

**Representative Jim Nielson** proposes the following substitute bill:

**ADOPTION RECORDS ACCESS AMENDMENTS**

2013 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jim Nielson**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies Title 78B, Chapter 6, Particular Proceedings, by amending the procedures for disclosing information in an adoption record and creating a restricted account.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ states that for an adoption finalized before March 22, 1941, the original birth certificate shall be made available upon request;
- ▶ permits the release of identifying information about a birth mother, with her permission, under certain circumstances;
- ▶ authorizes the Office of Vital Records and Statistics to collect a fee from an adult adoptee accessing the mutual-consent, voluntary adoption registry, and directs the office to deposit money in a designated restricted account;
- ▶ directs the Office of Vital Records and Statistics to, as funding allows:
  - implement broad search terms and methods when attempting to find a match in the mutual-consent, voluntary adoption registry; and
  - advertise the services offered by the mutual-consent, voluntary adoption



26 registry;

27       ▶ authorizes the Office of Vital Records and Statistics to partner with a private or  
28 nonprofit organization to seek private funding for advertising and the operation of  
29 the mutual-consent, voluntary adoption registry;

30       ▶ requires an annual report on the effectiveness of the mutual-consent, voluntary  
31 adoption registry to the Health and Human Services Interim Committee; and

32       ▶ makes technical changes.

33 **Money Appropriated in this Bill:**

34 This bill appropriates:

35       ▶ to the General Fund Restricted - Mutual-Consent, Voluntary Adoption Registry  
36 Restricted Account as an ongoing appropriation:

37       • from the General fund, \$50,000;

38       ▶ to the Department of Health - Office of Vital Statistics:

39       • from the Mutual-Consent, Voluntary Adoption Registry Restricted Account,  
40 \$50,000, subject to intent language that the appropriation shall be used to fund  
41 programs and services described in Section 78B-6-144.

42 **Other Special Clauses:**

43 None

44 **Utah Code Sections Affected:**

45 AMENDS:

46 **78B-6-141**, as last amended by Laws of Utah 2012, Chapter 340

47 **78B-6-144**, as last amended by Laws of Utah 2012, Chapter 340

48 ENACTS:

49 **78B-6-144.5**, Utah Code Annotated 1953



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

52 Section 1. Section **78B-6-141** is amended to read:

53 **78B-6-141. Petition, report, and documents sealed -- Exceptions.**

54 (1) As used in this section:

55 (a) "Adult adoptee" means a person at least 18 years old who was adopted as a child.

56 (b) "Identifying information" means information that may lead to the positive

57 identification of a birth parent, adoptee, or other biological relative, including a name, address,  
58 or place of employment.

59 [(1) A] (2) For an adoption that is finalized before January 1, 2014, a petition for  
60 adoption, the written report described in Section 78B-6-135, and any other documents filed in  
61 connection with the petition are sealed.

62 (3) For an adoption finalized before March 22, 1941, the original birth certificate shall  
63 be made available for inspection pursuant to Subsection 26-2-22(2).

64 (4) For an adoption that is finalized on or after January 1, 2014, a petition for adoption,  
65 the written report described in Section 78B-6-135, and any other documents filed in connection  
66 with the petition:

67 (a) the original documents are sealed; and

68 (b) except as provided in Subsection (5), upon written request in the form established  
69 by the office, the office shall make copies of the original documents in the possession of the  
70 office available for inspection to:

71 (i) an adoptive parent who was a party to the adoption; or

72 (ii) an adult adoptee.

73 (5) (a) For an adoption that is finalized on or after January 1, 2014, a birth mother may  
74 elect, in writing at the time of finalization, to refuse to permit identifying information about the  
75 birth mother to be made available by the office for inspection by any individual.

76 (b) If a birth mother elects under Subsection (5)(a) to refuse to permit identifying  
77 information about the birth mother to be made available for inspection, the office shall redact  
78 all identifying information about the birth mother in the documents described Subsection  
79 (4)(b).

80 (c) A birth mother may, at any time:

81 (i) change the election described in Subsection (5)(a); or

82 (ii) elect to make other information, including an updated medical history, available for  
83 inspection by a party to the adoption or adult adoptee, if she makes the election in writing.

84 [(2)] (6) The documents described in Subsection [(1)] (2) may only be open to  
85 inspection as follows:

86 (a) in accordance with Subsection [(3)] (7)(a), by a party to the adoption proceeding:

87 (i) while the proceeding is pending; or

- 88 (ii) within six months after the day on which the adoption decree is entered;
- 89 (b) subject to Subsection [~~(3)~~] (7)(b), a court enters an order permitting access to the
- 90 documents by a person who has appealed the denial of that person's motion to intervene;
- 91 (c) upon order of the court expressly permitting inspection or copying, after good cause
- 92 has been shown;
- 93 (d) as provided under Section 78B-6-144;
- 94 (e) those records shall become public on the one hundredth anniversary of the date the
- 95 final decree of adoption was entered; or
- 96 (f) if the adoptee is an adult at the time the final decree of adoption is entered, the
- 97 documents described in this section are open to inspection and copying without a court order
- 98 by the adoptee or a parent who adopted the adoptee, unless the final decree of adoption is
- 99 entered by the juvenile court under Subsection 78B-6-115(3)(b).

