

## HB0256S02 compared with HB0256S01

~~deleted text~~ shows text that was in HB0256S01 but was deleted in HB0256S02.

inserted text shows text that was not in HB0256S01 but was inserted into HB0256S02.

**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

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jim Nielson**

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

---

#### LONG TITLE

##### General Description:

This bill modifies Title 78B, Chapter 6, Part 1, Utah Adoption Act, by amending provisions relating to disclosing information in an adoption record and by requiring the Office of Vital Records and Statistics to establish a fee relating to requesting adoption information.

##### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ establishes procedures and requirements for the Office of Vital Records and Statistics (the office) to make the original birth certificate, for an adoption finalized before March 22, 1941, available for inspection;
- ▶ provides that copies of adoption documents, relating to an adoption finalized on or

## HB0256S02 compared with HB0256S01

after January 1, 2015, shall be made available for inspection:

- by an adult party to the adoption proceeding, unless the birth mother specifies otherwise; or
- as otherwise provided in Title 78B, Chapter 6, Part 1, Utah Adoption Act;
- ▶ provides that a birth mother may elect to make additional information, including an updated medical history, available for inspection by a party to the adoption proceeding;
- ▶ provides for the establishment of fees relating to use of ~~{the Mutual-Consent}~~a mutual-consent, ~~{Voluntary Adoption Registry}~~voluntary adoption registry (the registry) and other requests for adoption records;
- ▶ provides for the release of information from the registry if the birth parent dies;
- ▶ provides for funding, automating, improving, and advertising the services described in this bill;
- ▶ requires the office to establish a fee relating to requesting adoption information and describes the funding and use of the fee; and
- ▶ makes technical changes.

### Money Appropriated in this Bill:

This bill appropriates:

- ▶ to the Department of Health - Adoption Records Access:
  - from the General Fund, \$50,000, subject to intent language that the appropriation shall be used for the purposes described in Subsection 78B-6-144.5(2); and
  - from Dedicated Credits Revenue, \$26,200, subject to intent language that the appropriation shall be used for the purposes described in Subsection 78B-6-144.5(2).

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

**26-2-10**, as last amended by Laws of Utah 2008, Chapter 3

**26-2-15**, as last amended by Laws of Utah 2008, Chapter 3

## HB0256S02 compared with HB0256S01

26-2-22, as last amended by Laws of Utah 2012, Chapter 391

63J-1-602.5, as last amended by Laws of Utah 2011, Chapters 208, 303, and 342

78B-6-103, as last amended by Laws of Utah 2012, Chapter 340

78B-6-115, as last amended by Laws of Utah 2012, Chapter 340

78B-6-116, as renumbered and amended by Laws of Utah 2008, Chapter 3

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

---

---

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

Section 1. Section **26-2-10** is amended to read:

**26-2-10. Supplementary certificate of birth.**

(1) Any person born in this state who is legitimized by the subsequent marriage of ~~his~~ the person's natural parents, or whose parentage has been determined by any U.S. state court or Canadian provincial court having jurisdiction, or who has been legally adopted under the law of this or any other state or any province of Canada, may request the state registrar to register a supplementary certificate of birth on the basis of that status.

(2) The application for registration of a supplementary certificate may be made by the person requesting registration, if ~~he~~ the person is of legal age, by a legal representative, or by any agency authorized to receive children for placement or adoption under the laws of this or any other state.

(3) (a) The state registrar shall require that an applicant submit identification and proof according to department rules.

(b) In the case of an adopted person, that proof may be established by order of the court in which the adoption proceedings were held.

(4) (a) After the supplementary certificate is registered, any information disclosed from the record shall be from the supplementary certificate.

(b) Access to the original certificate and to the evidence submitted in support of the supplementary certificate are not open to inspection except ~~upon the order of a Utah district court or~~ as provided under Section 78B-6-141 or 78B-6-144.

