

SB0077S01 compared with SB0077

~~text~~ shows text that was in SB0077 but was deleted in SB0077S01.

text shows text that was not in SB0077 but was inserted into SB0077S01.

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Senator Todd Weiler proposes the following substitute bill:

ADOPTION RECORDS ACCESS AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd Weiler

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions related to accessing adoption documents.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ establishes procedures for the Office of Vital Records and Statistics (the office) to make adoption documents available for inspection and copying;
- ▶ provides that a birth parent may elect to permit identifying information about the birth parent to be made available for inspection and copying;
- ▶ provides for the establishment of fees relating to use of a mutual-consent, voluntary adoption registry (the registry) and other requests for adoption records;
- ▶ provides for the release of information from the registry if a birth parent dies;

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- ▶ provides for funding, automating, improving, and advertising the services described in this bill;
- ▶ requires the office to establish a fee relating to requesting adoption documents; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2016:

- ▶ to the Department of Health - Adoption Records Access:
 - from the General Fund, \$55,000, subject to intent language that the appropriation shall be used for the purposes described in Subsection 78B-6-144.5(2); and
 - from the Dedicated Credits Revenue, \$26,200, subject to intent language that the appropriation shall be used for the purposes described in Subsection 78B-6-144.5(2).

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

26-2-2, as last amended by Laws of Utah 2013, Chapter 397

26-2-10, as last amended by Laws of Utah 2008, Chapter 3

26-2-22, as last amended by Laws of Utah 2012, Chapter 391

63J-1-602.5, as last amended by Laws of Utah 2011, Chapters 208, 303, and 342

78B-6-103, as last amended by Laws of Utah 2012, Chapter 340

78B-6-115, as last amended by Laws of Utah 2012, Chapter 340

78B-6-116, as renumbered and amended by Laws of Utah 2008, Chapter 3

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

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

ENACTS:

78B-6-144.5, Utah Code Annotated 1953

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

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

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26-2-2. Definitions.

As used in this chapter:

(1) "Adoption document" means an adoption-related document filed with the office, a petition for adoption, any document filed in connection with the petition for adoption, a decree of adoption, an original birth certificate, or evidence submitted in support of a supplementary birth certificate.

~~[(1)]~~ (2) "Advanced practice registered nurse" means a person licensed to practice as an advanced practice registered nurse in this state under Title 58, Chapter 31b, Nurse Practice Act.

~~[(2)]~~ (3) "Custodial funeral service director" means a funeral service director who:

- (a) is employed by a licensed funeral establishment; and
- (b) has custody of a dead body.

~~[(3)]~~ (4) "Dead body" or "decedent" means a human body or parts of the human body from the condition of which it reasonably may be concluded that death occurred.

~~[(4)]~~ (5) "Dead fetus" means a product of human conception, other than those circumstances described in Subsection 76-7-301(1):

- (a) of 16 weeks' gestation or more, calculated from the date the last normal menstrual period began to the date of delivery; and
- (b) that was not born alive.

~~[(5)]~~ (6) "Declarant father" means a male who claims to be the genetic father of a child, and, along with the biological mother, signs a voluntary declaration of paternity to establish the child's paternity.

~~[(6)]~~ (7) "Dispositioner" means:

(a) a person designated in a written instrument, under Subsection 58-9-602(1), as having the right and duty to control the disposition of the decedent, if the person voluntarily acts as the dispositioner; or

(b) the next of kin of the decedent, if:

- (i) (A) a person has not been designated as described in Subsection ~~[(6)]~~ (7)(a); or
- (B) the person described in Subsection ~~[(6)]~~ (7)(a) is unable or unwilling to exercise the right and duty described in Subsection ~~[(6)]~~ (7)(a); and
- (ii) the next of kin voluntarily acts as the dispositioner.

~~[(7)]~~ (8) "File" means the submission of a completed certificate or other similar

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document, record, or report as provided under this chapter for registration by the state registrar or a local registrar.

~~[(8)]~~ (9) "Funeral service director" means the same as that term is [as] defined in Section 58-9-102.

~~[(9)]~~ (10) "Health care facility" means the same as that term is [as] defined in Section 26-21-2.

~~[(10)]~~ (11) "Health care professional" means a physician or nurse practitioner.

~~[(11)]~~ (12) "Licensed funeral establishment" means a funeral service establishment, as defined in Section 58-9-102, that is licensed under Title 58, Chapter 9, Funeral Services Licensing Act.

~~[(12)]~~ (13) "Live birth" means the birth of a child who shows evidence of life after the child is entirely outside of the mother.

~~[(13)]~~ (14) "Local registrar" means a person appointed under Subsection 26-2-3(2)(b).

