licensed to  
58 practice under the laws of this state or under the laws of the state where the prospective  
59 adoptive parent or other person living in the prospective adoptive home resides. The  
60 evaluation shall be in a form approved by the Department of Human Services. Neither the  
61 Department of Human Services nor any of its divisions may proscribe who qualifies as an  
62 expert in family relations or who may conduct evaluations pursuant to this Subsection (2)[-];  
63 and

64 (d) if the child to be adopted is a child who is in the custody of any public child welfare  
65 agency, and is a child with special needs as defined in Subsection 62A-4a-902(2), the  
66 preplacement evaluation must be conducted by the Department of Human Services or a  
67 licensed child placing agency which has entered into a contract with the department to conduct  
68 the preplacement evaluations for children with special needs. Any fee assessed by the  
69 evaluating agency is the responsibility of the adopting parent or parents.

70 (3) A copy of the preplacement adoptive evaluation shall be filed with the court.

71 (4) (a) Except as provided in Subsections (4)(b) and (c), a postplacement evaluation  
72 shall be conducted and submitted to the court prior to the final hearing in an adoption  
73 proceeding. The postplacement evaluation shall include:

74 (i) verification of the allegations of fact contained in the petition for adoption;  
75 (ii) an evaluation of the progress of the child's placement in the adoptive home; and  
76 (iii) a recommendation regarding whether the adoption is in the best interest of the  
77 child.

78 (b) The exemptions from and requirements for evaluations, described in Subsections  
79 (1)(c), (2)(c), and (3), also apply to postplacement adoptive evaluations.

80 (c) Upon the request of the petitioner, the court may waive the postplacement adoptive  
81 evaluation, unless it determines that it is in the best interest of the child to require the  
82 postplacement evaluation.

83 (5) If the person or agency conducting the evaluation disapproves the adoptive  
84 placement, either in the preplacement or postplacement adoptive evaluation, the court may  
85 dismiss the petition. However, upon request of a prospective adoptive parent, the court shall  
86 order that an additional preplacement or postplacement adoptive evaluation be conducted, and  
87 hold a hearing on the suitability of the adoption, including testimony of interested parties.

88           (6) Prior to finalization of a petition for adoption the court shall review and consider  
89 the information and recommendations contained in the preplacement and postplacement  
90 adoptive studies required by this section.

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**Fiscal Note**

Special Needs Adoption-Preplacement Evaluations

18-Feb-04

**Bill Number HB0259S01**2:35 PM

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**State Impact**

No fiscal impact.

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**Individual and Business Impact**Adoptive parents will be required to pay for any fee assessed by the evaluating agency.

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**Office of the Legislative Fiscal Analyst**