

**Katy Hall** proposes the following substitute bill:

**Adoption Amendments**

2026 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Katy Hall**

Senate Sponsor: Chris H. Wilson

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**LONG TITLE**

**General Description:**

This bill amends provisions relating to adoption and child-placing agencies.

**Highlighted Provisions:**

This bill:

- modifies provisions related to child-placing agencies including:
  - terms of licensing;
  - advertising requirements;
  - reporting requirements; and
  - disclosure of information to birth parents and adoptive parents;
- addresses the rights of birth parents and adoptive parents;
- clarifies the types of payments and fees that are permissible in an adoption;
- addresses transportation of birth mothers to Utah from other states or countries;
- amends provisions relating to mental health therapy for a birth parent;
- clarifies that a birth parent can revoke consent under limited circumstances;
- addresses adoption services in health care facilities;
- makes technical and conforming changes; and
- defines terms.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**26B-2-105**, as last amended by Laws of Utah 2024, Chapters 261, 267 and 307

**26B-2-127**, as last amended by Laws of Utah 2025, Chapter 426

29 **63G-20-203.5**, as enacted by Laws of Utah 2023, Chapter 466

30 **80-2-802**, as last amended by Laws of Utah 2025, Chapter 426

31 **81-13-211**, as renumbered and amended by Laws of Utah 2025, Chapter 426

32 **81-13-212**, as renumbered and amended by Laws of Utah 2025, Chapter 426

33 **81-13-217**, as renumbered and amended by Laws of Utah 2025, Chapter 426

34 ENACTS:

35 **26B-2-244**, Utah Code Annotated 1953

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

38 Section 1. Section **26B-2-105** is amended to read:

39 **26B-2-105 . Licensure requirements -- Expiration -- Renewal.**

40 (1) Except as provided in Section 26B-2-115, an individual, agency, firm, corporation,  
41 association, or governmental unit acting severally or jointly with any other individual,  
42 agency, firm, corporation, association, or governmental unit may not establish, conduct,  
43 or maintain a human services program in this state without a valid and current license  
44 issued by and under the authority of the office as provided by this part and the rules  
45 under the authority of this part.

46 (2)(a) For purposes of this Subsection (2), "member" means a person or entity that is  
47 associated with another person or entity:

48 (i) as a member;

49 (ii) as a partner;

50 (iii) as a shareholder; or

51 (iv) as a person or entity involved in the ownership or management of a human  
52 services program owned or managed by the other person or entity.

53 (b) A license issued under this part may not be assigned or transferred.

54 (c) The office shall treat an application for a license under this part as an application for  
55 reinstatement of a revoked license if:

56 (i)(A) the person or entity applying for the license had a license revoked under this  
57 part; and

58 (B) the revoked license described in Subsection (2)(c)(i)(A) is not reinstated  
59 before the application described in this Subsection (2)(c) is made; or

60 (ii) a member of an entity applying for the license:

61 (A)(I) had a license revoked under this part; and

62 (II) the revoked license described in Subsection (2)(c)(ii)(A)(I) is not reinstated

- 63 before the application described in this Subsection (2)(c) is made; or  
64 (B)(I) was a member of an entity that had a license revoked under this part at  
65 any time before the license was revoked; and  
66 (II) the revoked license described in Subsection (2)(c)(ii)(B)(I) is not reinstated  
67 before the application described in this Subsection (2)(c) is made.
- 68 (3)(a) Subject to Section 26B-2-110, and after the five-year waiting period described in  
69 Subsection 26B-2-110(1)(c), the office may conditionally approve an application for  
70 reinstatement as described in Subsection (2)(c), for a maximum of two years, if:  
71 (i) the applicant's license was previously revoked due to repeated or chronic  
72 violations; or  
73 (ii) after the applicant's license was previously revoked, the applicant associated with  
74 another human services program that provides a service that is substantially  
75 similar to the services for which the applicant was previously licensed.
- 76 (b) If the office issues a conditional license under Subsection (3)(a), the office shall  
77 prepare a conditional license plan describing the terms and conditions of the  
78 conditional license.
- 79 (4) A current license shall at all times be posted in the facility where each human services  
80 program is operated, in a place that is visible and readily accessible to the public.
- 81 (5)(a) Except as provided in Subsections (5)(c) and (d), each license issued under this  
82 part expires at midnight on the last day of the same month the license was issued, one  
83 year following the date of issuance unless the license has been:  
84 (i) previously revoked by the office;  
85 (ii) voluntarily returned to the office by the licensee; or  
86 (iii) extended by the office.
- 87 (b) A license shall be renewed upon application and payment of the applicable fee,  
88 unless the office finds that the licensee:  
89 (i) is not in compliance with the:  
90 (A) provisions of this part; or  
91 (B) rules made under this part;  
92 (ii) has engaged in a pattern of noncompliance with the:  
93 (A) provisions of this part; or  
94 (B) rules made under this part;  
95 (iii) has engaged in conduct that is grounds for denying a license under Section  
96 26B-2-703; or

