



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

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

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

33 (b) An unmarried biological father is entitled to actual notice of a birth or an adoption  
34 proceeding with regard to his child only as provided in this section and Section 78B-6-110.1.

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

36 (a) any person or agency whose consent or relinquishment is required under Section  
37 78B-6-120 or 78B-6-121, unless that right has been terminated by:

38 (i) waiver;

39 (ii) relinquishment;

40 (iii) actual consent, as described in Subsection (12); or

41 (iv) judicial action;

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

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

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

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

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

52 (g) a person who is:

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

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

56 (h) any person who is married to the child's mother at the time she executes her consent  
57 to the adoption or relinquishes the child for adoption, unless the court finds that the mother's  
58 spouse is not the child's father under Section 78B-15-607.

59 (3) (a) In order to preserve any right to notice, an unmarried biological father shall,  
60 consistent with Subsection (3)(d):

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

63 (ii) file a notice of commencement of the proceedings described in Subsection (3)(a)(i)  
64 with the office of vital statistics within the Department of Health.

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

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

71 (d) When the state registrar of vital statistics receives a completed form, the registrar  
72 shall:

73 (i) record the date and time the form was received; and

74 (ii) immediately enter the information provided by the unmarried biological father in  
75 the confidential registry established by Subsection 78B-6-121(3)(c).

76 (e) The action and notice described in Subsection (3)(a):

77 (i) may be filed before or after the child's birth; and

78 (ii) shall be filed prior to the mother's:

79 (A) execution of consent to adoption of the child; or

80 (B) relinquishment of the child for adoption.

81 (4) Notice provided in accordance with this section need not disclose the name of the  
82 mother of the child who is the subject of an adoption proceeding.

83 (5) The notice required by this section:

84 (a) may be served at any time after the petition for adoption is filed, but may not be  
85 served on a birth mother before she has given birth to the child who is the subject of the  
86 petition for adoption;

87 (b) shall be served at least 30 days prior to the final dispositional hearing;

88 (c) shall specifically state that the person served shall fulfill the requirements of  
89 Subsection (6)(a), within 30 days after the day on which the person receives service if the

90 person intends to intervene in or contest the adoption;

91 (d) shall state the consequences, described in Subsection (6)(b), for failure of a person  
92 to file a motion for relief within 30 days after the day on which the person is served with notice  
93 of an adoption proceeding;

94 (e) is not required to include, nor be accompanied by, a summons or a copy of the  
95 petition for adoption; and

96 (f) shall state where the person may obtain a copy of the petition for adoption.

97 (6) (a) A person who has been served with notice of an adoption proceeding and who  
98 wishes to contest the adoption shall file a motion to intervene in the adoption proceeding:

99 (i) within 30 days after the day on which the person was served with notice of the  
100 adoption proceeding;

101 (ii) setting forth specific relief sought; and

102 (iii) accompanied by a memorandum specifying the factual and legal grounds upon  
103 which the motion is based.

104 (b) A person who fails to fully and strictly comply with all of the requirements  
105 described in Subsection (6)(a) within 30 days after the day on which the person was served  
106 with notice of the adoption proceeding:

107 (i) waives any right to further notice in connection with the adoption;

108 (ii) forfeits all rights in relation to the adoptee; and

109 (iii) is barred from thereafter bringing or maintaining any action to assert any interest in  
110 the adoptee.

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

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

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

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

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

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

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

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

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

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

135 (11) Except as to those persons whose consent to an adoption is required under Section  
136 78B-6-120 or 78B-6-121, the sole purpose of notice under this section is to enable the person  
137 served to:

138 (a) intervene in the adoption; and

139 (b) present evidence to the court relevant to the best interest of the child.

140 (12) In order to be excused from the requirement to provide notice as described in  
141 Subsection (2)(a) on the grounds that the person has provided consent to the adoption  
142 proceeding under Subsection (2)(a)(iii), the consent may not be implied consent, as described  
143 in Section 78B-6-120.1.

144 Section 2. Section 78B-6-110.1 is amended to read:

145 **78B-6-110.1. Prebirth notice to presumed father of intent to place a child for**  
146 **adoption.**

147 (1) As used in this section, "birth father" means:

148 (a) a potential biological father; or

149 (b) an unmarried biological father.

150 (2) [~~Before the birth of a child, the following individuals may~~] Except as provided in  
151 Subsection (9), before relinquishing a child for adoption, a birth mother or her designee shall

152 notify a birth father of the child that the mother of the child is considering an adoptive  
153 placement for the child[?].

