

Representative Jim Nielson proposes the following substitute bill:

ADOPTION RECORDS ACCESS AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jim Nielson

Senate Sponsor: _____

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 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 fee from an adult adoptee accessing the mutual-consent, voluntary adoption registry, 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



26 registry;

27 ▶ authorizes the Office of Vital Records and Statistics to partner with a private or
28 nonprofit organization to seek private funding for advertising and the operation of
29 the mutual-consent, voluntary adoption registry;

30 ▶ requires an annual report on the effectiveness of the mutual-consent, voluntary
31 adoption registry to the Health and Human Services Interim Committee; and

32 ▶ makes technical changes.

33 **Money Appropriated in this Bill:**

34 This bill appropriates:

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

37 • from the General fund, \$50,000;

38 ▶ to the Department of Health - Office of Vital Statistics:

39 • from the Mutual-Consent, Voluntary Adoption Registry Restricted Account,
40 \$50,000, subject to intent language that the appropriation shall be used to fund
41 programs and services described in Section 78B-6-144.

42 **Other Special Clauses:**

43 None

44 **Utah Code Sections Affected:**

45 AMENDS:

46 **78B-6-141**, as last amended by Laws of Utah 2012, Chapter 340

47 **78B-6-144**, as last amended by Laws of Utah 2012, Chapter 340

48 ENACTS:

49 **78B-6-144.5**, Utah Code Annotated 1953



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

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

53 **78B-6-141. Petition, report, and documents sealed -- Exceptions.**

54 (1) As used in this section:

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

56 (b) "Identifying information" means information that may lead to the positive

57 identification of a birth parent, adoptee, or other biological relative, including a name, address,
58 or place of employment.

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

62 (3) For an adoption that is finalized before March 22, 1941, the original birth
63 certificate shall be made available for inspection pursuant to Subsection 26-2-22(2).

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

67 (a) the original documents are sealed; and

68 (b) except as provided in Subsection (5), copies of the original documents in the
69 possession of the office shall be made available for inspection upon written request in the form
70 established by the office by:

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

72 (ii) an adult adoptee.

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

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

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

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

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

84 [(2)] (6) The documents described in Subsection [(1)] (2) may only be open to
85 inspection as follows:

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

87 (i) while the proceeding is pending; or

- 88 (ii) within six months after the day on which the adoption decree is entered;
- 89 (b) subject to Subsection [~~(3)~~] (7)(b), a court enters an order permitting access to the
- 90 documents by a person who has appealed the denial of that person's motion to intervene;
- 91 (c) upon order of the court expressly permitting inspection or copying, after good cause
- 92 has been shown;
- 93 (d) as provided under Section 78B-6-144;
- 94 (e) those records shall become public on the one hundredth anniversary of the date the
- 95 final decree of adoption was entered; or
- 96 (f) if the adoptee is an adult at the time the final decree of adoption is entered, the
- 97 documents described in this section are open to inspection and copying without a court order
- 98 by the adoptee or a parent who adopted the adoptee, unless the final decree of adoption is
- 99 entered by the juvenile court under Subsection 78B-6-115(3)(b).

100 [~~(3)~~] (7) (a) A person who files a motion to intervene in an adoption proceeding:

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

102 and

103 (ii) may not be granted access to the documents described in Subsection [~~(4)~~] (2),

104 unless the motion to intervene is granted.

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

106 (i) prohibit the person described in Subsection [~~(2)~~] (6)(b) from inspecting a document

107 described in Subsection [~~(4)~~] (2) that contains identifying information of the adoptive or

108 prospective adoptive parent; and

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

110 document described in Subsection [~~(3)~~] (7)(b)(i) after the identifying information described in

111 Subsection [~~(3)~~] (7)(b)(i) is redacted from the document.

112 (8) A birth mother who opts out of disclosure of information under Subsection (5), may

113 participate in the mutual-consent, voluntary adoption registry described in Section 78B-6-144.

114 (9) The office may charge a fee to an individual who requests information under this

115 section, limited to:

116 (a) the cost of providing the service; and

117 (b) an additional fee, to be set by the office by rule, and to be deposited in the

118 Mutual-Consent, Voluntary Adoption Registry Restricted Account.

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

120 **78B-6-144. Mutual-consent, voluntary adoption registry -- Procedures -- Fees.**

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

122 [~~(1)~~] (2) The office shall establish a mutual-consent, voluntary adoption registry.

