



House of Representatives *State of Utah*

UTAH STATE CAPITOL COMPLEX • 350 STATE CAPITOL
P.O. BOX 145030 • SALT LAKE CITY, UTAH 84114-5030 • (801) 538-1029

February 21, 2014

Madam Speaker:

The Judiciary Committee recommends **H.B. 256**, ADOPTION RECORDS ACCESS AMENDMENTS, by Representative J. Nielson, be replaced and reports a favorable recommendation on **2nd Sub. H.B. 256**, ADOPTION RECORDS ACCESS AMENDMENTS with the following amendments:

1. *Page 2, Lines 54 through 55:*

- 54 78B-6-116, as renumbered and amended by Laws of Utah 2008, Chapter 3
= 78B-6-124, as last amended by Laws of Utah 2008, Chapter 137 and renumbered
and amended by Laws of Utah 2008, Chapter 3
55 78B-6-141, as last amended by Laws of Utah 2012, Chapter 340

2. *Page 5, Lines 121 through 125:*

- 121 has demonstrated a direct, tangible, and legitimate interest.
122 (3) (a) For purposes of this Subsection (3), "adoption documents" is as defined in
123 Section 78B-6-103.
124 (b) Only the Office of Vital Records and Statistics or a {Utah district} court
may issue
125 adoption documents.

3. *Page 8, Lines 215 through 220:*

- 215 any other person with respect to the child.
216 (3) "Adoption documents" means adoption-related documents filed with a {Utah
district}
217 court or with the office, including a petition for adoption, the written report described in
218 Section 78B-6-135, any other documents filed in connection with the petition, and a
decree of
219 adoption.
220 [(3)] (4) "Adoption service provider" means a:

Bill Number



HB0256S02

Action Class



H

Action Code



HCRSUBAMD

4. Page 13, Lines 391 through 392:

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

= **Section 8. Section 78B-6-124 is amended to read:**

78B-6-124. Persons who may take consents and relinquishments.

(1) A consent or relinquishment by a birth mother or an adoptee shall be signed before:

- (a) a judge of any court that has jurisdiction over adoption proceedings;
- (b) subject to Subsection (6), a person appointed by the judge described in Subsection (1)(a) to take consents or relinquishments; or
- (c) subject to Subsection (6), a person who is authorized by a child-placing agency to take consents or relinquishments, if the consent or relinquishment grants legal custody of the child to a child-placing agency or an extra-jurisdictional child-placing agency.

(2) If the consent or relinquishment of a birth mother or adoptee is taken out of state it shall be signed before:

- (a) subject to Subsection (6), a person who is authorized by a child-placing agency to take consents or relinquishments, if the consent or relinquishment grants legal custody of the child to a child-placing agency or an extra-jurisdictional child-placing agency;
- (b) subject to Subsection (6), a person authorized or appointed to take consents or relinquishments by a court of this state that has jurisdiction over adoption proceedings;
- (c) a court that has jurisdiction over adoption proceedings in the state where the consent or relinquishment is taken; or
- (d) a person authorized, under the laws of the state where the consent or relinquishment is taken, to take consents or relinquishments of a birth mother or adoptee.

(3) The consent or relinquishment of any other person or agency as required by Section 78B-6-120 may be signed before a Notary Public or any person authorized to take a consent or relinquishment under Subsection (1) or (2).

(4) (a) At the time of a birth mother's consent to adoption of a child, or relinquishment of a child for adoption, a person authorized by Subsection (1) or (2) to take consents or relinquishments shall notify the birth mother that adoption documents shall be made available for inspection and copying in accordance with Subsection 78B-6-141(3), unless the birth mother declines to permit identifying information to be made available for inspection and copying.

Bill Number



HB0256S02

Action Class



H

Action Code



HCRSUBAMD

(b) If the birth mother declines to permit identifying information to be made available for inspection and copying, the person authorized by Subsection (1) or (2) to take consents or relinquishments shall assist the birth mother with filing a written document that states the birth mother's refusal in accordance with Subsection 78B-6-141(3).

~~{(4)}~~ **(5)** A person, authorized by Subsection (1) or (2) to take consents or relinquishments, shall certify to the best of his information and belief that the person executing the consent or relinquishment has read and understands the consent or relinquishment and has signed it freely and voluntarily.

~~{(5)}~~ **(6)** A person executing a consent or relinquishment is entitled to receive a copy of the consent or relinquishment.

~~{(6)}~~ **(7)** A signature described in Subsection (1)(b), (1)(c), (2)(a), or (2)(b), shall be:

- (a) notarized; or
- (b) witnessed by two individuals who are not members of the birth mother's or the signatory's immediate family.

5. *Page 14, Line 405 through Page 15, Line 432:*

405 (3) (a) Except as provided in Subsection (3)(b), for an adoption finalized on or after
406 January 1, 2015, the office shall make the adoption documents available for inspection and
407 copying to a party to the adoption proceeding if the party who requests the documents:
408 (i) is an adult at the time of the request; and
409 (ii) makes the request on a form designated by the office.
410 (b) Subject to ~~{Subsections}~~ **Subsection** (3)(d) ~~{and (e)}~~ , for an
411 adoption finalized on or after January
412 1, 2015, a birth mother may, at or after the time of finalization, file a written document
413 with the
414 office stating that she ~~{refuses}~~ **declines** to permit identifying information about
415 the birth mother to be
416 made available for inspection or copying.
417 (c) Subject to ~~{Subsections}~~ **Subsection** (3)(d) ~~{and (e)}~~ , if a birth
418 mother elects, under Subsection
419 (3)(b), to ~~{refuse}~~ **decline** to permit identifying information about the birth



mother to be made available
416 for inspection or copying, the office shall, before providing copies of the adoption
documents
417 to an individual other than the birth mother, redact all identifying information about the
birth
418 mother.
419 (d) ~~{Subject to Subsection (3)(c),}~~ ~~{a}~~ A birth mother may, at any
time, file a written
420 document with the office to:
421 (i) change the election described in Subsection (3)(b); or
422 (ii) elect to make other information about herself, including an updated medical
423 history, available for inspection and copying by a party to the adoption proceeding if the
party
424 who requests the information is an adult at the time of the request.
425 ~~{(e) (i) If the birth mother is a minor at the time of finalization, only the birth~~
~~mother's~~
426 ~~parent or legal guardian may consent to and sign the birth mother's written refusal~~
~~under~~
427 ~~Subsection (3)(b);~~
428 ~~—(ii) If the birth mother is a minor at the time she decides to change the election~~
~~or make~~
429 ~~other information about herself available under Subsection (3)(d), only the birth~~
~~mother's~~
430 ~~parent or legal guardian may consent to and sign the birth mother's written election~~
~~under~~
431 ~~Subsection (3)(d);}~~
432 ~~[(2) The]~~ (4) Except as otherwise provided in this section, the adoption documents

Respectfully,

Kay L. McIff
Committee Chair

Voting: 8-1-0

7 HB0256.HC1.WPD 2/21/14 5:19 pm chelsealloyd/CBL LAK/MDA

Bill Number



HB0256S02

Action Class



H

Action Code



HCRSUBAMD