

**Effective 9/1/2025**

**Part 2**  
**Adoption of a Minor Child**

**81-13-201 Definitions for part.**

As used in this part, "sexual offense" means:

- (1) "Sexual offense" means:
  - (a) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses; or
  - (b) an offense under the laws of the state where the minor child was conceived that is substantially similar to an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses.
- (2) "Sexual offense" does not include:
  - (a) an offense described in Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420; or
  - (b) an offense under the laws of the state where the minor child was conceived that is substantially similar to an offense described in Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420.

Enacted by Chapter 426, 2025 General Session

**81-13-202 Legislative findings -- Best interest of the minor child -- Interests of each party.**

- (1) In every adoption of a minor child that, the best interest of the minor child should govern and be of foremost concern in a court's determination.
- (2) The court shall make a specific finding regarding the best interest of the minor child, taking into consideration information provided to the court pursuant to the requirements of this chapter relating to the health, safety, and welfare of the minor child and the moral climate of the potential adoptive placement.
- (3) The Legislature finds that the rights and interests of all parties affected by an adoption proceeding must be considered and balanced in determining what constitutional protections and processes are necessary and appropriate.
- (4)
  - (a) The Legislature specifically finds that it is not in a minor child's best interest to be adopted by a person or persons who are cohabiting in a relationship that is not a legally valid and binding marriage under the laws of this state.
  - (b) Nothing in this section limits or prohibits the court's placement of a minor child with a single adult who is not cohabiting or a person who is a relative of the minor child or a recognized placement under the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et seq.
- (5) The Legislature also finds that:
  - (a) the state has a compelling interest in providing a stable and permanent home for a child adoptee in a prompt manner, in preventing the disruption of an adoptive placement, and in holding parents accountable for meeting the needs of a child adoptee;
  - (b) an unmarried birth mother, faced with the responsibility of making crucial decisions about the future of a newborn child, is entitled to privacy, and has the right to make timely and appropriate decisions regarding her future and the future of the newborn child, and is entitled to assurance regarding the permanence of an adoptive placement;
  - (c) a child adoptee has a right to permanence and stability in an adoptive placement;
  - (d) adoptive parents have a constitutionally protected liberty and privacy interest in retaining custody of a child adoptee;

- (e) an unmarried biological father has an inchoate interest that acquires constitutional protection only when the unmarried biological father demonstrates a timely and full commitment to the responsibilities of parenthood, both during pregnancy and upon the child adoptee's birth; and
  - (f) the state has a compelling interest in requiring an unmarried biological father to demonstrate commitment by providing appropriate medical care and financial support and by establishing legal parentage in accordance with the requirements of this chapter.
- (6)
- (a) In enacting this chapter, the Legislature has prescribed the conditions for determining whether an unmarried biological father's action is sufficiently prompt and substantial to require constitutional protection.
  - (b) If an unmarried biological father fails to grasp the opportunities to establish a relationship with the child adoptee that are available to the unmarried biological father, the unmarried biological father's parental interest may be lost entirely, or greatly diminished in constitutional significance by the unmarried biological father's failure to timely exercise the unmarried biological father's parental interest, or by the unmarried biological father's failure to strictly comply with the available legal steps to substantiate the parental interest.
  - (c)
    - (i) A certain degree of finality is necessary in order to facilitate the state's compelling interest.
    - (ii) The Legislature finds that the interests of the state, the birth mother, the child adoptee, and the adoptive parents described in this section outweigh the interest of an unmarried biological father who does not timely grasp the opportunity to establish and demonstrate a relationship with the child adoptee in accordance with the requirements of this chapter.
  - (d)
    - (i) The Legislature finds no practical way to remove all risk of fraud or misrepresentation in adoption proceedings, and has provided a method for absolute protection of an unmarried biological father's rights by compliance with the provisions of this chapter.
    - (ii) In balancing the rights and interests of the state, and of all parties affected by fraud, specifically the child adoptee, the adoptive parents, and the unmarried biological father, the Legislature has determined that the unmarried biological father is in the best position to prevent or ameliorate the effects of fraud and that, therefore, the burden of fraud shall be borne by the unmarried biological father.
  - (e) An unmarried biological father has the primary responsibility to protect the unmarried biological father's rights.
  - (f) An unmarried biological father is presumed to know that the child adoptee may be adopted without the unmarried biological father's consent unless the unmarried biological father strictly complies with the provisions of this chapter, manifests a prompt and full commitment to the unmarried biological father's parental responsibilities, and establishes paternity.
- (7) The Legislature finds that an unmarried birth mother has:
- (a) a right of privacy with regard to the unmarried birth mother's pregnancy and adoption plan;
  - (b) no legal obligation to disclose the identity of an unmarried biological father before or during an adoption proceeding; and
  - (c) no obligation to volunteer information to the court with respect to the father.

Renumbered and Amended by Chapter 426, 2025 General Session

**81-13-203 Who may adopt -- Adoption of a minor child.**

- (1) An adult may adopt a minor child in accordance with this section and this chapter.

- (2) Except as otherwise provided in this section and subject to the placement requirements described in Section 81-13-403, a minor child may be adopted by:
  - (a) adults who are legally married to each other in accordance with the laws of this state, including adoption by a stepparent; or
  - (b) an adult who is not married.
- (3) If an adult is cohabiting in a relationship that is not a legally valid and binding marriage under the laws of this state, the adult may not adopt a minor child unless the individual is a relative of the minor child or a recognized placement under the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et seq.
- (4) A married adult who is lawfully separated from the married adult's spouse may not adopt a minor child without the consent of the married adult's spouse if the spouse is capable of giving consent.
- (5) An adult may not adopt a minor child unless:
  - (a) the adult is at least 10 years older than the minor child; or
  - (b) at least one adult of a married couple is at least 10 years older than the minor child if a married couple is adopting the minor child.
- (6) Except as provided in Subsection (7), an adult may not adopt a minor child if, before adoption is finalized, the adult has been convicted of, pleaded guilty to, or pleaded no contest to a felony or attempted felony involving conduct that constitutes:
  - (a) child abuse, as described in Section 76-5-109;
  - (b) aggravated child abuse, as described in Section 76-5-109.2;
  - (c) child abandonment, as described in Section 76-5-109.3;
  - (d) child torture, as described in Section 76-5-109.4;
  - (e) commission of domestic violence in the presence of a child, as described in Section 76-5-114;
  - (f) child abuse homicide, as described in Section 76-5-208;
  - (g) child kidnapping, as described in Section 76-5-301.1;
  - (h) human trafficking of a child, as described in Section 76-5-308.5;
  - (i) sexual abuse of a minor, as described in Section 76-5-401.1;
  - (j) rape of a child, as described in Section 76-5-402.1;
  - (k) object rape of a child, as described in Section 76-5-402.3;
  - (l) sodomy on a child, as described in Section 76-5-403.1;
  - (m) sexual abuse of a child, as described in Section 76-5-404.1;
  - (n) aggravated sexual abuse of a child, as described in Section 76-5-404.3;
  - (o) sexual exploitation of a minor, as described in Section 76-5b-201;
  - (p) aggravated sexual exploitation of a minor, as described in Section 76-5b-201.1; or
  - (q) an offense in another state that, if committed in this state, would constitute an offense described in this Subsection (6).
- (7)
  - (a) As used in this Subsection (7), "disqualifying offense" means an offense listed in Subsection (6) that prevents a court from considering an adult for adoption of a minor child except as provided in this Subsection (7).
  - (b) An adult described in Subsection (6) may only be considered for adoption of a minor child if the following criteria are met by clear and convincing evidence:
    - (i) at least 10 years have elapsed from the day on which the adult is successfully released from prison, jail, parole, or probation related to a disqualifying offense;
    - (ii) during the 10 years before the day on which the adult files a petition with the court seeking adoption, the adult has not been convicted, pleaded guilty, or pleaded no contest to an

