

1 **ADOPTION RECORDS ACCESS AMENDMENTS**

2 2014 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Jim Nielson**

5 Senate Sponsor: _____

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies Title 78B, Chapter 6, Part 1, Utah Adoption Act, by amending
10 provisions relating to disclosing information in an adoption record and by requiring the
11 Office of Vital Statistics to establish a fee relating to requesting adoption information.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ defines terms;
- 15 ▶ establishes procedures and requirements for the Office of Vital Records and
16 Statistics (the office) to make the original birth certificate, for an adoption finalized
17 before March 22, 1941, available for inspection;
- 18 ▶ provides that copies of adoption documents, relating to an adoption finalized on or
19 after January 1, 2015, shall be made available for inspection:
- 20 • by an adult party to the adoption proceeding, unless the birth mother specifies
21 otherwise; or
- 22 • as otherwise provided in Title 78B, Chapter 6, Part 1, Utah Adoption Act;
- 23 ▶ provides that a birth mother may elect to make additional information, including an
24 updated medical history, available for inspection by a party to the adoption
25 proceeding;
- 26 ▶ provides for the establishment of fees relating to use of the Mutual-Consent,
27 Voluntary Adoption Registry (the registry) and other requests for adoption records;



- 28 ▶ provides for the release of information from the registry if the birth parent dies;
- 29 ▶ provides for funding, automating, improving, and advertising the services described
- 30 in this bill;
- 31 ▶ requires the office to establish a fee relating to requesting adoption information and
- 32 describes the funding and use of the fee; and
- 33 ▶ makes technical changes.

34 Money Appropriated in this Bill:

35 This bill appropriates:

- 36 ▶ to the Department of Health - Adoption Records Access:
 - 37 • from the General Fund, \$50,000, subject to intent language that the
 - 38 appropriation shall be used for the purposes described in Subsection
 - 39 [78B-6-144.5\(2\)](#); and
 - 40 • from Dedicated Credits Revenue, \$26,200, subject to intent language that the
 - 41 appropriation shall be used for the purposes described in Subsection
 - 42 [78B-6-144.5\(2\)](#).

43 Other Special Clauses:

44 None

45 Utah Code Sections Affected:

46 AMENDS:

- 47 [26-2-10](#), as last amended by Laws of Utah 2008, Chapter 3
- 48 [26-2-22](#), as last amended by Laws of Utah 2012, Chapter 391
- 49 [63J-1-602.5](#), as last amended by Laws of Utah 2011, Chapters 208, 303, and 342
- 50 [78B-6-103](#), as last amended by Laws of Utah 2012, Chapter 340
- 51 [78B-6-115](#), as last amended by Laws of Utah 2012, Chapter 340
- 52 [78B-6-116](#), as renumbered and amended by Laws of Utah 2008, Chapter 3
- 53 [78B-6-141](#), as last amended by Laws of Utah 2012, Chapter 340
- 54 [78B-6-144](#), as last amended by Laws of Utah 2012, Chapter 340

55 ENACTS:

- 56 [78B-6-144.5](#), Utah Code Annotated 1953



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

59 Section 1. Section **26-2-10** is amended to read:

60 **26-2-10. Supplementary certificate of birth.**

61 (1) Any person born in this state who is legitimized by the subsequent marriage of [~~his~~
62 the person's natural parents, or whose parentage has been determined by any U.S. state court or
63 Canadian provincial court having jurisdiction, or who has been legally adopted under the law
64 of this or any other state or any province of Canada, may request the state registrar to register a
65 supplementary certificate of birth on the basis of that status.

66 (2) The application for registration of a supplementary certificate may be made by the
67 person requesting registration, if [~~he~~] the person is of legal age, by a legal representative, or by
68 any agency authorized to receive children for placement or adoption under the laws of this or
69 any other state.

70 (3) (a) The state registrar shall require that an applicant submit identification and proof
71 according to department rules.

72 (b) In the case of an adopted person, that proof may be established by order of the court
73 in which the adoption proceedings were held.

74 (4) (a) After the supplementary certificate is registered, any information disclosed from
75 the record shall be from the supplementary certificate.