- 97 (iv) has engaged in conduct that poses a substantial risk of harm to any person.
- 98 (c) The office may issue a renewal license that expires at midnight on the last day of the
- 99 same month the license was issued, two years following the date of issuance, if:
- 100 (i) the licensee has maintained a human services license for at least 24 months before
- 101 the day on which the licensee applies for the renewal; and
- 102 (ii) the licensee has not violated this part or a rule made under this part.
- 103 (d)(i) For a foster home that has been licensed for fewer than two years, a foster
- 104 home license issued on or after May 1, 2023, expires at midnight on the last day of
- 105 the same month the license was issued, one year following the date of issuance.
- 106 (ii) For a foster home that has been licensed for two or more years, a foster home
- 107 license issued on or after May 1, 2023, expires at midnight on the last day of the
- 108 same month the license was issued, three years following the date of issuance:
- 109 (A) unless the license is placed on conditions, suspended, or revoked by the office,
- 110 or voluntarily returned to the office by the licensee; and
- 111 (B) if the licensee has not violated this part or a rule made under this part.
- 112 (iii) A foster home licensee shall complete an annual background screening in
- 113 compliance with the requirements of Section 26B-2-120.
- 114 (6) Any licensee that is in operation at the time rules are made in accordance with this part
- 115 shall be given a reasonable time for compliance as determined by the rule.
- 116 (7)(a) A license for a human services program issued under this section shall apply to a
- 117 specific human services program site.
- 118 (b) A human services program shall obtain a separate license for each site where the
- 119 human services program is operated.
- 120 (c) If there is more than one foster parent in a licensed foster home, the foster home
- 121 license shall include the names of all foster parents in the home.
- 122 (8) Beginning on January 1, 2027, the office may not issue or renew a license for a
- 123 child-placing agency that only offers adoption services unless the applicant is a
- 124 nonprofit organization, as that term is defined in Section 78B-4-101.
- 125 Section 2. Section **26B-2-127** is amended to read:
- 126 **26B-2-127 . Child placing licensure requirements -- Prohibited acts --**
- 127 **Consortium.**
- 128 (1) As used in this section:
- 129 (a)(i) "Adoption services" means services provided to an individual related to a
- 130 potential adoption, including:

- (A) adoption education, advising, or counseling;  
(B) matching a potential birth parent with a potential adoptive parent;  
(C) a home study;  
(D) assistance or support in financial, legal, or medical matters;  
(E) prenatal or postpartum support; and  
(F) mental health therapy.
- (ii) "Adoption services" does not include one-time informational inquiries.
- ~~[(a)]~~ (b)(i) "Advertisement" means any written, oral, or graphic statement or representation made in connection with a solicitation of business.
- (ii) "Advertisement" includes a statement or representation described in Subsection [ ~~(1)(a)(i)~~ ] ~~(1)(b)(i)~~ by a noncable television system, radio, printed brochure, newspaper, leaflet, flyer, circular, billboard, banner, ~~[Internet]~~ internet website, social media, or sign.
- ~~[(b)]~~ (c) "Birth parent" means the same as that term is defined in Section 81-13-101.
- ~~[(e)]~~ (d) "Clearly and conspicuously disclose" means the same as that term is defined in Section 13-11a-2.
- (e) "Coercion" means utilizing threats, force, duress, intimidation, confinement, undue influence, or deception to induce a birth parent to relinquish the birth parent's child or consent to an adoption.
- (f) "Daily living needs" means food, clothing, hygiene, and local transportation.
- (g) "Directly affected person" means the same as that term is defined in Section 76-7-203.
- (h)(i) "Living expenses" means ordinary and necessary costs to maintain an individual's needs, including housing, utilities, and out-of-state transportation.
- (ii) "Living expenses" does not include lost wages, gifts, educational expenses, or other similar expenses.
- ~~[(d)]~~ (i)(i) "Matching advertisement" means any written, oral, or graphic statement or representation made in connection with a solicitation of business to provide the assistance described in Subsection (3)(a)(i), regardless of whether there is or will be an exchange described in Subsection (3)(a)(ii).
- (ii) "Matching advertisement" includes a statement or representation described in Subsection ~~[(1)(d)(i)]~~ ~~(1)(i)(i)~~ by a noncable television system, radio, printed brochure, newspaper, leaflet, flyer, circular, billboard, banner, ~~[Internet]~~ internet website, social media, or sign.
- (j) "Weekly allowance" means funds that a licensed child-placing agency that only

165 offers adoption services may provide to a birth parent for daily living needs.

166 (2)(a) Subject to Section 81-14-205, a person may not engage in child placing, or solicit  
167 money or other assistance for child placing, without a valid license issued by the  
168 office in accordance with this part.

169 (b) If a child-placing agency's license is suspended or revoked in accordance with this  
170 part, the care, control, or custody of any child who is in the care, control, or custody  
171 of the child-placing agency shall be transferred to the Division of Child and Family  
172 Services.

173 (3)(a)(i) An attorney, physician, or other person may assist:

174 (A) a birth parent to identify or locate a prospective adoptive parent who is  
175 interested in adopting the birth parent's child; or

176 (B) a prospective adoptive parent to identify or locate a child to be adopted.

177 (ii) A payment, charge, fee, reimbursement of expense, or exchange of value of any  
178 kind, or promise or agreement to make the same, may not be made for the  
179 assistance described in Subsection (3)(a)(i).

180 (b) An attorney, physician, or other person may not:

181 (i) issue or cause to be issued to any person a card, sign, or device indicating that the  
182 attorney, physician, or other person is available to provide the assistance described  
183 in Subsection (3)(a)(i);

184 (ii) cause, permit, or allow any sign or marking indicating that the attorney,  
185 physician, or other person is available to provide the assistance described in  
186 Subsection (3)(a)(i), on or in any building or structure;

187 (iii) announce, cause, permit, or allow an announcement indicating that the attorney,  
188 physician, or other person is available to provide the assistance described in  
189 Subsection (3)(a)(i), to appear in any newspaper, magazine, directory, on radio or  
190 television, or an Internet website relating to a business;

191 (iv) announce, cause, permit, or allow a matching advertisement; or

192 (v) announce, cause, permit, or allow an advertisement that indicates or implies the  
193 attorney, physician, or other person is available to provide the assistance described  
194 in Subsection (3)(a)(i) as part of, or related to, other adoption-related services by  
195 using any of the following terms:

196 (A) "comprehensive";

197 (B) "complete";

198 (C) "one-stop";

(D) "all-inclusive"; or

(E) any other term similar to the terms described in Subsections (3)(b)(v)(A) through (D).

