

ADOPTION AND CHILD CUSTODY

AMENDMENTS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Sheryl L. Allen

Senate Sponsor: Daniel R. Liljenquist

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LONG TITLE

General Description:

This bill amends adoption and child custody provisions in the portion of the Utah Code relating to divorce, the Utah Human Services Code, the Utah Adoption Act, and the Utah Uniform Parentage Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ removes the requirement that, when making a child custody determination in a separation or divorce proceeding, the court take into consideration that a parent has attempted to permanently relinquish custody of the child to a third party;
- ▶ amends race, color, and ethnicity requirements of the Utah Human Services Code to conform with the language of the federal Multiethnic Placement Act;
- ▶ describes when a petition for adoption may be filed;
- ▶ describes the time and manner in which a person may file a petition or motion to determine the rights and interests of a person who may claim an interest in a child;
- ▶ amends provisions relating to background checks;
- ▶ amends provisions relating to contesting an adoption;
- ▶ describes when a petition for termination of parental rights may be filed under the Utah Adoption Act;
- ▶ enacts and clarifies provisions relating to the preservation of rights by an unmarried biological father;

- 30           ▶ describes the affect that a court's dismissal of an adoption petition has in a custody
- 31 proceeding;
- 32           ▶ requires a court to dismiss a paternity petition filed by an unmarried biological
- 33 father, without adjudicating paternity, if the unmarried biological father is not
- 34 entitled to consent to the adoption of the child; and
- 35           ▶ makes technical changes.

36 **Monies Appropriated in this Bill:**

37           None

38 **Other Special Clauses:**

39           None

40 **Utah Code Sections Affected:**

41 **AMENDS:**

- 42           **30-3-10**, as last amended by Laws of Utah 2009, Chapter 179
- 43           **62A-4a-205.5**, as last amended by Laws of Utah 2008, Chapter 3
- 44           **78B-6-103**, as last amended by Laws of Utah 2009, Chapter 159
- 45           **78B-6-104**, as enacted by Laws of Utah 2008, Chapter 3
- 46           **78B-6-105**, as last amended by Laws of Utah 2009, Chapter 159
- 47           **78B-6-109**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 48           **78B-6-110**, as last amended by Laws of Utah 2009, Chapter 159
- 49           **78B-6-112**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 50           **78B-6-113**, as last amended by Laws of Utah 2008, Chapter 17 and renumbered and
- 51 amended by Laws of Utah 2008, Chapter 3
- 52           **78B-6-122**, as enacted by Laws of Utah 2008, Chapter 3 and last amended by Laws of
- 53 Utah 2008, Chapter 123
- 54           **78B-6-128**, as enacted by Laws of Utah 2008, Chapter 3 and last amended by Laws of
- 55 Utah 2008, Chapter 137
- 56           **78B-6-129**, as enacted by Laws of Utah 2008, Chapter 3 and last amended by Laws of
- 57 Utah 2008, Chapter 137

58 78B-6-133, as renumbered and amended by Laws of Utah 2008, Chapter 3

59 78B-6-135, as renumbered and amended by Laws of Utah 2008, Chapter 3

60 78B-6-138, as last amended by Laws of Utah 2009, Chapter 159

61 78B-6-140, as renumbered and amended by Laws of Utah 2008, Chapter 3

62 78B-15-104, as renumbered and amended by Laws of Utah 2008, Chapter 3

63 ENACTS:

64 78B-6-122.5, Utah Code Annotated 1953

65 78B-6-136.5, Utah Code Annotated 1953



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

68 Section 1. Section 30-3-10 is amended to read:

69 **30-3-10. Custody of children in case of separation or divorce -- Custody**  
70 **consideration.**

71 (1) If a husband and wife having minor children are separated, or their marriage is  
72 declared void or dissolved, the court shall make an order for the future care and custody of the  
73 minor children as it considers appropriate.

74 (a) In determining any form of custody, the court shall consider the best interests of  
75 the child and, among other factors the court finds relevant, the following:

76 (i) the past conduct and demonstrated moral standards of each of the parties;

77 (ii) which parent is most likely to act in the best interest of the child, including  
78 allowing the child frequent and continuing contact with the noncustodial parent;

79 (iii) the extent of bonding between the parent and child, meaning the depth, quality,  
80 and nature of the relationship between a parent and child; and

81 (iv) those factors outlined in Section 30-3-10.2.

82 (b) The court shall, in every case, consider joint custody but may award any form of  
83 custody which is determined to be in the best interest of the child.

84 (c) The children may not be required by either party to testify unless the trier of fact  
85 determines that extenuating circumstances exist that would necessitate the testimony of the

86 children be heard and there is no other reasonable method to present their testimony.

87 (d) The court may inquire of the children and take into consideration the children's  
88 desires regarding future custody or parent-time schedules, but the expressed desires are not  
89 controlling and the court may determine the children's custody or parent-time otherwise. The  
90 desires of a child 16 years of age or older shall be given added weight, but is not the single  
91 controlling factor.

92 (e) If interviews with the children are conducted by the court pursuant to Subsection  
93 (1)(d), they shall be conducted by the judge in camera. The prior consent of the parties may  
94 be obtained but is not necessary if the court finds that an interview with the children is the  
95 only method to ascertain the child's desires regarding custody.

96 (2) In awarding custody, the court shall consider, among other factors the court finds  
97 relevant, which parent is most likely to act in the best interests of the child, including allowing  
98 the child frequent and continuing contact with the noncustodial parent as the court finds  
99 appropriate.

100 (3) If the court finds that one parent does not desire custody of the child, [~~or has~~  
101 ~~attempted to permanently relinquish custody to a third party, it]~~ the court shall take that  
102 evidence into consideration in determining whether to award custody to the other parent.

103 (4) (a) Except as provided in Subsection (4)(b), a court may not discriminate against a  
104 parent due to a disability, as defined in Section 57-21-2, in awarding custody or determining  
105 whether a substantial change has occurred for the purpose of modifying an award of custody.

106 (b) If a court takes a parent's disability into account in awarding custody or  
107 determining whether a substantial change has occurred for the purpose of modifying an award  
108 of custody, the parent with a disability may rebut any evidence, presumption, or inference  
109 arising from the disability by showing that:

110 (i) the disability does not significantly or substantially inhibit the parent's ability to  
111 provide for the physical and emotional needs of the child at issue; or

112 (ii) the parent with a disability has sufficient human, monetary, or other resources  
113 available to supplement the parent's ability to provide for the physical and emotional needs of

114 the child at issue.

115 (c) Nothing in this section may be construed to apply to adoption proceedings under  
116 Title 78B, Chapter 6, Part 1, Utah Adoption Act.