## HB0256S02 compared with HB0256S01

Section 2. Section **26-2-15** is amended to read:

### **26-2-15. Petition for establishment of unregistered birth or death -- Court procedure.**

(1) A person holding a direct, tangible, and legitimate interest as described in Subsection 26-2-22[(2)](4)(a) or (b) may petition for a court order establishing the fact, time, and place of a birth or death that is not registered or for which a certified copy of the registered birth or death certificate is not obtainable. The person shall verify the petition and file it in the Utah district court for the county where:

- (a) the birth or death is alleged to have occurred;
- (b) the person resides whose birth is to be established; or
- (c) the decedent named in the petition resided at the date of death.

(2) In order for the court to have jurisdiction, the petition shall:

- (a) allege the date, time, and place of the birth or death; and
- (b) state either that no certificate of birth or death has been registered or that a copy † of the registered certificate cannot be obtained.

(3) The court shall set a hearing for five to 10 days after the filing of the petition.

(4) (a) If the time and place of birth or death are in question, the court shall hear available evidence and determine the time and place of the birth or death.

(b) If the time and place of birth or death are not in question, the court shall determine the time and place of birth or death to be those alleged in the petition.

(5) A court order under this section shall be made on a form prescribed and furnished by the department and is effective upon the filing of a certified copy of the order with the state registrar.

(6) (a) For purposes of this section, the birth certificate of an adopted alien child, as defined in Section 78B-6-108, is considered to be unobtainable if the child was born in a country that is not recognized by department rule as having an established vital records registration system.

(b) If the adopted child was born in a country recognized by department rule, but a person described in Subsection (1) is unable to obtain a certified copy of the birth certificate, the state registrar shall authorize the preparation of a birth certificate if he receives a written statement signed by the registrar of the child's birth country stating a certified copy of the birth

## HB0256S02 compared with HB0256S01

certificate is not available.

Section 3. Section **26-2-22** is amended to read:

### **26-2-22. Inspection of vital records.**

(1) (a) The vital records shall be open to inspection, but only in compliance with the provisions of this chapter, department rules, and ~~[Section]~~ Sections 78B-6-141 and 78B-6-144.

(b) It is unlawful for any state or local officer or employee to disclose data contained in vital records contrary to this chapter ~~[or]~~, department rule, or Section 78B-6-141 or 78-6-144.

~~[(c)]~~ (2) A custodian of vital records may permit inspection of a vital record or issue a certified copy of a record or a part of a record when the custodian is satisfied that the applicant has demonstrated a direct, tangible, and legitimate interest.

(3) (a) For purposes of this Subsection (3), "adoption documents" is as defined in Section 78B-6-103.

(b) Only the Office of Vital **Records and** Statistics or a Utah district court may issue adoption documents.

(c) The Office of Vital **Records and** Statistics shall issue adoption documents pursuant to Sections 78B-6-141 and 78B-6-144, and to this section, to the extent that this section does not conflict with Sections 78B-6-141 and 78B-6-144.

(d) A parent, or an immediate family member of a parent, who does not have legal or physical custody of or visitation or parent-time rights for a child because of the termination of parental rights to the child pursuant to Title 78A, Chapter 6, Juvenile Court Act ~~{ of 1996 }~~, may not obtain adoption documents.

(e) The Office of Vital **Records and** Statistics shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, related to the content of any forms and the procedures required by ~~{ Sections }~~ **Subsections** 78B-6-141 (1) through (4), and Sections 78B-6-144 ~~{,}~~ and 78B-6-144.5.

~~[(2)]~~ (4) A direct, tangible, and legitimate interest in a vital record is present only if:

(a) the request is from:

(i) the subject;

(ii) a member of the subject's immediate family;

(iii) the guardian of the subject;

(iv) a designated legal representative of the subject; or

## HB0256S02 compared with HB0256S01

(v) a person, including a child-placing agency as defined in Section 78B-6-103, with whom a child has been placed pending finalization of an adoption of the child;

(b) the request involves a personal or property right of the subject of the record;

(c) the request is for official purposes of a public health authority or a state, local, or federal governmental agency;

(d) the request is for a statistical or medical research program and prior consent has been obtained from the state registrar; or

(e) the request is a certified copy of an order of a court of record specifying the record to be examined or copied.

