

1 **INTERCOUNTRY ADOPTION ACCREDITATION**

2 2005 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Rosalind J. McGee**

5 Ann W. Hardy

6
7 **LONG TITLE**

8 **General Description:**

9 This bill authorizes the Office of Licensing, within the Department of Human Services,
10 to accredit agencies and persons to provide intercountry adoption services involving
11 countries that are parties to the Hague Convention on Protection of Children and
12 Co-operation in Respect to Intercountry Adoption.

13 **Highlighted Provisions:**

14 This bill:

15 ▶ provides that the Office of Licensing, within the Department of Human Services,
16 shall:

17 • accredit agencies and persons to provide intercountry adoption services,
18 pursuant to the Intercountry Adoption Act of 2000 and its implementing
19 regulations; and

20 • make rules to implement the accreditation of agencies and persons to provide
21 intercountry adoption services; and

22 ▶ makes technical changes.

23 **Monies Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 None

27 **Utah Code Sections Affected:**



28 AMENDS:

29 **62A-1-111**, as last amended by Chapter 8, Laws of Utah 2002, Fifth Special Session

30 **62A-2-106**, as last amended by Chapter 119, Laws of Utah 2003

31

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

33 Section 1. Section **62A-1-111** is amended to read:

34 **62A-1-111. Department authority.**

35 The department may, in addition to all other authority and responsibility granted to it by
36 law:

37 (1) adopt rules, not inconsistent with law, as the department may consider necessary or
38 desirable for providing social services to the people of this state;

39 (2) establish and manage client trust accounts in the department's institutions and
40 community programs, at the request of the client or his legal guardian or representative, or in
41 accordance with federal law;

42 (3) purchase, as authorized or required by law, services that the department is
43 responsible to provide for legally eligible persons;

44 (4) conduct adjudicative proceedings for clients and providers in accordance with the
45 procedures of Title 63, Chapter 46b, Administrative Procedures Act;

46 (5) establish eligibility standards for its programs, not inconsistent with state or federal
47 law or regulations;

48 (6) take necessary steps, including legal action, to recover money or the monetary value
49 of services provided to a recipient who was not eligible;

50 (7) set and collect fees for its services;

51 (8) license agencies, facilities, and programs, except as otherwise allowed, prohibited,
52 or limited by law;

53 (9) acquire, manage, and dispose of any real or personal property needed or owned by
54 the department, not inconsistent with state law;

55 (10) receive gifts, grants, devises, and donations; gifts, grants, devises, donations, or
56 the proceeds thereof, may be credited to the program designated by the donor, and may be used
57 for the purposes requested by the donor, as long as the request conforms to state and federal
58 policy; all donated funds shall be considered private, nonlapsing funds and may be invested

59 under guidelines established by the state treasurer;

60 (11) accept and employ volunteer labor or services; the department is authorized to
61 reimburse volunteers for necessary expenses, when the department considers that
62 reimbursement to be appropriate;

63 (12) carry out the responsibility assigned in the Workforce Services Plan by the State
64 Council on Workforce Services;

65 (13) carry out the responsibility assigned by Section 9-4-802 with respect to
66 coordination of services for the homeless;

67 (14) carry out the responsibility assigned by Section 62A-5a-105 with respect to
68 coordination of services for students with a disability;

69 (15) provide training and educational opportunities for its staff;

70 (16) collect child support payments and any other monies due to the department;

71 (17) apply the provisions of Title 78, Chapter 45, Uniform Civil Liability for Support
72 Act, to parents whose child lives out of the home in a department licensed or certified setting;

73 (18) establish policy and procedures in cases where the department is given custody
74 of a minor by the juvenile court pursuant to Section 78-3a-118; any policy and procedures
75 shall include:

76 (a) designation of interagency teams for each juvenile court district in the state;

77 (b) delineation of assessment criteria and procedures;

78 (c) minimum requirements, and timeframes, for the development and implementation
79 of a collaborative service plan for each minor placed in department custody; and

80 (d) provisions for submittal of the plan and periodic progress reports to the court;

81 (19) carry out the responsibilities assigned to it by statute; ~~and~~

82 (20) examine and audit the expenditures of any public funds provided to local
83 substance abuse authorities, local mental health authorities, local area agencies on aging, and
84 any person, agency, or organization that contracts with or receives funds from those authorities
85 or agencies. Those local authorities, area agencies, and any person or entity that contracts with
86 or receives funds from those authorities or area agencies, shall provide the department with any
87 information the department considers necessary. The department is further authorized to issue
88 directives resulting from any examination or audit to local authorities, area agencies, and
89 persons or entities that contract with or receive funds from those authorities with regard to any

90 public funds. If the department determines that it is necessary to withhold funds from a local
91 mental health authority or local substance abuse authority based on failure to comply with state
92 or federal law, policy, or contract provisions, it may take steps necessary to ensure continuity of
93 services. For purposes of this Subsection (20) "public funds" means the same as that term is
94 defined in Section 62A-15-102[-]; and

95 (21) pursuant to Subsection 62A-2-106(4), accredit one or more agencies and persons
96 to provide intercountry adoption services.

