

AMENDMENTS TO ADOPTION CODE

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd Weiler

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions of the Utah Adoption Act relating to the rights and obligations of an unmarried biological father and other matters related to adoption.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides a method to give notice of a potential adoption proceeding to an unmarried biological father, including informing him:
 - of the requirements to assert his parental rights;
 - that failure to assert his parental rights within thirty days after receiving the notice described above shall result in the unmarried biological father losing his right to have notice of, or contest a future adoption of, the child; and
 - that nothing the birth mother tells him modifies his obligations under Utah law;
- ▶ requires that an unmarried biological father who has not already lost his right to consent to an adoption and who wishes to assert his parental rights be given one business day after a child's birth to comply with the requirements to assert his parental rights;
- ▶ modifies when a court may enter a final decree of adoption; and
- ▶ makes technical changes.

Money Appropriated in this Bill:



28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **78B-6-103**, as last amended by Laws of Utah 2010, Chapter 237

34 **78B-6-105**, as last amended by Laws of Utah 2010, Chapter 237

35 **78B-6-110**, as last amended by Laws of Utah 2010, Chapter 237

36 **78B-6-112**, as last amended by Laws of Utah 2010, Chapter 237

37 **78B-6-113**, as last amended by Laws of Utah 2010, Chapter 237

38 **78B-6-115**, as last amended by Laws of Utah 2009, Chapters 159 and 356

39 **78B-6-121**, as last amended by Laws of Utah 2009, Chapter 159

40 **78B-6-128**, as last amended by Laws of Utah 2010, Chapter 237

41 **78B-6-129**, as last amended by Laws of Utah 2010, Chapter 237

42 **78B-6-135**, as last amended by Laws of Utah 2010, Chapter 237

43 **78B-6-136**, as last amended by Laws of Utah 2008, Chapter 137 and renumbered and
44 amended by Laws of Utah 2008, Chapter 3

45 **78B-6-136.5**, as enacted by Laws of Utah 2010, Chapter 237

46 **78B-6-140**, as last amended by Laws of Utah 2010, Chapter 237

47 **78B-6-141**, as last amended by Laws of Utah 2009, Chapter 159

48 **78B-6-143**, as last amended by Laws of Utah 2008, Chapter 137 and renumbered and
49 amended by Laws of Utah 2008, Chapter 3

50 **78B-6-144**, as last amended by Laws of Utah 2009, Chapter 159

51 **78B-6-145**, as renumbered and amended by Laws of Utah 2008, Chapter 3

52 ENACTS:

53 **78B-6-110.1**, Utah Code Annotated 1953



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

56 Section 1. Section **78B-6-103** is amended to read:

57 **78B-6-103. Definitions.**

58 As used in this part:

- 59 (1) "Adoptee" means a person who:
- 60 (i) is the subject of an adoption proceeding; or
- 61 (ii) has been legally adopted.
- 62 (2) "Adoption" means the judicial act that:
- 63 (a) creates the relationship of parent and child where it did not previously exist; and
- 64 (b) except as provided in Subsection 78B-6-138(2), terminates the parental rights of
- 65 any other person with respect to the child.
- 66 (3) "Adoption service provider" means a:
- 67 (a) child-placing agency; or
- 68 (b) licensed counselor who has at least one year of experience providing professional
- 69 social work services to:
- 70 (i) adoptive parents; [~~or~~]
- 71 (ii) prospective adoptive parents; or
- 72 [~~(ii)~~] (iii) birth parents.
- 73 (4) "Adoptive parent" means a person who has legally adopted an adoptee.
- 74 [~~(4)~~] (5) "Adult" means a person who is 18 years of age or older.
- 75 [~~(5)~~] (6) "Adult adoptee" means an adoptee who is 18 years of age or older.
- 76 [~~(6)~~] (7) "Adult sibling" means a brother or sister of the adoptee, who is 18 years of age
- 77 or older and whose birth mother or father is the same as that of the adoptee.
- 78 (8) "Birth mother" means the biological mother of a child.
- 79 [~~(7)~~] (9) "Birth parent" means:
- 80 (a) a [~~biological~~] birth mother;
- 81 (b) a [~~person~~] man whose paternity of a child is established; [~~or~~]
- 82 (c) [~~an alleged father~~] a man who:
- 83 (i) has been identified as the father of a child by the child's birth mother; and
- 84 (ii) has not denied paternity[-]; or
- 85 (d) an unmarried biological father.
- 86 [~~(8)~~] "~~Bureau~~" means the Bureau of Vital Statistics within the Department of Health
- 87 ~~operating under Title 26, Chapter 2, Utah Vital Statistics Act.]~~
- 88 [~~(9)~~] (10) "Child-placing agency" means an agency licensed to place children for
- 89 adoption under Title 62A, Chapter 4a, Part 6, Child Placing.

90 [~~(10)~~] (11) "Cohabiting" means residing with another person and being involved in a
91 sexual relationship with that person.

92 [~~(11)~~] (12) "Division" means the Division of Child and Family Services, within the
93 Department of Human Services, created in Section 62A-4a-103.

94 [~~(12)~~] (13) "Extra-jurisdictional child-placing agency" means an agency licensed to
95 place children for adoption by a district, territory, or state of the United States, other than Utah.

96 [~~(13)~~] (14) "Genetic and social history" means a comprehensive report, when
97 obtainable, on an adoptee's birth parents, aunts, uncles, and grandparents, which contains the
98 following information:

99 (a) medical history;

100 (b) health status;

101 (c) cause of and age at death;

102 (d) height, weight, and eye and hair color;

103 (e) ethnic origins;

104 (f) where appropriate, levels of education and professional achievement; and

105 (g) religion, if any.

106 [~~(14)~~] (15) "Health history" means a comprehensive report of the adoptee's health
107 status at the time of placement for adoption, and medical history, including neonatal,
108 psychological, physiological, and medical care history.

109 [~~(15)~~] (16) "Identifying information" means the name and address of a pre-existing
110 parent or adult adoptee, or other specific information which by itself or in reasonable
111 conjunction with other information may be used to identify that person.

112 [~~(16)~~] (17) "Licensed counselor" means a person who is licensed by the state, or
113 another state, district, or territory of the United States as a:

114 (a) certified social worker;

115 (b) clinical social worker;

116 (c) psychologist;

117 (d) marriage and family therapist;

118 (e) professional counselor; or

119 (f) an equivalent licensed professional of another state, district, or territory of the
120 United States.

121 (18) "Man" means a male individual, regardless of age.

122 (19) "Office" means the Office of Vital Records and Statistics within the Department
123 of Health operating under Title 26, Chapter 2, Utah Vital Statistics Act.

124 ~~[(17)]~~ (20) "Parent," for purposes of Section 78B-6-119, means any person described in
125 Subsections 78B-6-120(1)(b) through (f) from whom consent for adoption or relinquishment
126 for adoption is required under Sections 78B-6-120 through 78B-6-122.