(c) An attorney, physician, or other person who is not licensed by the office shall clearly and conspicuously disclose in any print media advertisement or written contract regarding adoption services or adoption-related services that the attorney, physician, or other person is not licensed to provide adoption services by the office.

(4)(a) An entity that advertises for adoption services shall disclose in the advertisement:

(i) the name of the states in which the entity is licensed to provide adoption services;  
or

(ii) whether the entity is not licensed to provide adoption services in any state.

(b) An entity that advertises for adoption services may not promise financial incentives in an adoption-related advertisement.

~~[(4)]~~ (5) A person who intentionally or knowingly violates Subsection (2) or (3) is guilty of a third degree felony.

~~[(5)]~~ (6) This section does not preclude payment of fees for medical, legal, or other lawful services rendered in connection with the care of a mother, delivery and care of a child, or lawful adoption proceedings, except that a child-placing agency may not:

(a) charge or accept payment for services that were not actually rendered; or

(b) charge or accept payment from a prospective adoptive parent for medical or hospital expenses that were paid for by public funds.

~~[(6)]~~ (7) In accordance with federal law, only an agent or employee of the Division of Child and Family Services or of a licensed child-placing agency may certify to United States Citizenship and Immigration Services that a family meets the preadoption requirements of the Division of Child and Family Services.

~~[(7)]~~ (8) A licensed child-placing agency or an attorney practicing in this state may not place a child for adoption, either temporarily or permanently, with an individual who would not be qualified for adoptive placement under Sections 81-13-202, 81-13-203, and 81-13-402.

~~[(8)]~~ (9)(a) A child-placing agency, as that term is defined in Section 63G-20-102, that serves a resident of the state who is a birth mother or a prospective adoptive parent must be a member of a statewide consortium of licensed child-placing agencies that, together, serve all birth mothers lawfully seeking to place a child for adoption and all qualified prospective adoptive parents.]

233 ~~[(b) The department shall receive and investigate any complaint against a consortium of~~  
234 ~~licensed child-placing agencies.]~~

235 (a) There is created the Utah Child-Placing Adoption Agency Consortium to advise the  
236 Legislature regarding child-placing agency adoptions and policy in the state.

237 (b) The consortium consists of one member of each licensed child-placing agency that  
238 only offers adoption services.

239 (c) The consortium shall meet at least quarterly.

240 (d) The majority of consortium members constitutes a quorum for conducting  
241 consortium business.

242 (e) The consortium shall establish bylaws and procedures for consortium action and  
243 recommendations.

244 (f)(i) A representative from the office shall chair the consortium.

245 (ii) The office shall oversee the consortium and provide staff support as needed.

246 (iii) The office may impose a membership fee sufficient to cover the cost of staffing  
247 the consortium.

248 (g)(i) The consortium shall review a request from a licensed child-placing agency  
249 that only offers adoption services to exceed the financial limits described in  
250 Subsection (14).

251 (ii) The consortium may approve a request described in Subsection (9)(g)(i) if:

252 (A) the requesting agency demonstrates a specific need to exceed the limit in  
253 Subsection (14);

254 (B) the requesting agency requests a specific amount to be approved; and

255 (C) a majority of the consortium, excluding the requesting agency, determines that  
256 there is a reasonable need to exceed the limit described in Subsection (14).

257 (iii) Actual living expenses or lost wages that are documented and proven to the  
258 satisfaction of the consortium shall be presumed to be a reasonable need.

259 (h)(i) The consortium shall report to the Health and Human Services Interim  
260 Committee on or before October 1, 2026.

261 (ii) The report described in Subsection (9)(h)(i) shall include:

262 (A) the number of adoptions completed by each child-placing agency that only  
263 offers adoption services in 2025;

264 (B) the number of out-of-state transports arranged by each child-placing agency  
265 that only offers adoption services in 2025; and

266 (C) a description of the fees in 2025 for each child-placing agency that only offers



- 267                    adoption.
- 268    (10)(a) A birth parent has the right to independent legal counsel in the adoption process,  
269                    selected by the birth parent, at a reasonable cost to be paid by the child-placing  
270                    agency or prospective adoptive parents.
- 271    (b) A birth parent may waive the right described in Subsection (10)(a), but may not be  
272                    required to waive the right to legal counsel.
- 273    (11) Before a parent relinquishes a child adoptee to a child-placing agency, or consents to  
274                    the adoption of a child adoptee, the parent shall be informed of the right described in  
275                    Subsection (10), with sufficient time to exercise the right before relinquishment or  
276                    consent, by the:
- 277                    (a) child-placing agency;  
278                    (b) prospective adoptive parents; or  
279                    (c) representative of a person described in Subsection (11)(a) or (b).
- 280    (12) Before the day on which a final decree of adoption is entered, a statement shall be filed  
281                    with the court that:
- 282                    (a) is signed by each parent who:
- 283                            (i) relinquishes the parent's parental rights; or  
284                            (ii) consents to the adoption; and
- 285                    (b) states that, before the parent took the action described in Subsection (12)(a)(i) or (ii),  
286                    the parent was advised of the parent's right to independent legal counsel described in  
287                    this section at the expense of the:
- 288                            (i) child-placing agency; or  
289                            (ii) prospective adoptive parents.
- 290    (13) A licensed child-placing agency that only offers adoption services shall include on the  
291                    agency's website, in a prominent and conspicuous place:
- 292                    (a) information regarding how a birth parent or adoptive parent can file a complaint with  
293                    the office; and
- 294                    (b) notice of any current or former warnings or violations that the office has issued to the  
295                    child-placing agency within the past three years.
- 296    (14)(a) A licensed child-placing agency that only offers adoption services may only pay  
297                    the following fees or expenses on behalf of a birth parent:
- 298                            (i) up to \$8,000 in living expenses;  
299                            (ii) weekly allowance;  
300                            (iii) medical expenses; and