117 (5) This section establishes neither a preference nor a presumption for or against joint  
118 legal custody, joint physical custody or sole custody, but allows the court and the family the  
119 widest discretion to choose a parenting plan that is in the best interest of the child.

120 Section 2. Section **62A-4a-205.5** is amended to read:

121 **62A-4a-205.5. Prohibition of discrimination based on race, color, or ethnicity.**

122 [~~With regard to children~~]

123 (1) As used in this section, "adoptable children" means children:

124 (a) who are in the custody of the division [~~who~~]; and

125 (b) (i) who have permanency goals of adoption; or

126 (ii) for whom a final plan for pursuing termination of parental rights has been  
127 approved in accordance with Section 78A-6-314[~~, the~~].

128 (2) Except as required under the Indian Child Welfare Act, 25 U.S.C. Secs.  
129 1901-1963, the division may not base its decision for placement of [~~those~~] adoptable children  
130 [~~solely~~] on the race, color, ethnicity, or [~~cultural heritage~~] national origin of either the child or  
131 the prospective adoptive parents.

132 (3) The basis of a decision for placement of an adoptable child shall be the best  
133 interest of the child.

134 Section 3. Section **78B-6-103** is amended to read:

135 **78B-6-103. Definitions.**

136 As used in this part:

137 (1) "Adoptee" means a person who has been legally adopted.

138 (2) "Adoption" means the judicial act [~~which~~] that:

139 (a) creates the relationship of parent and child where it did not previously exist [~~and~~  
140 which permanently deprives a birth parent of parental rights.]; and

141 (b) except as provided in Subsection 78B-6-138(2), terminates the parental rights of

142 any other person with respect to the child.

143 (3) "Adoption service provider" means a:

144 (a) child-placing agency; or

145 (b) licensed counselor who has at least one year of experience providing professional  
146 social work services to:

147 (i) adoptive parents; or

148 (ii) birth parents.

149 (4) "Adult" means a person who is 18 years of age or older.

150 (5) "Adult adoptee" means an adoptee who is 18 years of age or older.

151 (6) "Adult sibling" means a brother or sister of the adoptee, who is 18 years of age or  
152 older and whose birth mother or father is the same as that of the adoptee.

153 (7) "Birth parent" means:

154 (a) a biological mother~~[-];~~;

155 (b) a person whose paternity of a child is established~~[-];~~ or

156 (c) an alleged father~~[-]~~ who:

157 (i) has been identified as the father of a child by the child's birth mother~~[-, and who];~~

158 and

159 (ii) has not denied paternity.

160 (8) "Bureau" means the Bureau of Vital Statistics within the Department of Health  
161 operating under Title 26, Chapter 2, Utah Vital Statistics Act.

162 (9) "Child-placing agency" means an agency licensed to place children for adoption  
163 under Title 62A, Chapter 4a, Part 6, Child Placing.

164 (10) "Cohabiting" means residing with another person and being involved in a sexual  
165 relationship with that person.

166 (11) "Division" means the Division of Child and Family Services, within the  
167 Department of Human Services, created in Section 62A-4a-103.

168 (12) "Extra-jurisdictional child-placing agency" means an agency licensed to place  
169 children for adoption by a district, territory, or state of the United States, other than Utah.

170 (13) "Genetic and social history" means a comprehensive report, when obtainable, on  
171 an adoptee's birth parents, aunts, uncles, and grandparents, which contains the following  
172 information:

- 173 (a) medical history;
- 174 (b) health status;
- 175 (c) cause of and age at death;
- 176 (d) height, weight, and eye and hair color;
- 177 (e) ethnic origins;
- 178 (f) where appropriate, levels of education and professional achievement; and
- 179 (g) religion, if any.

180 (14) "Health history" means a comprehensive report of the adoptee's health status at  
181 the time of placement for adoption, and medical history, including neonatal, psychological,  
182 physiological, and medical care history.

183 (15) "Identifying information" means the name and address of a [birth] pre-existing  
184 parent or adult adoptee, or other specific information which by itself or in reasonable  
185 conjunction with other information may be used to identify that person.

186 (16) "Licensed counselor" means a person who is licensed by the state, or another  
187 state, district, or territory of the United States as a:

- 188 (a) certified social worker;
- 189 (b) clinical social worker;
- 190 (c) psychologist;
- 191 (d) marriage and family therapist;
- 192 (e) professional counselor; or
- 193 (f) an equivalent licensed professional of another state, district, or territory of the  
194 United States.

195 (17) "Parent," for purposes of Section 78B-6-119, means any person described in  
196 Subsections 78B-6-120(1)(b) through (f) from whom consent for adoption or relinquishment  
197 for adoption is required under Sections 78B-6-120 through 78B-6-122.

198 (18) "Pre-existing parent" means:

199 (a) a birth parent; or

200 (b) a person who, before an adoption decree is entered, is, due to an earlier adoption  
201 decree, legally the parent of the child being adopted.

202 [~~18~~] (19) "Unmarried biological father" means a person who:

203 (a) is the biological father of a child; and

204 (b) was not married to the biological mother of the child described in Subsection

205 [~~18~~] (19)(a) at the time of the child's:

206 (i) conception; or

207 (ii) birth.

208 Section 4. Section **78B-6-104** is amended to read:

209 **78B-6-104. Limitations.**

210 (1) Sections 78B-6-143 through 78B-6-145 do not apply to adoptions by a stepparent  
211 whose spouse is the adoptee's [~~birth~~] parent.

212 (2) Sections 78B-6-143 through 78B-6-145 apply only to adoptions of adoptees born  
213 in this state.

214 Section 5. Section **78B-6-105** is amended to read:

215 **78B-6-105. District court venue -- Jurisdiction of juvenile court -- Jurisdiction**  
216 **over nonresidents -- Time for filing.**

217 (1) Adoption proceedings shall be commenced by filing a petition with the clerk of the  
218 district court either:

219 (a) in the district where the person adopting resides;

220 (b) if the person adopting is not a resident of this state, in the district where:

221 (i) the proposed adoptee was born;

222 (ii) the proposed adoptee resides on the day on which the petition is filed; or

223 (iii) a parent of the proposed adoptee resides on the day on which the petition is filed;

224 or

225 (c) with the juvenile court as provided in Subsection 78A-6-103(1).



226 (2) All orders, decrees, agreements, and notices in the proceedings shall be filed with  
227 the clerk of the court where the adoption proceedings were commenced under Subsection (1).

228 (3) A petition for adoption;

229 (a) may be filed before or after the adoptee is placed in the home of the petitioner for  
230 the purpose of adoption; and

231 (b) shall be filed [~~within 30 days of the date~~] no later than 30 days after the day on  
232 which the adoptee is placed in the home of the petitioners for the purpose of adoption, unless:

233 [~~(a)~~] (i) the time for filing has been extended by the court; or

234 [~~(b)~~] (ii) the adoption is arranged by a child-placing agency in which case the agency  
235 may extend the filing time.