~~[(3)]~~ (5) For purposes of Subsection ~~[(2)]~~ (4):

(a) "immediate family member" means a spouse, child, parent, sibling, grandparent, or grandchild;

(b) a designated legal representative means an attorney, physician, funeral service director, genealogist, or other agent of the subject or the subject's immediate family who has been delegated the authority to access vital records; and

~~[(c) except as provided in Title 78B, Chapter 6, Part 1, Utah Adoption Act, a parent, or the immediate family member of a parent, who does not have legal or physical custody of or visitation or parent-time rights for a child because of the termination of parental rights pursuant to Title 78A, Chapter 6, Juvenile Court Act of 1996, or by virtue of consenting to or relinquishing a child for adoption pursuant to Title 78B, Chapter 6, Part 1, Utah Adoption Act, may not be considered as having a direct, tangible, and legitimate interest; and]~~

~~[(d)]~~ (c) a commercial firm or agency requesting names, addresses, or similar information may not be considered as having a direct, tangible, and legitimate interest.

~~[(4)]~~ (6) Upon payment of a fee established in accordance with Section 63J-1-504, the office shall make the following records ~~[shall be]~~ available to the public:

(a) except as provided in Subsection 26-2-10(4)(b), a birth record, excluding confidential information collected for medical and health use, if 100 years or more have passed since the date of birth;

(b) a death record if 50 years or more have passed since the date of death; ~~[[and]]~~

~~[(c) adoption documents as provided in Sections 78B-6-141 and 78B-6-144; and~~

~~[(c)]~~ (d) and

## HB0256S02 compared with HB0256S01

(c) a vital record not subject to [~~Subsection (4)(a) or (b)~~] ~~{Subsections}~~ Subsection (6)(a) ~~through~~ or ~~(c)~~(b) if 75 years or more have passed since the date of the event upon which the record is based.

(7) Upon payment of a fee established in accordance with Section 63J-1-504, the office shall make adoption documents available as provided in Sections 78B-6-141 and 78B-6-144.

Section 4. Section **63J-1-602.5** is amended to read:

**63J-1-602.5. List of nonlapsing funds and accounts -- Title 64 and thereafter.**

- (1) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).
- (2) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.
- (3) The Department of Human Resource Management user training program, as provided in Section 67-19-6.
- (4) Funds for the University of Utah Poison Control Center program, as provided in Section 69-2-5.5.
- (5) The Traffic Noise Abatement Program created in Section 72-6-112.
- (6) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.
- (7) Certain money appropriated from the Water Resources Conservation and Development Fund, as provided in Section 73-23-2.
- (8) Certain funds appropriated for compensation for special prosecutors, as provided in Section 77-10a-19.
- (9) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).
- (10) A state rehabilitative employment program, as provided in Section 78A-6-210.
- (11) Fees for certificate of admission created under Section 78A-9-102.
- (12) The money for the Utah Geological Survey, as provided in Section 79-3-401.
- (13) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, Jordan River State Park, and Green River State Park, as provided under Section 79-4-403.
- (14) Certain funds received by the Division of Parks and Recreation from the sale or

## HB0256S02 compared with HB0256S01

disposal of buffalo, as provided under Section 79-4-1001.

(15) The Bonneville Shoreline Trail Program created under Section 79-5-503.

(16) Funds appropriated and collected for adoption records access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

Section 5. Section **78B-6-103** is amended to read:

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

As used in this part:

(1) "Adoptee" means a person who:

- (a) is the subject of an adoption proceeding; or
- (b) has been legally adopted.

(2) "Adoption" means the judicial act that:

- (a) creates the relationship of parent and child where it did not previously exist; and
- (b) except as provided in Subsection 78B-6-138(2), terminates the parental rights of any other person with respect to the child.

(3) "Adoption documents" means adoption-related documents filed with a Utah district court or with the office, including a petition for adoption, the written report described in Section 78B-6-135, any other documents filed in connection with the petition, and a decree of adoption.