- 301           (iv) legal expenses related to the adoption.
- 302           (b) Except as provided in Subsection (14)(c)(i), a licensed child-placing agency that  
303               pays fees or expenses described in Subsection (14)(a) on behalf of a birth parent shall  
304               make the payment directly to the applicable service provider when possible.
- 305           (c)(i) A licensed child-placing agency that only offers adoption services may provide  
306               a weekly allowance directly to a birth parent.
- 307               (ii) A weekly allowance may not be provided as a lump sum, but shall be distributed  
308               on a weekly basis for up to 12 weeks during pregnancy and four weeks  
309               postpartum.
- 310               (iii) A weekly allowance may not exceed \$200 per week for a birth parent and \$75  
311               per week for a directly affected person that is dependent on the birth parent.
- 312           (d) A licensed child-placing agency may exceed the limits described in this Subsection  
313               (14) in accordance with Subsection (9).
- 314   (15) Before an adoption is finalized, an adoptive parent or licensed child-placing agency  
315           may not discuss or promise a potential post-adoption gift to a birth parent.
- 316   (16)(a) A licensed child-placing agency, an employee or contractor of a licensed  
317           child-placing agency, or a prospective adoptive parent may not utilize coercion in any  
318           interaction with a birth parent.
- 319           (b) Coercive behavior includes:
- 320               (i) threatening financial or legal retaliation if a birth parent chooses to parent;  
321               (ii) telling a birth parent that the birth parent will not receive assistance to return to  
322               the birth parent's state of residence;
- 323               (iii) preventing a birth parent from physically leaving the birth parent's location;  
324               (iv) preventing a birth parent from privately contacting the birth parent's supports,  
325               such as family, friends, mental health professional, or legal counsel; and
- 326               (v) promising a financial benefit in exchange for the birth parent's relinquishment or  
327               consent.
- 328   (17) If any member of a licensed child-placing agency that only offers adoption services  
329           has a financial interest in a service provider that receives a payment as described in  
330           Subsection (14)(b), the licensed child-placing agency shall disclose the financial interest  
331           to a birth parent, prospective adoptive parent, the office, and a court that finalizes the  
332           adoption.
- 333   (18)(a) A licensed child-placing agency that only offers adoption services may not  
334           transport or arrange the transport of:

- 335 (i) a birth mother to the state if the child-placing agency knows or should know that  
336 the mother is at 36 or more weeks of gestation; or  
337 (ii) a birth mother who is less than 18 years old to the state.
- 338 (b) A licensed child-placing agency that only offers adoption services shall make a  
339 reasonable inquiry regarding the health of a birth mother before transporting or  
340 arranging the transport of a birth mother.
- 341 (c) A parent or guardian of a birth mother who is less than 18 years old may make  
342 independent arrangements to transport or travel with the minor birth mother.
- 343 (d) A licensed child-placing agency that only offers adoption services shall verify  
344 whether an out-of-state birth mother is receiving Medicaid benefits before  
345 transporting or arranging the transport of the birth mother to Utah.
- 346 (e) An individual who travels to Utah for the sole purpose of giving birth without intent  
347 to remain in Utah following the birth does not qualify for Utah Medicaid benefits.
- 348 (19) A licensed child-placing agency that only offers adoption services that transports or  
349 arranges the transport of a birth mother to the state for purposes related to an adoption  
350 shall ensure that the birth mother is returned to the state from which the birth mother  
351 was transported using the same mode and quality of transportation that was used to bring  
352 the birth mother to the state if the birth mother does not elect to remain in Utah,  
353 regardless of the birth mother's decision regarding relinquishment.
- 354 (20)(a) A licensed child-placing agency that only offers adoption services shall submit a  
355 form, created by the office, to the office for each birth parent to whom the  
356 child-placing agency provides adoption services.
- 357 (b) The form described in Subsection (20)(a) shall include:
- 358 (i) the name of the licensed child-placing agency;  
359 (ii) whether the birth parent chose:  
360 (A) to parent the child;  
361 (B) adoption; or  
362 (C) something else;  
363 (iii) the date of:  
364 (A) the birth parent's first contact with the child-placing agency;  
365 (B) birth of the child adoptee;  
366 (C) relinquishment; and  
367 (D) the finalized adoption;  
368 (iv) the location of the birth parent on each date described in Subsection (20)(b)(iii);

- (v) whether a third-party facilitator was used to connect the birth parent and the child-placing agency;
- (vi) the total amount of funds that a birth parent received directly through a weekly allowance;
- (vii) the total amount that was paid on behalf of the birth parent for living expenses;
- (viii) the total amount that was paid for the birth parent's medical expenses, including mental health therapy;
- (ix) the total amount that was paid for the birth parent's legal expenses;
- (x) whether the consortium approved exceeding the financial limits described in this section;
- (xi) the value of any gifts provided to the birth parent;
- (xii) a description and value of any other benefit that was paid to or on behalf of the birth parent;
- (xiii) whether the birth parent received Utah Medicaid benefits;
- (xiv) if the birth parent was transported to Utah, whether the birth parent received Medicaid benefits in another state; and
- (xv) whether the birth parent received any other public assistance in Utah.
- (21) The office shall investigate and may revoke or suspend a license of a child-placing agency that violates this section.