127 (21) "Potential birth father" means a man who:

128 (a) is identified by a birth mother as a potential biological father of the birth mother's
129 child, but whose genetic paternity has not been established; and

130 (b) was not married to the biological mother of the child described in Subsection
131 (21)(a) at the time of the child's conception or birth.

132 ~~[(18)]~~ (22) "Pre-existing parent" means:

133 (a) a birth parent; or

134 (b) a person who, before an adoption decree is entered, is, due to an earlier adoption
135 decree, legally the parent of the child being adopted.

136 (23) "Prospective adoptive parent" means a person who seeks to adopt an adoptee.

137 ~~[(19)]~~ (24) "Unmarried biological father" means a person who:

138 (a) is the biological father of a child; and

139 (b) was not married to the biological mother of the child described in Subsection ~~[(19)]~~
140 (24)(a) at the time of the child's[?] conception or birth.

141 ~~[(i) conception; or]~~

142 ~~[(ii) birth.]~~

143 Section 2. Section **78B-6-105** is amended to read:

144 **78B-6-105. District court venue -- Jurisdiction of juvenile court -- Jurisdiction**
145 **over nonresidents -- Time for filing.**

146 (1) Adoption proceedings shall be commenced by filing a petition with the clerk of the
147 district court either:

148 (a) in the district where the ~~[person adopting]~~ prospective adoptive parent resides;

149 (b) if the ~~[person adopting]~~ prospective adoptive parent is not a resident of this state, in
150 the district where:

151 (i) the ~~[proposed]~~ adoptee was born;

152 (ii) the ~~[proposed]~~ adoptee resides on the day on which the petition is filed; or
153 (iii) a parent of the proposed adoptee resides on the day on which the petition is filed;

154 or

155 (c) with the juvenile court as provided in Subsection 78A-6-103(1).

156 (2) All orders, decrees, agreements, and notices in the proceedings shall be filed with
157 the clerk of the court where the adoption proceedings were commenced under Subsection (1).

158 (3) A petition for adoption:

159 (a) may be filed before or after the adoptee is placed in the home of the petitioner for
160 the purpose of adoption; and

161 (b) shall be filed no later than 30 days after the day on which the adoptee is placed in
162 the home of the petitioners for the purpose of adoption, unless:

163 (i) the time for filing has been extended by the court; or

164 (ii) the adoption is arranged by a child-placing agency in which case the agency may
165 extend the filing time.

166 (4) (a) If a person whose consent for the adoption is required under Section 78B-6-120
167 or 78B-6-121 cannot be found within the state, the fact of the minor's presence within the state
168 shall confer jurisdiction on the court in proceedings under this chapter as to such absent person,
169 provided that due notice has been given in accordance with the Utah Rules of Civil Procedure.

170 (b) The notice may not include the name of:

171 (i) ~~[the person or persons seeking to adopt the adoptee]~~ a prospective adoptive parent;

172 or

173 (ii) an unmarried mother without her consent.

174 (5) Service of notice as provided in Subsection (6) shall vest the court with jurisdiction
175 over the person served in the same manner and to the same extent as if the person served was
176 served personally within the state.

177 (6) In the case of service outside the state, service completed not less than five days
178 before the time set in the notice for appearance of the person served[;] shall be sufficient to
179 confer jurisdiction.

180 (7) Computation of periods of time not otherwise set forth in this section shall be made
181 in accordance with the Utah Rules of Civil Procedure.

182 Section 3. Section **78B-6-110** is amended to read:

183 **78B-6-110. Notice of adoption proceedings.**

184 (1) (a) An unmarried biological father, by virtue of the fact that he has engaged in a
185 sexual relationship with a woman:

186 (i) is considered to be on notice that a pregnancy and an adoption proceeding regarding
187 the child may occur; and

188 (ii) has a duty to protect his own rights and interests.

189 (b) An unmarried biological father is entitled to actual notice of a birth or an adoption
190 proceeding with regard to his child only as provided in this section.

191 (2) Notice of an adoption proceeding shall be served on each of the following persons:

192 (a) any person or agency whose consent or relinquishment is required under Section
193 78B-6-120 or 78B-6-121, unless that right has been terminated by:

194 (i) waiver;

195 (ii) relinquishment;

196 (iii) consent; or

197 (iv) judicial action;

198 (b) any person who has initiated a paternity proceeding and filed notice of that action
199 with the state registrar of vital statistics within the Department of Health, in accordance with
200 Subsection (3);

201 (c) any legally appointed custodian or guardian of the adoptee;

202 (d) the petitioner's spouse, if any, only if the petitioner's spouse has not joined in the
203 petition;

204 (e) the adoptee's spouse, if any;

205 (f) any person who, prior to the time the mother executes her consent for adoption or
206 relinquishes the child for adoption, is recorded on the birth certificate as the child's father, with
207 the knowledge and consent of the mother;

208 (g) a person who is:

209 (i) openly living in the same household with the child at the time the consent is
210 executed or relinquishment made; and

211 (ii) holding himself out to be the child's father; and

212 (h) any person who is married to the child's mother at the time she executes her consent
213 to the adoption or relinquishes the child for adoption, unless the court finds that the mother's

214 spouse is not the child's father under Section 78B-15-607.

215 (3) (a) In order to preserve any right to notice, an unmarried[;] biological father [~~may~~]
216 shall, consistent with Subsection (3)(d):

217 (i) initiate proceedings in a district court of [~~the state of~~] Utah to establish paternity
218 under Title 78B, Chapter 15, Utah Uniform Parentage Act; and

219 (ii) file a notice of commencement of the proceedings described in Subsection (3)(a)(i)
220 with the [~~state registrar~~] office of vital statistics within the Department of Health.

221 (b) If the unmarried, biological father does not know the county in which the birth
222 mother resides, he may initiate his action in any county, subject to a change in trial pursuant to
223 Section 78B-3-307.

224 (c) The Department of Health shall provide forms for the purpose of filing the notice
225 described in Subsection (3)(a)(ii), and make those forms available in the office of the county
226 health department in each county.

227 (d) The action and notice described in Subsection (3)(a):

228 (i) may be filed before or after the child's birth; and

229 (ii) shall be filed prior to the mother's:

230 (A) execution of consent to adoption of the child; or

231 (B) relinquishment of the child for adoption.

232 (4) Notice provided in accordance with this section need not disclose the name of the
233 mother of the child who is the subject of an adoption proceeding.