- offense greater than an infraction or traffic violation that would likely impact the health, safety, or well-being of the minor child;
- (iii) the adult can provide evidence of successful treatment or rehabilitation directly related to the disqualifying offense;
  - (iv) the court determines that the risk related to the disqualifying offense is unlikely to cause harm, as defined in Section 80-1-102, or potential harm to the minor child currently or at any time in the future when considering all of the following:
    - (A) the minor child's age;
    - (B) the minor child's gender;
    - (C) the minor child's development;
    - (D) the nature and seriousness of the disqualifying offense;
    - (E) the preferences of a minor child who is 12 years old or older;
    - (F) any available assessments, including custody evaluations, home studies, pre-placement adoptive evaluations, parenting assessments, psychological or mental health assessments, and bonding assessments; and
    - (G) any other relevant information;
  - (v) the adult can provide evidence of all of the following:
    - (A) the relationship with the minor child is of long duration;
    - (B) that an emotional bond exists with the minor child; and
    - (C) that adoption by the individual who has committed the disqualifying offense ensures the best interests of the minor child are met; and
  - (vi) the adoption is by:
    - (A) a stepparent whose spouse is the adoptee's parent and consents to the adoption; or
    - (B) subject to Subsection (7)(d), a relative of the minor child, as defined in Section 80-3-102, and there is not another relative without a disqualifying offense filing an adoption petition.
- (c) The adult with the disqualifying offense bears the burden of proof regarding why adoption with that adult is in the best interest of the minor child over another responsible relative or equally situated adult who does not have a disqualifying offense.
- (d) If there is an alternative responsible relative who does not have a disqualifying offense filing an adoption petition:
- (i) preference for adoption shall be given to a relative who does not have a disqualifying offense; and
  - (ii) before the court may grant adoption to the adult who has the disqualifying offense over another responsible, willing, and able relative:
    - (A) an impartial custody evaluation shall be completed; and
    - (B) a guardian ad litem shall be assigned.
- (8) Subsections (6) and (7) apply to a case pending on March 25, 2017, for which a final decision on adoption has not been made and to a case filed on or after March 25, 2017.

Renumbered and Amended by Chapter 426, 2025 General Session

**81-13-204 Petition for adoption of a minor child.**

- (1) A person may bring a petition for adoption of a minor child:
  - (a) before the birth of the minor child; or
  - (b) before or after the minor child is placed in the home of the adoptive parent for the purpose of adoption.
- (2)

- (a) Except as provided in Subsection (2)(c), a petition for adoption of a minor child shall state whether the minor child was born in another state.
  - (b) If the minor child was born in another state, the petition and the court's final decree of adoption shall state that the requirements of Title 80, Chapter 2, Part 9, Interstate Compact on Placement of Children, have been complied with.
  - (c) This Subsection (2) does not apply if the prospective adoptive parent is not required to complete a preplacement adoptive evaluation under Section 81-13-404.
- (3) In any adoption proceeding involving an "Indian child," as defined in 25 U.S.C. Sec. 1903, a child-placing agency and a petitioner shall comply with the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et seq.

Enacted by Chapter 426, 2025 General Session

**81-13-205 Petition to terminate parental rights of a minor child.**

- (1) A party may bring a petition seeking to terminate parental rights of a minor child for the purpose of facilitating the adoption of the minor child in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.
- (2) A petition to terminate parental rights under this section may be:
  - (a) joined with a proceeding on an adoption petition; or
  - (b) filed as a separate proceeding before or after a petition to adopt the minor child is filed.
- (3) A court may enter a final order terminating parental rights before a final decree of adoption is entered.
- (4)
  - (a) Nothing in this section limits the jurisdiction of a juvenile court relating to proceedings to terminate parental rights as described in Section 78A-6-103.
  - (b) A court may not terminate parental rights of a minor child if the minor child is under the jurisdiction of the juvenile court in a pending abuse, neglect, dependency, or termination of parental rights proceeding.
- (5) The court may terminate an individual's parental rights of a minor child if:
  - (a) the individual executes a voluntary consent to adoption, or relinquishment for adoption, of the minor child, in accordance with:
    - (i) the requirements of this chapter; or
    - (ii) the laws of another state or country, if the consent is valid and irrevocable;
  - (b) the individual is an unmarried biological father who is not entitled to consent to adoption, or relinquishment for adoption, under Section 81-13-212 or 81-13-213;
  - (c) the individual:
    - (i) received notice of the adoption proceeding relating to the minor child under Section 81-13-207; and
    - (ii) failed to file a motion for relief, under Subsection 81-13-207(6), within 30 days after the day on which the individual was served with notice of the adoption proceeding;
  - (d) the court finds, under Section 81-5-607, that the individual is not a parent of the minor child; or
  - (e) the individual's parental rights are terminated on grounds described in Title 80, Chapter 4, Termination and Restoration of Parental Rights, and termination is in the best interests of the minor child.
- (6) The court shall appoint an indigent defense service provider in accordance with Title 78B, Chapter 22, Indigent Defense Act, to represent a parent, as defined in Section 81-13-211, who faces any action initiated by a private party under Title 80, Chapter 4, Termination and

Restoration of Parental Rights, or whose parental rights are subject to termination under this section.

- (7) If a county incurs expenses in providing indigent defense services to an indigent individual facing any action initiated by a private party under Title 80, Chapter 4, Termination and Restoration of Parental Rights, or termination of parental rights under this section, the county may apply for reimbursement from the Utah Indigent Defense Commission in accordance with Section 78B-22-406.
- (8) A petition filed under this section is subject to the procedural requirements of this chapter.

Renumbered and Amended by Chapter 426, 2025 General Session

**81-13-206 Determination of rights in an adoption proceeding for a minor child.**

- (1)
  - (a) Any interested person may petition a court with jurisdiction over an adoption proceeding of a minor child for a determination of the rights and interests of any person who may claim an interest in the minor child under this part.
  - (b) The petition described in Subsection (1) may be filed at any time before the finalization of the adoption, including before:
    - (i) the minor child's birth;
    - (ii) a petition for adoption is filed; or
    - (iii) a petition to terminate parental rights is filed.
- (2) If a petition for adoption or a petition to terminate parental rights has been filed in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, the petitioner or any interested person may, without filing a separate petition, move the court for a determination of the rights and interests of any person who may claim an interest in the minor child under this chapter.

Renumbered and Amended by Chapter 426, 2025 General Session

**81-13-207 Notice of an adoption proceeding for a minor child.**

- (1) A petitioner in an adoption proceeding described in Section 81-13-204, 81-13-205, or 81-13-206 shall serve a notice of the adoption proceeding on each of the following persons:
  - (a) any person or agency whose consent or relinquishment is required under Section 81-13-212 or 81-13-213, unless that right has been terminated by:
    - (i) waiver;
    - (ii) relinquishment;
    - (iii) actual or implied consent; or
    - (iv) judicial action;
  - (b) any person who has initiated a parentage proceeding and filed notice of that action with the the office in accordance with Subsection (3);
  - (c) any legally appointed custodian or guardian of the child adoptee;
  - (d) the petitioner's spouse if the petitioner is married and the petitioner's spouse has not joined in the petition;
  - (e) the child adoptee's spouse if the child adoptee is married;
  - (f) any individual who, before the time the birth mother executes the birth mother's consent for adoption or relinquishes the child adoptee for adoption, is recorded on the birth certificate as the child adoptee's parent, with the knowledge and consent of the birth mother;
  - (g) any individual who is:

- (i) openly living in the same household with the child adoptee at the time the consent is executed or relinquishment made; and
  - (ii) holding the individual out to be the child adoptee's parent; and
  - (h) an individual who is married to the child adoptee's birth mother at the time the birth mother executes the birth mother's consent to the adoption or relinquishes the child adoptee for adoption, unless the court finds that the mother's spouse is not the child adoptee's parent under Section 81-5-607.
- (2)
- (a) Except as provided in Subsections (2)(b) and (c), the petitioner may serve the notice described in Subsection (1) at any time after the petition for the adoption proceeding is filed.
  - (b) The petitioner may not serve the notice described in Subsection (2)(a) on a birth mother before the birth mother has given birth to the minor child who is the subject of the petition.
  - (c) The petitioner shall serve the notice described in Subsection (1) at least 30 days prior to the final dispositional hearing.
- (3)
- (a) An unmarried biological father, by virtue of the fact that the unmarried biological father has engaged in a sexual relationship with a woman:
    - (i) is considered to be on notice that a pregnancy and an adoption proceeding regarding a minor child may occur; and
    - (ii) has a duty to protect the unmarried biological father's own rights and interests.
  - (b) An unmarried biological father is entitled to actual notice of a birth or an adoption proceeding with regard to the unmarried biological father's minor child only as provided in this section or Section 81-13-209.
  - (c) In order to preserve any right to notice, an unmarried biological father shall, consistent with Subsection (3)(f):
    - (i) initiate proceedings in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to establish parentage under Chapter 5, Uniform Parentage Act; and
    - (ii) file a notice of commencement of the proceedings described in Subsection (3)(c)(i) with the office.
  - (d) Notwithstanding Section 81-13-102 or Title 78B, Chapter 3a, Venue for Civil Actions, an unmarried biological father may initiate an action described in Subsection (3)(c) in any county if the unmarried biological father does not know the county in which the birth mother resides.
  - (e) The Department of Health and Human Services shall provide forms for the purpose of filing the notice described in Subsection (3)(c)(ii), and make those forms available in the office of the county health department in each county.
  - (f) When the office receives a completed form, the office shall:
    - (i) record the date and time the form was received; and
    - (ii) immediately enter the information provided by the unmarried biological father in the confidential registry described in Subsection 81-13-213(4)(c).
  - (g)
    - (i) An unmarried biological father may file the action and notice described in Subsection (3)(c) before or after the minor child's birth.
    - (ii) An unmarried biological father shall file the action and notice described in Subsection (3)(c) before the mother's:
      - (A) execution of consent to adoption of the minor child; or
      - (B) relinquishment of the minor child for adoption.
  - (h) Notwithstanding Subsection (2)(b), an unmarried biological father is not entitled to notice of an adoption proceeding in a case where it is shown that the minor child was conceived as

a result of conduct that constitutes a sexual offense, regardless of whether the unmarried biological father is formally charged with or convicted of the sexual offense.

- (4) Notice provided in accordance with this section need not disclose the name of the birth mother of the minor child who is the subject of an adoption proceeding.
- (5) The notice required by this section:
  - (a) shall specifically state that the person served shall fulfill the requirements of Subsection (6)
    - (a) within 30 days after the day on which the person receives service if the person intends to intervene in or contest the adoption;
    - (b) shall state the consequences, described in Subsection (6)(b), for failure of a person to file a motion for relief within 30 days after the day on which the person is served with notice of an adoption proceeding;
    - (c) is not required to include, or be accompanied by, a summons or a copy of the petition for adoption;
    - (d) shall state where the person may obtain a copy of the petition for adoption; and
    - (e) shall indicate the right to the appointment of counsel for a party whom the court determines is indigent and at risk of losing the party's parental rights.
- (6)
  - (a) A person who has been served with notice of an adoption proceeding and who wishes to contest the adoption shall file a motion to intervene in the adoption proceeding:
    - (i) within 30 days after the day on which the person was served with notice of the adoption proceeding;
    - (ii) setting forth specific relief sought; and
    - (iii) accompanied by a memorandum specifying the factual and legal grounds upon which the motion is based.
  - (b) A person who fails to fully and strictly comply with all of the requirements described in Subsection (6)(a) within 30 days after the day on which the person was served with notice of the adoption proceeding:
    - (i) waives any right to further notice in connection with the adoption;
    - (ii) forfeits all rights in relation to the adoptee; and
    - (iii) is barred from thereafter bringing or maintaining any action to assert any interest in the adoptee.
- (7)
  - (a)
    - (i) Subject to Subsection (5)(c), the petitioner shall serve a person whose consent is necessary under Section 81-13-212 or 81-13-213 in accordance with the Utah Rules of Civil Procedure.
    - (ii) If service of a person described in Subsection (7)(a)(i) is by publication, the court shall designate the content of the notice regarding the identity of the parties.
    - (iii) The notice described in this Subsection (7)(a) may not include the name of a person seeking to adopt the adoptee.
  - (b)
    - (i) Except as provided in Subsection (7)(b)(ii) to any other person for whom notice is required under this section, service by certified mail, return receipt requested, is sufficient.
    - (ii) If the service described in Subsection (7)(b)(i) cannot be completed after two attempts, the court may issue an order providing for service by publication, posting, or by any other manner of service.

- (c) Notice to an individual, who has initiated a parentage proceeding and filed notice of that action with the office in accordance with the requirements of Subsection (3), shall be served by certified mail, return receipt requested, at the last address filed with the office.
- (8) The notice required by this section may be waived in writing by the person entitled to receive notice.
- (9) Proof of service of notice on all persons for whom notice is required by this section shall be filed with the court before the final dispositional hearing on the adoption.
- (10) Notwithstanding any other provision of law, neither the notice of an adoption proceeding nor any process in that proceeding is required to contain the name of the person or persons seeking to adopt the child adoptee.
- (11) Except as to those persons whose consent to an adoption is required under Section 81-13-212 or 81-13-213, the sole purpose of notice under this section is to enable the person served to:
  - (a) intervene in the adoption; and
  - (b) present evidence to the court relevant to the best interest of the child adoptee.

Renumbered and Amended by Chapter 426, 2025 General Session

**81-13-208 Prebirth notice to birth father of intent to place a minor child for adoption.**

- (1) As used in this section, "birth father" means:
  - (a) a potential birth father; or
  - (b) an unmarried biological father.
- (2) Before the birth of a minor child, the following persons may notify a birth father of the minor child that the birth mother of the minor child is considering an adoptive placement for the minor child:
  - (a) the minor child's birth mother;
  - (b) a licensed child-placing agency;
  - (c) an attorney representing a prospective adoptive parent of the minor child; or
  - (d) an attorney representing the birth mother of the minor child.
- (3) Providing a birth father with notice under Subsection (2) does not obligate the birth mother of the minor child to proceed with an adoptive placement of the minor child.
- (4) The notice described in Subsection (2) shall include the name, address, and telephone number of the person providing the notice and the following information:
  - (a) the birth mother's intent to place the minor child for adoption;
  - (b) that the birth mother has named the person receiving this notice as a potential birth father of the minor child;
  - (c) the requirements to contest the adoption, including taking the following steps within 30 days after the day on which the notice is served:
    - (i) initiating proceedings to establish or assert paternity in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, within 30 days after the day on which notice is served, including filing an affidavit stating:
      - (A) that the birth father is fully able and willing to have full custody of the minor child;
      - (B) the birth father's plans to care for the minor child; and
      - (C) that the birth father agrees to pay for child support and expenses incurred in connection with the pregnancy and birth of the minor child; and
    - (ii) filing a notice of commencement of parentage proceedings with the office;
  - (d) the consequences for failure to comply with Subsection (4)(c), including that:

- (i) the birth father's ability to assert the right, if any, to consent or refuse to consent to the adoption is irrevocably lost;
  - (ii) the birth father will lose the ability to assert the right to contest any future adoption of the minor child; and
  - (iii) the birth father will lose the right, if any, to notice of any adoption proceedings related to the minor child;
  - (e) that the birth father may consent to the adoption, if any, within 30 days after the day on which the notice is received, and that the birth father's consent is irrevocable; and
  - (f) that no communication between the birth mother of the minor child and the birth father changes the rights and responsibilities of the birth father described in the notice.
- (5) If a birth father does not fully and strictly comply with the requirements of Subsection (4)(c) within 30 days after the day on which the birth father receives the notice, the birth father will lose:
- (a) the ability to assert the right to consent or refuse to consent to an adoption of the minor child described in the notice;
  - (b) the ability to assert the right to contest any future adoption of the minor child described in the notice; and
  - (c) the right to notice of any adoption proceedings relating to the minor child described in the notice.
- (6) If a person described in Subsection (2) chooses to notify a birth father under this section, the notice shall be served on a birth father in a manner consistent with the Utah Rules of Civil Procedure or by certified mail.