Section 3. Section **26B-2-244** is enacted to read:

**26B-2-244 . Birthing services at health care facilities.**

- (1) As used in this section, "adoption services" means action related to an adoption, including counseling between a child-placing agency and a birth parent, signing paperwork related to an adoption, or the transfer of physical custody of a child adoptee from a birth parent to a child-placing agency or prospective adoptive parent.
- (2) A health care facility that provides birthing services shall develop policies regarding adoption services that occur at a health care facility.
- (3) A health care facility that provides birthing services shall notify the Office of Licensing if the health care facility files a complaint or otherwise takes action against a child-placing agency or a child-placing agency's representatives.
- (4) A health care facility or a health care facility's staff may notify the Office of Licensing if the facility or staff has concerns regarding unethical practices related to adoption services that occur at the health care facility.

Section 4. Section **63G-20-203.5** is amended to read:

**63G-20-203.5 . Child-placing agencies.**

~~[(1) As used in this section, "consortium" means a statewide consortium of child-placing agencies described in Subsection 26B-2-127(8).]~~

~~[(2)]~~ (1) Notwithstanding any other provision of law, a state or local government, a state or local government official, or another accrediting, certifying, or licensing body, including the Office of Licensing within the Department of Health and Human Services, may not:

- (a) require a ~~[consortium-member]~~ child-placing agency to perform, assist, counsel, recommend, consent to, facilitate, or participate in child placing, with a qualified prospective adoptive parent, that is contrary to the child-placing agency's religious teaching, practices, or sincerely held beliefs, or the good faith wishes of the birth mother as to the optimal placement of the child;
- (b) deny a ~~[consortium-member]~~ child-placing agency any grant, contract, or participation in a government program because the child-placing agency cannot, consistent with the child-placing agency's religious teaching, practices, or sincerely held beliefs, or consistent with the good faith wishes of the birth mother as to the optimal placement of the child, perform, assist, counsel, recommend, consent to, facilitate, or participate in a child placement with a qualified prospective adoptive parent; or
- (c) deny an application for an initial license or accreditation, deny the renewal of a license or accreditation, or revoke the license or accreditation of a ~~[consortium-member]~~ child-placing agency that cannot, consistent with the child-placing agency's religious teaching, practices, or sincerely held beliefs, or consistent with the good faith wishes of the birth mother as to the optimal placement of the child, perform, assist, counsel, recommend, consent to, facilitate, or participate in a child placement with a qualified prospective adoptive parent.

~~[(3)]~~ (2)(a) A ~~[consortium-member]~~ child-placing agency that cannot, consistent with the child-placing agency's religious teaching, practices, or sincerely held beliefs, or consistent with the good faith wishes of the birth mother as to the optimal placement of the child, perform, assist, counsel, recommend, consent to, facilitate, or participate in a child placement with a qualified prospective adoptive parent, shall refer the individual who is seeking child-placement services to another child-placing agency~~[in the consortium]~~.

- (b) A referral by a child-placing agency under Subsection ~~[(3)(a)]~~ (2)(a) does not constitute a determination that a proposed placement is not in the best interest of the

child.

- [~~(4)~~] (3) The fact that a [~~consortium-member~~] child-placing agency cannot, consistent with the child-placing agency's religious teaching, practices, or sincerely held beliefs, or consistent with the good faith wishes of the birth mother as to the optimal placement of the child, perform, assist, counsel, recommend, consent to, facilitate, or participate in a child placement with a qualified prospective adoptive parent, may not form the basis for:
- (a) the imposition of a civil fine or other adverse administrative action; or
  - (b) any claim or cause of action under any state or local law.

Section 5. Section **80-2-802** is amended to read:

**80-2-802 . Division child placing and adoption services -- Restrictions on placement of a child.**

- (1) Except as provided in Subsection (3), the division may provide adoption services and, as a licensed child-placing agency under Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities, engage in child placing in accordance with this chapter, Chapter 2a, Removal and Protective Custody of a Child, Chapter 3, Abuse, Neglect, and Dependency Proceedings, and Chapter 4, Termination and Restoration of Parental Rights.
- (2) The division shall base the division's decision for placement of an adoptable child for adoption on the best interest of the adoptable child.
- (3) The division may not:
  - (a) in accordance with Subsection [~~26B-2-127(6)~~] 26B-2-127(7), place a child for adoption, either temporarily or permanently, with an individual who does not qualify for adoptive placement under Sections 81-13-202, 81-13-203, and 81-13-402;
  - (b) consider a potential adoptive parent's willingness or unwillingness to enter a postadoption contact agreement under Section 81-13-216 as a condition of placing a child with a potential adoptive parent; or
  - (c) except as required under the Indian Child Welfare Act, 25 U.S.C. Secs. 1901 through 1963, base the division's decision for placement of an adoptable child on the race, color, ethnicity, or national origin of either the child or the potential adoptive parent.
- (4) The division shall establish a rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, providing that, subject to Subsection (3) and Section 81-13-402, priority of placement shall be provided to a family in which a couple is legally married under the laws of the state.
- (5) Subsections (3) and (4) do not limit the placement of a child with the child's parent or relative or in accordance with the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et seq.