234 (5) The notice required by this section:

235 (a) may be served at any time after the petition for adoption is filed, but may not be
236 served on a birth mother before she has given birth to the child who is the subject of the
237 petition for adoption;

238 (b) shall be served at least 30 days prior to the final dispositional hearing;

239 (c) shall specifically state that the person served [~~must respond to the petition~~] shall
240 fulfill the requirements of Subsection (6)(a), within 30 days [of] after the day on which the
241 person receives service if [he] the person intends to intervene in or contest the adoption;

242 (d) shall state the consequences, described in Subsection (6)(b), for failure of a person
243 to file a motion for relief within 30 days after the day on which the person is served with notice
244 of an adoption proceeding;

245 (e) is not required to include, nor be accompanied by, a summons or a copy of the
246 petition for adoption; and

247 (f) shall state where the person may obtain a copy of the petition for adoption.

248 (6) (a) A person who has been served with notice of an adoption proceeding and who
249 wishes to contest the adoption shall file a motion to intervene in the adoption proceeding:

250 (i) within 30 days after the day on which the person was served with notice of the
251 adoption proceeding;

252 (ii) setting forth specific relief sought; and

253 (iii) accompanied by a memorandum specifying the factual and legal grounds upon
254 which the motion is based.

255 (b) A person who fails to fully and strictly comply with all of the requirements
256 described in Subsection (6)(a) within 30 days after the day on which the person was served
257 with notice of the adoption proceeding:

258 (i) waives any right to further notice in connection with the adoption;

259 (ii) forfeits all rights in relation to the adoptee; and

260 (iii) is barred from thereafter bringing or maintaining any action to assert any interest in
261 the adoptee.

262 (7) Service of notice under this section shall be made as follows:

263 (a) (i) Subject to Subsection (5)(e), service on a person whose consent is necessary
264 under Section 78B-6-120 or 78B-6-121 shall be in accordance with the provisions of the Utah
265 Rules of Civil Procedure.

266 (ii) If service of a person described in Subsection (7)(a)(i) is by publication, the court
267 shall designate the content of the notice regarding the identity of the parties.

268 (iii) The notice described in this Subsection (7)(a) may not include the name of a
269 person seeking to adopt the adoptee.

270 (b) (i) Except as provided in Subsection (7)(b)(ii) to any other person for whom notice
271 is required under this section, service by certified mail, return receipt requested, is sufficient.

272 (ii) If the service described in Subsection (7)(b)(i) cannot be completed after two
273 attempts, the court may issue an order providing for service by publication, posting, or by any
274 other manner of service.

275 (c) Notice to a person who has initiated a paternity proceeding and filed notice of that

276 action with the state registrar of vital statistics in the Department of Health in accordance with
277 the requirements of Subsection (3), shall be served by certified mail, return receipt requested, at
278 the last address filed with the registrar.

279 (8) The notice required by this section may be waived in writing by the person entitled
280 to receive notice.

281 (9) Proof of service of notice on all persons for whom notice is required by this section
282 shall be filed with the court before the final dispositional hearing on the adoption.

283 (10) Notwithstanding any other provision of law, neither the notice of an adoption
284 proceeding nor any process in that proceeding is required to contain the name of the person or
285 persons seeking to adopt the adoptee.

286 (11) Except as to those persons whose consent to an adoption is required under Section
287 78B-6-120 or 78B-6-121, the sole purpose of notice under this section is to enable the person
288 served to:

- 289 (a) intervene in the adoption; and
- 290 (b) present evidence to the court relevant to the best interest of the child.

291 Section 4. Section **78B-6-110.1** is enacted to read:

292 **78B-6-110.1. Prebirth notice to presumed father of intent to place a child for**
293 **adoption.**

294 (1) As used in this section, "birth father" means:

- 295 (a) a potential biological father; or
- 296 (b) an unmarried biological father.

297 (2) Before the birth of a child, the following individuals may notify a birth father of the
298 child that the mother of the child is considering an adoptive placement for the child:

- 299 (a) the child's mother;
- 300 (b) a licensed child placing agency;
- 301 (c) an attorney representing a prospective adoptive parent of the child; or
- 302 (d) an attorney representing the mother of the child.

303 (3) Providing a birth father with notice under Subsection (2) does not obligate the
304 mother of the child to proceed with an adoptive placement of the child.

305 (4) The notice described in Subsection (2) shall include the name, address, and
306 telephone number of the person providing the notice, and shall include the following

307 information:

308 (a) the mother's intent to place the child for adoption;

309 (b) that the mother has named the person receiving this notice as a potential birth father
310 of her child;

311 (c) the requirements to contest the adoption, including taking the following steps
312 within 30 days after the day on which the notice is served:

313 (i) initiating proceedings to establish or assert paternity in a district court of Utah
314 within 30 days after the day on which notice is served, including filing an affidavit stating:

315 (A) that the birth father is fully able and willing to have full custody of the child;

316 (B) the birth father's plans to care for the child; and

317 (C) that the birth father agrees to pay for child support and expenses incurred in
318 connection with the pregnancy and birth; and

319 (ii) filing a notice of commencement of paternity proceedings with the state registrar of
320 vital statistics within the Utah Department of Health;

321 (d) the consequences for failure to comply with Subsection (4)(c), including that:

322 (i) the birth father's ability to assert the right to consent or refuse to consent to the
323 adoption is irrevocably lost;

324 (ii) the birth father will lose the ability to assert the right to contest any future adoption
325 of the child; and

326 (iii) the birth father will lose the right to notice of any adoption proceedings related to
327 the child;

328 (e) that the birth father may consent to the adoption, if any, within 30 days after the day
329 on which the notice is received, and that his consent is irrevocable; and

330 (f) that no communication between the mother of the child and the birth father changes
331 the rights and responsibilities of the birth father described in the notice.

332 (5) If the recipient of the notice described in Subsection (2) does not fully and strictly
333 comply with the requirements of Sections 78B-6-121 and 78B-6-122 within 30 days after the
334 day on which he receives the notice, he will lose:

335 (a) the ability to assert the right to consent or refuse to consent to an adoption of the
336 child described in the notice;

337 (b) the ability to assert the right to contest any future adoption of the child described in

338 the notice; and

339 (c) the right to notice of any adoption proceedings relating to the child described in the
340 notice.

341 (6) The notice described in Subsection (2) shall be served on a birth father in a manner
342 consistent with the Utah Rules of Civil Procedure or by certified mail.

343 Section 5. Section **78B-6-112** is amended to read:

344 **78B-6-112. District court jurisdiction over certain termination of parental rights**
345 **proceedings.**

346 (1) A district court has jurisdiction to hear and decide a petition to terminate parental
347 rights in a child if the party who filed the petition is seeking to terminate parental rights in the
348 child for the purpose of facilitating the adoption of the child.

349 (2) A petition to terminate parental rights under this section may be:

350 (a) joined with a proceeding on an adoption petition; or

351 (b) filed as a separate proceeding before or after a petition to adopt the child is filed.

352 (3) A court may enter a final order terminating parental rights before a final decree of
353 adoption is entered.