76 (b) Access to the original certificate and to the evidence submitted in support of the
77 supplementary certificate are not open to inspection except [~~upon the order of a Utah district~~
78 court or] as provided under Section [78B-6-141](#) or [78B-6-144](#).

79 Section 2. Section **26-2-22** is amended to read:

80 **26-2-22. Inspection of vital records.**

81 (1) (a) The vital records shall be open to inspection, but only in compliance with the
82 provisions of this chapter, department rules, and [~~Section~~] Sections [78B-6-141](#) and [78B-6-144](#).

83 (b) It is unlawful for any state or local officer or employee to disclose data contained in
84 vital records contrary to this chapter or department rule.

85 (c) A custodian of vital records may permit inspection of a vital record or issue a
86 certified copy of a record or a part of a record when the custodian is satisfied that the applicant
87 has demonstrated a direct, tangible, and legitimate interest.

88 (2) A direct, tangible, and legitimate interest in a vital record is present only if:

89 (a) the request is from:

- 90 (i) the subject;
- 91 (ii) a member of the subject's immediate family;
- 92 (iii) the guardian of the subject;
- 93 (iv) a designated legal representative of the subject; or
- 94 (v) a person, including a child-placing agency as defined in Section 78B-6-103, with
- 95 whom a child has been placed pending finalization of an adoption of the child;

96 (b) the request involves a personal or property right of the subject of the record;

97 (c) the request is for official purposes of a public health authority or a state, local, or

98 federal governmental agency;

99 (d) the request is for a statistical or medical research program and prior consent has

100 been obtained from the state registrar; or

101 (e) the request is a certified copy of an order of a court of record specifying the record

102 to be examined or copied.

103 (3) For purposes of Subsection (2):

104 (a) "immediate family member" means a spouse, child, parent, sibling, grandparent, or

105 grandchild;

106 (b) a designated legal representative means an attorney, physician, funeral service

107 director, genealogist, or other agent of the subject or the subject's immediate family who has

108 been delegated the authority to access vital records;

109 (c) except as provided in Title 78B, Chapter 6, Part 1, Utah Adoption Act, a parent, or

110 the immediate family member of a parent, who does not have legal or physical custody of or

111 visitation or parent-time rights for a child because of the termination of parental rights pursuant

112 to Title 78A, Chapter 6, Juvenile Court Act of 1996, or by virtue of consenting to or

113 relinquishing a child for adoption pursuant to Title 78B, Chapter 6, Part 1, Utah Adoption Act,

114 may not be considered as having a direct, tangible, and legitimate interest; and

115 (d) a commercial firm or agency requesting names, addresses, or similar information

116 may not be considered as having a direct, tangible, and legitimate interest.

117 (4) Upon payment of a fee established in accordance with Section 63J-1-504, the

118 following records shall be available to the public:

119 (a) except as provided in Subsection 26-2-10(4)(b), a birth record, excluding

120 confidential information collected for medical and health use, if 100 years or more have passed

121 since the date of birth;

122 (b) a death record if 50 years or more have passed since the date of death; and

123 (c) a vital record not subject to Subsection (4)(a) or (b) if 75 years or more have passed
124 since the date of the event upon which the record is based.

125 Section 3. Section **63J-1-602.5** is amended to read:

126 **63J-1-602.5. List of nonlapsing funds and accounts -- Title 64 and thereafter.**

127 (1) Funds collected by the housing of state probationary inmates or state parole
128 inmates, as provided in Subsection [64-13e-104\(2\)](#).

129 (2) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and
130 State Lands, as provided in Section [65A-8-103](#).

131 (3) The Department of Human Resource Management user training program, as
132 provided in Section [67-19-6](#).

133 (4) Funds for the University of Utah Poison Control Center program, as provided in
134 Section [69-2-5.5](#).

135 (5) The Traffic Noise Abatement Program created in Section [72-6-112](#).

136 (6) Certain funds received by the Office of the State Engineer for well drilling fines or
137 bonds, as provided in Section [73-3-25](#).

138 (7) Certain money appropriated from the Water Resources Conservation and
139 Development Fund, as provided in Section [73-23-2](#).

140 (8) Certain funds appropriated for compensation for special prosecutors, as provided in
141 Section [77-10a-19](#).