~~[(14)]~~ (15) "Nurse practitioner" means an advanced practice registered nurse specializing as a nurse practitioner who has completed an education program regarding the completion of a certificate of death developed by the department by administrative rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

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

~~[(15)]~~ (17) "Physician" means a person licensed to practice as a physician or osteopath in this state under Title 58, Chapter 67, Utah Medical Practice Act or Chapter 68, Utah Osteopathic Medical Practice Act.

~~[(16)]~~ (18) "Presumed father" means the father of a child conceived or born during a marriage as defined in Section 30-1-17.2.

~~[(17)]~~ (19) "Registration" or "register" means acceptance by the local or state registrar of a certificate and incorporation of the certificate into the permanent records of the state.

~~[(18)]~~ (20) "State registrar" means the state registrar of vital records appointed under Subsection 26-2-3(1)(e).

~~[(19)]~~ (21) "Vital records" means:

(a) registered certificates or reports of birth, death, fetal death, marriage, divorce, dissolution of marriage, or annulment;

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(b) amendments to any of the registered certificates or reports described in Subsection ~~[(19)]~~ (21)(a); ~~[and]~~

(c) an adoption document; and

~~[(e)]~~ (d) other similar documents.

~~[(20)]~~ (22) "Vital statistics" means the data derived from registered certificates and reports of birth, death, fetal death, induced termination of pregnancy, marriage, divorce, dissolution of marriage, or annulment.

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

26-2-10. Supplementary certificate of birth.

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

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

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

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

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

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

Section 3. Section **26-2-22** is amended to read:

26-2-22. Inspection of vital records.

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

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(b) It is unlawful for any state or local officer or employee to disclose data contained in vital records contrary to this chapter [or], department rule, Section 78B-6-141, or Section 78B-6-144.

(c) An adoption document is open to inspection as provided in Section 78B-6-141 or Section 78B-6-144.

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

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

(a) the request is from:

(i) the subject;

(ii) a member of the subject's immediate family;

(iii) the guardian of the subject;

(iv) a designated legal representative of the subject; or

(v) a person, including a child-placing agency as defined in Section 78B-6-103, with whom a child has been placed pending finalization of an adoption of the child;

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

(c) the request is for official purposes of a public health authority or a state, local, or federal governmental agency;

(d) the request is for a statistical or medical research program and prior consent has been obtained from the state registrar; or

(e) the request is a certified copy of an order of a court of record specifying the record to be examined or copied.

(3) For purposes of Subsection (2):

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

(b) a designated legal representative means an attorney, physician, funeral service director, genealogist, or other agent of the subject or the subject's immediate family who has been delegated the authority to access vital records;

(c) except as provided in Title 78B, Chapter 6, Part 1, Utah Adoption Act, a parent, or the immediate family member of a parent, who does not have legal or physical custody of or

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visitation or parent-time rights for a child because of the termination of parental rights pursuant to Title 78A, Chapter 6, Juvenile Court Act of 1996, or by virtue of consenting to or relinquishing a child for adoption pursuant to Title 78B, Chapter 6, Part 1, Utah Adoption Act, may not be considered as having a direct, tangible, and legitimate interest; and

(d) a commercial firm or agency requesting names, addresses, or similar information may not be considered as having a direct, tangible, and legitimate interest.

(4) Upon payment of a fee established in accordance with Section 63J-1-504, the ~~[following records shall be]~~ office shall make the following records available to the public:

(a) except as provided in Subsection 26-2-10(4)(b), a birth record, excluding confidential information collected for medical and health use, if 100 years or more have passed since the date of birth;

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

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

(5) Upon payment of a fee established in accordance with Section 63J-1-504, the office shall make an adoption document available as provided in Sections 78B-6-141 and 78B-6-144.

(6) The office shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing procedures and the content of forms as follows:

(a) for a birth parent's election to permit identifying information about the birth parent to be made available, under Section 78B-6-141;

(b) for the release of information by the mutual-consent, voluntary adoption registry, under Section 78B-6-144;

(c) for advertising the services provided by the mutual-consent, voluntary adoption registry, pursuant to Section 78B-6-144; and

(d) for collecting fees and donations pursuant to Section 78B-6-144.5.

Section 4. Section **63J-1-602.5** is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(15) The Bonneville Shoreline Trail Program created under Section 79-5-503.

(16) Funds appropriated and collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

Section 5. Section **78B-6-103** is amended to read:

78B-6-103. Definitions.

As used in this part:

(1) "Adoptee" means a person who:

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

(b) has been legally adopted.

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

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- (a) creates the relationship of parent and child where it did not previously exist; and
- (b) except as provided in Subsection 78B-6-138(2), terminates the parental rights of any other person with respect to the child.