100 [~~(3)~~] (7) (a) A person who files a motion to intervene in an adoption proceeding:

101 (i) is not a party to the adoption proceeding, unless the motion to intervene is granted;

102 and

103 (ii) may not be granted access to the documents described in Subsection [~~(1)~~] (2),

104 unless the motion to intervene is granted.

105 (b) An order described in Subsection [~~(2)~~] (6)(b) shall:

106 (i) prohibit the person described in Subsection [~~(2)~~] (6)(b) from inspecting a document

107 described in Subsection [~~(1)~~] (2) that contains identifying information of the adoptive or

108 prospective adoptive parent; and

109 (ii) permit the person described in Subsection [~~(3)~~] (7)(b)(i) to review a copy of a

110 document described in Subsection [~~(3)~~] (7)(b)(i) after the identifying information described in

111 Subsection [~~(3)~~] (7)(b)(i) is redacted from the document.

112 (8) A birth mother who opts out of disclosure of information under Subsection (5), may

113 participate in the mutual-consent, voluntary adoption registry described in Section 78B-6-144.

114 (9) The office may charge a fee to an individual who requests information under this

115 section or changes an election under Subsection (5)(c), limited to:

116 (a) the cost of providing the service; and

117 (b) an additional fee, to be set by the office by rule, and to be deposited in the

118 Mutual-Consent, Voluntary Adoption Registry Restricted Account to fund the activities

119 described in Subsection 78B-6-144(7).

120 Section 2. Section **78B-6-144** is amended to read:

121 **78B-6-144. Mutual-consent, voluntary adoption registry -- Procedures -- Fees.**

122 (1) As used in this section, "adult adoptee" is as defined in Section 78B-6-141.

123 ~~(+)~~ (2) The office shall establish a mutual-consent, voluntary adoption registry.

124 (a) ~~[Adult adoptees]~~ An adult adoptee and a birth ~~[parents]~~ parent of an adult  
125 ~~[adoptees]~~ adoptee, upon presentation of positive identification, may request identifying  
126 information from the office, in the form established by the office. A court of competent  
127 jurisdiction or a child-placing agency may accept that request from the adult adoptee or birth  
128 parent, in the form provided by the office, and transfer that request to the office. The adult  
129 adoptee or birth parent is responsible for notifying the office of any change in information  
130 contained in the request.

131 (b) The office may only release identifying information to an adult adoptee or birth  
132 parent;

133 (i) when it receives requests from both the adoptee and the adoptee's birth parent[-]; or

134 (ii) pursuant to Subsections 78B-6-141(3) through (7).

135 (c) After matching the request of an adult adoptee with that of at least one of the  
136 adoptee's birth parents, the office shall notify both the adoptee and the birth parent that the  
137 requests have been matched, and disclose the identifying information to those parties.  
138 However, if that adult adoptee has a sibling of the same birth parent who is under the age of 18  
139 years, and who was raised in the same family setting as the adult adoptee, the office shall not  
140 disclose the requested identifying information to that adult adoptee or the adoptee's birth  
141 parent.

142 ~~(2)~~ (3) (a) Adult adoptees and adult siblings of adult adoptees, upon presentation of  
143 positive identification, may request identifying information from the office, in the form  
144 established by the office. A court of competent jurisdiction or a child-placing agency may  
145 accept that request from the adult adoptee or adult sibling, in the form provided by the office,  
146 and transfer that request to the office. The adult adoptee or adult sibling is responsible for  
147 notifying the office of any change in information contained in the request.

148 (b) The office may only release identifying information to an adult adoptee or adult  
149 sibling when it receives requests from both the adoptee and the adoptee's adult sibling.

150 (c) After matching the request of an adult adoptee with that of the adoptee's adult  
151 sibling, if the office ~~[has been provided with]~~ determined it has sufficient information to make  
152 that match, the office shall notify both the adoptee and the adult sibling that the requests have  
153 been matched, and disclose the identifying information to those parties.

154 (d) After receiving a request for information from an adult adoptee under this section,  
155 the office shall:

156 (i) search the office's vital records for the adult adoptee's birth parent; and

157 (ii) if the search described in Subsection (3)(d)(i) reveals that adult adoptee's birth  
158 parent is dead, inform the adult adoptee that the birth parent is dead and disclose the identity of  
159 the birth parent.

160 (e) The office shall attempt to notify an individual who requests information under this  
161 section:

162 (i) of the results of the initial search for a match; and

163 (ii) if the initial search does not produce a match, that the office will keep the request  
164 on file and the office shall attempt to notify the individual in the event of a match.