142 (9) Funds donated or paid to a juvenile court by private sources, as provided in
143 Subsection [78A-6-203\(1\)\(c\)](#).

144 (10) A state rehabilitative employment program, as provided in Section [78A-6-210](#).

145 (11) Fees for certificate of admission created under Section [78A-9-102](#).

146 (12) The money for the Utah Geological Survey, as provided in Section [79-3-401](#).

147 (13) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State
148 Park, Jordan River State Park, and Green River State Park, as provided under Section
149 [79-4-403](#).

150 (14) Certain funds received by the Division of Parks and Recreation from the sale or
151 disposal of buffalo, as provided under Section [79-4-1001](#).

152 (15) The Bonneville Shoreline Trail Program created under Section 79-5-503.
153 (16) Funds appropriated and collected for adoption records access as provided in
154 Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

155 Section 4. Section 78B-6-103 is amended to read:

156 **78B-6-103. Definitions.**

157 As used in this part:

158 (1) "Adoptee" means a person who:

159 (a) is the subject of an adoption proceeding; or

160 (b) has been legally adopted.

161 (2) "Adoption" means the judicial act that:

162 (a) creates the relationship of parent and child where it did not previously exist; and

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

164 any other person with respect to the child.

165 (3) "Adoption documents" means a petition for adoption, the written report described
166 in Section 78B-6-135, and any other documents filed in connection with the petition.

167 [~~3~~] (4) "Adoption service provider" means a:

168 (a) child-placing agency; or

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

171 (i) adoptive parents;

172 (ii) prospective adoptive parents; or

173 (iii) birth parents.

174 [~~4~~] (5) "Adoptive parent" means a person who has legally adopted an adoptee.

175 [~~5~~] (6) "Adult" means a person who is 18 years of age or older.

176 [~~6~~] (7) "Adult adoptee" means an adoptee who is 18 years of age or older and was
177 adopted as a minor.

178 [~~7~~] (8) "Adult sibling" means a brother or sister of the adoptee, who is 18 years of age
179 or older and whose birth mother or father is the same as that of the adoptee.

180 [~~8~~] (9) "Birth mother" means the biological mother of a child.

181 [~~9~~] (10) "Birth parent" means:

182 (a) a birth mother;

183 (b) a man whose paternity of a child is established;

184 (c) a man who:

185 (i) has been identified as the father of a child by the child's birth mother; and

186 (ii) has not denied paternity; or

187 (d) an unmarried biological father.

188 [~~(10)~~] (11) "Child-placing agency" means an agency licensed to place children for
189 adoption under Title 62A, Chapter 4a, Part 6, Child Placing.

190 [~~(11)~~] (12) "Cohabiting" means residing with another person and being involved in a
191 sexual relationship with that person.

192 [~~(12)~~] (13) "Division" means the Division of Child and Family Services, within the
193 Department of Human Services, created in Section [62A-4a-103](#).

194 [~~(13)~~] (14) "Extra-jurisdictional child-placing agency" means an agency licensed to
195 place children for adoption by a district, territory, or state of the United States, other than Utah.

196 [~~(14)~~] (15) "Genetic and social history" means a comprehensive report, when
197 obtainable, on an adoptee's birth parents, aunts, uncles, and grandparents, which contains the
198 following information:

199 (a) medical history;

200 (b) health status;

201 (c) cause of and age at death;

202 (d) height, weight, and eye and hair color;

203 (e) ethnic origins;

204 (f) where appropriate, levels of education and professional achievement; and

205 (g) religion, if any.

206 [~~(15)~~] (16) "Health history" means a comprehensive report of the adoptee's health
207 status at the time of placement for adoption, and medical history, including neonatal,
208 psychological, physiological, and medical care history.

209 [~~(16)~~] (17) "Identifying information" means the name and address of a pre-existing
210 parent or adult adoptee, or other specific information which by itself or in reasonable
211 conjunction with other information may be used to identify that person.

212 [~~(17)~~] (18) "Licensed counselor" means a person who is licensed by the state, or
213 another state, district, or territory of the United States as a:

- 214 (a) certified social worker;
- 215 (b) clinical social worker;
- 216 (c) psychologist;
- 217 (d) marriage and family therapist;
- 218 (e) professional counselor; or
- 219 (f) an equivalent licensed professional of another state, district, or territory of the
- 220 United States.

