

78B-6-128 Preplacement adoptive evaluations -- Exceptions.

- (1)
 - (a) Except as otherwise provided in this section, a child may not be placed in an adoptive home until a preplacement adoptive evaluation, assessing the prospective adoptive parent and the prospective adoptive home, has been conducted in accordance with the requirements of this section.
 - (b) Except as provided in Section 78B-6-131, the court may, at any time, authorize temporary placement of a child in a potential adoptive home pending completion of a preplacement adoptive evaluation described in this section.
 - (c) Subsection (1)(a) does not apply if a pre-existing parent has legal custody of the child to be adopted and the prospective adoptive parent is related to that child or the pre-existing parent as a stepparent, sibling by half or whole blood or by adoption, grandparent, aunt, uncle, or first cousin, unless the evaluation is otherwise requested by the court. The prospective adoptive parent described in this Subsection (1)(c) shall obtain the information described in Subsections (2)(a) and (b), and file that documentation with the court prior to finalization of the adoption.
 - (d) The required preplacement adoptive evaluation must be completed or updated within the 12-month period immediately preceding the placement of a child with the prospective adoptive parent. If the prospective adoptive parent has previously received custody of a child for the purpose of adoption, the preplacement adoptive evaluation must be completed or updated within the 12-month period immediately preceding the placement of a child with the prospective adoptive parent and after the placement of the previous child with the prospective adoptive parent.
- (2) The preplacement adoptive evaluation shall include:
 - (a) criminal history record information regarding each prospective adoptive parent and any other adult living in the prospective home, prepared no earlier than 18 months immediately preceding placement of the child in accordance with the following:
 - (i) if the child is in state custody, each prospective adoptive parent and any other adult living in the prospective home shall:
 - (A) submit fingerprints for a Federal Bureau of Investigation national criminal history record check through the Criminal and Technical Services Division of the Department of Public Safety in accordance with the provisions of Section 62A-2-120; or
 - (B) submit to a fingerprint based Federal Bureau of Investigation national criminal history record check through a law enforcement agency in another state, district, or territory of the United States; or
 - (ii) subject to Subsection (3), if the child is not in state custody, each prospective adoptive parent and any other adult living in the prospective home shall:
 - (A) submit fingerprints for a Federal Bureau of Investigation national criminal history records check as a personal records check; or
 - (B) complete a criminal records check, if available, for each state and country where the prospective adoptive parent and any adult living in the prospective adoptive home resided during the five years immediately preceding the day on which the adoption petition is to be finalized;
 - (b) a report containing all information regarding reports and investigations of child abuse, neglect, and dependency, with respect to each prospective adoptive parent and any other adult living in the prospective home, obtained no earlier than 18 months immediately preceding the day on which the child is placed in the prospective home, pursuant to waivers executed by each prospective adoptive parent and any other adult living in the prospective home, that:

- (i) if the prospective adoptive parent or the adult living in the prospective adoptive parent's home is a resident of Utah, is prepared by the Department of Human Services from the records of the Department of Human Services; or
 - (ii) if the prospective adoptive parent or the adult living in the prospective adoptive parent's home is not a resident of Utah, prepared by the Department of Human Services, or a similar agency in another state, district, or territory of the United States, where each prospective adoptive parent and any other adult living in the prospective home resided in the five years immediately preceding the day on which the child is placed in the prospective adoptive home;
- (c) in accordance with Subsection (6), an evaluation conducted by:
- (i) an expert in family relations approved by the court;
 - (ii) a certified social worker;
 - (iii) a clinical social worker;
 - (iv) a marriage and family therapist;
 - (v) a psychologist;
 - (vi) a social service worker, if supervised by a certified or clinical social worker; or
 - (vii) a professional counselor; and
- (d) in accordance with Subsection (7), if the child to be adopted is a child who is in the custody of any public child welfare agency, and is a child who has a special need as defined in Section 62A-4a-902, the preplacement evaluation shall be conducted by the Department of Human Services or a child-placing agency that has entered into a contract with the department to conduct the preplacement evaluations for children with special needs.
- (3) For purposes of Subsection (2)(a)(ii):
- (a) if the adoption is being handled by a human services program, as defined in Section 62A-2-101:
 - (i) the criminal history check described in Subsection (2)(a)(ii)(A) shall be submitted through the Criminal Investigations and Technical Services Division of the Department of Public Safety, in accordance with the provisions of Section 62A-2-120; and
 - (ii) subject to Subsection (4), the criminal history check described in Subsection (2)(a)(ii)(B) shall be submitted in a manner acceptable to the court that will:
 - (A) preserve the chain of custody of the results; and
 - (B) not permit tampering with the results by a prospective adoptive parent or other interested party; and
 - (b) if the adoption is being handled by a private attorney, and not a human services program, the criminal history checks described in Subsection (2)(a)(ii) shall be:
 - (i) submitted in accordance with procedures established by the Criminal Investigations and Technical Services Division of the Department of Public Safety; or
 - (ii) subject to Subsection (4), submitted in a manner acceptable to the court that will:
 - (A) preserve the chain of custody of the results; and
 - (B) not permit tampering with the results by a prospective adoptive parent or other interested party.
- (4) In order to comply with Subsection (3)(a)(ii) or (b)(ii), the manner in which the criminal history check is submitted shall be approved by the court.
- (5) Except as provided in Subsection 78B-6-131(2), in addition to the other requirements of this section, before a child in state custody is placed with a prospective foster parent or a prospective adoptive parent, the Department of Human Services shall comply with Section 78B-6-131.
- (6)

- (a) A person described in Subsection (2)(c) shall be licensed to practice under the laws of:
 - (i) this state; or
 - (ii) the state, district, or territory of the United States where the prospective adoptive parent or other person living in the prospective adoptive home resides.
- (b) The evaluation described in Subsection (2)(c) shall be in a form approved by the Department of Human Services.
- (c) Neither the Department of Human Services nor any of its divisions may proscribe who qualifies as an expert in family relations or who may conduct evaluations under Subsection (2)(c).
- (7) Any fee assessed by the evaluating agency described in Subsection (2)(d) is the responsibility of the adopting parent or parents.
- (8) The person or agency conducting the preplacement adoptive evaluation shall, in connection with the evaluation, provide the prospective adoptive parent or parents with literature approved by the Division of Child and Family Services relating to adoption, including information relating to:
 - (a) the adoption process;
 - (b) developmental issues that may require early intervention; and
 - (c) community resources that are available to the prospective adoptive parent or parents.
- (9) A copy of the preplacement adoptive evaluation shall be filed with the court.

Amended by Chapter 458, 2013 General Session