

1                                   **SPECIAL NEEDS ADOPTION -**  
2                                   **PREPLACEMENT EVALUATIONS**

3                                   2004 GENERAL SESSION

4                                   STATE OF UTAH

5                                   **Sponsor: Ann W. Hardy**

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7 **LONG TITLE**

8 **General Description:**

9           This bill modifies adoption provisions in the Judicial Code.

10 **Highlighted Provisions:**

11           This bill:

12           ▶ requires that the preplacement evaluation of a special needs child be conducted by  
13 the Division of Child and Family Services or a licensed child placing agency  
14 contracted by the division to conduct preplacement evaluations.

15 **Monies Appropriated in this Bill:**

16           None

17 **Other Special Clauses:**

18           None

19 **Utah Code Sections Affected:**

20 **AMENDS:**

21           **78-30-3.5**, as last amended by Chapter 101, Laws of Utah 2001

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

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

25           **78-30-3.5. Preplacement and postplacement adoptive evaluations -- Exceptions.**

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



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

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

33 (c) Subsection (1)(a) does not apply if a birth parent has legal custody of the child to be  
34 adopted and the prospective adoptive parent is related to that child as a step-parent, sibling by  
35 half or whole blood or by adoption, grandparent, aunt, uncle, or first cousin, unless the  
36 evaluation is otherwise requested by the court. The prospective adoptive parent described in  
37 this Subsection (1)(c) shall, however, obtain the information described in Subsections (2)(a)  
38 and (b), and file that documentation with the court prior to finalization of the adoption.

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

43 (2) The preplacement adoptive evaluation shall include:

44 (a) criminal history record information regarding each prospective adoptive parent and  
45 any other adult living in the prospective home, received from the Criminal Investigations and  
46 Technical Services Division of the Department of Public Safety, in accordance with Section  
47 53-10-108, no earlier than 18 months immediately preceding placement of the child;

48 (b) a report from the Department of Human Services containing all information  
49 regarding reports and investigation of child abuse, neglect, and dependency, with respect to  
50 each prospective adoptive parent and any other adult living in the prospective home, obtained  
51 no earlier than 18 months immediately preceding placement of the child, pursuant to waivers  
52 executed by those parties; [~~and~~]

53 (c) an evaluation conducted by an expert in family relations approved by the court or a  
54 certified social worker, clinical social worker, marriage and family therapist, psychologist,  
55 professional counselor, or other court-determined expert in family relations, who is licensed to  
56 practice under the laws of this state or under the laws of the state where the prospective  
57 adoptive parent or other person living in the prospective adoptive home resides. The  
58 evaluation shall be in a form approved by the Department of Human Services. Neither the

59 Department of Human Services nor any of its divisions may proscribe who qualifies as an  
60 expert in family relations or who may conduct evaluations pursuant to this Subsection (2)[-];  
61 and

62 (d) if the child to be adopted is a child with special needs as defined in Section  
63 62A-4a-205.6, the preplacement evaluation must be conducted by the Division of Child and  
64 Family Services or a licensed child placing agency which had entered into a contract with the  
65 division to conduct preplacement evaluations for children with special needs.

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

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

- 70 (i) verification of the allegations of fact contained in the petition for adoption;
- 71 (ii) an evaluation of the progress of the child's placement in the adoptive home; and
- 72 (iii) a recommendation regarding whether the adoption is in the best interest of the  
73 child.

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

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

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

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

**Legislative Review Note**

**as of 1-28-04 9:14 AM**

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

**Office of Legislative Research and General Counsel**