

**AMENDMENTS TO ADOPTIVE STUDIES AND
EVALUATIONS**

2015 GENERAL SESSION
STATE OF UTAH

Chief Sponsor: Edward H. Redd

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to adoptive evaluations.

Highlighted Provisions:

This bill:

- ▶ addresses who may conduct a preplacement adoptive evaluation;
- ▶ addresses information a court shall or may consider related to a preplacement adoptive study before finalizing a petition for adoption; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 78B-6-103**, as last amended by Laws of Utah 2012, Chapter 340
- 78B-6-128**, as last amended by Laws of Utah 2013, Chapter 458
- 78B-6-130**, as enacted by Laws of Utah 2008, Chapter 3

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



28 Section 1. Section **78B-6-103** is amended to read:

29 **78B-6-103. Definitions.**

30 As used in this part:

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

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

33 (b) has been legally adopted.

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

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

36 (b) except as provided in Subsection **78B-6-138(2)**, terminates the parental rights of
37 any other person with respect to the child.

38 (3) "Adoption service provider" means [a]:

39 (a) a child-placing agency; [or]

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

42 (i) adoptive parents;

43 (ii) prospective adoptive parents; or

44 (iii) birth parents[-]; or

45 (c) the Office of Licensing within the Department of Human Services.

46 (4) "Adoptive parent" means a person who has legally adopted an adoptee.

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

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

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

51 (8) "Birth mother" means the biological mother of a child.

52 (9) "Birth parent" means:

53 (a) a birth mother;

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

55 (c) a man who:

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

57 (ii) has not denied paternity; or

58 (d) an unmarried biological father.

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

61 (11) "Cohabiting" means residing with another person and being involved in a sexual
62 relationship with that person.

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

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

67 (14) "Genetic and social history" means a comprehensive report, when obtainable, on
68 an adoptee's birth parents, aunts, uncles, and grandparents, which contains the following
69 information:

70 (a) medical history;

71 (b) health status;

72 (c) cause of and age at death;

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

74 (e) ethnic origins;

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

76 (g) religion, if any.

77 (15) "Health history" means a comprehensive report of the adoptee's health status at the
78 time of placement for adoption, and medical history, including neonatal, psychological,
79 physiological, and medical care history.

80 (16) "Identifying information" means the name and address of a pre-existing parent or
81 adult adoptee, or other specific information which by itself or in reasonable conjunction with
82 other information may be used to identify that person.

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

85 (a) certified social worker;

86 (b) clinical social worker;

87 (c) psychologist;

88 (d) marriage and family therapist;

89 (e) professional counselor; or

90 (f) an equivalent licensed professional of another state, district, or territory of the
91 United States.

92 (18) "Man" means a male individual, regardless of age.

93 (19) "Office" means the Office of Vital Records and Statistics within the Department
94 of Health operating under Title 26, Chapter 2, Utah Vital Statistics Act.

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

98 (21) "Potential birth father" means a man who:

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

101 (b) was not married to the biological mother of the child described in Subsection
102 (21)(a) at the time of the child's conception or birth.

103 (22) "Pre-existing parent" means:

104 (a) a birth parent; or

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

107 (23) "Prospective adoptive parent" means a person who seeks to adopt an adoptee.

108 (24) "Unmarried biological father" means a person who:

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

110 (b) was not married to the biological mother of the child described in Subsection
111 (24)(a) at the time of the child's conception or birth.

112 Section 2. Section 78B-6-128 is amended to read:

113 **78B-6-128. Preplacement adoptive evaluations -- Exceptions.**

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

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

121 (c) Subsection (1)(a) does not apply if a pre-existing parent has legal custody of the
122 child to be adopted and the prospective adoptive parent is related to that child or the
123 pre-existing parent as a stepparent, sibling by half or whole blood or by adoption, grandparent,
124 aunt, uncle, or first cousin, unless the evaluation is otherwise requested by the court. The
125 prospective adoptive parent described in this Subsection (1)(c) shall obtain the information
126 described in Subsections (2)(a) and (b), and file that documentation with the court prior to
127 finalization of the adoption.

128 (d) The required preplacement adoptive evaluation must be completed or updated
129 within the 12-month period immediately preceding the placement of a child with the
130 prospective adoptive parent. If the prospective adoptive parent has previously received custody
131 of a child for the purpose of adoption, the preplacement adoptive evaluation must be completed
132 or updated within the 12-month period immediately preceding the placement of a child with the
133 prospective adoptive parent and after the placement of the previous child with the prospective
134 adoptive parent.

