

**ADOPTION AMENDMENTS**

1998 GENERAL SESSION

STATE OF UTAH

**Sponsor: Nora B. Stephens**

AN ACT RELATING TO ADOPTION; LIMITING TIME PERIOD FOR TEMPORARY PLACEMENT OF A CHILD WHILE AWAITING PREPLACEMENT ADOPTIVE EVALUATION; 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; REQUIRING THE PREPLACEMENT EVALUATION TO BE FILED AT THE TIME OF THE PETITION OR WITHIN 10 DAYS THEREAFTER; AMENDING POSTPLACEMENT EVALUATION PROCEDURES; REQUIRING THE DEPARTMENT OF HUMAN SERVICES TO ASSESS THE QUALITY AND COMPETENCE OF ADOPTIVE EVALUATIONS; 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, for a period of time not exceeding 60 days, pending completion of a preplacement

1 adoptive ~~[study in accordance with]~~ evaluation described in this section.

2       ~~[(b)]~~ (c) Subsection (a) does not apply if a birth parent has legal custody of the child to be  
3 adopted and the ~~[petitioner]~~ prospective adoptive parent is related to that ~~[birth-parent]~~ child as a  
4 ~~[spouse, parent,]~~ step-parent, sibling by half or whole blood or by adoption, grandparent, aunt,  
5 uncle, or first cousin, unless the evaluation is otherwise requested by the court. The prospective  
6 adoptive parent described in this Subsection (c) shall, however, obtain the information described  
7 in Subsections (2)(a) and (b), and file that documentation with the court prior to finalization of the  
8 adoption.

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

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

15       (a) criminal history record information regarding each prospective adoptive parent and any  
16 other adult living in the prospective home, received from the Law Enforcement and Technical  
17 Services Division of the Department of Public Safety, in accordance with Subsection 53-5-214(1),  
18 ~~[regarding each petitioner]~~ no earlier than 12 months immediately preceding placement of the  
19 child;

20       (b) a report from the Department of Human ~~[Services' child-abuse-database]~~ Services  
21 containing all information regarding reports and investigation of child abuse, neglect, and  
22 dependency, with respect to each prospective adoptive parent and any other adult living in the  
23 prospective home, obtained no earlier than 12 months immediately preceding placement of the  
24 child, pursuant to [a waiver] waivers executed by [each petitioner] those parties; and

25       (c) ~~[a homestudy]~~ an evaluation conducted by ~~[an expert in family relations approved by~~  
26 ~~the court or]~~ a certified social worker ~~[licensed under Title 58, Chapter 60, Part 2],~~ clinical social  
27 worker, marriage and family therapist, psychologist, professional counselor, or other  
28 court-determined expert in family relations, who is licensed to practice under the laws of this state.  
29 The evaluation shall be in a form approved by the Department of Human Services[, and certified  
30 as having been received by the Division of Child and Family Services, Department of Human  
31 Services]. Neither the Department of Human Services nor any of its divisions may proscribe who

1 qualifies as an expert in family relations or who may conduct evaluations pursuant to this  
2 Subsection (2).

3 (3) Except as provided in Subsection (1), the preplacement adoptive evaluation shall be  
4 filed with the court at the time the petition for adoption is filed, or within 10 business days  
5 thereafter.

6 ~~[(3)]~~ (4) (a) A copy of [each] the preplacement adoptive [study] evaluation shall be  
7 [submitted to] filed with the Division of Child and Family Services within the Department of  
8 Human Services. [Through random screening, that]

9 (b) The department shall assess the quality and competence of preplacement adoptive  
10 [studies conducted] evaluations.

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

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

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

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

22 (b) The exemptions from and requirements for evaluations, described in Subsections  
23 (1)(c), (2)(c), and (4), also apply to postplacement adoptive evaluations.

24 ~~[(4)]~~ (6) If the person or agency conducting the [study] evaluation disapproves the  
25 [petitioner] adoptive placement, either in the preplacement or postplacement adoptive [study]  
26 evaluation, the court may dismiss the petition. [Upon] However, upon request of [the petitioner]  
27 a prospective adoptive parent, the court shall order that an additional preplacement or  
28 postplacement adoptive [study] evaluation be conducted by a person who the court determines to  
29 be qualified, in accordance with Subsection (2)(c), and the court may hold a hearing on the  
30 suitability of the adoption, including testimony of interested parties.

31 ~~[(5)]~~ (7) Prior to finalization of a petition for adoption the court shall review and consider

1 the information and recommendations contained in the preplacement and postplacement adoptive  
2 studies required by this section.

3 Section 2. **Effective date.**

4 This act takes effect on July 1, 1998.

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**Legislative Review Note**

**as of 1-8-98 1:29 PM**

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**