Renumbered and Amended by Chapter 426, 2025 General Session

**81-13-209 Declaration regarding each potential birth father for out-of-state birth mother and adoptive parents-- Putative father registry -- Notice to potential birth father.**

- (1) The procedural and substantive requirements of this section are required only to the extent that the requirements do not exceed the requirements of the state of conception or the birth mother's state of residence.
- (2)
- (a) For a child adoptee who is six months old or younger at the time that the child adoptee is placed with the prospective adoptive parents and subject to the rights of a birth mother described in Subsection 81-13-202(7), the birth mother shall sign, and the prospective adoptive parents shall file with the court, a declaration regarding each potential birth father before or at the time a petition for adoption is filed with the court.
  - (b) A declaration is not required under Subsection (2)(a) if the birth mother or one of the adoptive parents has resided in the state for 90 total days or more at any point during the time period beginning at the conception of the child adoptee and ending at the time that the birth mother executes consent to the adoption or relinquishment of the child adoptee for adoption.
- (3) The child-placing agency or prospective adoptive parents shall search the putative father registry of each state where the birth mother believes the child adoptee may have been conceived and each state where the birth mother lived during her pregnancy, if the state has a putative father registry, to determine whether a potential birth father registered with the state's putative father registry.
- (4) In determining whether the 90-day requirement described in Subsection (2) is satisfied, the following apply:
- (a) the 90 days are not required to be consecutive;

- (b) no absence from the state may be for more than seven consecutive days;
  - (c) any day on which the individual is absent from the state does not count toward the total 90-day period; and
  - (d) the 90-day period begins and ends during a period that is no more than 120 consecutive days.
- (5) The declaration filed under Subsection (2) regarding a potential birth father shall include, for each potential birth father, the following information:
- (a) if known, the potential birth father's name, date of birth, social security number, and address;
  - (b) with regard to a state's putative father registry in each state described in Subsection (3):
    - (i) whether the state has a putative father registry; and
    - (ii) for each state that has a putative father registry, with the declaration, a certificate or written statement from the state's putative father registry that a search of the state's putative father registry was made and disclosing the results of the search;
  - (c) whether the potential birth father was notified of:
    - (i) the birth mother's pregnancy;
    - (ii) the fact that he is a potential birth father; or
    - (iii) the fact that the birth mother intends to consent to adoption or relinquishment of the child adoptee for adoption in Utah;
  - (d) each state where the birth mother lived during the pregnancy;
  - (e) if known, the state in which the child adoptee was conceived;
  - (f) whether the birth mother informed the potential birth father that she was traveling to or planning to reside in Utah;
  - (g) whether the birth mother has contacted the potential birth father while she was located in Utah;
  - (h) whether, and for how long, the potential birth father has ever lived with the child adoptee;
  - (i) whether the potential birth father has given the birth mother money or offered to pay for any of the birth mother's expenses during pregnancy or the child adoptee's birth;
  - (j) whether the potential birth father has offered to pay child support;
  - (k) if known, whether the potential birth father has taken any legal action to establish paternity of the child adoptee, either in Utah or in any other state, and, if known, what action the potential birth father has taken; and
  - (l) whether the birth mother has ever been involved in a domestic violence matter with the potential birth father.
- (6) Except as provided in Subsection (8), based on the declaration regarding the potential birth father, the court shall order the birth mother to serve a potential birth father notice that she intends to consent or has consented to adoption or relinquishment of the child adoptee for adoption, if the court finds that the potential birth father:
- (a) has taken sufficient action to demonstrate an interest in the child adoptee;
  - (b) has taken sufficient action to attempt to preserve the potential birth father's legal rights as a birth father, including by filing a legal action to establish parentage or filing with a state's putative father registry; or
  - (c) does not know, and does not have a reason to know, that:
    - (i) the mother or child adoptee are present in Utah;
    - (ii) the mother intended to give birth to the child adoptee in Utah;
    - (iii) the child adoptee was born in Utah; or
    - (iv) the mother intends to consent to adoption or relinquishment of the child adoptee for adoption in Utah.

- (7) Notice under this section shall be made in accordance with Subsections 81-13-207(7) through (11).
- (8) A court may only order the notice requirements in Subsection (6) to the extent that they do not exceed the notice requirements of:
  - (a) the state of conception; or
  - (b) the birth mother's state of residence.

Renumbered and Amended by Chapter 426, 2025 General Session

**81-13-210 Custody pending final decree.**

- (1) Except as otherwise provided by the court, once a petitioner has received the adoptee into the petitioner's home and a petition for adoption has been filed, the petitioner is entitled to the custody and control of the child adoptee and is responsible for the care, maintenance, and support of the adoptee, including any necessary medical or surgical treatment, pending further order of the court.
- (2)
  - (a) Once a child adoptee has been placed with, relinquished to, or ordered into the custody of a child-placing agency for purposes of adoption, the agency shall have custody and control of the child adoptee and is responsible for the child adoptee's care, maintenance, and support.
  - (b) Subject to Subsection (3)(c), the child-placing agency may delegate the responsibility for care, maintenance, and support, including any necessary medical or surgical treatment, to the petitioner once the petitioner has received the child adoptee into the petitioner's home, including a temporary place of abode for the petitioner.
  - (c) Until the final decree of adoption is entered by the court, the child-placing agency has the right to the custody and control of the child adoptee.
- (3)
  - (a) A licensed child-placing agency, or a petitioner if the petition of adoption is filed before a child adoptee's birth, may seek an order establishing that the child-placing agency or petitioner shall have temporary custody of the child adoptee from the time of the child adoptee's birth.
  - (b) The court shall grant an order for temporary custody under Subsection (3)(a) upon determining that:
    - (i) the birth mother or both birth parents consent to the order;
    - (ii) the child-placing agency or petitioner is willing and able to take custody of the child adoptee; and
    - (iii) an order will be in the best interest of the child adoptee.
  - (c) The court shall vacate an order if, before the child adoptee's birth, the birth mother or both birth parents withdraw consent to the order.

Renumbered and Amended by Chapter 426, 2025 General Session

**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:
  - (a) by a licensed counselor or an adoption service provider selected by the parent participating in the counseling;

- (b) for up to three sessions of at least 50 minutes per session completed before relinquishing a child adoptee or within 120 days 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 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 described in Subsection (2) may not exceed \$400, unless an agreement for a greater amount is signed by:
    - (i) the parent who receives the counseling; 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 as described in Subsection (1) elects to attend one or more counseling 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 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 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 described in this section:
    - (i) shall not constitute grounds for invalidating a:
      - (A) relinquishment of parental rights; or
      - (B) 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.

Renumbered and Amended by Chapter 426, 2025 General Session

**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 consent or relinquishment is effective when the consent or relinquishment is signed and may not be revoked.
- (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 mother for a period of 180 days before the day on which the child adoptee is born.
    - (ii) "Emotional support" means a pattern of statements or actions that indicate to a reasonable person that a birth parent intends to provide for the physical and emotional well-being of an unborn child adoptee.
  - (b) A consent or relinquishment required by Subsection (1) may be implied by any of the following acts:
    - (i) abandonment;
    - (ii) leaving the child adoptee with a third party for 30 consecutive days without providing the third party with the birth parent's identification;
    - (iii) knowingly leaving the child adoptee with another person for 180 consecutive days without providing for support, communicating, or otherwise maintaining a substantial relationship with the child adoptee; or
    - (iv) receiving notification of a pending adoption proceeding as described in Section 81-13-207, or of a termination proceeding described in Section 81-13-205, and failing to respond as required.
  - (c) For purposes of this Subsection (7), a court may not:
    - (i) determine that a birth parent abandoned the birth mother if the birth parent failed to provide financial or emotional support because the birth mother refused to accept support; or
    - (ii) find that the birth parent failed to provide emotional support if the individual's failure was due to impossibility of performance.
  - (d) Implied consent under this Subsection (7) may not be withdrawn.
  - (e) Nothing in this Subsection (7) negates the requirements of Section 81-13-213 for an unmarried biological father.