Section 6. Section **81-13-211** is amended to read:

**81-13-211 . Counseling for parents.**

- (1) As used in this section, "parent" means a person described in Subsections 81-13-212(1)(b) through (f) for whom the consent or relinquishment of a minor child for the adoption is required.
- (2) Subject to Subsection (3)(a), before relinquishing a minor child to a child-placing agency, or consenting to the adoption of a child adoptee, a parent of the child adoptee has the right to participate in, or elect to participate in, ~~[counseling]~~ mental health therapy:
- (a) by a ~~[licensed counselor or an adoption service provider]~~ mental health professional who is licensed under Title 58, Chapter 60, Mental Health Professional Practice Act, and selected by the parent participating in the ~~[counseling]~~ mental health therapy;
- (b) for up to three sessions of at least 50 minutes per session completed before relinquishing a child adoptee ~~[or within 120 days]~~ and up to three sessions of at least 50 minutes per session following the relinquishment of a child adoptee; and
- (c) subject to Subsection (3)(b), at the expense of the:
- (i) child-placing agency; or
- (ii) prospective adoptive parents.
- (3)(a) Notwithstanding Subsection (2), a parent who has the right to participate in the ~~[counseling]~~ mental health therapy under Subsection (2) may waive that right.
- (b) Notwithstanding Subsection (2)(c), the total amount required to be paid by a child-placing agency or the prospective adoptive parents for the ~~[counseling]~~ mental health therapy described in Subsection (2) may not exceed ~~[\$400]~~ \$800, unless an agreement for a greater amount is signed by:
- (i) the parent who receives the ~~[counseling]~~ mental health therapy; and
- (ii) the child-placing agency or prospective adoptive parents.
- (4) Before a parent relinquishes a child adoptee to a child-placing agency, or consents to the adoption of a child adoptee, the parent shall be informed of the right described in Subsection (1) by the:
- (a) child-placing agency;
- (b) prospective adoptive parents; or
- (c) representative of a person described in Subsection (4)(a) or (b).
- (5) If the parent who is entitled to the ~~[counseling]~~ mental health therapy as described in Subsection (1) elects to attend one or more ~~[counseling]~~ mental health therapy sessions following the relinquishment of a child adoptee[;]

~~[(a) the parent of the child adoptee shall inform the child-placing agency or prospective adoptive parents of this election prior to relinquishing the child adoptee to a child-placing agency or consenting to the adoption of the child adoptee; and]~~  
 [(b)] the parent of the child adoptee and the child-placing agency or attorney representing a prospective adoptive parent of the child adoptee shall enter into an agreement to pay for the ~~[counseling]~~ mental health therapy in accordance with this section.

(6)(a) Subject to Subsections (4)(b) and (c), before the day on which a final decree of adoption is entered, a statement shall be filed with the court that:

(i) is signed by each parent who:

(A) relinquishes the parent's parental rights; or

(B) consents to the adoption; and

(ii) states that, before the parent took the action described in Subsection (6)(a)(i)(A)

or (B), the parent was advised of the parent's right to participate in the ~~[counseling]~~

mental health therapy described in this section at the expense of the:

(A) child-placing agency; or

(B) prospective adoptive parents.

(b) The statement described in Subsection (6)(a) may be included in the document that:

(i) relinquishes the parent's parental rights; or

(ii) consents to the adoption.

(c) Failure by a person to give the notice described in Subsection (4), or pay for the ~~[counseling]~~ mental health therapy described in this section~~[:]~~

~~[(+)]~~ shall not constitute grounds for invalidating a:

~~[(A)]~~ (i) relinquishment of parental rights; or

~~[(B)]~~ (ii) consent to adoption~~[:and]~~ .

~~[(ii)]~~ shall give rise to a cause of action for the recovery of damages suffered, if any,

~~by the parent or guardian who took the action described in Subsection (6)(c)(i)(A)~~

~~or (B) against the person required to:]~~

~~[(A) give the notice described in Subsection (4); or]~~

~~[(B) pay for the counseling described in this section:]~~

Section 7. Section **81-13-212** is amended to read:

**81-13-212 . Necessary consent to adoption or relinquishment for adoption of a minor child -- Implied consent.**

(1) Except as provided in Subsection (2), the following persons are required to consent to



an adoption of a minor child, or to relinquishment of a minor child, before an adoption of the minor child is granted:

- (a) if the child adoptee is 12 years old or older, the child adoptee unless the child adoptee does not have the mental capacity to consent;
- (b) a man or woman who:
  - (i) by operation of law under Section 81-5-204, is recognized as the father or mother of the proposed adoptee, unless:
    - (A) the presumption is rebutted under Section 81-5-607;
    - (B) at the time of the marriage, the man or woman knew or reasonably should have known that the marriage to the mother of the proposed child adoptee was or could be declared invalid; or
    - (C) the man or woman was not married to the mother of the proposed child adoptee until after the mother consented to adoption, or relinquishment for adoption, of the proposed child adoptee; or
  - (ii) is the parent of the child adoptee by a previous legal adoption;
- (c) the birth mother of the child adoptee;
- (d) an individual who has been adjudicated to be the child adoptee's parent by a court with jurisdiction before the birth mother's execution of consent to adoption or the birth mother's relinquishment of the child adoptee for adoption;
- (e) consistent with Subsection (3), an individual who has executed and filed a voluntary declaration of paternity with the office in accordance with Chapter 5, Uniform Parentage Act, before the birth mother's execution of consent to adoption or the birth mother's relinquishment of the child adoptee for adoption;
- (f) an unmarried biological father of the child adoptee, whose consent is not required under Subsection (1)(d) or (1)(e), only if the unmarried biological father fully and strictly complies with the requirements of Section 81-13-213; and
- (g) the person or agency to whom an adoptee has been relinquished and that is placing the child adoptee for adoption.