221 [~~(18)~~] (19) "Man" means a male individual, regardless of age.

222 (20) "Mature adoptee" means an adoptee who is adopted when the adoptee is an adult.

223 [~~(19)~~] (21) "Office" means the Office of Vital Records and Statistics within the
224 Department of Health operating under Title 26, Chapter 2, Utah Vital Statistics Act.

225 [~~(20)~~] (22) "Parent," for purposes of Section 78B-6-119, means any person described in
226 Subsections 78B-6-120(1)(b) through (f) from whom consent for adoption or relinquishment
227 for adoption is required under Sections 78B-6-120 through 78B-6-122.

228 [~~(21)~~] (23) "Potential birth father" means a man who:

229 (a) is identified by a birth mother as a potential biological father of the birth mother's
230 child, but whose genetic paternity has not been established; and

231 (b) was not married to the biological mother of the child described in Subsection [~~(21)~~]
232 (23)(a) at the time of the child's conception or birth.

233 [~~(22)~~] (24) "Pre-existing parent" means:

234 (a) a birth parent; or

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

237 [~~(23)~~] (25) "Prospective adoptive parent" means a person who seeks to adopt an
238 adoptee.

239 [~~(24)~~] (26) "Unmarried biological father" means a person who:

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

241 (b) was not married to the biological mother of the child described in Subsection [~~(24)~~]
242 (26)(a) at the time of the child's conception or birth.

243 Section 5. Section 78B-6-115 is amended to read:

244 **78B-6-115. Who may adopt -- Adoption of minor -- Adoption of adult.**

- 245 (1) For purposes of this section, "vulnerable adult" means:
- 246 (a) a person 65 years of age or older; or
- 247 (b) an adult, 18 years of age or older, who has a mental or physical impairment which
- 248 substantially affects that person's ability to:
- 249 (i) provide personal protection;
- 250 (ii) provide necessities such as food, shelter, clothing, or medical or other health care;
- 251 (iii) obtain services necessary for health, safety, or welfare;
- 252 (iv) carry out the activities of daily living;
- 253 (v) manage the adult's own resources; or
- 254 (vi) comprehend the nature and consequences of remaining in a situation of abuse,
- 255 neglect, or exploitation.
- 256 (2) Subject to this section and Section 78B-6-117, any adult may be adopted by another
- 257 adult.
- 258 (3) The following provisions of this part apply to the adoption of an adult just as
- 259 though the person being adopted were a minor:
- 260 (a) (i) Section 78B-6-108;
- 261 (ii) Section 78B-6-114;
- 262 (iii) Section 78B-6-116;
- 263 (iv) Section 78B-6-118;
- 264 (v) Section 78B-6-124;
- 265 (vi) Section 78B-6-136;
- 266 (vii) Section 78B-6-137;
- 267 (viii) Section 78B-6-138;
- 268 (ix) Section 78B-6-139;
- 269 (x) Section 78B-6-141; and
- 270 (xi) Section 78B-6-142;
- 271 (b) Subsections 78B-6-105(1)(a), (1)(b)(i), (1)(b)(ii), (2), and (7), except that the
- 272 juvenile court does not have jurisdiction over a proceeding for adoption of an adult, unless the
- 273 adoption arises from a case where the juvenile court has continuing jurisdiction over the [~~adult~~]
- 274 mature adoptee; and
- 275 (c) if the [~~adult~~] mature adoptee is a vulnerable adult, Sections 78B-6-128 through

276 78B-6-131, regardless of whether the [adult] mature adoptee resides, or will reside, with the
277 adoptors, unless the court, based on a finding of good cause, waives the requirements of those
278 sections.

279 (4) Before a court enters a final decree of adoption of an adult, the mature adoptee and
280 the prospective adoptive parent or parents shall appear before the court presiding over the
281 adoption proceedings and execute consent to the adoption.

282 (5) No provision of this part, other than those listed or described in this section or
283 Section 78B-6-117, [apply] applies to the adoption of an adult.

