

## Part 6 Child Placing

### **62A-4a-601 Definitions.**

For purposes of this part:

- (1) "Child placing" means:
  - (a) receiving, accepting, or providing custody or care for a child, temporarily or permanently, for the purpose of finding a person to adopt the child; or
  - (b) placing a child, temporarily or permanently, in a home for adoption or substitute care.
- (2) "Child placing agency" means an individual, agency, firm, corporation, association, or group children's home that engages in child placing.

Amended by Chapter 281, 2006 General Session

### **62A-4a-602 Licensure requirements -- Prohibited acts.**

- (1) No person, agency, firm, corporation, association, or group children's home may engage in child placing, or solicit money or other assistance for child placing, without a valid license issued by the Office of Licensing, in accordance with Chapter 2, Licensure of Programs and Facilities. When a child placing agency's license is suspended or revoked in accordance with that chapter, the care, control, or custody of any child who has been in the care, control, or custody of that agency shall be transferred to the division.
- (2)
  - (a) An attorney, physician, or other person may assist a parent in identifying or locating a person interested in adopting the parent's child, or in identifying or locating a child to be adopted. However, no payment, charge, fee, reimbursement of expense, or exchange of value of any kind, or promise or agreement to make the same, may be made for that assistance.
  - (b) An attorney, physician, or other person may not:
    - (i) issue or cause to be issued to any person a card, sign, or device indicating that he is available to provide that assistance;
    - (ii) cause, permit, or allow any sign or marking indicating that he is available to provide that assistance, on or in any building or structure;
    - (iii) announce or cause, permit, or allow an announcement indicating that he is available to provide that assistance, to appear in any newspaper, magazine, directory, or on radio or television; or
    - (iv) advertise by any other means that he is available to provide that assistance.
- (3) Nothing in this part precludes 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; and no provision of this part abrogates the right of procedures for independent adoption as provided by law.
- (4) In accordance with federal law, only agents or employees of the division and of licensed child placing agencies may certify to the United States Immigration and Naturalization Service that a family meets the division's preadoption requirements.
- (5)
  - (a) Beginning May 1, 2000, neither a licensed child placing agency nor any attorney practicing in this state may place a child for adoption, either temporarily or permanently, with any individual or individuals that would not be qualified for adoptive placement pursuant to the provisions of Sections 78B-6-117, 78B-6-102, and 78B-6-137.

- (b) Beginning May 1, 2000, the division, as a licensed child placing agency, may not place a child in foster care with any individual or individuals that would not be qualified for adoptive placement pursuant to the provisions of Sections 78B-6-117, 78B-6-102, and 78B-6-137. However, nothing in this Subsection (5)(b) limits the placement of a child in foster care with the child's biological or adoptive parent.
- (c) Beginning May 1, 2000, with regard to children who are in the custody of the state, the division shall establish a policy providing that priority for foster care and adoptive placement shall be provided to families in which both a man and a woman are legally married under the laws of this state. However, nothing in this Subsection (5)(c) limits the placement of a child with the child's biological or adoptive parent.

Amended by Chapter 3, 2008 General Session

**62A-4a-603 Injunction -- Enforcement by county attorney or attorney general.**

- (1) The division or any interested person may commence an action in district court to enjoin any person, agency, firm, corporation, or association violating Section 62A-4a-602.
- (2) A county attorney or the attorney general shall institute legal action as necessary to enforce the provisions of Section 62A-4a-602 when informed of any alleged violation. If the county attorney does not take action within 30 days after being informed, the attorney general may be requested to take action, and shall then institute legal proceedings in place of the county attorney.
- (3) In addition to the remedies provided in Subsections (1) and (2), any person, agency, firm, corporation, or association found to be in violation of Section 62A-4a-602 shall forfeit all proceeds identified as resulting from the transaction, and may also be assessed a civil penalty of not more than \$10,000 for each violation. Every act in violation of Section 62A-4a-602, including each placement or attempted placement of a child, is a separate violation.
- (4)
  - (a) All amounts recovered as penalties under Subsection (3) shall be placed in the General Fund of the prosecuting county, or in the state General Fund if the attorney general prosecutes.
  - (b) If two or more governmental entities are involved in the prosecution, the penalty amounts recovered shall be apportioned by the court among the entities, according to their involvement.
- (5) A judgment ordering the payment of any penalty or forfeiture under Subsection (3) constitutes a lien when recorded in the judgment docket, and has the same effect and is subject to the same rules as a judgment for money in a civil action.

Renumbered and Amended by Chapter 260, 1994 General Session

**62A-4a-605 Establishing proof of authority.**

A child placing agency is not required to present its license, issued under Chapter 2, Licensure of Programs and Facilities, or its certificate of incorporation, or proof of its authority to consent to adoption, as proof of its authority in any proceeding in which it is an interested party, unless the court or a party to the proceeding requests that the agency or its representative establish proof of authority.