354 (4) (a) Nothing in this section limits the jurisdiction of a juvenile court relating to
355 proceedings to terminate parental rights as described in Section 78A-6-103.

356 (b) This section does not grant jurisdiction to a district court to terminate parental
357 rights in a child if the child is under the jurisdiction of the juvenile court in a pending abuse,
358 neglect, dependency, or termination of parental rights proceeding.

359 (5) The district court may terminate a person's parental rights in a child if:

360 (a) (i) the court finds it is in the best interest of the child; and

361 [~~(a)~~] (ii) the person executes a voluntary consent to adoption, or relinquishment for
362 adoption, of the child, in accordance with:

363 [~~(i)~~] (A) the requirements of this chapter; or

364 [~~(ii)~~] (B) the laws of another state or country, if the consent is valid and irrevocable;

365 (b) the person is an unmarried biological father who is not entitled to consent to
366 adoption, or relinquishment for adoption, under Section 78B-6-120 or 78B-6-121;

367 (c) the person:

368 (i) received notice of the adoption proceeding relating to the child under Section

369 78B-6-110; and

370 (ii) failed to file a motion for relief, under Subsection 78B-6-110(6), within 30 days
371 after the day on which the person was served with notice of the adoption proceeding;

372 (d) the court finds, under Section 78B-15-607, that the person is not a parent of the
373 child; or

374 (e) the person's parental rights are terminated on grounds described in Title 78A,
375 Chapter 6, Part 5, Termination of Parental Rights Act.

376 Section 6. Section **78B-6-113** is amended to read:

377 **78B-6-113. Prospective adoptive parent not a resident -- Preplacement**
378 **requirements.**

379 (1) When an adoption petition is to be finalized in this state with regard to any
380 prospective adoptive parent who is not a resident of this state at the time a child is placed in
381 that person's home, the ~~[potential]~~ prospective adoptive parent shall:

382 (a) comply with the provisions of Sections 78B-6-128 and 78B-6-130; and

383 (b) (i) if the child is in state custody:

384 (A) submit fingerprints for a Federal Bureau of Investigation national criminal history
385 record check through the Criminal and Technical Services Division of the Department of
386 Public Safety in accordance with the provisions of Section 62A-2-120; or

387 (B) submit to a fingerprint based Federal Bureau of Investigation national criminal
388 history record check through a law enforcement agency in another state, district, or territory of
389 the United States; or

390 (ii) subject to Subsection (2), if the child is not in state custody:

391 (A) submit fingerprints for a Federal Bureau of Investigation national criminal history
392 records check as a personal records check; or

393 (B) complete a criminal records check and child abuse database check for each state
394 and, if available, country, where the ~~[potential]~~ prospective adoptive parent resided during the
395 five years immediately preceding the day on which the adoption petition is to be finalized.

396 (2) For purposes of Subsection (1)(b)(ii):

397 (a) if the adoption is being handled by a human services program, as defined in Section
398 62A-2-101:

399 (i) the criminal history check described in Subsection (1)(b)(ii)(A) shall be submitted

400 in accordance with procedures established by the Criminal Investigations and Technical
401 Services Division of the Department of Public Safety; and

402 (ii) subject to Subsection (3), the criminal history check described in Subsection
403 (1)(b)(ii)(B) shall be submitted in a manner acceptable to the court that will:

404 (A) preserve the chain of custody of the results; and

405 (B) not permit tampering with the results by a prospective adoptive parent or other
406 interested party; and

407 (b) if the adoption is being handled by a private attorney, and not a human services
408 program, the criminal history checks described in Subsection (1)(b)(ii), shall be:

409 (i) submitted in accordance with procedures established by the Criminal Investigations
410 and Technical Services Division of the Department of Public Safety; or

411 (ii) subject to Subsection (3), submitted in a manner acceptable to the court that will:

412 (A) preserve the chain of custody of the results; and

413 (B) not permit tampering with the results by a prospective adoptive parent or other
414 interested party.

415 (3) In order to comply with Subsection (2)(a)(ii) or (b)(ii), the manner in which the
416 criminal history check is submitted shall be approved by the court.

417 (4) Except as provided in Subsection 78B-6-131(2), in addition to the other
418 requirements of this section, before a child in state custody is placed with a prospective foster
419 parent or a prospective adoptive parent, the Department of Human Services shall comply with
420 Section 78B-6-131.

421 Section 7. Section **78B-6-115** is amended to read:

422 **78B-6-115. Who may adopt -- Adoption of minor -- Adoption of adult.**

423 (1) For purposes of this section, "vulnerable adult" means:

424 (a) a person 65 years of age or older; or

425 (b) an adult, 18 years of age or older, who has a mental or physical impairment which
426 substantially affects that person's ability to:

427 (i) provide personal protection;

428 (ii) provide necessities such as food, shelter, clothing, or medical or other health care;

429 (iii) obtain services necessary for health, safety, or welfare;

430 (iv) carry out the activities of daily living;

- 431 (v) manage the adult's own resources; or
432 (vi) comprehend the nature and consequences of remaining in a situation of abuse,
433 neglect, or exploitation.
- 434 (2) Subject to this section and Section 78B-6-117, any adult may be adopted by another
435 adult.
- 436 (3) The following provisions of this part apply to the adoption of an adult just as
437 though the person being adopted were a minor:
- 438 (a) (i) Section 78B-6-108;
439 (ii) Section 78B-6-114;
440 (iii) Section 78B-6-116;
441 (iv) Section 78B-6-118;
442 (v) Section 78B-6-124;
443 (vi) Section 78B-6-136;
444 (vii) Section 78B-6-137;
445 (viii) Section 78B-6-138;
446 (ix) Section 78B-6-139;
447 (x) Section 78B-6-141; and
448 (xi) Section 78B-6-142;
- 449 (b) Subsections 78B-6-105(1)(a), (1)(b)(i), (1)(b)(ii), (2), and (7), except that the
450 juvenile court does not have jurisdiction over a proceeding for adoption of an adult, unless the
451 adoption arises from a case where the juvenile court has continuing jurisdiction over the adult
452 adoptee; and
- 453 (c) if the adult adoptee is a vulnerable adult, Sections 78B-6-128 through 78B-6-131,
454 regardless of whether the adult adoptee resides, or will reside, with the adoptors, unless the
455 court, based on a finding of good cause, waives the requirements of those sections.
- 456 (4) Before a court enters a final decree of adoption of an adult, the adoptee and the
457 prospective adoptive parent or parents shall appear before the court presiding over the adoption
458 proceedings and execute consent to the adoption.
- 459 (5) No provision of this part, other than those listed or described in this section or
460 Section 78B-6-117, apply to the adoption of an adult.
- 461 Section 8. Section **78B-6-121** is amended to read:

462 **78B-6-121. Consent of unmarried biological father.**

463 (1) Except as provided in Subsections (2)(a) and 78B-6-122(1), and subject to
464 Subsection (5), with regard to a child who is placed with prospective adoptive parents more
465 than six months after birth, consent of an unmarried biological father is not required unless the
466 unmarried biological father:

467 (a) (i) developed a substantial relationship with the child by:

468 (A) visiting the child monthly, unless the unmarried biological father was physically or
469 financially unable to visit the child on a monthly basis; or

470 (B) engaging in regular communication with the child or with the person or authorized
471 agency that has lawful custody of the child;

472 (ii) took some measure of responsibility for the child and the child's future; and

473 (iii) demonstrated a full commitment to the responsibilities of parenthood by financial
474 support of the child of a fair and reasonable sum in accordance with the father's ability; or

475 (b) (i) openly lived with the child:

476 (A) (I) for a period of at least six months during the one-year period immediately
477 preceding the day on which the child is placed with prospective adoptive parents; or

478 (II) if the child is less than one year old, for a period of at least six months during the
479 period of time beginning on the day on which the child is born and ending on the day on which
480 the child is placed with prospective adoptive parents; and

481 (B) immediately preceding placement of the child with prospective adoptive parents;

482 and

483 (ii) openly held himself out to be the father of the child during the six-month period
484 described in Subsection (1)(b)(i)(A).

485 (2) (a) If an unmarried biological father was prevented from complying with a
486 requirement of Subsection (1) by the person or authorized agency having lawful custody of the
487 child, the unmarried biological father is not required to comply with that requirement.

488 (b) The subjective intent of an unmarried biological father, whether expressed or
489 otherwise, that is unsupported by evidence that the requirements in Subsection (1) have been
490 met, shall not preclude a determination that the father failed to meet the requirements of
491 Subsection (1).

492 (3) Except as provided in [~~Subsection~~] Subsections (6) and 78B-6-122(1), and subject

493 to Subsection (5), with regard to a child who is six months of age or less at the time the child is
494 placed with prospective adoptive parents, consent of an unmarried biological father is not
495 required unless, prior to the time the mother executes her consent for adoption or relinquishes
496 the child for adoption, the unmarried biological father:

497 (a) initiates proceedings in a district court of Utah to establish paternity under Title
498 78B, Chapter 15, Utah Uniform Parentage Act;

499 (b) files with the court that is presiding over the paternity proceeding a sworn affidavit:

500 (i) stating that he is fully able and willing to have full custody of the child;

501 (ii) setting forth his plans for care of the child; and

502 (iii) agreeing to a court order of child support and the payment of expenses incurred in
503 connection with the mother's pregnancy and the child's birth;

504 (c) consistent with Subsection (4), files notice of the commencement of paternity
505 proceedings, described in Subsection (3)(a), with the state registrar of vital statistics within the
506 Department of Health, in a confidential registry established by the department for that purpose;
507 and

508 (d) offered to pay and paid a fair and reasonable amount of the expenses incurred in
509 connection with the mother's pregnancy and the child's birth, in accordance with his financial
510 ability, unless:

511 (i) he did not have actual knowledge of the pregnancy;

512 (ii) he was prevented from paying the expenses by the person or authorized agency
513 having lawful custody of the child; or

514 (iii) the mother refuses to accept the unmarried biological father's offer to pay the
515 expenses described in this Subsection (3)(d).

516 (4) The notice described in Subsection (3)(c) is considered filed when it is entered into
517 the registry described in Subsection (3)(c).

518 (5) Unless his ability to assert the right to consent has been lost for failure to comply
519 with Section 78B-6-110.1, or lost under another provision of Utah law, an unmarried biological
520 father shall have at least one business day after the child's birth to fully and strictly comply with
521 the requirements of Subsection (3).

522 [~~5~~] (6) Consent of an unmarried biological father is not required under this section if:

523 (a) the court determines, in accordance with the requirements and procedures of Title

524 78A, Chapter 6, Part 5, Termination of Parental Rights Act, that the unmarried biological
525 father's rights should be terminated, based on the petition of any interested party; [or]

526 (b) (i) a declaration of paternity declaring the unmarried biological father to be the
527 father of the child is rescinded under Section 78B-15-306; and

528 (ii) the unmarried biological father fails to comply with Subsection (3) within 10
529 business days after the day that notice of the rescission described in Subsection [~~(5)~~] (6)(b)(i) is
530 mailed by the Office of Vital Records within the Department of Health as provided in Section
531 78B-15-306[-]; or

532 (c) the unmarried biological father is notified under Section 78B-6-110.1 and fails to
533 preserve his rights in accordance with the requirements of that section.

534 [~~(6)~~] (7) Unless the adoptee is conceived or born within a marriage, the petitioner in an
535 adoption proceeding shall, prior to entrance of a final decree of adoption, file with the court a
536 certificate from the state registrar of vital statistics within the Department of Health, stating:

537 (a) that a diligent search has been made of the registry of notices from unmarried
538 biological fathers described in Subsection (3)(c); and

539 (b) (i) that no filing has been found pertaining to the father of the child in question; or

540 (ii) if a filing is found, the name of the putative father and the time and date of filing.

541 Section 9. Section **78B-6-128** is amended to read:

542 **78B-6-128. Preplacement adoptive evaluations -- Exceptions.**

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

547 (b) Except as provided in Section 78B-6-131, the court may, at any time, authorize
548 temporary placement of a child in a potential adoptive home pending completion of a
549 preplacement adoptive evaluation described in this section.

550 (c) Subsection (1)(a) does not apply if a [~~birth~~] pre-existing parent has legal custody of
551 the child to be adopted and the prospective adoptive parent is related to that child as a
552 step-parent, sibling by half or whole blood or by adoption, grandparent, aunt, uncle, or first
553 cousin, unless the evaluation is otherwise requested by the court. The prospective adoptive
554 parent described in this Subsection (1)(c) shall obtain the information described in Subsections

555 (2)(a) and (b), and file that documentation with the court prior to finalization of the adoption.

556 (d) The required preplacement adoptive evaluation must be completed or updated
557 within the 12-month period immediately preceding the placement of a child with the
558 prospective adoptive parent. If the prospective adoptive parent has previously received custody
559 of a child for the purpose of adoption, the preplacement adoptive evaluation must be completed
560 or updated within the 12-month period immediately preceding the placement of a child with the
561 prospective adoptive parent and after the placement of the previous child with the prospective
562 adoptive parent.