(2) The consent or relinquishment of an individual described in Subsections (1)(b) through (f) is not required if the individual's parental rights relating to the child adoptee have been terminated by a court.

(3) For purposes of Subsection (1)(e), a voluntary declaration of paternity is considered filed when the voluntary declaration is entered into a database that:

- (a) can be accessed by the Department of Health and Human Services; and

(b) is designated by the office as the official database for voluntary declarations of paternity.

(4)(a) Except as provided in Subsection (4)(b), a person described in Subsection (1) may execute a consent or relinquishment at any time, including before the birth of the child adoptee.

(b) A birth mother may not consent to the adoption of the child adoptee, or relinquish control or custody of the child adoptee, until at least 24 hours after the birth of the child adoptee.

(c) A child adoptee may not execute a consent to an adoption until the child adoptee is at least 12 years old.

(5)(a) A birth parent who is younger than 18 years old has the power to:

(i) consent to the adoption of the birth parent's minor child; and

(ii) relinquish the birth parent's control or custody of the minor child for adoption.

(b) The consent or relinquishment described in Subsection (5)(a) is valid and has the same force and effect as a consent or relinquishment executed by a birth parent who is an adult.

(c) A birth parent, who is younger than 18 years old and has executed a consent or relinquishment, cannot revoke that consent or relinquishment upon reaching 18 years old or otherwise becoming emancipated.

~~(6)(a) [A consent or relinquishment is effective when the consent or relinquishment is signed and may not be revoked.] A birth parent may revoke the birth parent's consent or relinquishment for any reason within 72 hours after the birth parent consents or relinquishes the child adoptee.~~

~~(b) A birth parent may waive in writing the revocation period described in Subsection (6)(a).~~

~~(c) A birth parent may revoke the birth parent's consent or relinquishment before a final decree of adoption has been entered if a court determines that the consent or relinquishment was given under duress, fraud, or undue influence by the child-placing agency.~~

~~(d) A birth parent may not sign a consent or relinquishment while under the effects of anesthesia or medication that impacts the birth parent's ability to think clearly.~~

(7)(a) As used in this Subsection (7):

(i) "Abandonment" means failure of a birth parent, with reasonable knowledge of the pregnancy, to offer and provide financial and emotional support to the birth

- 607 mother for a period of 180 days before the day on which the child adoptee is born.
- 608 (ii) "Emotional support" means a pattern of statements or actions that indicate to a
- 609 reasonable person that a birth parent intends to provide for the physical and
- 610 emotional well-being of an unborn child adoptee.
- 611 (b) A consent or relinquishment required by Subsection (1) may be implied by any of
- 612 the following acts:
- 613 (i) abandonment;
- 614 (ii) leaving the child adoptee with a third party for 30 consecutive days without
- 615 providing the third party with the birth parent's identification;
- 616 (iii) knowingly leaving the child adoptee with another person for 180 consecutive
- 617 days without providing for support, communicating, or otherwise maintaining a
- 618 substantial relationship with the child adoptee; or
- 619 (iv) receiving notification of a pending adoption proceeding as described in Section
- 620 81-13-207, or of a termination proceeding described in Section 81-13-205, and
- 621 failing to respond as required.
- 622 (c) For purposes of this Subsection (7), a court may not:
- 623 (i) determine that a birth parent abandoned the birth mother if the birth parent failed
- 624 to provide financial or emotional support because the birth mother refused to
- 625 accept support; or
- 626 (ii) find that the birth parent failed to provide emotional support if the individual's
- 627 failure was due to impossibility of performance.
- 628 (d) Implied consent under this Subsection (7) may not be withdrawn.
- 629 (e) Nothing in this Subsection (7) negates the requirements of Section 81-13-213 for an
- 630 unmarried biological father.
- 631 (8) Nothing in this section establishes new requirements for an individual relinquishing a
- 632 child in accordance with Section 80-4-502.

633 Section 8. Section **81-13-217** is amended to read:

634 **81-13-217 . Affidavit regarding fees and expenses before final decree of adoption**

635 **of a minor child.**

- 636 (1)(a) Except as provided in Subsection [~~(5)~~] (6), before the date that a final decree of
- 637 adoption for a child adoptee is entered, a prospective adoptive parent or, if the child
- 638 adoptee was placed by a child-placing agency, the person or agency placing the child
- 639 adoptee shall file with the court an affidavit regarding fees and expenses on a form
- 640 prescribed by the Judicial Council in accordance with Subsection (2).

(b) An affidavit filed ~~[pursuant to]~~ in accordance with Subsection (1)(a) shall be signed by each prospective adoptive parent and, if the child adoptee was placed by a child-placing agency, the person or agency placing the child adoptee.

(c) The court shall review an affidavit filed under this section for completeness and compliance with the requirements of this section.

(d) The results of the court's review under Subsection (1)(c) shall be noted in the court's record.

(2)(a) The Judicial Council shall prescribe a uniform form for the affidavit described in Subsection (1).