135 (2) The preplacement adoptive evaluation shall include:

136 (a) criminal history record information regarding each prospective adoptive parent and
137 any other adult living in the prospective home, prepared no earlier than 18 months immediately
138 preceding placement of the child in accordance with the following:

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

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

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

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

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

151 (B) complete a criminal records check, if available, for each state and country where

152 the prospective adoptive parent and any adult living in the prospective adoptive home resided
153 during the five years immediately preceding the day on which the adoption petition is to be
154 finalized;

155 (b) a report containing all information regarding reports and investigations of child
156 abuse, neglect, and dependency, with respect to each prospective adoptive parent and any other
157 adult living in the prospective home, obtained no earlier than 18 months immediately preceding
158 the day on which the child is placed in the prospective home, pursuant to waivers executed by
159 each prospective adoptive parent and any other adult living in the prospective home, that:

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

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

169 (c) in accordance with Subsection (6), ~~[an]~~ a preplacement adoptive evaluation
170 conducted by an adoption service provider that is:

171 (i) an expert in family relations approved by the court;

172 (ii) a certified social worker;

173 (iii) a clinical social worker;

174 (iv) a marriage and family therapist;

175 (v) a psychologist;

176 (vi) a social service worker, if supervised by a certified or clinical social worker; ~~[or]~~

177 (vii) a professional counselor; ~~[and]~~ or

178 (viii) an Office of Licensing within the Department of Human Services employee
179 trained to perform an adoptive evaluation; and

180 (d) in accordance with Subsection (7), if the child to be adopted is a child who is in the
181 custody of any public child welfare agency, and is a child who has a special need as defined in
182 Section 62A-4a-902, the preplacement evaluation shall be conducted by the Department of

183 Human Services or a child-placing agency that has entered into a contract with the department
184 to conduct the preplacement evaluations for children with special needs.

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

186 (a) if the adoption is being handled by a human services program, as defined in Section
187 62A-2-101:

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

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

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

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

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

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

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

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

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

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

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

210 (6) (a) [~~A person~~] An individual described in Subsection (2)(c) shall be licensed to
211 practice under the laws of:

212 (i) this state; or

213 (ii) the state, district, or territory of the United States where the prospective adoptive

214 parent or other person living in the prospective adoptive home resides.

215 ~~[(b) The evaluation described in Subsection (2)(c) shall be in a form approved by the~~
216 ~~Department of Human Services.]~~

217 ~~[(c)]~~ (b) Neither the Department of Human Services nor any of its divisions may
218 proscribe who qualifies as an expert in family relations or who may conduct evaluations under
219 Subsection (2)(c).

220 (7) Any fee assessed by the evaluating agency described in Subsection (2)(d) is the
221 responsibility of the adopting parent or parents.

222 (8) The person or agency conducting the preplacement adoptive evaluation shall, in
223 connection with the evaluation, provide the prospective adoptive parent or parents with
224 literature approved by the Division of Child and Family Services relating to adoption, including
225 information relating to:

226 (a) the adoption process;

227 (b) developmental issues that may require early intervention; and

228 (c) community resources that are available to the prospective adoptive parent or
229 parents.

230 (9) A copy of the preplacement adoptive evaluation shall be filed with the court.

231 Section 3. Section **78B-6-130** is amended to read:

232 **78B-6-130. Preplacement and postplacement adoptive studies -- Review by court.**

233 (1) If the person or agency conducting the evaluation disapproves the adoptive
234 placement, either in the preplacement or postplacement adoptive evaluation, the court may
235 dismiss the petition. However, upon request of a prospective adoptive parent, the court shall
236 order that an additional preplacement or postplacement adoptive evaluation be conducted, and
237 hold a hearing on the suitability of the adoption, including testimony of interested parties.

238 (2) Prior to finalization of a petition for adoption the court shall review and consider:

239 (a) the information and recommendations contained in the preplacement and
240 postplacement adoptive studies required by Sections [78B-6-128](#) and [78B-6-129](#)~~[-];~~ and

241 (b) with respect to a preplacement adoptive evaluation required by Section [78B-6-128](#),
242 the following:

243 (i) interviews with the adoptive applicants, their children, and other individuals living
244 in the home;

245 (ii) written statements from references identified by the applicants that shall be:
246 (A) from at least two individuals who are not related to the applicants and from at least
247 one individual who is related to the applicant; and
248 (B) delivered by the referring individual directly to the adoptive service provider who
249 is conducting the preplacement adoptive evaluation;
250 (iii) a medical history and a doctor's report, based upon a doctor's physical examination
251 of each applicant, made within six months prior to the date of the application; and
252 (iv) an inspection of the home to determine whether sufficient space and facilities to
253 meet the needs of the child exist and whether basic health and safety standards are maintained.
254 (3) With respect to a preplacement adoptive evaluation required by Section [78B-6-128](#),
255 a court may review and consider information other than the information the court is required to
256 review and consider under Subsection (2)(b).

Legislative Review Note
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Office of Legislative Research and General Counsel