Renumbered and Amended by Chapter 426, 2025 General Session

**81-13-213 Consent of unmarried biological father.**

- (1) As used in this section, "qualifying circumstance" means that, at any point during the time period beginning at the conception of the child adoptee and ending at the time that the birth mother executes a consent to adoption or relinquishment of the child adoptee for adoption:
  - (a) the child adoptee or the child adoptee's birth mother resided on a permanent basis, or a temporary basis of no less than 30 consecutive days, in the state;
  - (b) the birth mother intended to give birth to the child adoptee in the state;
  - (c) the child adoptee was born in the state; or
  - (d) the birth mother intended to execute a consent to adoption or relinquishment of the child adoptee for adoption in the state or under the laws of the state.
- (2) Except as provided in Subsections (3)(a) and (8), and subject to Subsections (6) and (7), the consent of an unmarried biological father to the adoption of a child adoptee, who is placed with prospective adoptive parents more than 180 days after birth, is not required unless the unmarried biological father:
  - (a)
    - (i) developed a substantial relationship with the child adoptee by:
      - (A) visiting the child adoptee monthly, unless the unmarried biological father was physically or financially unable to visit the child adoptee on a monthly basis; or
      - (B) engaging in regular communication with the child adoptee or with the person or authorized agency that has lawful custody of the child adoptee;
    - (ii) took some measure of responsibility for the child adoptee and the child adoptee's future; and
    - (iii) demonstrated a full commitment to the responsibilities of parenthood by financial support of the child adoptee of a fair and reasonable sum in accordance with the unmarried biological father's ability; or
  - (b)
    - (i) if the child adoptee is younger than one year old, openly lived with the child adoptee immediately preceding placement of the child adoptee with the prospective adoptive parents for a period of at least 180 days during the period of time beginning on the day on which the child adoptee is born and ending on the day on which the child adoptee is placed with prospective adoptive parents;
    - (ii) if the child adoptee is one year old or older, openly lived with the child adoptee immediately preceding placement of the child adoptee with the prospective adoptive parents for a period of at least 180 days during the one-year period immediately preceding the day on which the child adoptee is placed with prospective adoptive parents; or
    - (iii) openly held himself out to be the father of the child adoptee during the 180-day period described in Subsection (2)(b)(i) or (ii).
- (3)
  - (a) If an unmarried biological father was prevented from complying with a requirement described in Subsection (2) by the person or authorized agency having lawful custody of the child adoptee, the unmarried biological father is not required to comply with that requirement.
  - (b) The subjective intent of an unmarried biological father, whether expressed or otherwise, that is unsupported by evidence that the requirements in Subsection (2) have been met, shall not preclude a determination that the unmarried biological father failed to meet the requirements of Subsection (2).
- (4) Except as provided in Subsections (7) and (8), and subject to Subsection (6), the consent of an unmarried biological father to the adoption of a child adoptee, who is 180 days old or younger at the time that the child adoptee is placed with the prospective adoptive parents, is not required unless, before the time that the birth mother executes the birth mother's consent for adoption or relinquishes the child adoptee for adoption, the unmarried biological father:

- (a) initiates proceedings in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to establish parentage under Chapter 5, Uniform Parentage Act;
  - (b) files with the court that is presiding over the parentage proceeding a sworn affidavit:
    - (i) stating that the unmarried biological father is fully able and willing to have full custody of the child adoptee;
    - (ii) setting forth the unmarried biological father's plans for care of the child adoptee; and
    - (iii) agreeing to a court order of child support and the payment of expenses incurred in connection with the birth mother's pregnancy and the child adoptee's birth;
  - (c) consistent with Subsection (5), files notice of the commencement of parentage proceedings described in Subsection (4)(a), with the office in a confidential registry established by the office for that purpose; and
  - (d) offered to pay and paid, during the pregnancy and after the child adoptee's birth, a fair and reasonable amount of the expenses incurred in connection with the birth mother's pregnancy and the child adoptee's birth, in accordance with the unmarried biological father's financial ability, unless:
    - (i) the unmarried biological father did not have actual knowledge of the pregnancy;
    - (ii) the unmarried biological father was prevented from paying the expenses by the person or authorized agency having lawful custody of the child adoptee; or
    - (iii) the birth mother refused to accept the unmarried biological father's offer to pay the expenses described in this Subsection (4)(d).
- (5)
- (a) The notice described in Subsection (4)(c) is considered filed when received by the office.
  - (b) If the unmarried biological father fully complies with the requirements of Subsection (4), and an adoption of the child adoptee is not completed, the unmarried biological father shall, without any order of the court, be legally obligated for a reasonable amount of child support, pregnancy expenses, and child birth expenses, in accordance with the unmarried biological father's financial ability.
- (6) Unless the unmarried biological father's ability to assert the right to consent has been lost for failure to comply with Section 81-13-208, or lost under another provision of Utah law, an unmarried biological father shall have at least one business day after the child adoptee's birth to fully and strictly comply with the requirements of Subsection (4).
- (7) The consent of an unmarried biological father to the adoption of a child adoptee is not required under this section if:
- (a) the court determines, in accordance with the requirements and procedures of Title 80, Chapter 4, Termination and Restoration of Parental Rights, that the unmarried biological father's rights should be terminated, based on the petition of any interested party;
  - (b)
    - (i) a voluntary declaration of paternity declaring the unmarried biological father to be the father of the child adoptee is rescinded under Section 81-5-306; and
    - (ii) the unmarried biological father fails to comply with Subsection (4) within 10 business days after the day that notice of the rescission described in Subsection (7)(b)(i) is mailed by the office as provided in Section 81-5-306; or
  - (c) the unmarried biological father is notified under Section 81-13-208 and fails to preserve the unmarried biological father's rights in accordance with the requirements of Section 81-13-208.
- (8) Notwithstanding Subsections (2) and (4), the consent of an unmarried biological father to the adoption of a child adoptee is required if:
- (a)

- (i) the unmarried biological father did not know, and through the exercise of reasonable diligence could not have known, before the time the birth mother executed a consent to adoption or relinquishment of the child adoptee for adoption that a qualifying circumstance existed;
  - (ii) before the birth mother executed a consent to adoption or relinquishment of the child adoptee for adoption, the unmarried biological father fully complied with the requirements to establish parental rights and duties in the child adoptee, and to preserve the right to notice of a proceeding in connection with the adoption of the child adoptee, imposed by:
    - (A) the last state where the unmarried biological father knew, or through the exercise of reasonable diligence should have known, that the birth mother resided in before the birth mother executed the consent to adoption or relinquishment of the child adoptee for adoption; or
    - (B) the state where the child adoptee was conceived; and
  - (iii) the unmarried biological father has demonstrated, based on the totality of the circumstances, a full commitment to the unmarried biological father's parental responsibilities as described in Subsection (9); or
- (b)
- (i) the unmarried biological father knew, or through the exercise of reasonable diligence should have known, before the time the birth mother executed a consent to adoption or relinquishment of the child adoptee for adoption that a qualifying circumstance existed; and
  - (ii) the unmarried biological father complied with the requirements of Subsections (2) through (7) before the later of:
    - (A) 20 days after the day that the unmarried biological father knew, or through the exercise of reasonable diligence should have known, that a qualifying circumstance existed; or
    - (B) the time that the birth mother executed a consent to adoption or relinquishment of the child adoptee for adoption.
- (9) When determining whether an unmarried biological father has demonstrated a full commitment to the unmarried biological father's parental responsibilities for purposes of Subsection (8)(a)(iii), a court shall consider the totality of the circumstances, including, if applicable:
- (a) the efforts the unmarried biological father has taken to discover the location of the child adoptee or the child adoptee's birth mother;
  - (b) whether the unmarried biological father has expressed and demonstrated an interest in taking responsibility for the child adoptee;
  - (c) whether, and to what extent, the unmarried biological father has developed, or attempted to develop, a relationship with the child adoptee;
  - (d) whether the unmarried biological father offered to provide and, unless the offer was rejected, did provide, financial support for the child adoptee or the child adoptee's birth mother;
  - (e) whether, and to what extent, the unmarried biological father has communicated, or attempted to communicate, with the child adoptee or the child adoptee's birth mother;
  - (f) whether the unmarried biological father has timely filed legal proceedings to establish the unmarried biological father's parentage of, and take responsibility for, the child adoptee; and
  - (g) whether the unmarried biological father has timely filed a notice with a public official or agency relating to:
    - (i) the unmarried biological father's parentage of the child adoptee;
    - (ii) legal proceedings to establish the unmarried biological father's parentage of the child adoptee; or
    - (iii) other evidence that shows whether the unmarried biological father has demonstrated a full commitment to the unmarried biological father's parental responsibilities.