(3) "Adoption document" means an adoption-related document filed with the office, a petition for adoption, any document filed in connection with the petition for adoption, a decree of adoption, an original birth certificate, or evidence submitted in support of a supplementary birth certificate.

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

- (a) child-placing agency; or
- (b) licensed counselor who has at least one year of experience providing professional social work services to:

- (i) adoptive parents;
- (ii) prospective adoptive parents; or
- (iii) birth parents.

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

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

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

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

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

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

- (a) a birth mother;
- (b) a man whose paternity of a child is established;
- (c) a man who:
 - (i) has been identified as the father of a child by the child's birth mother; and
 - (ii) has not denied paternity; or
- (d) an unmarried biological father.

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

~~[(11)]~~ (12) "Cohabiting" means residing with another person and being involved in a

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sexual relationship with that person.

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

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

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

- (a) medical history;
- (b) health status;
- (c) cause of and age at death;
- (d) height, weight, and eye and hair color;
- (e) ethnic origins;
- (f) where appropriate, levels of education and professional achievement; and
- (g) religion, if any.

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

~~[(16)]~~ (17) "Identifying information" means information in the possession of the office, which contains the name and address of a pre-existing parent or adult adoptee, or other specific information ~~[which] that~~ by itself or in reasonable conjunction with other information may be used to identify that person, including information on a birth certificate or in an adoption document.

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

- (a) certified social worker;
- (b) clinical social worker;
- (c) psychologist;
- (d) marriage and family therapist;
- (e) professional counselor; or
- (f) an equivalent licensed professional of another state, district, or territory of the

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United States.

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

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

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

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

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

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

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

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

(a) a birth parent; or

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

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

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

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

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

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

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

(1) For purposes of this section, "vulnerable adult" means:

(a) a person 65 years of age or older; or

(b) an adult, 18 years of age or older, who has a mental or physical impairment which substantially affects that person's ability to:

(i) provide personal protection;

(ii) provide necessities such as food, shelter, clothing, or medical or other health care;

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(iii) obtain services necessary for health, safety, or welfare;
(iv) carry out the activities of daily living;
(v) manage the adult's own resources; or
(vi) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

(2) Subject to this section and Section 78B-6-117, any adult may be adopted by another adult.

(3) The following provisions of this part apply to the adoption of an adult just as though the person being adopted were a minor:

- (a) (i) Section 78B-6-108;
- (ii) Section 78B-6-114;
- (iii) Section 78B-6-116;
- (iv) Section 78B-6-118;
- (v) Section 78B-6-124;
- (vi) Section 78B-6-136;
- (vii) Section 78B-6-137;
- (viii) Section 78B-6-138;
- (ix) Section 78B-6-139;
- (x) Section 78B-6-141; and
- (xi) Section 78B-6-142;

(b) Subsections 78B-6-105(1)(a), (1)(b)(i), (1)(b)(ii), (2), and (7), except that the juvenile court does not have jurisdiction over a proceeding for adoption of an adult, unless the adoption arises from a case where the juvenile court has continuing jurisdiction over the [adult] mature adoptee; and

(c) if the [adult] mature adoptee is a vulnerable adult, Sections 78B-6-128 through 78B-6-131, regardless of whether the [adult] mature adoptee resides, or will reside, with the adoptors, unless the court, based on a finding of good cause, waives the requirements of those sections.

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

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

Section 7. Section **78B-6-116** is amended to read:

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

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

- (i) the [~~adult~~] mature adoptee;
- (ii) any person who is adopting the adult;
- (iii) the spouse of a person adopting the adult; and
- (iv) any legally appointed guardian or custodian of the adult adoptee.

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

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

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

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

- (a) shall be served at least 30 days before the day on which the adoption is finalized;
- (b) shall specifically state that the person served must respond to the petition within 30 days of service if the person intends to intervene in the adoption proceeding;
- (c) shall state the name of the person to be adopted;
- (d) may not state the name of a person adopting the mature adoptee, unless the person consents, in writing, to disclosure of the person's name;
- (e) with regard to a person described in Subsection (1)(a):
 - (i) except as provided in Subsection (2)(b), shall be in accordance with the provisions of the Utah Rules of Civil Procedure; and
 - (ii) may not be made by publication; and
- (f) with regard to the spouse of the mature adoptee, may be made:
 - (i) in accordance with the provisions of the Utah Rules of Civil Procedure;
 - (ii) by certified mail, return receipt requested; or
 - (iii) by publication, posting, or other means if:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 8. Section **78B-6-141** is amended to read:

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

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

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(1) An adoption document is sealed.