165 ~~[(3)]~~ (4) Information registered with the [bureau] office under this section is available  
166 only to a registered adult adoptee and the adoptee's registered birth parent or registered adult  
167 sibling, under the terms of this section.

168 ~~[(4)]~~ (5) Information regarding a birth parent who has not registered a request with the  
169 [bureau] office may not be disclosed, except as provided in Section 78B-6-141.

170 ~~[(5)]~~ (6) The [bureau may] office shall:

171 (a) charge an adult adoptee:

172 (i) a fee for the cost of providing services [provided] under this section[~~, limited to the~~  
173 cost of providing those services.]; and

174 (ii) an additional fee, to be set by the office by rule.

175 (b) deposit any funds received under Subsection (6)(a)(ii) in the Mutual-Consent,  
176 Voluntary Adoption Registry Restricted Account created under Section 78B-6-144.5.

177 (7) The office shall, as funding in the Mutual-Consent, Voluntary Adoption Registry  
178 Donation Fund allow:

179 (a) automate the processes to operate the mutual-consent, voluntary adoption registry;

180 (b) maximize potential matches by utilizing broad search terms and methods; and

181 (c) advertise the services provided by the mutual-consent, voluntary adoption registry,  
 182 including providing registration forms to local motor vehicle division offices for distribution  
 183 with vehicle registration information.

184 (8) The office may:

185 (a) partner with a private or nonprofit organization to seek funding for activities  
 186 authorized under this section, which shall be deposited in the Mutual-Consent, Voluntary  
 187 Adoption Registry Donation Fund created under Section 78B-6-144.5; and

188 (b) contract with a private or nonprofit organization to supplement the advertising  
 189 described in Subsection (7)(b).

190 (9) The office shall work with the ~~H~~→ [Department of Transportation] Tax  
 190a Commission ←~~H~~ to develop language  
 191 advertising the services provided by the mutual-consent, voluntary adoption registry to be  
 192 included on vehicle registration forms.

193 (10) The office shall make an annual report on the effectiveness of the mutual-consent,  
 194 voluntary adoption registry to the Health and Human Services Interim Committee.

195 (11) Nothing in this section shall limit the disclosure of information as described in  
 196 Section 78B-6-141.

197 Section 3. Section **78B-6-144.5** is enacted to read:

198 **78B-6-144.5. Mutual-Consent, Voluntary Adoption Registry Restricted Account.**

199 (1) (a) There is created a restricted account within the General Fund known as the  
 200 "Mutual-Consent, Voluntary Adoption Registry Restricted Account."

201 (b) The Mutual-Consent Voluntary Adoption Registry Restricted Account consists of  
 202 money that the Legislature appropriates into the account, and fees the Office of Vital Records  
 203 and Statistics deposits into the account under Sections 78B-6-141 and 78B-6-144.

204 (2) The Legislature shall appropriate funds from the account described in Subsection  
 205 (1) to fund the services provided by the Office of Vital Records and Statistics in maintaining  
 206 and operating the mutual-consent adoption registry, and advertising the service provided by the  
 207 registry.

208 (3) (a) There is created a restricted special revenue fund known as the  
 209 "Mutual-Consent, Voluntary Adoption Registry Donation Fund."

210 (b) The fund described in Subsection (3)(a) shall be funded by donations and grants  
 211 from public or private entities, and interest on those donations and grants.

212 (4) The office may spend money in the Mutual-Consent, Voluntary Adoption Registry  
213 Donation Fund to fund activities described in Section 78B-6-144.

214 (5) The office may not spend money in the Mutual-Consent, Voluntary Adoption  
215 Registry Donation Fund except as described in Subsection (4).

216 Section 4. **Appropriation.**

217 Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for  
218 the fiscal year beginning July 1, 2013, and ending June 30, 2014, the following sums of money  
219 are appropriated from resources not otherwise appropriated, or reduced from amounts  
220 previously appropriated, out of the funds or accounts indicated. These sums of money are in  
221 addition to any amounts previously appropriated for fiscal year 2014.

222 To General Fund Restricted - Mutual-Consent Voluntary Adoption  
223 Registry Restricted Account

224 From General Fund \$50,000

225 Schedule of Programs:

226 Mutual-Consent, Voluntary Adoption Registry

227 Restricted Account \$50,000

228 To Department of Health, Executive Director's Operations

229 From General Fund Restricted - Mutual-Consent, Voluntary

230 Adoption Registry Restricted Account \$50,000

231 Schedule of Programs:

232 Office of Health Data \$50,000

233 The Legislature intends that appropriations provided under this section be used by the  
234 Office of Vital Statistics to fund programs and services described in 78B-6-144.

235 Under Section 63J-1-603, the Legislature intends that appropriations provided under  
236 this section not lapse at the close of fiscal year 2014. The use of any nonlapsing funds is  
237 limited to fund programs and services described in Section 78B-6-144.