

**SPECIAL NEEDS ADOPTION -  
PREPLACEMENT EVALUATIONS**

2004 GENERAL SESSION

STATE OF UTAH

**Sponsor: Ann W. Hardy**

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**LONG TITLE**

**General Description:**

This bill modifies adoption provisions in the Judicial Code.

**Highlighted Provisions:**

This bill:

- ▶ requires that the preplacement evaluation of a special needs child be conducted by the Department of Human Services or a licensed child placing agency contracted by the division to conduct preplacement evaluations; and
- ▶ requires the adoptive parent or parents to pay for any fee assessed by the evaluating agency.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**78-30-3.5**, as last amended by Chapter 101, Laws of Utah 2001

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*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) Except as otherwise provided in this section, a child may not be placed in an adoptive home until a preplacement adoptive evaluation, assessing the prospective adoptive

parent and the prospective adoptive home, has been conducted in accordance with the requirements of this section.

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

(c) Subsection (1)(a) does not apply if a birth parent has legal custody of the child to be adopted and the prospective adoptive parent is related to that child as a 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 (1)(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.

(d) The requirements of Subsection (1)(a) are satisfied by a previous preplacement adoptive evaluation conducted within three years prior to placement of the child, or an annual updated adoptive evaluation conducted after that three-year period or within one year after finalization of a previous adoption.

(2) The preplacement adoptive evaluation shall include:

(a) criminal history record information regarding each prospective adoptive parent and any other adult living in the prospective home, received from the Criminal Investigations and Technical Services Division of the Department of Public Safety, in accordance with Section 53-10-108, no earlier than 18 months immediately preceding placement of the child;

(b) a report from the Department of Human 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 waivers executed by those parties; ~~and~~

(c) an evaluation conducted by an expert in family relations approved by the court or a certified social worker, 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 or under the laws of the state where the prospective adoptive parent or other person living in the prospective adoptive home resides. The evaluation shall be in a form approved by the 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)[-]; and

(d) if the child to be adopted is a child who is in the custody of any public child welfare agency, and is a child with special needs as defined in Subsection 62A-4a-902(2), the preplacement evaluation must be conducted by the Department of Human Services or a licensed child placing agency which has entered into a contract with the department to conduct the preplacement evaluations for children with special needs. Any fee assessed by the evaluating agency is the responsibility of the adopting parent or parents.

(3) A copy of the preplacement adoptive evaluation shall be filed with the court.

(4) (a) Except as provided in Subsections (4)(b) and (c), a postplacement evaluation shall be conducted and submitted to the court prior to the final hearing in an adoption proceeding. The postplacement evaluation shall include:

- (i) verification of the allegations of fact contained in the petition for adoption;
- (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.

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

(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.