- (10) An unmarried biological father who does not fully and strictly comply with the requirements of this section is considered to have waived and surrendered any right in relation to the child adoptee, including the right to:
  - (a) notice of any judicial proceeding in connection with the adoption of the child adoptee; and
  - (b) consent, or refuse to consent, to the adoption of the child adoptee.
- (11) Notwithstanding any other provision of this section, the consent of an unmarried biological father is not required in a case where it is shown that the child adoptee was conceived as a result of conduct that constitutes a sexual offense, regardless of whether the unmarried biological father is formally charged with or convicted of the sexual offense.
- (12) Unless the child adoptee is conceived or born within a marriage, the petitioner in an adoption proceeding shall, before entrance of a final decree of adoption, file with the court a certificate from the office, stating:
  - (a) that a diligent search has been made of the registry of notices from unmarried biological fathers described in Subsection (4)(c); and
  - (b)
    - (i) that no filing has been found pertaining to the unmarried biological father of the child adoptee in question; or
    - (ii) if a filing is found, the name of the unmarried biological father and the time and date of filing.
- (13) Unless an individual who is an unmarried biological father has fully and strictly complied with the requirements of this section and Section 81-13-212, an out-of-state order that adjudicates parentage, or an out-of-state declaration or acknowledgment of paternity:
  - (a) only has the effect of establishing that the individual is an unmarried biological father of the child adoptee to whom the order, declaration, or acknowledgment relates; and
  - (b) does not entitle the individual to:
    - (i) notice of any judicial proceeding related to the adoption of the child adoptee;
    - (ii) the right to consent, or refuse to consent, to the adoption of the child adoptee; or
    - (iii) the right to custody of, control over, or visitation with the child adoptee.

Renumbered and Amended by Chapter 426, 2025 General Session

**81-13-214 Persons who may take consents and relinquishments.**

- (1) A birth mother shall sign a consent or relinquishment, or a child adoptee shall sign a consent, before:
  - (a) a judge of any court that has jurisdiction over adoption proceedings;
  - (b) subject to Subsection (6), a person appointed by the judge described in Subsection (1)(a) to take consents or relinquishments; or
  - (c) subject to Subsection (6), a person who is authorized by a child-placing agency to take consents or relinquishments if the consent or relinquishment grants legal custody of the child adoptee to a child-placing agency or an extra-jurisdictional child-placing agency.
- (2) If the consent or relinquishment of a birth mother or child adoptee is taken out of state, the birth mother or child adoptee shall sign the consent or relinquishment before:
  - (a) subject to Subsection (6), a person who is authorized by a child-placing agency to take consents or relinquishments if the consent or relinquishment grants legal custody of the child adoptee to a child-placing agency or an extra-jurisdictional child-placing agency;
  - (b) subject to Subsection (6), a person authorized or appointed to take consents or relinquishments by a court of this state that has jurisdiction over adoption proceedings;
  - (c) a court that has jurisdiction over adoption proceedings in the state where the consent or relinquishment is taken; or

- (d) a person authorized to take consents or relinquishments of a birth mother or child adoptee under the laws of the state where the consent or relinquishment is taken.
- (3) A person described in Subsection 81-13-211(1) that is not the birth mother or the child adoptee may sign a consent or relinquishment before a notary public or any person authorized to take a consent or relinquishment under Subsection (1) or (2).
- (4) A person, authorized by Subsection (1) or (2) to take consents or relinquishments, shall certify to the best of the person's information and belief that the person executing the consent or relinquishment has read and understands the consent or relinquishment and has signed the consent or relinquishment freely and voluntarily.
- (5) A person executing a consent or relinquishment is entitled to receive a copy of the consent or relinquishment.
- (6) A signature described in Subsection (1)(b), (1)(c), (2)(a), or (2)(b), shall be:
  - (a) notarized; or
  - (b) witnessed by two individuals who are not members of the birth mother's or the child adoptee's immediate family.
- (7) Except as provided in Subsection 26B-2-127(2), a transfer of relinquishment from one child-placing agency to another child-placing agency shall be signed before a notary public.

Renumbered and Amended by Chapter 426, 2025 General Session

**81-13-215 Contested adoption of a minor child -- Rights of parties -- Determination of custody.**

- (1) If an individual whose consent for an adoption of a minor child is required as described in Subsection 81-13-212(1)(b), (c), (d), (e), or (f) refused to consent, the court shall determine whether proper grounds exist for the termination of that individual's rights in accordance with this chapter or Title 80, Chapter 4, Termination and Restoration of Parental Rights.
- (2)
  - (a) If there are proper grounds to terminate the individual's parental rights, the court shall order that the individual's rights be terminated.
  - (b) If there are not proper grounds to terminate the individual's parental rights, the court shall:
    - (i) dismiss the adoption petition;
    - (ii) conduct an evidentiary hearing to determine who should have custody of the minor child; and
    - (iii) award custody of the minor child in accordance with the minor child's best interest.
  - (c) Termination of an individual's parental rights does not terminate the right of a relative of the parent to seek adoption of the minor child.
- (3) Evidence considered at the custody hearing may include:
  - (a) evidence of psychological or emotional bonds that the minor child has formed with a third person, including the prospective adoptive parent; and
  - (b) any detriment that a change in custody may cause the minor child.
- (4) If the court dismisses the adoption petition, the fact that an individual relinquished a minor child for adoption or consented to the adoption may not be considered as evidence in a custody proceeding described in this section, or in any subsequent custody proceeding, that it is not in the minor child's best interest for custody to be awarded to such person or that:
  - (a) the individual is unfit or incompetent to be a parent;
  - (b) the individual has neglected or abandoned the minor child;
  - (c) the individual is not interested in having custody of the minor child; or
  - (d) the individual has forfeited the individual's parental presumption.

- (5) Any custody order entered under this section may also:
  - (a) include provisions for:
    - (i) parent-time; or
    - (ii) visitation by an interested third party, including the prospective adoptive parent; and
  - (b) provide for the financial support of the minor child.
- (6)
  - (a) If a person whose consent is required for an adoption under Subsection 81-13-212(1)(a) or (g) refuses to consent, the court shall proceed with an evidentiary hearing and award custody as described in Subsection (2).
  - (b) The court may also finalize the adoption if doing so is in the best interest of the minor child.
- (7)
  - (a) A person may not contest an adoption after the final decree of adoption is entered, if that person:
    - (i) was a party to the adoption proceeding;
    - (ii) was served with notice of the adoption proceeding; or
    - (iii) executed a consent to the adoption or relinquishment for adoption.
  - (b) No person may contest an adoption after one year from the day on which the final decree of adoption is entered.
  - (c) The limitations on contesting an adoption action, described in this Subsection (7), apply to all attempts to contest an adoption:
    - (i) regardless of whether the adoption is contested directly or collaterally; and
    - (ii) regardless of the basis for contesting the adoption, including claims of fraud, duress, undue influence, lack of capacity or competency, mistake of law or fact, or lack of jurisdiction.
  - (d) The limitations on contesting an adoption action, described in this Subsection (7), do not prohibit a timely appeal of:
    - (i) a final decree of adoption; or
    - (ii) a decision in an action challenging an adoption, if the action was brought within the time limitations described in Subsections (7)(a) and (b).
- (8) A court that has jurisdiction over a minor child for whom more than one petition for adoption is filed shall grant a hearing only under the following circumstances:
  - (a) to a petitioner:
    - (i) with whom the minor child is placed;
    - (ii) who has custody or guardianship of the minor child;
    - (iii) who has filed a written statement with the court within 240 days after the day on which the shelter hearing is held:
      - (A) requesting immediate placement of the minor child with the petitioner; and
      - (B) expressing the petitioner's intention of adopting the minor child;
    - (iv) who is a relative with whom the minor child has a significant and substantial relationship and who was unaware, within 240 days after the day on which the shelter hearing is held, of the minor child's removal from the minor child's parent; or
    - (v) who is a relative with whom the minor child has a significant and substantial relationship and, in a case where the minor child is not placed with a relative or is placed with a relative that is unable or unwilling to adopt the minor child:
      - (A) was actively involved in the minor child's child welfare case with the division or the juvenile court while the minor child's parent engaged in reunification services; and
      - (B) filed a written statement with the court that includes the information described in Subsections (8)(a)(iii)(A) and (B) within 30 days after the day on which the court terminated reunification services; or