236 (4) (a) If a person whose consent for the adoption is required under Section 78B-6-120  
237 or 78B-6-121 cannot be found within the state, the fact of the minor's presence within the state  
238 shall confer jurisdiction on the court in proceedings under this chapter as to such absent  
239 person, provided that due notice has been given in accordance with the Utah Rules of Civil  
240 Procedure.

241 (b) The notice may not include the name of:

242 (i) the person or persons seeking to adopt the adoptee; or

243 (ii) an unmarried mother without her consent.

244 (5) Service of notice as provided in Subsection (6) shall vest the court with  
245 jurisdiction over the person served in the same manner and to the same extent as if the person  
246 served was served personally within the state.

247 (6) In the case of service outside the state, service completed not less than five days  
248 before the time set in the notice for appearance of the person served, shall be sufficient to  
249 confer jurisdiction.

250 (7) Computation of periods of time not otherwise set forth in this section shall be  
251 made in accordance with the Utah Rules of Civil Procedure.

252 Section 6. Section **78B-6-109** is amended to read:

253 **78B-6-109. Determination of rights prior to adoption petition.**

254           (1) (a) Any interested person may petition a court having jurisdiction over adoption  
255 proceedings for a determination of the rights and interests of any person who may claim an  
256 interest in a child under this [chapter, at any time prior to] part.

257           (b) The petition described in Subsection (1) may be filed at any time before the  
258 finalization of the adoption, including [any time prior to] before:

259           (i) the child's birth[-];

260           (ii) a petition for adoption is filed; or

261           (iii) a petition to terminate parental rights is filed.

262           (2) If a petition for adoption or a petition to terminate parental rights has been filed in  
263 district court, the petitioner or any interested person may, without filing a separate petition,  
264 move the court for a determination of the rights and interests of any person who may claim an  
265 interest in a child under this part.

266           Section 7. Section **78B-6-110** is amended to read:

267           **78B-6-110. Notice of adoption proceedings.**

268           (1) (a) An unmarried biological father, by virtue of the fact that he has engaged in a  
269 sexual relationship with a woman:

270           (i) is considered to be on notice that a pregnancy and an adoption proceeding  
271 regarding the child may occur; and

272           (ii) has a duty to protect his own rights and interests.

273           (b) An unmarried biological father is entitled to actual notice of a birth or an adoption  
274 proceeding with regard to his child only as provided in this section.

275           (2) Notice of an adoption proceeding shall be served on each of the following persons:

276           (a) any person or agency whose consent or relinquishment is required under Section  
277 78B-6-120 or 78B-6-121, unless that right has been terminated by:

278           (i) waiver;

279           (ii) relinquishment;

280           (iii) consent; or

281           (iv) judicial action;

282 (b) any person who has initiated a paternity proceeding and filed notice of that action  
283 with the state registrar of vital statistics within the Department of Health, in accordance with  
284 Subsection (3);

285 (c) any legally appointed custodian or guardian of the adoptee;

286 (d) the petitioner's spouse, if any, only if the petitioner's spouse has not joined in the  
287 petition;

288 (e) the adoptee's spouse, if any;

289 (f) any person who, prior to the time the mother executes her consent for adoption or  
290 relinquishes the child for adoption, is recorded on the birth certificate as the child's father,  
291 with the knowledge and consent of the mother;

292 (g) a person who is:

293 (i) openly living in the same household with the child at the time the consent is  
294 executed or relinquishment made; and

295 (ii) holding himself out to be the child's father; and

296 (h) any person who is married to the child's mother at the time she executes her  
297 consent to the adoption or relinquishes the child for adoption.

298 (3) (a) In order to preserve any right to notice, an unmarried, biological father may,  
299 consistent with Subsection (3)(d):

300 (i) initiate proceedings in a district court of the state of Utah to establish paternity  
301 under Title 78B, Chapter 15, Utah Uniform Parentage Act; and

302 (ii) file a notice of commencement of the proceedings described in Subsection (3)(a)(i)  
303 with the state registrar of vital statistics within the Department of Health.

304 (b) If the unmarried, biological father does not know the county in which the birth  
305 mother resides, he may initiate his action in any county, subject to a change in trial pursuant to  
306 Section 78B-3-307.

307 (c) The Department of Health shall provide forms for the purpose of filing the notice  
308 described in Subsection (3)(a)(ii), and make those forms available in the office of the county  
309 health department in each county.

310 (d) The action and notice described in Subsection (3)(a):  
311 (i) may be filed before or after the child's birth; and  
312 (ii) shall be filed prior to the mother's:  
313 (A) execution of consent to adoption of the child; or  
314 (B) relinquishment of the child for adoption.  
315 (4) Notice provided in accordance with this section need not disclose the name of the  
316 mother of the child who is the subject of an adoption proceeding.  
317 (5) The notice required by this section:  
318 (a) may be served at any time after the petition for adoption is filed;  
319 (b) shall be served at least 30 days prior to the final dispositional hearing;  
320 (c) shall specifically state that the person served must respond to the petition within 30  
321 days of service if he intends to intervene in or contest the adoption;  
322 (d) shall state the consequences, described in Subsection (6)(b), for failure of a person  
323 to file a motion for relief within 30 days after the day on which the person is served with  
324 notice of an adoption proceeding;  
325 (e) is not required to include, nor be accompanied by, a summons or a copy of the  
326 petition for adoption; and  
327 (f) shall state where the person may obtain a copy of the petition for adoption.  
328 (6) (a) A person who has been served with notice of an adoption proceeding and who  
329 wishes to contest the adoption shall file a motion to intervene in the adoption proceeding:  
330 (i) within 30 days after the day on which the person was served with notice of the  
331 adoption proceeding;  
332 (ii) setting forth specific relief sought; and  
333 (iii) accompanied by a memorandum specifying the factual and legal grounds upon  
334 which the motion is based.  
335 (b) A person who fails to [~~file a motion for relief~~] fully and strictly comply with all of  
336 the requirements described in Subsection (6)(a) within 30 days after the day on which the  
337 person was served with notice of the adoption proceeding:

338 (i) waives any right to further notice in connection with the adoption;  
339 (ii) forfeits all rights in relation to the adoptee; and  
340 (iii) is barred from thereafter bringing or maintaining any action to assert any interest  
341 in the adoptee.

342 (7) Service of notice under this section shall be made as follows:

343 (a) (i) Subject to Subsection (5)(e), service on a person whose consent is necessary  
344 under Section 78B-6-120 or 78B-6-121 shall be in accordance with the provisions of the Utah  
345 Rules of Civil Procedure.

