

ADOPTION AMENDMENTS

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: Nora B. Stephens

AN ACT RELATING TO ADOPTION; APPLYING ADOPTIVE EVALUATIONS TO OTHER ADULTS LIVING IN THE PROSPECTIVE ADOPTIVE HOME; DEFINING THE TYPES OF PROFESSIONALS WHO MAY CONDUCT ADOPTIVE STUDIES; PROVIDING THAT THE COURT SHOULD DETERMINE WHO IS OTHERWISE QUALIFIED TO CONDUCT AN EVALUATION; AMENDING POSTPLACEMENT EVALUATION PROCEDURES; AND PROVIDING AN EFFECTIVE DATE.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

78-30-3.5, as last amended by Chapter 318, Laws of Utah 1996

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

Section 1. Section **78-30-3.5** is amended to read:

78-30-3.5. Preplacement and postplacement adoptive evaluations -- Exceptions.

(1) (a) [A] Except as otherwise provided in this section, a child may not be placed in an adoptive home until a preplacement adoptive [study, evaluating the petitioner as a] evaluation, assessing the prospective adoptive parent and the [petitioner's home as a] prospective adoptive home, has been conducted in accordance with the requirements of this section.

(b) The court may, at any time, authorize temporary placement of a child in a potential adoptive home pending completion of a preplacement adoptive [study in accordance with] evaluation described in this section.

[~~(b)~~] (c) Subsection (a) does not apply if a birth parent has legal custody of the child to be adopted and the [petitioner] prospective adoptive parent is related to that [birth parent] child as a [spouse, parent,] step-parent, 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 (c) shall, however, obtain the information described in Subsections (2)(a) and (b), and file that documentation with the court prior to finalization of the

adoption.

~~[(c)]~~ (d) The requirements of Subsection (a) are satisfied by a previous preplacement adoptive ~~[homestudy]~~ evaluation conducted within three years prior to placement of the child, or an annual updated adoptive ~~[study]~~ evaluation conducted after that three-year period or within one year after finalization of a previous adoption.

(2) ~~[With regard to adoption proceedings in which a licensed child placing agency has not placed the child, the]~~ The preplacement adoptive [study] evaluation shall include:

(a) criminal history record information regarding each prospective adoptive parent and any other adult living in the prospective home, received from the Law Enforcement and Technical Services Division of the Department of Public Safety, in accordance with Subsection 53-5-214(1), ~~[regarding each petitioner]~~ no earlier than 18 months immediately preceding placement of the child;

(b) a report from the Department of Human ~~[Services' child abuse database]~~ Services containing all information regarding reports and investigation 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 placement of the child, pursuant to [a waiver] waivers executed by [each petitioner] those parties; and

(c) ~~[a homestudy]~~ an evaluation conducted by an expert in family relations approved by the court or a certified social worker ~~[licensed under Title 58, Chapter 60, Part 2],~~ clinical social worker, marriage and family therapist, psychologist, professional counselor, or other court-determined expert in family relations, who is licensed to practice under the laws of this state. The evaluation shall be in a form approved by the Department of Human Services~~[, and certified as having been received by the Division of Child and Family Services, Department of Human Services].~~ 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 pursuant to this Subsection (2).

(3) (a) A copy of ~~[each]~~ the preplacement adoptive [study] evaluation shall be ~~[submitted to the Division of Child and Family Services. Through random screening, that department shall assess the quality and competence of preplacement adoptive studies conducted]~~ filed with the court.

(4) (a) ~~[Prior]~~ Except as provided in Subsections (b) and (c), a postplacement evaluation

shall be conducted and submitted to the court prior to the final hearing in an adoption proceeding[; a postplacement adoptive study shall be conducted and submitted to the court]. [(b) With regard to adoption proceedings in which a licensed child placing agency has not placed the child, the post-placement study shall be conducted by an expert in family relations approved by the court or a certified social worker licensed under Title 58, Chapter 60, Part 2, and] The postplacement evaluation shall include:

(i) verification of the allegations of fact contained in the petition for adoption[; attachments to the petition, and in the report of expenditures required by Section 78-30-15.5];

(ii) an evaluation of the progress of the child's placement in the adoptive home; and

(iii) a recommendation regarding whether the adoption is in the best interest of the child.

(b) The exemptions from and requirements for evaluations, described in Subsections (1)(c), (2)(c), and (3), also apply to postplacement adoptive evaluations.

(c) Upon the request of the petitioner, the court may waive the postplacement adoptive evaluation, unless it determines that it is in the best interest of the child to require the postplacement evaluation.

[(4)] (5) If the person or agency conducting the [study] evaluation disapproves the [petitioner] adoptive placement, either in the preplacement or postplacement adoptive [study] evaluation, the court may dismiss the petition. [Upon] However, upon request of [the petitioner] a prospective adoptive parent, the court shall order that an additional preplacement or postplacement adoptive [study] evaluation be conducted, and hold a hearing on the suitability of the adoption, including testimony of interested parties.

[(5)] (6) Prior to finalization of a petition for adoption the court shall review and consider the information and recommendations contained in the preplacement and postplacement adoptive studies required by this section.

Section 2. Effective date.

This act takes effect on July 1, 1998.