284 Section 6. Section 78B-6-116 is amended to read:

285 **78B-6-116. Notice and consent for adoption of adult.**

286 (1) (a) Consent to the adoption of an adult is required from:

287 (i) the [adult] mature adoptee;

288 (ii) any person who is adopting the adult;

289 (iii) the spouse of a person adopting the adult; and

290 (iv) any legally appointed guardian or custodian of the [adult] mature adoptee.

291 (b) No person, other than a person described in Subsection (1)(a), may consent, or
292 withhold consent, to the adoption of an adult.

293 (2) (a) Except as provided in Subsection (2)(b), notice of a proceeding for the adoption
294 of an adult shall be served on each person described in Subsection (1)(a) and the spouse of the
295 mature adoptee.

296 (b) The notice described in Subsection (2)(a) may be waived, in writing, by the person
297 entitled to receive notice.

298 (3) The notice described in Subsection (2):

299 (a) shall be served at least 30 days before the day on which the adoption is finalized;

300 (b) shall specifically state that the person served must respond to the petition within 30
301 days of service if the person intends to intervene in the adoption proceeding;

302 (c) shall state the name of the person to be adopted;

303 (d) may not state the name of a person adopting the mature adoptee, unless the person
304 consents, in writing, to disclosure of the person's name;

305 (e) with regard to a person described in Subsection (1)(a):

306 (i) except as provided in Subsection (2)(b), shall be in accordance with the provisions

307 of the Utah Rules of Civil Procedure; and

308 (ii) may not be made by publication; and

309 (f) with regard to the spouse of the mature adoptee, may be made:

310 (i) in accordance with the provisions of the Utah Rules of Civil Procedure;

311 (ii) by certified mail, return receipt requested; or

312 (iii) by publication, posting, or other means if:

313 (A) the service described in Subsection (3)(f)(ii) cannot be completed after two
314 attempts; and

315 (B) the court issues an order providing for service by publication, posting, or other
316 means.

317 (4) Proof of service of the notice on each person to whom notice is required by this
318 section shall be filed with the court before the adoption is finalized.

319 (5) (a) Any person who is served with notice of a proceeding for the adoption of an
320 adult and who wishes to intervene in the adoption shall file a motion in the adoption
321 proceeding:

322 (i) within 30 days after the day on which the person is served with notice of the
323 adoption proceeding;

324 (ii) that sets forth the specific relief sought; and

325 (iii) that is accompanied by a memorandum specifying the factual and legal grounds
326 upon which the motion is made.

327 (b) A person who fails to file the motion described in Subsection (5)(a) within the time
328 described in Subsection (5)(a)(i):

329 (i) waives any right to further notice of the adoption proceeding; and

330 (ii) is barred from intervening in, or bringing or maintaining any action challenging, the
331 adoption proceeding.

332 (6) Except as provided in Subsection (7), after a court enters a final decree of adoption
333 of an adult, the mature adult adoptee shall:

334 (a) serve notice of the finalization of the adoption, pursuant to the Utah Rules of Civil
335 Procedure, on each person who was a legal parent of the adult adoptee before the final decree
336 of adoption described in this Subsection (6) was entered; and

337 (b) file with the court proof of service of the notice described in Subsection (6)(a).

338 (7) A court may, based on a finding of good cause, waive the notification requirement
339 described in Subsection (6).

340 Section 7. Section **78B-6-141** is amended to read:

341 **78B-6-141. Petition, report, and documents sealed -- Exceptions.**

342 [~~(1) A petition for adoption, the written report described in Section [78B-6-135](#), and any~~
343 ~~other documents filed in connection with the petition are sealed.~~]

344 (1) For an adoption finalized before March 22, 1941, the office shall make the original
345 birth certificate available for inspection and copying pursuant to Subsections [26-2-22\(1\)\(c\)](#) and
346 (2).

347 (2) Except as provided in Subsection (3), for an adoption finalized on or after March
348 22, 1941, the adoption documents are sealed and may only be available for inspection and
349 copying pursuant to Subsection (4) or Section [78B-6-144](#).

