

## HB0148S02 compared with HB0148

~~{deleted text}~~ shows text that was in HB0148 but was deleted in HB0148S02.

inserted text shows text that was not in HB0148 but was inserted into HB0148S02.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Jim Nielson proposes the following substitute bill:

### ADOPTION RECORDS ACCESS AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jim Nielson**

Senate Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill modifies Title 78B, Chapter 6, Particular Proceedings, by amending the procedures for disclosing information in an adoption record and creating a restricted account.

##### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ states that for an adoption finalized before March 22, 1941, the original birth certificate ~~{is a public document and }~~ shall be made available upon request;
- ▶ permits the release of identifying information about a birth mother, with her permission, under certain circumstances;
- ▶ authorizes the Office of Vital Records and Statistics to collect a ~~{ \$50 }~~ fee from an

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adult adoptee accessing the mutual-consent, voluntary adoption registry ~~{, unless the individual is impecunious}~~, and directs the office to deposit money in a designated restricted account;

- ▶ directs the Office of Vital Records and Statistics to, as funding allows:
  - implement broad search terms and methods when attempting to find a match in the mutual-consent, voluntary adoption registry; and
  - advertise the services offered by the mutual-consent, voluntary adoption registry;
- ▶ authorizes the Office of Vital Records and Statistics to partner with a private or nonprofit organization to seek private funding for advertising and the operation of the mutual-consent, voluntary adoption registry;
- ▶ requires an annual report on the effectiveness of the mutual-consent, voluntary adoption registry to the Health and Human Services Interim Committee; and
- ▶ makes technical changes.

### Money Appropriated in this Bill:

This bill appropriates:

▶ to the General Fund Restricted - Mutual-Consent, Voluntary Adoption Registry Restricted Account as an ongoing appropriation:

• from the General fund, \$50,000:

- ▶ to the Department of Health - Office of Vital Statistics:
  - from the Mutual-Consent, Voluntary Adoption Registry Restricted Account, \$50,000, subject to intent language that the appropriation shall be used to fund programs and services described in Section 78B-6-144.

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

**78B-6-141**, as last amended by Laws of Utah 2012, Chapter 340

**78B-6-144**, as last amended by Laws of Utah 2012, Chapter 340

ENACTS:

**78B-6-144.5**, Utah Code Annotated 1953

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

Section 1. Section **78B-6-141** is amended to read:

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

(1) As used in this section:

(a) "Adult adoptee" means a person at least 18 years old who was adopted as a child.

(b) "Identifying information" means information that may lead to the positive identification of a birth parent, adoptee, or other biological relative, including a name, address, or place of employment.

~~[(1) A]~~ (2) For an adoption that is finalized before January 1, 2014, a petition for adoption, the written report described in Section 78B-6-135, and any other documents filed in connection with the petition are sealed.

(3) For an adoption ~~{that is }~~finalized before March 22, 1941, the original birth certificate ~~{is a public document and }~~shall be made available for inspection ~~{upon request}~~pursuant to Subsection 26-2-22(2).

(4) For an adoption that is finalized on or after January 1, 2014, a petition for adoption, the written report described in Section 78B-6-135, and any other documents filed in connection with the petition:

(a) the original documents are sealed; and

(b) except as provided in Subsection (5), ~~upon written request in the form established by the office, the office shall make~~ copies of the original documents in the possession of the office ~~{shall be made }~~available for inspection ~~{upon written request in the form established by the office by}~~to:

(i) an adoptive parent who was a party to the adoption; or

(ii) an adult adoptee.

(5) (a) For an adoption that is finalized on or after January 1, 2014, a birth mother may elect, in writing at the time of finalization, to refuse to permit identifying information about the birth mother to be made available by the office for inspection by any individual.

(b) If a birth mother elects under Subsection (5)(a) to refuse to permit identifying information about the birth mother to be made available for inspection, the office shall redact all identifying information about the birth mother in the documents described Subsection

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(4)(b).

(c) A birth mother may, at any time:

(i) change the election described in Subsection (5)(a); or

(ii) elect to make other information, including an updated medical history, available for inspection by a party to the adoption or adult adoptee, if she makes the election in writing.