563 (2) The preplacement adoptive evaluation shall include:

564 (a) criminal history record information regarding each prospective adoptive parent and
565 any other adult living in the prospective home, prepared no earlier than 18 months immediately
566 preceding placement of the child in accordance with the following:

567 (i) if the child is in state custody, each prospective adoptive parent and any other adult
568 living in the prospective home shall:

569 (A) submit fingerprints for a Federal Bureau of Investigation national criminal history
570 record check through the Criminal and Technical Services Division of the Department of
571 Public Safety in accordance with the provisions of Section 62A-2-120; or

572 (B) submit to a fingerprint based Federal Bureau of Investigation national criminal
573 history record check through a law enforcement agency in another state, district, or territory of
574 the United States; or

575 (ii) subject to Subsection (3), if the child is not in state custody, each prospective
576 adoptive parent and any other adult living in the prospective home shall:

577 (A) submit fingerprints for a Federal Bureau of Investigation national criminal history
578 records check as a personal records check; or

579 (B) complete a criminal records check, if available, for each state and country where
580 the [~~potential~~] prospective adoptive parent and any adult living in the prospective adoptive
581 home resided during the five years immediately preceding the day on which the adoption
582 petition is to be finalized;

583 (b) a report containing all information regarding reports and investigations of child
584 abuse, neglect, and dependency, with respect to each prospective adoptive parent and any other
585 adult living in the prospective home, obtained no earlier than 18 months immediately preceding

586 the day on which the child is placed in the prospective home, pursuant to waivers executed by
587 each prospective adoptive parent and any other adult living in the prospective home, that:

588 (i) if the prospective adoptive parent or the adult living in the prospective adoptive
589 parent's home is a resident of Utah, is prepared by the Department of Human Services from the
590 records of the Department of Human Services; or

591 (ii) if the prospective adoptive parent or the adult living in the prospective adoptive
592 parent's home is not a resident of Utah, prepared by the Department of Human Services, or a
593 similar agency in another state, district, or territory of the United States, where each
594 prospective adoptive parent and any other adult living in the prospective home resided in the
595 five years immediately preceding the day on which the child is placed in the prospective
596 adoptive home;

597 (c) in accordance with Subsection (6), an evaluation conducted by:

598 (i) an expert in family relations approved by the court;

599 (ii) a certified social worker;

600 (iii) a clinical social worker;

601 (iv) a marriage and family therapist;

602 (v) a psychologist; [~~or~~]

603 (vi) a social service worker, if supervised by a certified or clinical social worker; or

604 [~~(vi)~~] (vii) a professional counselor; and

605 (d) in accordance with Subsection (7), if the child to be adopted is a child who is in the
606 custody of any public child welfare agency, and is a child who has a special need as defined in
607 Section 62A-4a-902, the preplacement evaluation shall be conducted by the Department of
608 Human Services or a child-placing agency that has entered into a contract with the department
609 to conduct the preplacement evaluations for children with special needs.

610 (3) For purposes of Subsection (2)(a)(ii):

611 (a) if the adoption is being handled by a human services program, as defined in Section
612 62A-2-101:

613 (i) the criminal history check described in Subsection (2)(a)(ii)(A) shall be submitted
614 through the Criminal Investigations and Technical Services Division of the Department of
615 Public Safety, in accordance with the provisions of Section 62A-2-120; and

616 (ii) subject to Subsection (4), the criminal history check described in Subsection

617 (2)(a)(ii)(B) shall be submitted in a manner acceptable to the court that will:

618 (A) preserve the chain of custody of the results; and

619 (B) not permit tampering with the results by a prospective adoptive parent or other
620 interested party; and

621 (b) if the adoption is being handled by a private attorney, and not a human services
622 program, the criminal history checks described in Subsection (2)(a)(ii) shall be:

623 (i) submitted in accordance with procedures established by the Criminal Investigations
624 and Technical Services Division of the Department of Public Safety; or

625 (ii) subject to Subsection (4), submitted in a manner acceptable to the court that will:

626 (A) preserve the chain of custody of the results; and

627 (B) not permit tampering with the results by a prospective adoptive parent or other
628 interested party.

629 (4) In order to comply with Subsection (3)(a)(ii) or (b)(ii), the manner in which the
630 criminal history check is submitted shall be approved by the court.

631 (5) Except as provided in Subsection 78B-6-131(2), in addition to the other
632 requirements of this section, before a child in state custody is placed with a prospective foster
633 parent or a prospective adoptive parent, the Department of Human Services shall comply with
634 Section 78B-6-131.

635 (6) (a) A person described in Subsection (2)(c) shall be licensed to practice under the
636 laws of:

637 (i) this state; or

638 (ii) the state, district, or territory of the United States where the prospective adoptive
639 parent or other person living in the prospective adoptive home resides.

640 (b) The evaluation described in Subsection (2)(c) shall be in a form approved by the
641 Department of Human Services.

642 (c) Neither the Department of Human Services nor any of its divisions may proscribe
643 who qualifies as an expert in family relations or who may conduct evaluations under
644 Subsection (2)(c).

645 (7) Any fee assessed by the evaluating agency described in Subsection (2)(d) is the
646 responsibility of the adopting parent or parents.

647 (8) The person or agency conducting the preplacement adoptive evaluation shall, in

648 connection with the evaluation, provide the prospective adoptive parent or parents with
649 literature approved by the Division of Child and Family Services relating to adoption, including
650 information relating to:

- 651 (a) the adoption process;
- 652 (b) developmental issues that may require early intervention; and
- 653 (c) community resources that are available to the prospective adoptive parent or
654 parents.

655 (9) A copy of the preplacement adoptive evaluation shall be filed with the court.

656 Section 10. Section **78B-6-129** is amended to read:

657 **78B-6-129. Postplacement adoptive evaluations.**

658 (1) Except as provided in Subsections (2) and (3), a postplacement evaluation shall be
659 conducted and submitted to the court prior to the final hearing in an adoption proceeding. The
660 postplacement evaluation shall include:

- 661 (a) verification of the allegations of fact contained in the petition for adoption;
- 662 (b) an evaluation of the progress of the child's placement in the adoptive home; and
- 663 (c) a recommendation regarding whether the adoption is in the best interest of the
664 child.

665 (2) The exemptions from and requirements for evaluations, described in Subsections
666 78B-6-128(1)(c), (2)(c), (6), and (8), also apply to postplacement adoptive evaluations.

667 (3) Upon the request of the petitioner, the court may waive the postplacement adoptive
668 evaluation, unless it determines that it is in the best interest of the child to require the
669 postplacement evaluation. [~~Except where the child to be adopted and the prospective parent
670 are related as set forth in Subsection 78B-6-128(1)(c), the court may waive the postplacement
671 adoptive evaluation for a child who has a special need as defined in Section 62A-4a-902.]~~

672 Section 11. Section **78B-6-135** is amended to read:

673 **78B-6-135. Division of Child and Family Services -- Duties -- Report -- Fee.**

674 (1) At the request of the court, the division, through its field agents, persons licensed
675 by the division for the care and placement of children, or through the probation officer of the
676 juvenile court or court of like jurisdiction of the county, under the division's supervision, shall:

- 677 (a) verify the allegations of the petition for adoption of a minor child;
- 678 (b) make a thorough investigation of the matter; and

679 (c) report the division's findings in writing to the court.