~~[(3)]~~ (4) "Adoption service provider" means a:

- (a) child-placing agency; or
- (b) licensed counselor who has at least one year of experience providing professional social work services to:

- (i) adoptive parents;
- (ii) prospective adoptive parents; or
- (iii) birth parents.

~~[(4)]~~ (5) "Adoptive parent" means a person who has legally adopted an adoptee.

~~[(5)]~~ (6) "Adult" means a person who is 18 years of age or older.

~~[(6)]~~ (7) "Adult adoptee" means an adoptee who is 18 years of age or older and was adopted as a minor.

~~[(7)]~~ (8) "Adult sibling" means a brother or sister of the adoptee, who is 18 years of age or older and whose birth mother or father is the same as that of the adoptee.



## HB0256S02 compared with HB0256S01

~~[(8)]~~ (9) "Birth mother" means the biological mother of a child.

~~[(9)]~~ (10) "Birth parent" means:

- (a) a birth mother;
- (b) a man whose paternity of a child is established;
- (c) a man who:
  - (i) has been identified as the father of a child by the child's birth mother; and
  - (ii) has not denied paternity; or
- (d) an unmarried biological father.

~~[(10)]~~ (11) "Child-placing agency" means an agency licensed to place children for adoption under Title 62A, Chapter 4a, Part 6, Child Placing.

~~[(11)]~~ (12) "Cohabiting" means residing with another person and being involved in a sexual relationship with that person.

~~[(12)]~~ (13) "Division" means the Division of Child and Family Services, within the Department of Human Services, created in Section 62A-4a-103.

~~[(13)]~~ (14) "Extra-jurisdictional child-placing agency" means an agency licensed to place children for adoption by a district, territory, or state of the United States, other than Utah.

~~[(14)]~~ (15) "Genetic and social history" means a comprehensive report, when obtainable, on an adoptee's birth parents, aunts, uncles, and grandparents, which contains the following information:

- (a) medical history;
- (b) health status;
- (c) cause of and age at death;
- (d) height, weight, and eye and hair color;
- (e) ethnic origins;
- (f) where appropriate, levels of education and professional achievement; and
- (g) religion, if any.

~~[(15)]~~ (16) "Health history" means a comprehensive report of the adoptee's health status at the time of placement for adoption, and medical history, including neonatal, psychological, physiological, and medical care history.

~~[(16)]~~ (17) "Identifying information" means the name and address of a pre-existing parent or adult adoptee, or other specific information which by itself or in reasonable

## HB0256S02 compared with HB0256S01

conjunction with other information may be used to identify that person.

~~[(17)]~~ (18) "Licensed counselor" means a person who is licensed by the state, or another state, district, or territory of the United States as a:

- (a) certified social worker;
- (b) clinical social worker;
- (c) psychologist;
- (d) marriage and family therapist;
- (e) professional counselor; or
- (f) an equivalent licensed professional of another state, district, or territory of the

United States.

~~[(18)]~~ (19) "Man" means a male individual, regardless of age.

(20) "Mature adoptee" means an adoptee who is adopted when the adoptee is an adult.

~~[(19)]~~ (21) "Office" means the Office of Vital Records and Statistics within the Department of Health operating under Title 26, Chapter 2, Utah Vital Statistics Act.

~~[(20)]~~ (22) "Parent," for purposes of Section 78B-6-119, means any person described in Subsections 78B-6-120(1)(b) through (f) from whom consent for adoption or relinquishment for adoption is required under Sections 78B-6-120 through 78B-6-122.

~~[(21)]~~ (23) "Potential birth father" means a man who:

- (a) is identified by a birth mother as a potential biological father of the birth mother's child, but whose genetic paternity has not been established; and
- (b) was not married to the biological mother of the child described in Subsection ~~[(21)]~~ (23)(a) at the time of the child's conception or birth.