346 (ii) If service of a person described in Subsection (7)(a)(i) is by publication, the court  
347 shall designate the content of the notice regarding the identity of the parties.

348 (iii) The notice described in this Subsection (7)(a) may not include the name of a  
349 person seeking to adopt the adoptee.

350 (b) (i) Except as provided in Subsection (7)(b)(ii) to any other person for whom notice  
351 is required under this section, service by certified mail, return receipt requested, is sufficient.

352 (ii) If the service described in Subsection (7)(b)(i) cannot be completed after two  
353 attempts, the court may issue an order providing for service by publication, posting, or by any  
354 other manner of service.

355 (c) Notice to a person who has initiated a paternity proceeding and filed notice of that  
356 action with the state registrar of vital statistics in the Department of Health in accordance with  
357 the requirements of Subsection (3), shall be served by certified mail, return receipt requested,  
358 at the last address filed with the registrar.

359 (8) The notice required by this section may be waived in writing by the person entitled  
360 to receive notice.

361 (9) Proof of service of notice on all persons for whom notice is required by this section  
362 shall be filed with the court before the final dispositional hearing on the adoption.

363 (10) Notwithstanding any other provision of law, neither the notice of an adoption  
364 proceeding nor any process in that proceeding is required to contain the name of the person or  
365 persons seeking to adopt the adoptee.

366 (11) Except as to those persons whose consent to an adoption is required under  
367 Section 78B-6-120 or 78B-6-121, the sole purpose of notice under this section is to enable the  
368 person served to:

- 369 (a) intervene in the adoption; and
- 370 (b) present evidence to the court relevant to the best interest of the child.

371 Section 8. Section **78B-6-112** is amended to read:

372 **78B-6-112. District court jurisdiction over certain termination of parental rights**  
373 **proceedings.**

374 (1) A district court has jurisdiction to hear and decide a petition to terminate parental  
375 rights in a child if the party who filed the petition is seeking to terminate parental rights in [a]  
376 the child for the purpose of facilitating the adoption of the child.

377 (2) A petition to terminate parental rights under this section may be:

- 378 (a) [~~be~~] joined with a proceeding on an adoption petition; or
- 379 (b) [~~be~~] filed as a separate proceeding before or after a petition to adopt the child is  
380 filed.

381 (3) A court may enter a final order terminating parental rights before a final decree of  
382 adoption is entered.

383 (4) (a) Nothing in this section limits the jurisdiction of a juvenile court relating to  
384 proceedings to terminate parental rights as described in Section 78A-6-103.

385 (b) This section does not grant jurisdiction to a district court to terminate parental  
386 rights in a child if the child is under the jurisdiction of the juvenile court in a pending abuse,  
387 neglect, dependency, or termination of parental rights proceeding.

388 (5) The district court may terminate a person's parental rights in a child if:

- 389 (a) the person executes a voluntary consent to adoption, or relinquishment for  
390 adoption, of the child, in accordance with:
  - 391 (i) the requirements of this chapter; or
  - 392 (ii) the laws of another state or country, if the consent is valid and irrevocable;
- 393 (b) the person is an unmarried biological father who is not entitled to consent to

394 adoption, or relinquishment for adoption, under Section 78B-6-120 or 78B-6-121;

395 (c) the person:

396 (i) received notice of the adoption proceeding relating to the child under Section  
397 78B-6-110; and

398 (ii) failed to file a motion for relief, under Subsection 78B-6-110(6), within 30 days  
399 after the day on which the person was served with notice of the adoption proceeding;

400 (d) the court finds, under Section 78B-15-607, that the person is not a parent of the  
401 child; or

402 (e) the person's parental rights are terminated on grounds described in Title 78A,  
403 Chapter 6, Part 5, Termination of Parental Rights Act.

404 Section 9. Section **78B-6-113** is amended to read:

405 **78B-6-113. Prospective parent not a resident -- Preplacement requirements.**

406 (1) When an adoption petition is to be finalized in this state with regard to any  
407 prospective adoptive parent who is not a resident of this state at the time a child is placed in  
408 that person's home, the potential adoptive parent shall:

409 (a) comply with the provisions of Sections 78B-6-128 and 78B-6-130; and

410 (b) (i) if the child is in state custody[;]:

411 (A) submit fingerprints for a Federal Bureau of Investigation national criminal history  
412 record check through the Criminal and Technical Services Division of the Department of  
413 Public Safety in accordance with the provisions of Section 62A-2-120; or

414 (B) submit to a fingerprint based Federal Bureau of Investigation national criminal  
415 history record check through a law enforcement agency in another state, district, or territory of  
416 the United States; or

417 (ii) subject to Subsection (2), if the child is not in state custody:

418 (A) submit fingerprints for a Federal Bureau of Investigation national criminal history  
419 records check as a personal records check; or

420 (B) complete a criminal records check and child abuse database check for each state  
421 and, if available, country, where the potential adoptive parent resided during the five years

422 immediately preceding the day on which the adoption petition is to be finalized.

423 (2) For purposes of Subsection (1)(b)(ii):

424 (a) if the adoption is being handled by a human services program, as defined in

425 Section 62A-2-101:

426 (i) the criminal history check described in Subsection (1)(b)(ii)(A) shall be submitted  
427 in accordance with procedures established by the Criminal Investigations and Technical  
428 Services Division of the Department of Public Safety; and

429 (ii) subject to Subsection (3), the criminal history check described in Subsection  
430 (1)(b)(ii)(B) shall be submitted in a manner acceptable to the court that will:

431 (A) preserve the chain of custody of the results; and

432 (B) not permit tampering with the results by a prospective adoptive parent or other  
433 interested party; and

434 (b) if the adoption is being handled by a private attorney, and not a human services  
435 program, the criminal history checks described in Subsection (1)(b)(ii), shall be:

436 (i) submitted in accordance with procedures established by the Criminal Investigations  
437 and Technical Services Division of the Department of Public Safety; or

438 (ii) subject to Subsection (3), submitted in a manner acceptable to the court that will:

439 (A) preserve the chain of custody of the results; and

440 (B) not permit tampering with the results by a prospective adoptive parent or other  
441 interested party.

442 (3) In order to comply with Subsection (2)(a)(ii) or (b)(ii), the manner in which the  
443 criminal history check is submitted shall be approved by the court.

444 (4) Except as provided in Subsection 78B-6-131(2), in addition to the other  
445 requirements of this section, before a child in state custody is placed with a prospective foster  
446 parent or a prospective adoptive parent, the Department of Human Services shall comply with  
447 Section 78B-6-131.