~~(2)~~ (6) The documents described in Subsection ~~(1)~~ (2) may only be open to inspection as follows:

(a) in accordance with Subsection ~~(3)~~ (7)(a), by a party to the adoption proceeding:

(i) while the proceeding is pending; or

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

(b) subject to Subsection ~~(3)~~ (7)(b), a court enters an order permitting access to the documents by a person who has appealed the denial of that person's motion to intervene;

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

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

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

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

~~(3)~~ (7) (a) A person who files a motion to intervene in an adoption proceeding:

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

(ii) may not be granted access to the documents described in Subsection ~~(1)~~ (2), unless the motion to intervene is granted.

(b) An order described in Subsection ~~(2)~~ (6)(b) shall:

(i) prohibit the person described in Subsection ~~(2)~~ (6)(b) from inspecting a document described in Subsection ~~(1)~~ (2) that contains identifying information of the adoptive or prospective adoptive parent; and

(ii) permit the person described in Subsection ~~(3)~~ (7)(b)(i) to review a copy of a

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document described in Subsection ~~[(3)]~~ (7)(b)(i) after the identifying information described in Subsection ~~[(3)]~~ (7)(b)(i) is redacted from the document.

(8) A birth mother who opts out of disclosure of information under Subsection (5), may participate in the mutual-consent, voluntary adoption registry described in Section 78B-6-144.

(9) The office may charge a fee to an individual who requests information under this section ~~or changes an election under Subsection (5)(c)~~, limited to:

(a) the cost of providing the service; and

(b) ~~+\$50~~an additional fee, ~~unless~~ to be set by the ~~individual is impecunious,~~ office by rule, and to be deposited in the Mutual-Consent, Voluntary Adoption Registry Restricted Account ~~to fund the activities described in Subsection 78B-6-144(7).~~

Section 2. Section **78B-6-144** is amended to read:

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

(1) As used in this section, "adult adoptee" is as defined in Section 78B-6-141.

~~[(1)]~~ (2) The office shall establish a mutual-consent, voluntary adoption registry.

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

(b) The office may only release identifying information to an adult adoptee or birth parent ~~{ when }~~:

(i) when it receives requests from both the adoptee and the adoptee's birth parent~~[-]; or~~

(ii) pursuant to Subsections 78B-6-141(~~4~~3) through (7).

(c) After matching the request of an adult adoptee with that of at least one of the adoptee's birth parents, the office shall notify both the adoptee and the birth parent that the requests have been matched, and disclose the identifying information to those parties.

However, if that adult adoptee has a sibling of the same birth parent who is under the age of 18 years, and who was raised in the same family setting as the adult adoptee, the office shall not disclose the requested identifying information to that adult adoptee or the adoptee's birth

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parent.

~~[(2)]~~ (3) (a) Adult adoptees and adult siblings of adult adoptees, upon presentation of positive identification, may request identifying information from the office, in the form established by the office. A court of competent jurisdiction or a child-placing agency may accept that request from the adult adoptee or adult sibling, in the form provided by the office, and transfer that request to the office. The adult adoptee or adult sibling is responsible for notifying the office of any change in information contained in the request.

(b) The office may only release identifying information to an adult adoptee or adult sibling when it receives requests from both the adoptee and the adoptee's adult sibling.

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

(d) After receiving a request for information from an adult adoptee under this section, the office shall:

(i) search ~~{death certificates in the possession of}~~ the ~~{office}~~ office's vital records for the adult adoptee's birth parent; and

(ii) if the search described in Subsection (3)(d)(i) reveals that adult adoptee's birth parent is dead, inform the adult adoptee that the birth parent is dead and disclose the identity of the birth parent.

(e) The office shall attempt to notify an individual who requests information under this section:

(i) of the results of the initial search for a match; and

(ii) if the initial search does not produce a match, that the office will keep the request ~~{will be kept}~~ on file and the office shall attempt to notify the individual ~~{shall be notified}~~ in the event of a match.

~~[(3)]~~ (4) Information registered with the ~~[bureau]~~ office under this section is available only to a registered adult adoptee and the adoptee's registered birth parent or registered adult sibling, under the terms of this section.

~~[(4)]~~ (5) Information regarding a birth parent who has not registered a request with the ~~[bureau]~~ office may not be disclosed, except as provided in Section 78B-6-141.

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~~[(5)]~~ (6) The ~~[bureau may]~~ office shall:

(a) ~~{ except as provided in Subsection (6)(b), shall }~~ charge an adult adoptee:

(i) a fee for the cost of ~~{ \$50 }~~ providing ~~{ for }~~ services ~~[ provided ]~~ under this section~~;~~ limited to the cost of providing those services.]; and

~~{ b } may waive the fee described in Subsection (6)(a) if the adult adoptee is impecunious; and~~

~~— (c) shall~~ ii) an additional fee, to be set by the office by rule.