~~[(22)]~~ (24) "Pre-existing parent" means:

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

~~[(23)]~~ (25) "Prospective adoptive parent" means a person who seeks to adopt an adoptee.

~~[(24)]~~ (26) "Unmarried biological father" means a person who:

- (a) is the biological father of a child; and
- (b) was not married to the biological mother of the child described in Subsection ~~[(24)]~~

## **HB0256S02 compared with HB0256S01**

(26)(a) at the time of the child's conception or birth.

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

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

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

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

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

(i) provide personal protection;

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

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

(iv) carry out the activities of daily living;

(v) manage the adult's own resources; or

(vi) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

(2) Subject to this section and Section 78B-6-117, any adult may be adopted by another adult.

(3) The following provisions of this part apply to the adoption of an adult just as though the person being adopted were a minor:

(a) (i) Section 78B-6-108;

(ii) Section 78B-6-114;

(iii) Section 78B-6-116;

(iv) Section 78B-6-118;

(v) Section 78B-6-124;

(vi) Section 78B-6-136;

(vii) Section 78B-6-137;

(viii) Section 78B-6-138;

(ix) Section 78B-6-139;

(x) Section 78B-6-141; and

(xi) Section 78B-6-142;

(b) Subsections 78B-6-105(1)(a), (1)(b)(i), (1)(b)(ii), (2), and (7), except that the juvenile court does not have jurisdiction over a proceeding for adoption of an adult, unless the

## HB0256S02 compared with HB0256S01

adoption arises from a case where the juvenile court has continuing jurisdiction over the [adult] mature adoptee; and

(c) if the [adult] mature adoptee is a vulnerable adult, Sections 78B-6-128 through 78B-6-131, regardless of whether the [adult] mature adoptee resides, or will reside, with the adoptors, unless the court, based on a finding of good cause, waives the requirements of those sections.

(4) Before a court enters a final decree of adoption of an adult, the mature adoptee and the prospective adoptive parent or parents shall appear before the court presiding over the adoption proceedings and execute consent to the adoption.

(5) No provision of this part, other than those listed or described in this section or Section 78B-6-117, [apply] applies to the adoption of an adult.

Section 7. Section **78B-6-116** is amended to read:

### **78B-6-116. Notice and consent for adoption of adult.**

(1) (a) Consent to the adoption of an adult is required from:

- (i) the [adult] mature adoptee;
- (ii) any person who is adopting the adult;
- (iii) the spouse of a person adopting the adult; and
- (iv) any legally appointed guardian or custodian of the [adult] mature adoptee.

(b) No person, other than a person described in Subsection (1)(a), may consent, or withhold consent, to the adoption of an adult.

(2) (a) Except as provided in Subsection (2)(b), notice of a proceeding for the adoption of an adult shall be served on each person described in Subsection (1)(a) and the spouse of the mature adoptee.

(b) The notice described in Subsection (2)(a) may be waived, in writing, by the person entitled to receive notice.

(3) The notice described in Subsection (2):

- (a) shall be served at least 30 days before the day on which the adoption is finalized;
- (b) shall specifically state that the person served must respond to the petition within 30 days of service if the person intends to intervene in the adoption proceeding;
- (c) shall state the name of the person to be adopted;
- (d) may not state the name of a person adopting the mature adoptee, unless the person

## HB0256S02 compared with HB0256S01

consents, in writing, to disclosure of the person's name;

(e) with regard to a person described in Subsection (1)(a):

(i) except as provided in Subsection (2)(b), shall be in accordance with the provisions of the Utah Rules of Civil Procedure; and

(ii) may not be made by publication; and

(f) with regard to the spouse of the mature adoptee, may be made:

(i) in accordance with the provisions of the Utah Rules of Civil Procedure;

(ii) by certified mail, return receipt requested; or

(iii) by publication, posting, or other means if:

(A) the service described in Subsection (3)(f)(ii) cannot be completed after two attempts; and

(B) the court issues an order providing for service by publication, posting, or other means.

(4) Proof of service of the notice on each person to whom notice is required by this section shall be filed with the court before the adoption is finalized.