448 Section 10. Section **78B-6-122** is amended to read:

449 **78B-6-122. Qualifying circumstance.**



450 (1) (a) For purposes of this section, "qualifying circumstance" means that, at any point  
451 during the time period beginning at the conception of the child and ending at the time the  
452 mother executed a consent to adoption or relinquishment of the child for adoption:

453 (i) the child or the child's mother resided, on a permanent or temporary basis, in the  
454 state;

455 (ii) the mother intended to give birth to the child in the state;

456 (iii) the child was born in the state; or

457 (iv) the mother intended to execute a consent to adoption or relinquishment of the  
458 child for adoption:

459 (A) in the state; or

460 (B) under the laws of the state.

461 (b) For purposes of Subsection ~~[(1)(c)(i), a court shall consider the totality of the~~  
462 ~~circumstances]~~ (1)(c)(i)(C) only, when determining whether an unmarried biological father has  
463 demonstrated a full commitment to his parental responsibilities, a court shall consider the  
464 totality of the circumstances, including, if applicable:

465 (i) efforts he has taken to discover the location of the child or the child's mother;

466 (ii) whether he has expressed or demonstrated an interest in taking responsibility for  
467 the child;

468 (iii) whether, and to what extent, he has developed, or attempted to develop, a  
469 relationship with the child;

470 (iv) whether he offered to provide and, if the offer was accepted, did provide, financial  
471 support for the child or the child's mother;

472 (v) whether, and to what extent, he has communicated, or attempted to communicate,  
473 with the child or the child's mother;

474 (vi) whether he has filed legal proceedings to establish his paternity of, and take  
475 responsibility for, the child;

476 (vii) whether he has filed a notice with a public official or agency relating to:

477 (A) his paternity of the child; or

478 (B) legal proceedings to establish his paternity of the child; or  
479 (viii) other evidence that demonstrates that he has demonstrated a full commitment to  
480 his parental responsibilities.

481 (c) Notwithstanding the provisions of Section 78B-6-121, the consent of an unmarried  
482 biological father is required with respect to an adoptee who is under the age of 18 if:

483 (i) (A) the unmarried biological father did not know, and through the exercise of  
484 reasonable diligence could not have known, before the time the mother executed a consent to  
485 adoption or relinquishment of the child for adoption, that a qualifying circumstance existed;

486 (B) before the mother executed a consent to adoption or relinquishment of the child  
487 for adoption, the unmarried biological father fully complied with the requirements to establish  
488 parental rights in the child, and to preserve the right to notice of a proceeding in connection  
489 with the adoption of the child, imposed by:

490 (I) the last state where the unmarried biological father knew, or through the exercise of  
491 reasonable diligence should have known, that the mother resided in before the mother  
492 executed the consent to adoption or relinquishment of the child for adoption; or

493 (II) the state where the child was conceived; and

494 (C) the unmarried biological father has demonstrated, based on the totality of the  
495 circumstances, a full commitment to his parental responsibilities, as described in Subsection  
496 (1)(b); or

497 (ii) (A) the unmarried biological father knew, or through the exercise of reasonable  
498 diligence should have known, before the time the mother executed a consent to adoption or  
499 relinquishment of the child for adoption, that a qualifying circumstance existed; and

500 (B) the unmarried biological father complied with the requirements of Section  
501 78B-6-121 before the later of:

502 (I) 20 days after the day that the unmarried biological father knew, or through the  
503 exercise of reasonable diligence should have known, that a qualifying circumstance existed; or

504 (II) the time that the mother executed a consent to adoption or relinquishment of the  
505 child for adoption.

506 (2) An unmarried biological father who does not fully and strictly comply with the  
507 requirements of Section 78B-6-121 and this section is considered to have waived and  
508 surrendered any right in relation to the child, including the right to:

- 509 (a) notice of any judicial proceeding in connection with the adoption of the child; and
- 510 (b) consent, or refuse to consent, to the adoption of the child.

511 Section 11. Section **78B-6-122.5** is enacted to read:

512 **78B-6-122.5. Effect of out-of-state paternity adjudication, declaration, or**  
513 **acknowledgment.**

514 Unless a person who is an unmarried biological father has fully and strictly complied  
515 with the requirements of Sections 78B-6-120 through 78B-6-122, an out-of-state order that  
516 adjudicates paternity, or an out-of-state declaration or acknowledgment of paternity:

517 (1) only has the effect of establishing that the person is an unmarried biological father  
518 of the child to whom the order, declaration, or acknowledgment relates; and

519 (2) does not entitle the person to:

- 520 (a) notice of any judicial proceeding related to the adoption of the child;
- 521 (b) the right to consent, or refuse to consent, to the adoption of the child; or
- 522 (c) the right to custody of, control over, or visitation with the child.

523 Section 12. Section **78B-6-128** is amended to read:

524 **78B-6-128. Preplacement adoptive evaluations -- Exceptions.**

525 (1) (a) Except as otherwise provided in this section, a child may not be placed in an  
526 adoptive home until a preplacement adoptive evaluation, assessing the prospective adoptive  
527 parent and the prospective adoptive home, has been conducted in accordance with the  
528 requirements of this section.

529 (b) Except as provided in Section 78B-6-131, the court may, at any time, authorize  
530 temporary placement of a child in a potential adoptive home pending completion of a  
531 preplacement adoptive evaluation described in this section.

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

534 by half or whole blood or by adoption, grandparent, aunt, uncle, or first cousin, unless the  
535 evaluation is otherwise requested by the court. The prospective adoptive parent described in  
536 this Subsection (1)(c) shall~~[-however,]~~ obtain the information described in Subsections (2)(a)  
537 and (b), and file that documentation with the court prior to finalization of the adoption.

538 (d) The required preplacement adoptive evaluation must be completed or updated  
539 within the 12-month period immediately preceding the placement of a child with the  
540 prospective adoptive parent. If the prospective adoptive parent has previously received  
541 custody of a child for the purpose of adoption, the preplacement adoptive evaluation must be  
542 completed or updated within the 12-month period immediately preceding the placement of a  
543 child with the prospective adoptive parent and after the placement of the previous child with  
544 the prospective adoptive parent.