680 (2) (a) When the court requests an investigation under Subsection (1), the court shall
681 serve a copy of the petition, together with a statement containing the names and addresses of
682 the child and petitioners, on the division by certified mail.

683 (b) The division, or the person appointed by the division, shall complete the
684 investigation described in Subsection (2)(a) and submit a written report to the court within 60
685 days after the day that the petition is served on the division.

686 (3) (a) The division shall charge the petitioner a reasonable fee for the services
687 provided under this section.

688 (b) Fees collected shall be deposited in the General Fund.

689 (4) The written report submitted to the court under this section shall state:

690 (a) why the [~~birth~~] pre-existing parents, if living, desire to be released from the care,
691 support, and guardianship of the child;

692 (b) whether the [~~birth~~] pre-existing parents have abandoned the child or are [~~morally~~]
693 unfit for custody;

694 (c) whether the [~~proposed~~] prospective adoptive parent or parents are financially able
695 and morally fit to have the care, supervision, and training of the child;

696 (d) the physical and mental condition of the child, so far as that may be determined;
697 and

698 (e) any other facts and circumstances pertaining to the child and the child's welfare.

699 (5) (a) The court shall conduct a full hearing on the petition for adoption and examine
700 the parties in interest under oath.

701 (b) The court may adjourn the hearing from time to time as the nature of the case
702 requires.

703 (6) If the report submitted by the division under Subsection (2) disapproves of the
704 adoption of the child by the petitioner, the court may dismiss the petition.

705 Section 12. Section **78B-6-136** is amended to read:

706 **78B-6-136. Final decree of adoption -- Agreement by adoptive parent or parents.**

707 (1) Except as provided in Subsection (2), before the court enters a final decree of
708 adoption:

709 (a) the prospective adoptive parent or parents and the child being adopted shall appear

710 before the appropriate court; and

711 (b) the prospective adoptive parent or parents shall execute an agreement stating that
712 the child shall be adopted and treated in all respects as the adoptive parent's or parents' own
713 lawful child.

714 (2) Except as provided in Subsection 78B-6-115(4), a court may waive the requirement
715 described in Subsection (1)(a) if:

716 (a) the adoption is not contested;

717 (b) the prospective adoptive parent or parents:

718 (i) execute an agreement stating that the child shall be adopted and treated in all
719 respects as the parent's or parents' own lawful child;

720 (ii) have the agreement described in Subsection (2)(b)(i) notarized; and

721 (iii) file the agreement described in Subsection (2)(b)(i) with the court; and

722 (c) all requirements of this chapter to obtain a final decree of adoption are otherwise
723 complied with.

724 Section 13. Section **78B-6-136.5** is amended to read:

725 **78B-6-136.5. Timing of entry of final decree of adoption -- Posthumous adoption.**

726 (1) Except as provided in Subsection (2), a final decree of adoption may not be entered
727 until the earlier of:

728 (a) when the child has lived in the home of the prospective adoptive parent [~~or parents~~]
729 for six months[~~, unless, based on a finding of good cause, the court orders that the final decree~~
730 ~~of adoption may be entered at an earlier time.]; or~~

731 (b) when the child has been placed for adoption with the prospective adoptive parent
732 for six months.

733 (2) (a) If the prospective adoptive parent is the spouse of the [~~birth~~] a pre-existing
734 parent, a final decree of adoption may not be entered until the child has lived in the home of
735 that prospective adoptive parent for one year, unless, based on a finding of good cause, the
736 court orders that the final decree of adoption may be entered at an earlier time.

737 (b) The court may, based on a finding of good cause, order that the final decree of
738 adoption be entered at an earlier time than described in Subsection (1).

739 (3) If the child dies during the time that the child is placed in the home of [~~an~~] a
740 prospective adoptive parent or parents for the purpose of adoption, the court has authority to

741 enter a final decree of adoption after the child's death upon the request of the prospective
742 adoptive parents.

743 (4) The court may enter a final decree of adoption declaring that a child is adopted by
744 both a deceased and a surviving adoptive parent if, after the child is placed in the home of the
745 child's prospective adoptive parents:

746 (a) one of the prospective adoptive parents dies;

747 (b) the surviving prospective adoptive parent requests that the court enter the decree;

748 and

749 (c) the decree is entered after the child has lived in the home of the surviving
750 prospective adoptive parent for at least six months.

751 (5) Upon request of a surviving [~~birth~~] pre-existing parent, or a surviving parent for
752 whom adoption of a child has been finalized, the court may enter a final decree of adoption
753 declaring that a child is adopted by a deceased adoptive parent who was the spouse of the
754 surviving parent at the time of the prospective adoptive parent's death.

755 (6) The court may enter a final decree of adoption declaring that a child is adopted by
756 both deceased prospective adoptive parents if:

757 (a) both of the prospective adoptive parents die after the child is placed in the
758 prospective adoptive [~~parent's~~] parents' home; and

759 (b) it is in the best interests of the child to enter the decree.

760 (7) Nothing in this section shall be construed to grant any rights to the pre-existing
761 parents of a child to assert any interest in the child during the six-month or one-year periods
762 described in this section.

763 Section 14. Section **78B-6-140** is amended to read:

764 **78B-6-140. Itemization of fees and expenses.**

765 (1) Except as provided in Subsection (4), prior to the date that a final decree of
766 adoption is entered, an affidavit regarding fees and expenses, signed by the prospective
767 adoptive parent or parents and the person or agency placing the child, shall be filed with the
768 court.

769 (2) The affidavit described in Subsection (1) shall itemize the following items in
770 connection with the adoption:

771 (a) all legal expenses, maternity expenses, medical or hospital expenses, and living

772 expenses that have been or will be paid to or on behalf of the pre-existing parents of the child,
773 including the source of payment;

774 (b) fees paid by the prospective adoptive parent or parents in connection with the
775 adoption;

776 (c) all gifts, property, or other items that have been or will be provided to the
777 pre-existing parents, including the source of the gifts, property, or other items;

778 (d) all public funds used for any medical or hospital costs in connection with the:

779 (i) pregnancy;

780 (ii) delivery of the child; or

781 (iii) care of the child;

782 (e) the state of residence of the:

783 (i) birth mother or the pre-existing parents; and

784 (ii) prospective adoptive parent or parents;

785 (f) a description of services provided to the prospective adoptive parents or
786 pre-existing parents in connection with the adoption; and

787 (g) that Section 76-7-203 has not been violated.

788 (3) A copy of the affidavit described in Subsection (1) shall be provided to the Office
789 of Licensing within the Department of Human Services.

790 (4) This section does not apply if the prospective adoptive parent is the legal spouse of
791 ~~[the birth]~~ a pre-existing parent.

