

**78B-6-131 Child in custody of state -- Placement.**

- (1) Notwithstanding Sections 78B-6-128 through 78B-6-130, and except as provided in Subsection (2), a child who is in the legal custody of the state may not be placed with a prospective foster parent or a prospective adoptive parent, unless, before the child is placed with the prospective foster parent or the prospective adoptive parent:
  - (a) a fingerprint based FBI national criminal history records check is conducted on the prospective foster parent, prospective adoptive parent, and any other adult residing in the household;
  - (b) the Department of Human Services conducts a check of the child abuse and neglect registry in each state where the prospective foster parent or prospective adoptive parent resided in the five years immediately preceding the day on which the prospective foster parent or prospective adoptive parent applied to be a foster parent or adoptive parent, to determine whether the prospective foster parent or prospective adoptive parent is listed in the registry as having a substantiated or supported finding of child abuse or neglect;
  - (c) the Department of Human Services conducts a check of the child abuse and neglect registry of each state where each adult living in the home of the prospective foster parent or prospective adoptive parent described in Subsection (1)(b) resided in the five years immediately preceding the day on which the prospective foster parent or prospective adoptive parent applied to be a foster parent or adoptive parent, to determine whether the adult is listed in the registry as having a substantiated or supported finding of child abuse or neglect; and
  - (d) each person required to undergo a background check described in this section passes the background check, pursuant to the provisions of Section 62A-2-120.
- (2) The requirements under Subsection (1) do not apply to the extent that:
  - (a) federal law or rule permits otherwise; or
  - (b) the requirements would prohibit the division or a court from placing a child with:
    - (i) a noncustodial parent, under Section 62A-4a-209, 78A-6-307, or 78A-6-307.5; or
    - (ii) a relative, under Section 62A-4a-209, 78A-6-307, or 78A-6-307.5, pending completion of the background check described in Subsection (1).

Amended by Chapter 293, 2012 General Session