545 (2) The preplacement adoptive evaluation shall include:

546 (a) criminal history record information regarding each prospective adoptive parent and  
547 any other adult living in the prospective home, prepared ~~[by a law enforcement agency based~~  
548 ~~on a fingerprint criminal history check,]~~ no earlier than 18 months immediately preceding  
549 placement of the child[;] in accordance with the following:

550 (i) if the child is in state custody, each prospective adoptive parent and any other adult  
551 living in the prospective home shall:

552 (A) submit fingerprints for a Federal Bureau of Investigation national criminal history  
553 record check through the Criminal and Technical Services Division of the Department of  
554 Public Safety in accordance with the provisions of Section 62A-2-120; or

555 (B) submit to a fingerprint based Federal Bureau of Investigation national criminal  
556 history record check through a law enforcement agency in another state, district, or territory of  
557 the United States; or

558 (ii) subject to Subsection (3), if the child is not in state custody, each prospective  
559 adoptive parent and any other adult living in the prospective home shall:

560 (A) submit fingerprints for a Federal Bureau of Investigation national criminal history  
561 records check as a personal records check; or

562 (B) complete a criminal records check, if available, for each state and country where  
563 the potential adoptive parent and any adult living in the prospective adoptive home resided  
564 during the five years immediately preceding the day on which the adoption petition is to be  
565 finalized;

566 (b) a report [~~prepared by the Department of Human Services~~] containing all  
567 information regarding reports and [~~investigation~~] investigations of child abuse, neglect, and  
568 dependency, with respect to each prospective adoptive parent and any other adult living in the  
569 prospective home, obtained no earlier than 18 months immediately preceding [~~placement of~~  
570 ~~the child~~] the day on which the child is placed in the prospective home, pursuant to waivers  
571 executed by [~~those parties;~~] each prospective adoptive parent and any other adult living in the  
572 prospective home, that:

573 (i) if the prospective adoptive parent or the adult living in the prospective adoptive  
574 parent's home is a resident of Utah, is prepared by the Department of Human Services from the  
575 records of the Department of Human Services; or

576 (ii) if the prospective adoptive parent or the adult living in the prospective adoptive  
577 parent's home is not a resident of Utah, prepared by the Department of Human Services, or a  
578 similar agency in another state, district, or territory of the United States, where each  
579 prospective adoptive parent and any other adult living in the prospective home resided in the  
580 five years immediately preceding the day on which the child is placed in the prospective  
581 adoptive home;

582 (c) in accordance with Subsection (6), an evaluation conducted by:

583 (i) an expert in family relations approved by the court [or];

584 (ii) a certified social worker[;];

585 (iii) a clinical social worker[;];

586 (iv) a marriage and family therapist[;];

587 (v) a psychologist[;]; or

588 (vi) a professional counselor[; or other court-determined expert in family relations;

589 who is licensed to practice under the laws of this state or under the laws of the state where the

590 ~~prospective adoptive parent or other person living in the prospective adoptive home resides.~~  
591 ~~The evaluation shall be in a form approved by the Department of Human Services. Neither the~~  
592 ~~Department of Human Services nor any of its divisions may proscribe who qualifies as an~~  
593 ~~expert in family relations or who may conduct evaluations pursuant to this Subsection (2)];~~  
594 and

595 (d) in accordance with Subsection (7), if the child to be adopted is a child who is in  
596 the custody of any public child welfare agency, and is a child who has a special need as  
597 defined in Section 62A-4a-902, the preplacement evaluation ~~[must]~~ shall be conducted by the  
598 Department of Human Services or a child-placing agency ~~[which]~~ that has entered into a  
599 contract with the department to conduct the preplacement evaluations for children with special  
600 needs. ~~[Any fee assessed by the evaluating agency is the responsibility of the adopting parent~~  
601 ~~or parents.]~~

602 (3) For purposes of Subsection (2)(a)(ii):

603 (a) if the adoption is being handled by a human services program, as defined in  
604 Section 62A-2-101:

605 (i) the criminal history check described in Subsection (2)(a)(ii)(A) shall be submitted  
606 through the Criminal Investigations and Technical Services Division of the Department of  
607 Public Safety, in accordance with the provisions of Section 62A-2-120; and

608 (ii) subject to Subsection (4), the criminal history check described in Subsection  
609 (2)(a)(ii)(B) shall be submitted in a manner acceptable to the court that will:

610 (A) preserve the chain of custody of the results; and

611 (B) not permit tampering with the results by a prospective adoptive parent or other  
612 interested party; and

613 (b) if the adoption is being handled by a private attorney, and not a human services  
614 program, the criminal history checks described in Subsection (2)(a)(ii) shall be:

615 (i) submitted in accordance with procedures established by the Criminal Investigations  
616 and Technical Services Division of the Department of Public Safety; or

617 (ii) subject to Subsection (4), submitted in a manner acceptable to the court that will:

618           (A) preserve the chain of custody of the results; and  
619           (B) not permit tampering with the results by a prospective adoptive parent or other  
620 interested party.  
621           (4) In order to comply with Subsection (3)(a)(ii) or (b)(ii), the manner in which the  
622 criminal history check is submitted shall be approved by the court.  
623           (5) Except as provided in Subsection 78B-6-131(2), in addition to the other  
624 requirements of this section, before a child in state custody is placed with a prospective foster  
625 parent or a prospective adoptive parent, the Department of Human Services shall comply with  
626 Section 78B-6-131.  
627           (6) (a) A person described in Subsection (2)(c) shall be licensed to practice under the  
628 laws of:  
629           (i) this state; or  
630           (ii) the state, district, or territory of the United States where the prospective adoptive  
631 parent or other person living in the prospective adoptive home resides.  
632           (b) The evaluation described in Subsection (2)(c) shall be in a form approved by the  
633 Department of Human Services.  
634           (c) Neither the Department of Human Services nor any of its divisions may proscribe  
635 who qualifies as an expert in family relations or who may conduct evaluations under  
636 Subsection (2)(c).  
637           (7) Any fee assessed by the evaluating agency described in Subsection (2)(d) is the  
638 responsibility of the adopting parent or parents.  
639           ~~[(3)]~~ (8) The person or agency conducting the preplacement adoptive evaluation shall,  
640 in connection with the evaluation, provide the prospective adoptive parent or parents with  
641 literature approved by the Division of Child and Family Services relating to adoption, ~~[and]~~  
642 including information relating to:  
643           (a) the adoption process~~[-]~~;  
644           (b) developmental issues that may require early intervention~~[-]~~; and  
645           (c) community resources that are available to the adoptive parent or parents.

646 [~~(4)~~] (9) A copy of the preplacement adoptive evaluation shall be filed with the court.

647 Section 13. Section **78B-6-129** is amended to read:

648 **78B-6-129. Postplacement adoptive evaluations.**

649 (1) Except as provided in Subsections (2) and (3), a postplacement evaluation shall be  
650 conducted and submitted to the court prior to the final hearing in an adoption proceeding. The  
651 postplacement evaluation shall include:

- 652 (a) verification of the allegations of fact contained in the petition for adoption;
- 653 (b) an evaluation of the progress of the child's placement in the adoptive home; and
- 654 (c) a recommendation regarding whether the adoption is in the best interest of the  
655 child.

656 (2) The exemptions from and requirements for evaluations, described in Subsections  
657 78B-6-128(1)(c), (2)(c), (6), and [~~(3)~~] (8), also apply to postplacement adoptive evaluations.