(b) deposit any funds received under Subsection (6)(a)(ii) in the Mutual-Consent, Voluntary Adoption Registry Restricted Account created under Section 78B-6-144.5.

(7) The office shall, as funding ~~{ follows }~~ in the Mutual-Consent, Voluntary Adoption Registry Donation Fund allow:

(a) automate the processes to operate the mutual-consent, voluntary adoption registry;

(b) maximize potential matches by utilizing broad search terms and methods; and

~~{ b } c~~ advertise the services provided by the mutual-consent, voluntary adoption registry, including providing registration forms to local motor vehicle division offices for distribution with vehicle registration information.

(8) The office may:

(a) partner with a private or nonprofit organization to ~~{~~

~~— (a) }~~ seek funding for activities authorized under this section, which shall be deposited in the Mutual-Consent, Voluntary Adoption Registry Donation Fund created under Section 78B-6-144.5; ~~{ or }~~ and

(b) contract with a private or nonprofit organization to supplement the advertising described in Subsection (7)(b).

(9) The office shall work with the Department of Transportation to develop language advertising the services provided by the mutual-consent, voluntary adoption registry to be included on vehicle registration forms.

~~{ 9 } 10~~ The ~~{ offices }~~ office shall make an annual report on the effectiveness of the mutual-consent, voluntary adoption registry to the Health and Human Services Interim Committee.

~~{ 10 } 11~~ Nothing in this section shall limit the disclosure of information as described in Section 78B-6-141.

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Section 3. Section 78B-6-144.5 is enacted to read:

### **78B-6-144.5. Mutual-Consent, Voluntary Adoption Registry Restricted Account.**

(1) (a) There is created a restricted account within the General Fund known as the "Mutual-Consent, Voluntary Adoption Registry Restricted Account."

(b) The Mutual-Consent Voluntary Adoption Registry Restricted Account consists of money that the Legislature appropriates into the account, and fees the Office of Vital Records and Statistics deposits into the account under Sections 78B-6-141 and 78B-6-144.

(2) The Legislature shall appropriate funds from the account described in Subsection (1) to fund the services provided by the Office of Vital Records and Statistics in maintaining and operating the mutual-consent adoption registry, and advertising the service provided by the registry.

(3) (a) There is created a restricted special revenue fund known as the "Mutual-Consent, Voluntary Adoption Registry Donation Fund."

(~~4~~)b The fund described in Subsection (3)(a) shall be funded by donations and grants from public or private entities, and interest on those donations and grants.

(~~5~~)4 The office may spend money in the Mutual-Consent, Voluntary Adoption Registry Donation Fund to fund activities described in Section 78B-6-144.

(~~6~~)5 The office may not spend money in the Mutual-Consent, Voluntary Adoption Registry Donation Fund except as described in Subsection (~~5~~)4).

### Section 4. **Appropriation.**

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2013, and ending June 30, 2014, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated ~~for the fiscal year beginning July 1, 2013 and ending June 30, 2014~~. These sums of money are ~~additions~~ in addition to any amounts previously appropriated for fiscal year ~~2013~~2014.

~~To Department of Health - Office of Vital Statistics~~

~~From Mutual-Consent,~~ To General Fund Restricted - Mutual-Consent Voluntary Adoption ~~for~~

Registry Restricted Account

From General Fund

\$50,000

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### Schedule of Programs:

Mutual-Consent, Voluntary Adoption Registry

Restricted Account { ~~\_\_\_\_\_~~ \$50,000

~~The~~ \$50,000

To Department of Health, Executive Director's Operations

From General Fund Restricted - Mutual-Consent, Voluntary

Adoption Registry Restricted Account \$50,000

### Schedule of Programs:

Office of Health Data \$50,000

The Legislature intends that ~~{, under Section 63J-1-603, the}~~ appropriations provided under this section ~~{ shall }~~ be used by the Office of Vital Statistics to ~~{ maintain, operate, and advertise the services provided by the mutual consent adoption registry.~~

### Legislative Review Note

~~as of 2-13-13 1:12 PM~~

~~Office of Legislative Research and General Counsel~~ fund programs and services described in 78B-6-144.

Under Section 63J-1-603, the Legislature intends that appropriations provided under this section not lapse at the close of fiscal year 2014. The use of any nonlapsing funds is limited to fund programs and services described in Section 78B-6-144.