- (b) if the minor child:
  - (i) has been in the current placement for less than 180 days before the day on which the petitioner files the petition for adoption; or
  - (ii) is placed with, or is in the custody or guardianship of, an individual who previously informed the division or the court that the individual is unwilling or unable to adopt the minor child.
- (9)
  - (a) If the court grants a hearing on more than one petition for adoption, there is a rebuttable presumption that it is in the best interest of a minor child to be placed for adoption with a petitioner:
    - (i) who has fulfilled the requirements of this chapter; and
    - (ii)
      - (A) with whom the minor child has continuously resided for 180 days;
      - (B) who has filed a written statement with the court within 240 days after the day on which the shelter hearing is held, as described in Subsection (8)(a)(iii); or
      - (C) who is a relative described in Subsection (8)(a)(iv).
  - (b) The court may consider other factors relevant to the best interest of the minor child to determine whether the presumption is rebutted.
  - (c) The court shall weigh the best interest of the minor child uniformly between petitioners if more than one petitioner satisfies a rebuttable presumption condition described in Subsection (9)(a).
- (10) Nothing in this section shall be construed to prevent the division or the minor child's guardian ad litem from appearing or participating in any proceeding for a petition for adoption.
- (11) The division shall use best efforts to provide a known relative with timely information relating to the relative's rights or duties under this section.

Renumbered and Amended by Chapter 426, 2025 General Session

**81-13-216 Postadoption contact agreement.**

- (1) As used in this section:
  - (a) "Postadoption contact agreement" means a document, agreed upon prior to the finalization of an adoption of a minor child in the custody of the division, that outlines the relationship between an adoptive parent, birth parent, or other birth relative, and the minor child after the finalization of adoption.
  - (b) "Other birth relative" means a grandparent, stepparent, sibling, stepsibling, aunt, or uncle of the child adoptee.
- (2)
  - (a) Notwithstanding any other provision in this chapter, if a child adoptee in the custody of the division is placed for adoption, the prospective adoptive parent and birth parent, or other birth relative, may enter into a postadoption contact agreement as provided in this section.
  - (b) A birth parent is not required to be a party to a postadoption contact agreement in order to permit an open adoption agreement between a prospective adoptive parent and another birth relative of the child adoptee.
- (3) In order to be legally enforceable, a postadoption contact agreement shall be:
  - (a) approved by the court before the finalization of the adoption, with the court making a specific finding that the agreement is in the best interest of the child adoptee;
  - (b) signed by each party claiming a right or obligation in the agreement; and
  - (c) if the child adoptee is 12 years old or older, approved by the child adoptee.
- (4) A postadoption contact agreement shall:

- (a) describe:
    - (i) visits, if any, that shall take place between the birth parent, other birth relative, adoptive parent, and child adoptee;
    - (ii) the degree of supervision, if any, that shall be required during a visit between a birth parent, other birth relative, and child adoptee;
    - (iii) the information, if any, that shall be provided to a birth parent, or other birth relative, about the child adoptee and how often that information shall be provided;
    - (iv) the grounds, if any, on which the adoptive parent may:
      - (A) decline to permit visits, described in Subsection (4)(a)(i), between the birth parent, or other birth relative, and child adoptee; or
      - (B) cease providing the information described in Subsection (4)(a)(iii) to the birth parent or other birth relative; and
  - (b) state that following the adoption, the court shall presume that the adoptive parent's judgment about the best interest of the child adoptee is correct in any action seeking to enforce, modify, or terminate the agreement.
- (5) A postadoption contact agreement may not limit the adoptive parent's ability to move out of state.
- (6) A postadoption contact agreement may only be modified with the consent of the adoptive parent.
- (7) In an action seeking enforcement of a postadoption contact agreement:
- (a) an adoptive parent's judgment about the best interest of the child adoptee is entitled to a presumption of correctness;
  - (b) if the party seeking to enforce the postadoption contact agreement successfully rebuts the presumption described in Subsection (7)(a), the court shall consider whether:
    - (i) the parties performed the duties outlined in the open adoption agreement in good faith;
    - (ii) there is a reasonable alternative that fulfills the spirit of the open adoption agreement without ordering mandatory compliance with the open adoption agreement; and
    - (iii) enforcement of the open adoption agreement is in the best interest of the child adoptee; and
  - (c) the court shall order the parties to attend mediation, if the presumption in Subsection (7)(a) is successfully rebutted and mediation is in the child adoptee's best interest.
- (8) An open adoption agreement that has been found not to be in the best interest of the child adoptee shall not be enforced.
- (9) Violation of an open adoption agreement is not grounds:
- (a) to set aside an adoption; or
  - (b) for an award of money damages.
- (10) Nothing in this section shall be construed to mean that an open adoption agreement is required before an adoption may be finalized.
- (11) Refusal or failure to agree to a postadoption contact agreement is not admissible in any adoption proceeding.
- (12) The court that approves a postadoption contact agreement retains jurisdiction over modification, termination, and enforcement of an approved postadoption contact agreement.

Renumbered and Amended by Chapter 426, 2025 General Session

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

(1)

- (a) Except as provided in Subsection (5), before the date that a final decree of adoption for a child adoptee is entered, a prospective adoptive parent or, if the child adoptee was placed by a child-placing agency, the person or agency placing the child adoptee shall file with the court an affidavit regarding fees and expenses on a form prescribed by the Judicial Council in accordance with Subsection (2).
  - (b) An affidavit filed pursuant to 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 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
      - (D) any other agency fees or expenses paid by an adoptive parent that are not itemized under one of the other categories described in this Subsection (2)(b), including a description of the reason for the fee or expense.
  - (c) The uniform affidavit form shall require:
    - (i) a statement of the state of residence of the:
      - (A) birth mother or the preexisting parents; and
      - (B) prospective adoptive parent or parents;
    - (ii) a declaration that Section 76-7-203 has not been violated; and
    - (iii) if the affidavit includes an itemized amount for both of the categories described in Subsections (2)(b)(iii) and (vii), a statement explaining why certain medical or hospital expenses were paid by a source other than public funds.