658 (3) Upon the request of the petitioner, the court may waive the postplacement adoptive  
659 evaluation, unless it determines that it is in the best interest of the child to require the  
660 postplacement evaluation. Except where the child to be adopted and the prospective parent  
661 are related as set forth in Subsection 78B-6-128(1)(c), the court may waive the postplacement  
662 adoptive evaluation for a child who has a special need as defined in Section 62A-4a-902.

663 Section 14. Section **78B-6-133** is amended to read:

664 **78B-6-133. Contested adoptions -- Rights of parties -- Determination of custody.**

665 (1) If a person whose consent for an adoption is required pursuant to Subsection  
666 78B-6-120(1)(b), (c), (d), (e), or (f) refused to consent, the court shall determine whether  
667 proper grounds exist for the termination of that person's rights pursuant to the provisions of  
668 this chapter or Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act.

669 (2) (a) If there are proper grounds to terminate the person's parental rights, the court  
670 shall order that the person's rights be terminated.

671 (b) If there are not proper grounds to terminate the person's parental rights, the court  
672 shall:

- 673 (i) dismiss the adoption petition;



674 (ii) conduct an evidentiary hearing to determine who should have custody of the child;  
 675 and

676 (iii) award custody of the child in accordance with the child's best interest.

677 (3) Evidence considered at the custody hearing may include:

678 (a) evidence of psychological or emotional bonds that the child has formed with a  
 679 third person, including the prospective adoptive parent; and

680 (b) any detriment that a change in custody may cause the child.

681 (4) ~~[The]~~ If the court dismisses the adoption petition, the fact that a person  
 682 relinquished a child for adoption or consented to the adoption may not be considered as  
 683 evidence in a custody proceeding described in this section, or in any subsequent custody  
 684 proceeding, that it is not in the child's best interest for custody to be awarded to such person or  
 685 that:

686 (a) the person is unfit or incompetent to be a parent;

687 (b) the person has neglected or abandoned the child; ~~[or]~~

688 (c) the person is not interested in having custody of the child~~[-];~~ or

689 (d) the person has forfeited the person's parental presumption.

690 (5) Any custody order entered pursuant to this section may also:

691 (a) include provisions for:

692 (i) parent-time ~~[by a biological parent]~~; or

693 (ii) visitation by an interested third party; and

694 (b) provide for the financial support of the child.

695 (6) (a) If a person or entity whose consent is required for an adoption under Subsection  
 696 78B-6-120(1)(a) or (g) refuses to consent, the court shall proceed with an evidentiary hearing  
 697 and award custody as set forth in Subsection (2).

698 (b) The court may also finalize the adoption if doing so is in the best interest of the  
 699 child.

700 (7) (a) A person may not contest an adoption after the final decree of adoption is  
 701 entered, if that person:

- 702 (i) was a party to the adoption proceeding;
- 703 (ii) was served with notice of the adoption proceeding; or
- 704 (iii) executed a consent to the adoption or relinquishment for adoption.

705 (b) No person may contest an adoption after one year from the day on which the final  
706 decree of adoption is entered.

707 (c) The limitations on contesting an adoption action, described in this Subsection (7),  
708 apply to all attempts to contest an adoption:

- 709 (i) regardless of whether the adoption is contested directly or collaterally; and
- 710 (ii) regardless of the basis for contesting the adoption, including claims of fraud,  
711 duress, undue influence, lack of capacity or competency, mistake of law or fact, or lack of  
712 jurisdiction.

713 (d) The limitations on contesting an adoption action, described in this Subsection (7),  
714 do not prohibit a timely appeal of:

- 715 (i) a final decree of adoption; or
- 716 (ii) a decision in an action challenging an adoption, if the action was brought within  
717 the time limitations described in Subsections (7)(a) and (b).

718 Section 15. Section **78B-6-135** is amended to read:

719 **78B-6-135. Division of Child and Family Services -- Duties -- Report -- Fee.**

720 (1) At the request of the court, the division, through its field agents, persons licensed  
721 by the division for the care and placement of children, or through the probation officer of the  
722 juvenile court or court of like jurisdiction of the county, under the division's supervision, shall:

- 723 (a) verify the allegations of the petition for adoption of a minor child;
- 724 (b) make a thorough investigation of the matter; and
- 725 (c) report the division's findings in writing to the court.

726 (2) (a) When the court requests an investigation under Subsection (1), the court shall  
727 serve a copy of the petition, together with a statement containing the names and addresses of  
728 the child and petitioners, on the division by certified mail.

729 (b) The division, or the person appointed by the division, shall complete the

730 investigation described in Subsection (2)(a) and submit a written report to the court within 60  
731 days after the day that the petition is served on the division.

732 (3) (a) The division shall charge the petitioner a reasonable fee for the services  
733 provided under this section.

734 (b) Fees collected shall be deposited in the General Fund.

735 (4) The written report submitted to the court under this section shall state:

736 (a) why the birth parents, if living, desire to be released from the care, support, and  
737 guardianship of the child;

738 (b) whether the birth parents have abandoned the child or are morally unfit for  
739 custody;

740 (c) whether the proposed adoptive parent or parents are financially able and morally fit  
741 to have the care, supervision, and training of the child;

742 (d) the physical and mental condition of the child, so far as that may be determined;  
743 and

744 (e) any other facts and circumstances pertaining to the child and the child's welfare.

745 (5) (a) The court shall conduct a full hearing on the petition for adoption and examine  
746 the parties in interest under oath.

747 (b) The court may adjourn the hearing from time to time as the nature of the case  
748 requires.

749 (6) If the report submitted by the division under Subsection (2) disapproves of the  
750 adoption of the child by the petitioner, the court may dismiss the petition.

751 ~~[(7) (a) Except as provided in Subsection (7)(b), a final decree of adoption may not be~~  
752 ~~entered until the child has lived in the home of the adoptive parent or parents for six months,~~  
753 ~~unless, based on a finding of good cause, the court orders that the final decree of adoption may~~  
754 ~~be entered at an earlier time.]~~

755 ~~[(b) If the adoptive parent is the spouse of the birth parent, a final decree of adoption~~  
756 ~~may not be entered until the child has lived in the home of that adoptive parent for one year,~~  
757 ~~unless, based on a finding of good cause, the court orders that the final decree of adoption may~~

758 ~~be entered at an earlier time.]~~

759 ~~[(c) In the event the child dies during the time that the child is placed in the home of~~  
760 ~~an adoptive parent or parents for the purpose of adoption, the court has authority to enter a~~  
761 ~~final decree of adoption after the child's death upon the request of the adoptive parents.]~~

762 ~~[(d) The court may enter a final decree of adoption declaring that a child is adopted by~~  
763 ~~both a deceased and a surviving adoptive parent if, after the child is placed in the home of the~~  
764 ~~child's adoptive parents:]~~