97 Section 2. Section **62A-2-106** is amended to read:

98 **62A-2-106. Office responsibilities.**

99 The office shall:

100 (1) make rules to establish:

101 (a) basic health and safety standards for licensees, which shall be limited to the
102 following:

103 (i) fire safety;

104 (ii) food safety;

105 (iii) sanitation;

106 (iv) infectious disease control;

107 (v) safety of the physical plant;

108 (vi) transportation safety;

109 (vii) emergency preparedness;

110 (viii) the administration of medical standards and procedures, consistent with the
111 related provisions of this title; and

112 (ix) consumer safety and protection;

113 (b) minimum administration and financial requirements for licensees; and

114 (c) guidelines for variances from rules established under this Subsection (1);

115 (2) enforce rules:

116 (a) approved by the licensing board;

117 (b) in effect on January 1, 1998, that apply to a service or program for which a licensee
118 is not under contract with a division listed in Section 62A-1-105 to provide until rules are
119 established pursuant to Subsection (2)(c); and

120 (c) established after July 1, 1999, by a policymaking board created by Section

121 62A-1-105 which:

122 (i) shall be limited to:

123 (A) the administration and maintenance of client and service records;

124 (B) staff qualifications; and

125 (C) staff to client ratios; and

126 (ii) may only apply to a service or program for which a licensee is not under contract

127 with a division listed in Section 62A-1-105 to provide;

128 (3) issue licenses in accordance with this chapter;

129 (4) if the United States Department of State executes an agreement with the office that

130 designates the office to act as an accrediting entity in accordance with the Intercountry

131 Adoption Act of 2000, Pub. L. No. 106-279, accredit one or more agencies and persons to

132 provide intercountry adoption services pursuant to:

133 (a) the Intercountry Adoption Act of 2000, Pub. L. No. 106-279; and

134 (b) the implementing regulations for the Intercountry Adoption Act of 2000, Pub. L.

135 No. 106-279;

136 (5) make rules to implement the provisions of Subsection (4);

137 ~~[(4)]~~ (6) conduct surveys and inspections of licensees and facilities in accordance with

138 Section 62A-2-118;

139 ~~[(5)]~~ (7) collect licensure fees;

140 ~~[(6)]~~ (8) provide necessary administrative support to the licensing board;

141 ~~[(7)]~~ (9) provide notification to licensee or facility, including providers and

142 subproviders, of a person within the department to contact when filing a complaint;

143 ~~[(8)]~~ (10) investigate complaints regarding any licensee or facility;

144 ~~[(9)]~~ (11) have access to all records, correspondence, and financial data required to be

145 maintained by a licensee or facility;

146 ~~[(10)]~~ (12) have authority to interview any client, family member of a client, employee,

147 or officer of a human services licensee or facility; and

148 ~~[(11)]~~ (13) have authority to revoke, suspend, or extend any license issued by the

149 department under this chapter by following the procedures and requirements of Title 63,

150 Chapter 46b, Administrative Procedures Act.

Legislative Review Note

as of 11-27-04 2:29 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Interim Committee Note

as of 12-07-04 2:12 PM

The Judiciary Interim Committee recommended this bill.

State Impact

This legislation is dependent upon the Federal Government executing an agreement with the Licensing Office of the Department of Human Services to the State's accrediting agency for inter-country adoptions. If this agreement comes about, the 2006 Legislature would need to provide a supplemental appropriation to the Licensing Office, in the amount of approximately \$150,000 (General Fund), for FY 2006. However, costs associated with the accreditation process will be borne by the affected adoption agencies, and these revenues will be deposited with the General Fund.

Individual and Business Impact

Agencies to be accredited would bear the cost of the accrediting process, estimated at \$15,000 per agency. Annual recertification costs are unknown at this time.

Office of the Legislative Fiscal Analyst