(2) [~~The documents described in Subsection (1)~~] An adoption document may only be open to inspection and copying as follows:

(a) in accordance with Subsection [~~(3)~~] (4)(a), by a party to the adoption proceeding:

(i) while the proceeding is pending; or

(ii) within six months after the day on which the adoption decree is entered;

(b) subject to Subsection [~~(3)~~] (4)(b), if a court enters an order permitting access to the documents by a person who has appealed the denial of that person's motion to intervene;

(c) upon order of the court expressly permitting inspection or copying, after good cause has been shown;

(d) as provided under Section 78B-6-144;

(e) [~~those records shall become~~] when the adoption document becomes public on the one hundredth anniversary of the date the final decree of adoption was entered; [~~or~~]

(f) when the birth certificate becomes public on the one hundredth anniversary of the date of birth;

~~[(f) if the adoptee is an adult at the time the final decree of adoption is entered, the documents described in this section are open to inspection and copying without a court order by the adoptee or a parent who adopted the adoptee]~~

(g) to a mature adoptee or a parent who adopted the mature adoptee, without a court order, unless the final decree of adoption is entered by the juvenile court under Subsection 78B-6-115(3)(b)[~~]~~; or

(h) to an adult adoptee, to the extent permitted under Subsection (3).

(3) (a) For an adoption finalized on or after January 1, 2016, a birth parent may elect, on a written consent form provided by the office, to permit identifying information about the birth parent to be made available for inspection and copying by an adult adoptee or a party to the adoption proceeding, including an adoptive parent or an adoption agency.

(b) A birth parent may, at any time, file a written document with the office to:

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

(ii) elect to make other information about the birth parent, including an updated medical history, available for inspection and copying by an adult adoptee or a party to the adoption proceeding, including an adoptive parent or an adoption agency.

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~~(3)~~ (4) (a) A person who files a motion to intervene in an adoption proceeding:

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

and

(ii) may not be granted access to the documents described in Subsection (1), unless the motion to intervene is granted.

(b) An order described in Subsection (2)(b) shall:

(i) prohibit the person described in Subsection (2)(b) from inspecting a document described in Subsection (1) that contains identifying information of the adoptive or prospective adoptive parent; and

(ii) permit the person described in Subsection ~~(3)~~ (4)(b)(i) to review a copy of a document described in Subsection ~~(3)~~ (4)(b)(i) after the identifying information described in Subsection ~~(3)~~ (4)(b)(i) is redacted from the document.

Section 9. Section **78B-6-144** is amended to read:

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

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

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

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

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

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parent.

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

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

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

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

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

(ii) if the search described in Subsection (2)(d)(i) reveals that one or both of the adult adoptee's birth parents is dead, inform the adult adoptee that the birth parent is dead and disclose the identity of the birth parent.

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

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

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

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

(4) [~~Information~~] Except as provided in Section 78B-6-141, the office may not disclose information regarding a birth parent who has not registered a request with the [~~bureau may not~~]

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be disclosed] office.

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

~~(5) The office may ~~in consultation with~~ request the State Tax Commission ~~develop language advertising the services provided by~~ to provide a link to the mutual-consent, voluntary adoption registry ~~to be included~~ on the State Tax Commission's website.~~

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

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

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

Section 10. Section **78B-6-144.5** is enacted to read:

78B-6-144.5. Adoption records fees.

(1) (a) The office shall, in accordance with Section 63J-1-504, establish a fee to be paid by an individual who requests information or other services under Section 78B-6-141 or Section 78B-6-144, and to cover the costs related to providing the information, services, and improvements described in Subsection (2).

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

(2) The office shall deposit fees and donations collected under Subsection (1) into the General Fund as dedicated credits and may be used only to:

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

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

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

Section 11. **Appropriation.**

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Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2015, and ending June 30, 2016, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2016.

To Department of Health -- Adoption Records Access

From General Fund \$55,000

From Dedicated Credits Revenue \$26,200

Schedule of Programs:

Adoption Records Access \$81,200

The Legislature intends that appropriations provided under this section be used by the office for the purposes described in Subsection 78B-6-144.5(2). Under Section 63J-1-603, the Legislature intends that appropriations provided under this section not lapse at the close of fiscal year 2016. The use of any nonlapsing funds is limited to the purposes described in Subsection 78B-6-144.5(2).

Section 12. **Effective date.**

(1) Except as provided in Subsection (2), this bill takes effect on May 12, 2015.

(2) Uncodified Section 11, Appropriation, takes effect on July 1, 2015.

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Legislative Review Note

~~as of 1-19-15 2:51 PM~~

~~Office of Legislative Research and General Counsel~~