Renumbered and Amended by Chapter 260, 1994 General Session

**62A-4a-606 Child placing agency responsibility for educational services -- Payment of costs.**

- (1) A child placing agency shall ensure that the requirements of Subsections 53A-11-101.5(2) and 53A-11-101.7(1) are met through the provision of appropriate educational services for all children served in the state by the agency.
- (2) If the educational services are to be provided through a public school, and:
  - (a) the custodial parent or legal guardian resides outside the state, then the child placing agency shall pay all educational costs required under Sections 53A-2-205 and 53A-12-102; or
  - (b) the custodial parent or legal guardian resides within the state, then the child placing agency shall pay all educational costs required under Section 53A-12-102.
- (3) Children in the custody or under the care of a Utah state agency are exempt from the payment of fees required under Subsection (2).
- (4) A public school shall admit any child living within its school boundaries who is under the supervision of a child placing agency upon payment by the agency of the tuition and fees required under Subsection (2).

Amended by Chapter 81, 2007 General Session

**62A-4a-607 Promotion of adoption -- Agency notice to potential adoptive parents.**

- (1)
  - (a) The division and all child placing agencies licensed under this part shall promote adoption when that is a possible and appropriate alternative for a child. Specifically, in accordance with Section 62A-4a-205.6, the division shall actively promote the adoption of all children in its custody who have a final plan for termination of parental rights pursuant to Section 78A-6-314 or a primary permanency plan of adoption.
  - (b) Beginning May 1, 2000, the division may not place a child for adoption, either temporarily or permanently, with any individual or individuals who do not qualify for adoptive placement pursuant to the requirements of Sections 78B-6-117, 78B-6-102, and 78B-6-137.
- (2) The division shall obtain or conduct research of prior adoptive families to determine what families may do to be successful with their adoptive children and shall make this research available to potential adoptive parents.
- (3)
  - (a) A child placing agency licensed under this part shall inform each potential adoptive parent with whom it is working that:
    - (i) children in the custody of the state are available for adoption;
    - (ii) Medicaid coverage for medical, dental, and mental health services may be available for these children;
    - (iii) tax benefits, including the tax credit provided for in Section 59-10-1104, and financial assistance may be available to defray the costs of adopting these children;
    - (iv) training and ongoing support may be available to the adoptive parents of these children; and
    - (v) information about individual children may be obtained by contacting the division's offices or its Internet site as explained by the child placing agency.
  - (b) A child placing agency shall:
    - (i) provide the notice required by Subsection (3)(a) at the earliest possible opportunity; and
    - (ii) simultaneously distribute a copy of the pamphlet prepared by the division in accordance with Subsection (3)(d).

- (c) As a condition of licensure, the child placing agency shall certify to the Office of Licensing at the time of license renewal that it has complied with the provisions of this section.
- (d) Before July 1, 2000, the division shall:
  - (i) prepare a pamphlet that explains the information that is required by Subsection (3)(a); and
  - (ii) regularly distribute copies of the pamphlet described in Subsection (3)(d)(i) to child placing agencies.
- (e) The division shall respond to any inquiry made as a result of the notice provided in Subsection (3)(a).

Amended by Chapter 322, 2015 General Session

**62A-4a-608 Choose Life Adoption Support Restricted Account.**

- (1) There is created in the General Fund the "Choose Life Adoption Support Restricted Account."
- (2) The account shall be funded by:
  - (a) contributions deposited into the Choose Life Adoption Support Restricted Account in accordance with Section 41-1a-422;
  - (b) appropriations to the account by the Legislature;
  - (c) private contributions; and
  - (d) donations or grants from public or private entities.
- (3) The Legislature shall appropriate money in the account to the division.
- (4) The division shall distribute the funds in the account to one or more charitable organizations that:
  - (a) qualify as being tax exempt under Section 501(c)(3) of the Internal Revenue Code;
  - (b) have as part of their primary mission the support, promotion, and education of adoption programs; and
  - (c) are licensed or registered to do business within the state in accordance with state law.
- (5)
  - (a) An organization described in Subsection (4) may apply to the division to receive a distribution in accordance with Subsection (4).
  - (b) An organization that receives a distribution from the division in accordance with Subsection (4) shall expend the distribution only to:
    - (i) produce and distribute educational and promotional materials on adoption;
    - (ii) conduct educational courses on adoption; and
    - (iii) provide other programs that support adoption.
  - (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules providing procedures and requirements for an organization to apply to the division to receive a distribution under Subsection (4).

Enacted by Chapter 438, 2011 General Session