(5) (a) Any person who is served with notice of a proceeding for the adoption of an adult and who wishes to intervene in the adoption shall file a motion in the adoption proceeding:

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

(ii) that sets forth the specific relief sought; and

(iii) that is accompanied by a memorandum specifying the factual and legal grounds upon which the motion is made.

(b) A person who fails to file the motion described in Subsection (5)(a) within the time described in Subsection (5)(a)(i):

(i) waives any right to further notice of the adoption proceeding; and

(ii) is barred from intervening in, or bringing or maintaining any action challenging, the adoption proceeding.

(6) Except as provided in Subsection (7), after a court enters a final decree of adoption of an adult, the mature adult adoptee shall:

(a) serve notice of the finalization of the adoption, pursuant to the Utah Rules of Civil

## HB0256S02 compared with HB0256S01

Procedure, on each person who was a legal parent of the adult adoptee before the final decree of adoption described in this Subsection (6) was entered; and

(b) file with the court proof of service of the notice described in Subsection (6)(a).

(7) A court may, based on a finding of good cause, waive the notification requirement described in Subsection (6).

Section 8. Section **78B-6-141** is amended to read:

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

~~[(1) 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.]~~

(1) For an adoption finalized before March 22, 1941, the office shall make the information on the birth certificate, if any exists, available to an adoptee or an adoptee's designated legal representative, for inspection and copying pursuant to Subsections 26-2-22(1), (3), and (6).

(2) Except as provided in Subsection (3), for an adoption finalized on or after March 22, 1941, the adoption documents are sealed, and the office may make the adoption documents available for inspection and copying only in accordance with Subsection (4) or Section 78B-6-144.

(3) (a) Except as provided in Subsection (3)(b), for an adoption finalized on or after January 1, 2015, the office shall make the adoption documents available for inspection and copying to a party to the adoption proceeding if the party who requests the documents:

(i) is an adult at the time of the request; and

(ii) makes the request on a form designated by the office.

(b) Subject to ~~Subsection~~ Subsections (3)(d) and (e), for an adoption finalized on or after January 1, 2015, a birth mother may, at or after the time of finalization, file a written document with the office ~~f, j~~ stating that she refuses to permit identifying information about the birth mother to be made available for inspection or copying.

(c) Subject to ~~Subsection~~ Subsections (3)(d) and (e), if a birth mother elects, under Subsection (3)(b), to refuse to permit identifying information about the birth mother to be made available for inspection or copying, the office shall, before providing copies of the adoption documents to an individual other than the birth mother, redact all identifying information about the birth mother.

## HB0256S02 compared with HB0256S01

(d) Subject to Subsection (3)(e), a birth mother may, at any time, file a written document with the office to:

(i) change the election described in Subsection (3)(b); or

(ii) elect to make other information about herself, including an updated medical history, available for inspection and copying by a party to the adoption proceeding if the party who requests the information is an adult at the time of the request.

(e) (i) If the birth mother is a minor at the time of finalization, only the birth mother's parent or legal guardian may consent to and sign the birth mother's written refusal under Subsection (3)(b).

(ii) If the birth mother is a minor at the time she decides to change the election or make other information about herself available under Subsection (3)(d), only the birth mother's parent or legal guardian may consent to and sign the birth mother's written election under Subsection (3)(d).

~~[(2) The]~~ (4) Except as otherwise provided in this section, the adoption documents [described in Subsection (1)] may only be open to inspection and copying as follows:

(a) in accordance with Subsection ~~[(3)]~~ (5)(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)]~~ (5)(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 adoption documents [described in this section] are open to inspection and copying without a court order by the mature adoptee or a parent who adopted the mature adoptee, unless the final decree of adoption is entered by the juvenile court under Subsection 78B-6-115(3)(b).