350 (3) (a) Except as provided in Subsection (3)(b), for an adoption finalized on or after
351 January 1, 2015, the adoption documents shall be made available for inspection and copying to
352 a party to the adoption proceeding if the party who requests the documents:

353 (i) is an adult at the time of the request; and

354 (ii) makes the request on a form designated by the office.

355 (b) For an adoption finalized on or after January 1, 2015, a birth mother may, at or after
356 the time of finalization, elect in writing to refuse to permit identifying information about the
357 birth mother to be made available for inspection or copying.

358 (c) If a birth mother elects, under Subsection (3)(b), to refuse to permit identifying
359 information about the birth mother to be made available for inspection or copying, the office
360 shall, before providing copies of the adoption documents to an individual other than the birth
361 mother, redact all identifying information about the birth mother.

362 (d) A birth mother may, at any time, in writing:

363 (i) change the election described in Subsection (3)(b); or

364 (ii) elect to make other information, including an updated medical history, available for
365 inspection and copying by a party to the adoption proceeding if the party who requests the
366 information is an adult at the time of the request.

367 [~~(2) The~~] (4) Except as otherwise provided in this section, the adoption documents
368 [described in Subsection (1)] may only be open to inspection and copying as follows:

- 369 (a) in accordance with Subsection ~~[(3)]~~ (5)(a), by a party to the adoption proceeding:
- 370 (i) while the proceeding is pending; or
- 371 (ii) within six months after the day on which the adoption decree is entered;
- 372 (b) subject to Subsection ~~[(3)]~~ (5)(b), a court enters an order permitting access to the
- 373 documents by a person who has appealed the denial of that person's motion to intervene;
- 374 (c) upon order of the court expressly permitting inspection or copying, after good cause
- 375 has been shown;
- 376 (d) as provided under Section 78B-6-144;
- 377 (e) those records shall become public on the one hundredth anniversary of the date the
- 378 final decree of adoption was entered; or
- 379 (f) if the adoptee is an adult at the time the final decree of adoption is entered, the
- 380 adoption documents ~~[described in this section]~~ are open to inspection and copying without a
- 381 court order by the mature adoptee or a parent who adopted the mature adoptee, unless the final
- 382 decree of adoption is entered by the juvenile court under Subsection 78B-6-115(3)(b).

383 ~~[(3)]~~ (5) (a) A person who files a motion to intervene in an adoption proceeding:

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

385 and

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

387 unless the motion to intervene is granted.

388 (b) An order described in Subsection ~~[(2)]~~ (4)(b) shall:

389 (i) prohibit the person described in Subsection ~~[(2)]~~ (4)(b) from inspecting ~~[a document~~

390 ~~described in Subsection (1) that contains]~~ the adoption documents that contain identifying

391 information [of] relating to the adoptive or prospective adoptive parent; and

392 (ii) permit the person described in Subsection ~~[(3)]~~ (4)(b)~~[(1)]~~ to review a copy of ~~[a~~

393 ~~document described in Subsection (3)(b)(i)]~~ the adoption documents after the identifying

394 information ~~[described in Subsection (3)(b)(i)]~~ is redacted from the ~~[document]~~ documents.

395 Section 8. Section 78B-6-144 is amended to read:

396 **78B-6-144. Mutual-consent, voluntary adoption registry -- Procedures -- Fees.**

397 (1) The office shall establish a mutual-consent, voluntary adoption registry.

398 (a) ~~[Adult adoptees and birth parents of adult adoptees]~~ An adult adoptee or a birth

399 parent of an adult adoptee, upon presentation of positive identification, may request identifying

400 information from the office, in the form established by the office. A court of competent
401 jurisdiction or a child-placing agency may accept that request from the adult adoptee or birth
402 parent, in the form provided by the office, and transfer that request to the office. The adult
403 adoptee or birth parent is responsible for notifying the office of any change in information
404 contained in the request.

405 (b) ~~[The]~~ Except as otherwise provided in this part, the office may only release
406 identifying information to an adult adoptee or birth parent when it receives requests from both
407 the adoptee and the adoptee's birth parent.

408 (c) After matching the request of an adult adoptee with that of at least one of the
409 adoptee's birth parents, the office shall notify both the adult adoptee and the birth parent that
410 the requests have been matched, and disclose the identifying information to those parties.
411 However, if that adult adoptee has a sibling of the same birth parent who is under the age of 18
412 years, and who was raised in the same family setting as the adult adoptee, the office ~~[shall]~~ may
413 not disclose the requested identifying information to that adult adoptee or the adoptee's birth
414 parent.