765 ~~[(i) one of the adoptive parents dies;]~~

766 ~~[(ii) the surviving adoptive parent requests that the court enter the decree; and]~~

767 ~~[(iii) the decree is entered after the child has lived in the home of the surviving~~  
768 ~~adoptive parent for at least six months.]~~

769 ~~[(e) Upon request of a surviving birth parent, or a surviving parent for whom adoption~~  
770 ~~of a child has been finalized, the court may enter a final decree of adoption declaring that a~~  
771 ~~child is adopted by a deceased adoptive parent who was the spouse of the surviving parent at~~  
772 ~~the time of the adoptive parent's death.]~~

773 ~~[(f) The court may enter a final decree of adoption declaring that a child is adopted by~~  
774 ~~both deceased adoptive parents if:]~~

775 ~~[(i) both of the adoptive parents die after the child is placed in the adoptive parent's~~  
776 ~~home; and]~~

777 ~~[(ii) it is in the best interests of the child to enter the decree.]~~

778 ~~[(8) Nothing in this section shall be construed to grant any rights to the birth parents~~  
779 ~~of a child to assert any interest in the child during the six-month or one-year periods described~~  
780 ~~in this section.]~~

781 Section 16. Section **78B-6-136.5** is enacted to read:

782 **78B-6-136.5. Timing of entry of final decree of adoption -- Posthumous adoption.**

783 (1) Except as provided in Subsection (2), a final decree of adoption may not be  
784 entered until the child has lived in the home of the adoptive parent or parents for six months,  
785 unless, based on a finding of good cause, the court orders that the final decree of adoption may

786 be entered at an earlier time.

787 (2) If the adoptive parent is the spouse of the birth parent, a final decree of adoption  
788 may not be entered until the child has lived in the home of that adoptive parent for one year,  
789 unless, based on a finding of good cause, the court orders that the final decree of adoption may  
790 be entered at an earlier time.

791 (3) If the child dies during the time that the child is placed in the home of an adoptive  
792 parent or parents for the purpose of adoption, the court has authority to enter a final decree of  
793 adoption after the child's death upon the request of the adoptive parents.

794 (4) The court may enter a final decree of adoption declaring that a child is adopted by  
795 both a deceased and a surviving adoptive parent if, after the child is placed in the home of the  
796 child's adoptive parents:

797 (a) one of the adoptive parents dies;

798 (b) the surviving adoptive parent requests that the court enter the decree; and

799 (c) the decree is entered after the child has lived in the home of the surviving adoptive  
800 parent for at least six months.

801 (5) Upon request of a surviving birth parent, or a surviving parent for whom adoption  
802 of a child has been finalized, the court may enter a final decree of adoption declaring that a  
803 child is adopted by a deceased adoptive parent who was the spouse of the surviving parent at  
804 the time of the adoptive parent's death.

805 (6) The court may enter a final decree of adoption declaring that a child is adopted by  
806 both deceased adoptive parents if:

807 (a) both of the adoptive parents die after the child is placed in the adoptive parent's  
808 home; and

809 (b) it is in the best interests of the child to enter the decree.

810 (7) Nothing in this section shall be construed to grant any rights to the pre-existing  
811 parents of a child to assert any interest in the child during the six-month or one-year periods  
812 described in this section.

813 Section 17. Section **78B-6-138** is amended to read:

814 **78B-6-138. Pre-existing parent's rights and duties dissolved.**

815 (1) A [~~biological~~] pre-existing parent of an adopted child is released from all parental  
816 duties toward and all responsibilities for the adopted child, including residual rights, and has  
817 no further rights with regard to that child at the earlier of:

818 (a) the time the pre-existing parent's parental rights are terminated; or

819 (b) except as provided in Subsection (2), and subject to Subsection (3), the time the  
820 final decree of adoption is entered.

821 (2) The rights and duties of a [~~biological~~] pre-existing parent described in Subsection  
822 (1) who, at the time the child is adopted, is lawfully married to the person adopting the child  
823 are not released or terminated under Subsection (1)(b).

824 (3) The rights and duties of a [~~biological~~] pre-existing parent described in Subsection  
825 (1) who, at the time the child is adopted, is not lawfully married to the person adopting the  
826 child are terminated as provided in Subsection (1)(b).

827 Section 18. Section **78B-6-140** is amended to read:

828 **78B-6-140. Itemization of fees and expenses.**

829 (1) Except as provided in Subsection (4), prior to the date that a final decree of  
830 adoption is entered, an affidavit regarding fees and expenses, signed by the adoptive parent or  
831 parents and the person or agency placing the child, shall be filed with the court.

832 (2) The affidavit described in Subsection (1) shall itemize the following items in  
833 connection with the adoption:

834 (a) all legal expenses, maternity expenses, medical or hospital expenses, and living  
835 expenses that have been or will be paid to or on behalf of the [~~birth mother or biological~~  
836 ~~father~~] pre-existing parents of the child, including the source of payment;

837 (b) fees paid by the prospective adoptive parent or parents in connection with the  
838 adoption;

839 (c) all gifts, property, or other items that have been or will be provided to the [~~birth~~  
840 ~~mother or biological father~~] pre-existing parents, including the source of the gifts, property, or  
841 other items;

- 842 (d) all public funds used for any medical or hospital costs in connection with the:
- 843 (i) pregnancy;
- 844 (ii) delivery of the child; or
- 845 (iii) care of the child;
- 846 (e) the state of residence of the:
- 847 (i) birth mother or the pre-existing parents; and
- 848 (ii) prospective adoptive parent or parents;
- 849 (f) a description of services provided to the prospective adoptive [~~parent or~~ parents or
- 850 ~~biological~~] pre-existing parents in connection with the adoption; and
- 851 (g) that Section 76-7-203 has not been violated.

852 (3) A copy of the affidavit described in Subsection (1) shall be provided to the Office  
853 of Licensing within the Department of Human Services.

854 (4) This section does not apply if the adoptive parent is the legal spouse of the birth  
855 parent.

856 Section 19. Section **78B-15-104** is amended to read:

857 **78B-15-104. Adjudication -- Jurisdiction.**

858 (1) The district court, the juvenile court, and the Office of Recovery Services in  
859 accordance with Section 62A-11-304.2 and Title 63G, Chapter 4, Administrative Procedures  
860 Act, are authorized to adjudicate parentage under Parts 1 through 6, and Part 9 of this chapter.

861 (2) The district court and the juvenile court have jurisdiction over proceedings under  
862 Parts 7 and 8.

863 (3) The court shall, without adjudicating paternity, dismiss a petition that is filed  
864 under this chapter by an unmarried biological father if he is not entitled to consent to the  
865 adoption of the child under Sections 78B-6-121 and 78B-6-122.