154 ~~[(a) the child's mother;]~~

155 ~~[(b) a licensed child placing agency;]~~

156 ~~[(c) an attorney representing a prospective adoptive parent of the child; or]~~

157 ~~[(d) an attorney representing the mother of the child.]~~

158 (3) Providing a birth father with notice under Subsection (2) does not obligate the  
159 mother of the child to proceed with an adoptive placement of the child.

160 (4) The notice described in Subsection (2) shall include the name, address, and  
161 telephone number of the person providing the notice, and shall include the following  
162 information:

163 (a) the mother's intent to place the child for adoption;

164 (b) that the mother has named the person receiving this notice as a potential birth father  
165 of her child;

166 (c) the requirements to contest the adoption, including taking the following steps  
167 within 30 days after the day on which the notice is served:

168 (i) initiating proceedings to establish or assert paternity in a district court of Utah  
169 within 30 days after the day on which notice is served, including filing an affidavit stating:

170 (A) that the birth father is fully able and willing to have full custody of the child;

171 (B) the birth father's plans to care for the child; and

172 (C) that the birth father agrees to pay for child support and expenses incurred in  
173 connection with the pregnancy and birth; ~~and~~

174 (ii) filing a notice of commencement of paternity proceedings with the state registrar of  
175 vital statistics within the Utah Department of Health; and

176 (iii) offering to pay, and paying, a fair and reasonable amount of the expenses incurred  
177 in connection with the mother's pregnancy and birth, in accordance with his financial ability,  
178 unless the birth mother refuses to accept the birth father's offer to pay;

179 (d) the consequences for failure to comply with Subsection (4)(c), including ~~that~~:

180 (i) the birth father's ability to assert the right, if any, to consent or refuse to consent to  
181 the adoption is irrevocably lost;

182 (ii) the birth father will lose the ability to assert the right to contest any future adoption

183 of the child; and

184 (iii) the birth father will lose the right, if any, to notice of any adoption proceedings  
185 related to the child;

186 (e) that the birth father may consent to the adoption, if any, within 30 days after the day  
187 on which the notice is received, and that his consent is irrevocable; ~~and~~

188 (f) that no communication between the mother of the child and the birth father changes  
189 the rights and responsibilities of the birth father described in the notice~~[-]; and~~

190 (g) that the birth father may wish to consult an attorney regarding his potential rights  
191 and obligations.

192 (5) The notice described in Subsection (2) may not include the name of the birth  
193 mother without her prior, written consent.

194 (6) If a birth father contacts the person who provides him the notice described in  
195 Subsection (2), offers to pay, or provides payment for expenses incurred in connection with the  
196 mother's pregnancy and birth described in Subsection (4)(c)(iii), and the person is not the birth  
197 mother, the person:

198 (a) shall inform the birth mother of the birth father's offer;

199 (b) shall give any money the birth father gives to the individual to the birth mother; and

200 (c) may not refuse the birth father's payment on the birth mother's behalf unless the  
201 birth mother instructs the person, in writing, to refuse the payment.

202 ~~[(5)]~~ (7) If the recipient of the notice described in Subsection (2) does not fully and  
203 strictly comply with the requirements of Subsection (4)(c) within 30 days after the day on  
204 which he receives the notice, he will lose:

205 (a) the ability to assert the right to consent or refuse to consent to an adoption of the  
206 child described in the notice;

207 (b) the ability to assert the right to contest any future adoption of the child described in  
208 the notice; and

209 (c) the right to notice of any adoption proceedings relating to the child described in the  
210 notice.

211 ~~[(6)]~~ (8) If an individual described in Subsection (2) chooses to notify a birth father  
212 under this section, the notice shall be served on a birth father in a manner consistent with the  
213 Utah Rules of Civil Procedure or by certified mail.

214           (9) The birth mother is excused from the requirements of this section if:  
215           (a) notice of, or consent to, an adoption proceeding would not be required under  
216 Section [78B-6-111](#); or  
217           (b) the birth mother shows, by a preponderance of the evidence in a judicial  
218 proceeding, that the birth father has engaged in physically abusive behavior toward the birth  
219 mother in the past, and she fears he will be abusive in the future.

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**Legislative Review Note**  
**as of 2-21-14 2:00 PM**

**Office of Legislative Research and General Counsel**