(b) The uniform affidavit form shall require ~~[itemization]~~ disclosure of the following items in connection with the adoption:

~~[(i) all legal expenses that have been or will be paid to or on behalf of the preexisting parents of the child adoptee, including the source of payment;]~~

~~[(ii) all maternity expenses that have been or will be paid to or on behalf of the preexisting parents of the child adoptee, including the source of payment;]~~

~~[(iii) all medical or hospital expenses that have been or will be paid to or on behalf of the preexisting parents of the child adoptee, including the source of payment;]~~

~~[(iv) all living expenses that have been or will be paid to or on behalf of the preexisting parents of the child adoptee, including the source of payment;]~~

~~[(v) fees paid by the prospective adoptive parent or parents in connection with the adoption;]~~

~~[(vi) all gifts, property, or other items that have been or will be provided to the preexisting parents, including the source and approximate value of the gifts, property, or other items;]~~

~~[(vii) all public funds used for any medical or hospital costs in connection with the:]~~  
~~[(A) pregnancy;]~~

~~[(B) delivery of the child adoptee; or]~~

~~[(C) care of the child adoptee; and]~~

~~[(viii) if a child-placing agency placed the child adoptee:]~~

~~[(A) a description of services provided to the prospective adoptive parents or preexisting parents in connection with the adoption;]~~

~~[(B) all expenses associated with matching the prospective adoptive parent or parents and the birth mother;]~~

~~[(C) all expenses associated with advertising; and]~~

- 675 ~~[(D) any other agency fees or expenses paid by an adoptive parent that are not~~  
676 ~~itemized under one of the other categories described in this Subsection (2)(b),~~  
677 ~~including a description of the reason for the fee or expense.]~~
- 678 (i) the total amount of legal expenses that have been or will be paid to or on behalf of  
679 the preexisting parents of the child adoptee;
- 680 (ii) the total amount of medical or hospital expenses that have been or will be paid to  
681 or on behalf of the preexisting parents of the child adoptee;
- 682 (iii) the total amount that the adoptive parent has paid for a preexisting parent's direct  
683 support;
- 684 (iv) the total amount that the adoptive parent has paid for a preexisting parent's  
685 indirect support;
- 686 (v) the total amount that the adoptive parent has paid to a child-placing agency in fees  
687 and costs; and
- 688 (vi) a description of services provided to the prospective adoptive parent and  
689 preexisting parent in connection with the adoption.
- 690 (c) The uniform affidavit form shall require:
- 691 (i) a ~~[statement of the]~~ declaration of each state or country of residence for 12 months  
692 before the birth of the:
- 693 (A) birth mother or the preexisting parents; and
- 694 (B) prospective adoptive parent or parents; and
- 695 (ii) a declaration that Section 76-7-203 has not been violated~~[- and]~~ .
- 696 ~~[(iii) if the affidavit includes an itemized amount for both of the categories described~~  
697 ~~in Subsections (2)(b)(iii) and (vii), a statement explaining why certain medical or~~  
698 ~~hospital expenses were paid by a source other than public funds.]~~
- 699 (d) To satisfy the requirement of Subsection (1)(a), the court shall accept an affidavit  
700 that is submitted in a form accepted by the Office of Licensing within the Department  
701 of Health and Human Services if the affidavit contains the same information and is in  
702 a reasonably equivalent format as the uniform affidavit form prescribed by the  
703 Judicial Council.
- 704 (3)(a)(i) If a child-placing agency, that is licensed by this state, placed the child  
705 adoptee, the child-placing agency shall provide a copy of the affidavit described in  
706 Subsection (1) to the Office of Licensing within the Department of Health and  
707 Human Services~~[-]~~ on or before 60 days after the day on which the adoption is  
708 finalized.

- 709           (ii) If an attorney arranged the placement of the child adoptee with the adoptive  
710           parent or parents, the attorney shall provide a copy of the affidavit described in  
711           Subsection (1) to the Office of Licensing within the Department of Health and  
712           Human Services on or before 60 days after the day on which the adoption is  
713           finalized.
- 714       (b) Before August 30 of each even-numbered year, the Office of Licensing within the  
715       Department of Health and Human Services shall provide a written report to the  
716       Health and Human Services Interim Committee and to the Judicial Council regarding  
717       the cost of adoptions in the state that includes:
- 718           (i) the total number of affidavits provided to the Office of Licensing during the  
719           previous year;
- 720           (ii) for each of the categories described in Subsection (2)(b):
- 721               (A) the average amount disclosed on affidavits submitted during the previous  
722               year; and
- 723               (B) the range of amounts disclosed on affidavits submitted during the previous  
724               year;
- 725           (iii) the average total amount disclosed on affidavits submitted during the previous  
726           year;
- 727           (iv) the range of total amounts disclosed on affidavits submitted during the previous  
728           year; and
- 729           (v) any recommended legislation that may help reduce the cost of adoptions.
- 730       (c) The Health and Human Services Interim Committee shall, based on information in  
731       reports provided under Subsection (3)(b) and in consultation with [~~a consortium~~  
732       ~~described~~] the Utah Child-Placing Adoption Agency Consortium created in  
733       Subsection [26B-2-127(8)] 26B-2-127(9), consider:
- 734           (i) what constitutes reasonable fees and expenses related to adoption; and
- 735           (ii) the standards that may be used to determine whether fees and expenses related to  
736           adoption are reasonable in a specific case.
- 737       (4) The Judicial Council shall make a copy of each report provided by the Office of  
738       Licensing under Subsection (3)(b) available to each court that may be required to review  
739       an affidavit under Subsection (1)(c).
- 740       (5) The Office of Licensing shall investigate and may suspend or revoke the license of a  
741       child-placing agency if the child-placing agency fails to comply with the requirements  
742       described in this section.

743        [~~(5)~~] (6) This section does not apply if the prospective adoptive parent is the legal spouse of  
744                a preexisting parent.

745                Section 9. **Effective Date.**

746        This bill takes effect on May 6, 2026.