- (d) To satisfy the requirement of Subsection (1)(a), the court shall accept an affidavit that is submitted in a form accepted by the Office of Licensing within the Department of Health and Human Services if the affidavit contains the same information and is in a reasonably equivalent format as the uniform affidavit form prescribed by the Judicial Council.
- (3)
- (a) If a child-placing agency, that is licensed by this state, placed the child adoptee, the child-placing agency shall provide a copy of the affidavit described in Subsection (1) to the Office of Licensing within the Department of Health and Human Services.
- (b) Before August 30 of each even-numbered year, the Office of Licensing within the Department of Health and Human Services shall provide a written report to the Health and Human Services Interim Committee and to the Judicial Council regarding the cost of adoptions in the state that includes:
- (i) the total number of affidavits provided to the Office of Licensing during the previous year;
  - (ii) for each of the categories described in Subsection (2)(b):
    - (A) the average amount disclosed on affidavits submitted during the previous year; and
    - (B) the range of amounts disclosed on affidavits submitted during the previous year;
  - (iii) the average total amount disclosed on affidavits submitted during the previous year;
  - (iv) the range of total amounts disclosed on affidavits submitted during the previous year; and
  - (v) any recommended legislation that may help reduce the cost of adoptions.
- (c) The Health and Human Services Interim Committee shall, based on information in reports provided under Subsection (3)(b) and in consultation with a consortium described in Subsection 26B-2-127(8), consider:
- (i) what constitutes reasonable fees and expenses related to adoption; and
  - (ii) the standards that may be used to determine whether fees and expenses related to adoption are reasonable in a specific case.
- (4) The Judicial Council shall make a copy of each report provided by the Office of Licensing under Subsection (3)(b) available to each court that may be required to review an affidavit under Subsection (1)(c).
- (5) This section does not apply if the prospective adoptive parent is the legal spouse of a preexisting parent.

Renumbered and Amended by Chapter 426, 2025 General Session

**81-13-218 Final decree of adoption of a minor child -- Agreement by adoptive parent or parents.**

- (1)
- (a) Before entering a final decree of adoption, the court shall examine separately each person appearing before the court in accordance with this chapter.
- (b) If the court is satisfied that the interests of the child adoptee will be promoted by the adoption, the court shall enter a final decree of adoption in accordance with Section 81-13-219 declaring that:
- (i) the child adoptee is adopted by the adoptive parent or parents; and
  - (ii) the child adoptee is regarded and treated in all respects as the child of the adoptive parent or parents.
- (2) Except as provided in Subsection (3), before the court enters a final decree of adoption of a child adoptee:
- (a) the prospective adoptive parent or parents and the child adoptee being adopted shall appear before the appropriate court; and

- (b) the prospective adoptive parent or parents shall execute an agreement stating that the child adoptee shall be adopted and treated in all respects as the adoptive parent's or parents' own lawful child.
- (3) The court may waive the requirement described in Subsection (2)(a) if:
  - (a) the adoption is not contested;
  - (b) the prospective adoptive parent or parents:
    - (i) execute an agreement stating that the child adoptee shall be adopted and treated in all respects as the parent's or parents' own lawful child;
    - (ii) have the agreement described in Subsection (3)(b)(i) notarized; and
    - (iii) file the agreement described in Subsection (3)(b)(i) with the court; and
  - (c) all requirements of this chapter to obtain a final decree of adoption are otherwise complied with.
- (4) At the time that a final decree of adoption is entered, the child adoptee may take the family name of the adoptive parent or parents.
- (5) After a final decree of adoption is entered, the adoptive parent or parents and the child adoptee shall:
  - (a) sustain the legal relationship of a parent and child; and
  - (b) have all the rights and be subject to all the duties of a parent-child relationship.

Renumbered and Amended by Chapter 426, 2025 General Session

**81-13-219 Timing of entry of final decree of adoption of a minor child -- Posthumous adoption of a minor child.**

- (1)
  - (a) Except as provided in Subsection (1)(b) or (2), the court may not enter a final decree of adoption for a child adoptee until the earlier of:
    - (i) when the child adoptee has lived in the home of the prospective adoptive parent for 90 days; or
    - (ii) when the child adoptee has been placed for adoption with the prospective adoptive parent for 90 days.
  - (b) Notwithstanding Subsection (1)(a), the court may enter a final decree of adoption at an earlier or later time than described in Subsection (1) if the court finds that there is good cause.
- (2)
  - (a) If the prospective adoptive parent is the spouse of the pre-existing parent, the court may not enter a final decree of adoption for a child adoptee until the child adoptee has lived in the home of that prospective adoptive parent for 180 days.
  - (b) Notwithstanding Subsection (2)(a), the court may enter a final decree of adoption at an earlier time than described in Subsection (2)(a) if the court finds that there is good cause.
- (3) The court may enter a final decree of adoption for a child adoptee after the child adoptee's death upon the request of the prospective adoptive parent or parents of the child adoptee if:
  - (a) the child adoptee dies during the time that the child adoptee is placed in the home of a prospective adoptive parent or parents for the purpose of adoption; or
  - (b) the prospective adoptive parent is the spouse of a preexisting parent of the child adoptee and the child adoptee lived with the prospective adoptive parent before the child adoptee's death.
- (4) The court may enter a final decree of adoption for a child adoptee declaring that the child adoptee is adopted by:
  - (a) both a deceased and a surviving adoptive parent if after the child adoptee is placed in the home of the child adoptee's prospective adoptive parents:

- (i) one of the prospective adoptive parents dies;
- (ii) the surviving prospective adoptive parent requests that the court enter the decree; and
- (iii) the decree is entered after the child adoptee has lived in the home of the surviving prospective adoptive parent for at least 180 days; or
- (b) a spouse of a preexisting parent if after the child adoptee has lived with the spouse of the preexisting parent:
  - (i) the preexisting parent, or the spouse of the preexisting parent, dies;
  - (ii) the preexisting parent, or the spouse of the preexisting parent, requests that the court enter the decree; and
  - (iii) the child adoptee has lived in the same home as the spouse of the preexisting parent for at least 180 days.
- (5) Upon request of a surviving preexisting parent, or a surviving parent for whom adoption of a child adoptee has been finalized, the court may enter a final decree of adoption declaring that a child adoptee is adopted by a deceased adoptive parent who was the spouse of the surviving parent at the time of the prospective adoptive parent's death.
- (6) The court may enter a final decree of adoption declaring that a child adoptee is adopted by both deceased prospective adoptive parents if:
  - (a) both of the prospective adoptive parents die after the child adoptee is placed in the prospective adoptive parents' home; and
  - (b) it is in the best interests of the child adoptee to enter the decree.
- (7) Nothing in this section shall be construed to grant any rights to the pre-existing parents of a child adoptee to assert any interest in the child adoptee during the time periods described in this section.

Renumbered and Amended by Chapter 426, 2025 General Session

**81-13-220 Effect of adoption of a minor child on pre-existing parent.**

- (1) A pre-existing parent of a child adoptee:
  - (a) is released from all parental rights and duties toward and all responsibilities for the child adoptee, including residual parental rights and duties, as defined in Section 80-1-102; and
  - (b) has no further parental rights or duties with regard to the child adoptee at the earlier of:
    - (i) the time the pre-existing parent's parental rights are terminated; or
    - (ii) except as provided in Subsection (2), and subject to Subsections (3) and (4), the time the final decree of adoption is entered.
- (2) The parental rights and duties of a pre-existing parent who, at the time the child adoptee is adopted, is lawfully married to the individual adopting the child adoptee are not released under Subsection (1)(b).
- (3) The parental rights and duties of a pre-existing parent who, at the time the child adoptee is adopted, is not lawfully married to the individual adopting the child adoptee are released under Subsection (1)(b).
- (4)
  - (a) Notwithstanding the provisions of this section, the court may allow a prospective adoptive parent to adopt a child adoptee without releasing the pre-existing parent from parental rights and duties under Subsection (1)(b), if:
    - (i) the pre-existing parent and the prospective adoptive parent were lawfully married at some time during the child adoptee's life;

- (ii) the pre-existing parent consents to the prospective adoptive parent's adoption of the child adoptee or is unable to consent because the pre-existing parent is deceased or incapacitated;
  - (iii) notice of the adoption proceeding is provided in accordance with Section 81-13-207;
  - (iv) consent to the adoption is provided in accordance with Section 81-13-212; and
  - (v) the court finds that it is in the best interest of the child adoptee to grant the adoption without releasing the pre-existing parent from parental rights and duties.
- (b) This Subsection (4) does not permit a child adoptee to have more than two parents.
- (5) This section may not be construed as terminating any child support obligation of a parent incurred before the adoption.

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