~~[(3)]~~ (5) (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;

## HB0256S02 compared with HB0256S01

and

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

(b) An order described in Subsection [~~(2)~~] (4)(b) shall:

(i) prohibit the person described in Subsection [~~(2)~~] (4)(b) from inspecting [~~a document described in Subsection (1) that contains~~] the adoption documents that contain identifying information [~~of~~] regarding the adoptive or prospective adoptive parent; and

(ii) permit the person described in Subsection [~~(3)~~] (4)(b)(~~i~~) to review a copy of [~~a document described in Subsection (3)(b)(i)~~] the adoption documents after the identifying information [~~described in Subsection (3)(b)(i)~~] is redacted from the [~~document~~] documents.

Section 9. Section **78B-6-144** is amended to read:

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

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

(a) [~~Adult adoptees and birth parents of adult adoptees~~] An adult adoptee or a birth parent of an adult 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~~] Except as otherwise provided in this part, the office may only release identifying information to an adult adoptee or birth parent when it receives requests from both the adoptee and the adoptee's birth parent.

(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 adult 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~~] may not disclose the requested identifying information to that adult adoptee or the adoptee's birth parent.

(2) (a) Adult adoptees and adult siblings of adult adoptees, upon presentation of



## HB0256S02 compared with HB0256S01

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 adult adoptee and the adult 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]~~ determines that the office has sufficient information to make that match, the office shall notify both the adult 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 the office's vital records for the adult adoptee's birth parent; and

(ii) if the search described in Subsection (2)(d)(i) reveals ~~+~~than that an 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 on file and will attempt to notify the individual in the event of a match.

(3) 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) 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.

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

## HB0256S02 compared with HB0256S01

(5) The office shall, in consultation with the [State](#) Tax Commission, develop language advertising the services provided by the mutual-consent, voluntary adoption registry to be included on the [State](#) Tax Commission's website.

(6) The office may contract with a private or nonprofit organization to supplement the advertising described in Subsection (5).

(7) The office shall, on or before October 31, make an annual report on the effectiveness of the mutual-consent, voluntary adoption registry to the Health and Human Services Interim Committee.

(8) Nothing in this section limits the disclosure of information in accordance with Section 78B-6-141.

Section 10. Section **78B-6-144.5** is enacted to read:

### **78B-6-144.5. Adoption records fees.**

(1) (a) The office shall, in accordance with Section 63J-1-504, establish a fee to be paid by an individual who requests information or other services under Section 78B-6-141 or ~~Section~~ 78B-6-144 to cover the costs related to providing the information or services, including improvements described in Subsection (2).

(b) The office may accept donations or grants from public or private entities to cover the costs related to providing the information or services, including improvements described in Subsection (2).

(2) Fees and donations collected in Subsection (1) shall be deposited into the General Fund as dedicated credits and may be used only to:

(a) fund, automate, and improve the provision of services described in Sections 78B-6-141 and 78B-6-144;

(b) implement means of maximizing potential matches for the services described in Sections 78B-6-141 and 78B-6-144, including the use of broad search terms and methods; and

(c) advertise the services provided by the mutual-consent, voluntary adoption registry pursuant to Section 78B-6-144.

### Section 11. **Appropriation.**

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2014, and ending June 30, 2015, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts

## **HB0256S02 compared with HB0256S01**

previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2015.

To Department of Health, Adoption Records Access

|                          |                 |
|--------------------------|-----------------|
| <u>From General Fund</u> | <u>\$50,000</u> |
|--------------------------|-----------------|

|                                       |                 |
|---------------------------------------|-----------------|
| <u>From Dedicated Credits Revenue</u> | <u>\$26,200</u> |
|---------------------------------------|-----------------|

Schedule of Programs:

|                                |                 |
|--------------------------------|-----------------|
| <u>Adoption Records Access</u> | <u>\$76,200</u> |
|--------------------------------|-----------------|

The Legislature intends that appropriations provided under this section be used by the office for the purposes described in Subsection 78B-6-144.5(2). Under Section 63J-1-603, the Legislature intends that appropriations provided under this section not lapse at the close of fiscal year 2015. The use of any nonlapsing funds is limited to the purposes described in Subsection 78B-6-144.5(2).