415 (2) (a) Adult adoptees and adult siblings of adult adoptees, upon presentation of
416 positive identification, may request identifying information from the office, in the form
417 established by the office. A court of competent jurisdiction or a child-placing agency may
418 accept that request from the adult adoptee or adult sibling, in the form provided by the office,
419 and transfer that request to the office. The adult adoptee or adult sibling is responsible for
420 notifying the office of any change in information contained in the request.

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

424 (c) After matching the request of an adult adoptee with that of the adoptee's adult
425 sibling, if the office ~~[has been provided with]~~ determines that the office has sufficient
426 information to make that match, the office shall notify both the adult adoptee and the adult
427 sibling that the requests have been matched, and disclose the identifying information to those
428 parties.

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

431 (i) search the office's vital records for the adult adoptee's birth parent; and
432 (ii) if the search described in Subsection (2)(d)(i) reveals than an adult adoptee's birth
433 parent is dead, inform the adult adoptee that the birth parent is dead and disclose the identity of
434 the birth parent.

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

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

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

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

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

445 ~~[(5) The bureau may charge a fee for services provided under this section, limited to~~
446 ~~the cost of providing those services.]~~

447 (5) The office shall, in consultation with the Tax Commission, develop language
448 advertising the services provided by the mutual-consent, voluntary adoption registry to be
449 included on the Tax Commission's website.

450 (6) The office may contract with a private or nonprofit organization to supplement the
451 advertising described in Subsection (5).

452 (7) The office shall, on or before October 31, make an annual report on the
453 effectiveness of the mutual-consent, voluntary adoption registry to the Health and Human
454 Services Interim Committee.

455 (8) Nothing in this section limits the disclosure of information in accordance with
456 Section 78B-6-141.

457 Section 9. Section **78B-6-144.5** is enacted to read:

458 **78B-6-144.5. Adoption records fees.**

459 (1) (a) The office shall, in accordance with Section 63J-1-504, establish a fee to be paid
460 by an individual who requests information or other services under Section 78B-6-141 or
461 Section 78B-6-144 to cover the costs related to providing the information or services, including

462 improvements described in Subsection (2).

463 (b) The office may accept donations or grants from public or private entities to cover
464 the costs related to providing the information or services, including improvements described in
465 Subsection (2).

466 (2) Fees and donations collected in Subsection (1) shall be deposited into the General
467 Fund as dedicated credits and may be used only to:

468 (a) fund, automate, and improve the provision of services described in Sections
469 78B-6-141 and 78B-6-144;

470 (b) implement means of maximizing potential matches for the services described in
471 Sections 78B-6-141 and 78B-6-144, including the use of broad search terms and methods; and

472 (c) advertise the services provided by the mutual-consent, voluntary adoption registry
473 pursuant to Section 78B-6-144.

474 **Section 10. Appropriation.**

475 Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for
476 the fiscal year beginning July 1, 2014, and ending June 30, 2015, the following sums of money
477 are appropriated from resources not otherwise appropriated, or reduced from amounts
478 previously appropriated, out of the funds or accounts indicated. These sums of money are in
479 addition to any amounts previously appropriated for fiscal year 2015.

480	<u>To Department of Health, Adoption Records Access</u>	
481	<u>From General Fund</u>	<u>\$50,000</u>
482	<u>From Dedicated Credits Revenue</u>	<u>\$26,200</u>
483	<u>Schedule of Programs:</u>	
484	<u>Adoption Records Access</u>	<u>\$76,200</u>

485 The Legislature intends that appropriations provided under this section be used by the
486 office for the purposes described in Subsection 78B-6-144.5(2). Under Section 63J-1-603, the
487 Legislature intends that appropriations provided under this section not lapse at the close of
488 fiscal year 2015. The use of any nonlapsing funds is limited to the purposes described in
489 Subsection 78B-6-144.5(2).

Legislative Review Note
as of 12-17-13 1:49 PM

Office of Legislative Research and General Counsel