792 Section 15. Section **78B-6-141** is amended to read:

793 **78B-6-141. Petition, report, and documents sealed -- Exceptions.**

794 (1) A petition for adoption, the written report described in Section 78B-6-135, and any
795 other documents filed in connection with the petition are sealed.

796 (2) The documents described in Subsection (1) may only be open to inspection as
797 follows:

798 (a) in accordance with Subsection (3)(a), by a party to the adoption proceeding:

799 (i) while the proceeding is pending; or

800 (ii) within six months after the day on which the adoption decree is entered;

801 (b) subject to Subsection (3)(b), a court enters an order permitting access to the
802 documents by a person who has appealed the denial of that person's motion to intervene;

803 (c) upon order of the court expressly permitting inspection or copying, after good cause
804 has been shown;

805 (d) as provided under Section 78B-6-144;

806 (e) those records shall become public on the one hundredth anniversary of the date the
807 final decree of adoption was entered; or

808 (f) if the adoptee is an adult at the time the final decree of adoption is entered, the
809 documents described in this section are open to inspection and copying without a court order
810 by the adoptee or a parent who adopted the adoptee, unless the final decree of adoption is
811 entered by the juvenile court under Subsection 78B-6-115(3)(b).

812 (3) (a) A person who files a motion to intervene in an adoption proceeding:

813 (i) is not a party to the adoption proceeding, unless the motion to intervene is granted;
814 and

815 (ii) may not be granted access to the documents described in Subsection (1), unless the
816 motion to intervene is granted.

817 (b) An order described in Subsection (2)(b) shall:

818 (i) prohibit the person described in Subsection (2)(b) from inspecting a document
819 described in Subsection (1) that contains identifying information of the adoptive or ~~[potential]~~
820 prospective adoptive ~~[parents]~~ parent; and

821 (ii) permit the person described in Subsection (3)(b)(i) to review a copy of a document
822 described in Subsection (3)(b)(i) after the identifying information described in Subsection
823 (3)(b)(i) is redacted from the document.

824 Section 16. Section **78B-6-143** is amended to read:

825 **78B-6-143. Nonidentifying health history of adoptee filed with office -- Limited**
826 **availability.**

827 (1) Upon finalization of an adoption in this state, the person who proceeded on behalf
828 of the petitioner for adoption, or a child-placing agency if an agency is involved in the
829 adoption, shall file a report with the ~~[bureau]~~ office, in the form established by the ~~[bureau]~~
830 office. That report shall include a detailed health history, and a genetic and social history of the
831 adoptee.

832 (2) The report filed under Subsection (1) may not contain any information which
833 identifies the adoptee's birth parents or members of their families.

834 (3) When the report described in Subsection (1) is filed, a duplicate report shall be
835 provided to the adoptive parents.

836 (4) The report filed with the [bureau] office under Subsection (1) shall only be
837 available upon request, and upon presentation of positive identification, to the following
838 persons:

- 839 (a) the adoptive parents;
- 840 (b) in the event of the death of the adoptive parents, the adoptee's legal guardian;
- 841 (c) the adoptee;
- 842 (d) in the event of the death of the adoptee, the adoptee's spouse, if the spouse is the
843 parent or guardian of the adoptee's child;
- 844 (e) the adoptee's child or descendant;
- 845 (f) the adoptee's birth parent; and
- 846 (g) the adoptee's adult sibling.

847 (5) No information which identifies a birth parent or his family may be disclosed under
848 this section.

849 (6) The actual cost of providing information under this section shall be paid by the
850 person requesting the information.

851 Section 17. Section **78B-6-144** is amended to read:

852 **78B-6-144. Mutual-consent, voluntary adoption registry -- Procedures -- Fees.**

853 (1) The [bureau] office shall establish a mutual-consent, voluntary adoption registry.

854 (a) Adult adoptees and birth parents of adult adoptees, upon presentation of positive
855 identification, may request identifying information from the [bureau] office, in the form
856 established by the [bureau] office. A court of competent jurisdiction or a child-placing agency
857 may accept that request from the adult adoptee or birth parent, in the form provided by the
858 [bureau] office, and transfer that request to the [bureau] office. The adult adoptee or birth
859 parent is responsible for notifying the [bureau] office of any change in information contained in
860 the request.

861 (b) The [bureau] office may only release identifying information to an adult adoptee or
862 birth parent when it receives requests from both the adoptee and [his] the adoptee's birth parent.

863 (c) After matching the request of an adult adoptee with that of at least one of [his] the
864 adoptee's birth parents, the [bureau] office shall notify both the adoptee and the birth parent

865 that the requests have been matched, and disclose the identifying information to those parties.
866 However, if that adult adoptee has a sibling of the same birth parent who is under the age of 18
867 years, and who was raised in the same family setting as the adult adoptee, the [bureau] office
868 shall not disclose the requested identifying information to that adult adoptee or [his] the
869 adoptee's birth parent.

870 (2) (a) Adult adoptees and adult siblings of adult adoptees, upon presentation of
871 positive identification, may request identifying information from the [bureau] office, in the
872 form established by the [bureau] office. A court of competent jurisdiction or a child-placing
873 agency may accept that request from the adult adoptee or adult sibling, in the form provided by
874 the [bureau] office, and transfer that request to the [bureau] office. The adult adoptee or adult
875 sibling is responsible for notifying the [bureau] office of any change in information contained
876 in the request.

877 (b) The [bureau] office may only release identifying information to an adult adoptee or
878 adult sibling when it receives requests from both the adoptee and [his] the adoptee's adult
879 sibling.

880 (c) After matching the request of an adult adoptee with that of [his] the adoptee's adult
881 sibling, if the [bureau] office has been provided with sufficient information to make that match,
882 the [bureau] office shall notify both the adoptee and the adult sibling that the requests have
883 been matched, and disclose the identifying information to those parties.

884 (3) Information registered with the bureau under this section is available only to a
885 registered adult adoptee and [his] the adoptee's registered birth parent or registered adult
886 sibling, under the terms of this section.

887 (4) Information regarding a birth parent who has not registered a request with the
888 bureau may not be disclosed.

889 (5) The bureau may charge a fee for services provided under this section, limited to the
890 cost of providing those services.

891 Section 18. Section **78B-6-145** is amended to read:

892 **78B-6-145. Restrictions on disclosure of information -- Violations -- Penalty.**

893 (1) Information maintained or filed with the [bureau] office under this chapter may not
894 be disclosed except as provided by this chapter, or pursuant to a court order.

895 (2) Any person who discloses information obtained from the [bureau's] office's

896 voluntary adoption registry in violation of this part, or knowingly allows that information to be
897 disclosed in violation of this chapter is guilty of a class A misdemeanor.

Legislative Review Note
as of 2-1-12 1:22 PM

Office of Legislative Research and General Counsel