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

130 (b) The office may only release identifying information to an adult adoptee or birth
131 parent:

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

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

134 (c) After matching the request of an adult adoptee with that of at least one of the
135 adoptee's birth parents, the office shall notify both the adoptee and the birth parent that the
136 requests have been matched, and disclose the identifying information to those parties.
137 However, if that adult adoptee has a sibling of the same birth parent who is under the age of 18
138 years, and who was raised in the same family setting as the adult adoptee, the office shall not
139 disclose the requested identifying information to that adult adoptee or the adoptee's birth
140 parent.

141 [~~(2)~~] (3) (a) Adult adoptees and adult siblings of adult adoptees, upon presentation of
142 positive identification, may request identifying information from the office, in the form
143 established by the office. A court of competent jurisdiction or a child-placing agency may
144 accept that request from the adult adoptee or adult sibling, in the form provided by the office,
145 and transfer that request to the office. The adult adoptee or adult sibling is responsible for
146 notifying the office of any change in information contained in the request.

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

149 (c) After matching the request of an adult adoptee with that of the adoptee's adult

150 sibling, if the office ~~[has been provided with]~~ determined it has sufficient information to make
151 that match, the office shall notify both the adoptee and the adult sibling that the requests have
152 been matched, and disclose the identifying information to those parties.

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

155 (i) search the office's vital records for the adult adoptee's birth parent; and

156 (ii) if the adult adoptee's birth parent is dead, inform the adult adoptee that the birth
157 parent is dead.

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

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

161 (ii) if the initial search does not produce a match, that the request will be kept on file
162 and the individual shall be notified in the event of a match.

163 ~~[(3)]~~ (4) Information registered with the [bureau] office under this section is available
164 only to a registered adult adoptee and the adoptee's registered birth parent or registered adult
165 sibling, under the terms of this section.

166 ~~[(4)]~~ (5) Information regarding a birth parent who has not registered a request with the
167 [bureau] office may not be disclosed, except as provided in Section 78B-6-141.

168 ~~[(5)]~~ (6) The [bureau may] office shall:

169 (a) charge an adult adoptee:

170 (i) a fee for the cost of providing services [provided] under this section[~~, limited to the~~
171 cost of providing those services.]; and

172 (ii) an additional fee, to be set by the office by rule.

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

175 (7) The office shall, as funding in the Mutual-Consent, Voluntary Adoption Registry
176 Donation Fund allow:

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

178 (b) advertise the services provided by the mutual-consent, voluntary adoption registry,
179 including providing registration forms to local motor vehicle division offices for distribution
180 with vehicle registration information.

181 (8) The office may:
182 (a) partner with a private or nonprofit organization to seek funding for activities
183 authorized under this section, which shall be deposited in the Mutual-Consent, Voluntary
184 Adoption Registry Donation Fund created under Section 78B-6-144.5; and
185 (b) contract with a private or nonprofit organization to supplement the advertising
186 described in Subsection (7)(b).

187 (9) The office shall make an annual report on the effectiveness of the mutual-consent,
188 voluntary adoption registry to the Health and Human Services Interim Committee.

189 (10) Nothing in this section shall limit the disclosure of information as described in
190 Section 78B-6-141.

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

192 **78B-6-144.5. Mutual-Consent, Voluntary Adoption Registry Restricted Account.**

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

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

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

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

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

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

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

210 Section 4. **Appropriation.**

211 Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for

212 the fiscal year beginning July 1, 2013, and ending June 30, 2014, the following sums of money
213 are appropriated from resources not otherwise appropriated, or reduced from amounts
214 previously appropriated, out of the funds or accounts indicated. These sums of money are in
215 addition to any amounts previously appropriated for fiscal year 2014.

216 To General Fund Restricted - Mutual-Consent Voluntary Adoption
217 Registry Restricted Account

218 From General Fund \$50,000

219 Schedule of Programs:

220 Mutual-Consent, Voluntary Adoption Registry
221 Restricted Account \$50,000

222 To Department of Health, Executive Director's Operations

223 From General Fund Restricted - Mutual-Consent, Voluntary
224 Adoption Registry Restricted Account \$50,000

225 Schedule of Programs:

226 Office of Health Data \$50,000

227 The Legislature intends that appropriations provided under this section be used by the
228 Office of Vital Statistics to fund programs and services described in 78B-6-144.

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