

**ADOPTION AMENDMENTS**

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Timothy D. Hawkes**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies language related to adoptions.

**Highlighted Provisions:**

This bill:

▶ clarifies language regarding when an adult may adopt a child if the adult has been convicted of, pleaded guilty to, or pleaded no contest to certain felonies; ~~H→~~ [and]

▶ addresses adoption and child support obligations; and ~~←H~~

▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**78B-6-117**, as last amended by Laws of Utah 2017, Chapter 400 and further amended by Revisor Instructions, Laws of Utah 2017, Chapter 400

~~H→~~ **78B-6-138**, as last amended by Laws of Utah 2017, Chapter 417 ~~←H~~

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

Section 1. Section **78B-6-117** is amended to read:

**78B-6-117. Who may adopt -- Adoption of minor.**

(1) A minor child may be adopted by an adult person, in accordance with this section

H.B. 71



90 (C) the child's development;

91 (D) the nature and seriousness of the disqualifying offense;

92 (E) the preferences of a child 12 years of age or older;

93 (F) any available assessments, including custody evaluations, homes studies,  
94 pre-placement adoptive evaluations, parenting assessments, psychological or mental health  
95 assessments, and bonding assessments; and

96 (G) any other relevant information;

97 (v) the person can provide evidence of all of the following:

98 (A) the relationship with the child is of long duration;

99 (B) that an emotional bond exists with the child; and

100 (C) that adoption by the person who has committed the disqualifying offense ensures  
101 the best interests of the child are met; and

102 (vi) the adoption is by:

103 (A) a stepparent whose spouse is the adoptee's parent and consents to the adoption;

104 (B) subject to Subsection (6)(d), a relative of the child as defined in Section 78A-6-307  
105 and there is not another relative without a disqualifying offense filing an adoption petition.

106 (c) The person with the disqualifying offense bears the burden of proof regarding why  
107 adoption with that person is in the best interest of the child over another responsible relative or  
108 equally situated person who does not have a disqualifying offense.

109 (d) If there is an alternative responsible relative who does not have a disqualifying  
110 offense filing an adoption petition, the following applies:

111 (i) preference for adoption shall be given to a relative who does not have a  
112 disqualifying offense; and

113 (ii) before the court may grant adoption to the person who has the disqualifying offense  
114 over another responsible, willing, and able relative:

115 (A) an impartial custody evaluation shall be completed; and

116 (B) a guardian ad litem shall be assigned.

117 (7) Subsections (5) and (6) apply to a case pending on March 25, 2017 for which a  
118 final decision on adoption has not been made and to a case filed on or after March 25, 2017.

118a **Ĥ→ Section 2. Section 78B-6-138 is amended to read:**

118b **78B-6-138. Pre-existing parent's rights and duties dissolved.**

118c **(1) A pre-existing parent of an adopted child is released from all parental rights and duties**  
118d **toward and all responsibilities for the adopted child, including residual parental rights and duties as**  
118e **defined in Section 78A-6-105, and has no further parental rights or duties with regard to that adopted**  
118f **child at the earlier of : ←Ĥ**

- 118g **Ĥ→** (a) the time the pre-existing parent's parental rights are terminated; or  
118h (b) except as provided in Subsection (2), and subject to Subsections (3) and (4), the time the  
118i final decree of adoption is entered.
- 118j (2) The parental rights and duties of a pre-existing parent who, at the time the child is adopted,  
118k is lawfully married to the person adopting the child are not released under Subsection (1)(b).
- 118l (3) The parental rights and duties of a pre-existing parent who, at the time the child is adopted,  
118m is not lawfully married to the person adopting the child are released under Subsection (1)(b).
- 118n (4) (a) Notwithstanding the provisions of this section, the court may allow a prospective  
118o adoptive parent to adopt a child without releasing the pre-existing parent from parental rights and  
118p duties under Subsection (1)(b), if:
- 118q (i) the pre-existing parent and the prospective adoptive parent were lawfully married at some  
118r time during the child's life;
- 118s (ii) the pre-existing parent consents to the prospective adoptive parent's adoption of the child,  
118t or is unable to consent because the pre-existing parent is deceased or incapacitated;
- 118u (iii) notice of the adoption proceeding is provided in accordance with Section 78B-6-110;
- 118v (iv) consent to the adoption is provided in accordance with Section 78B-6-120; and
- 118w (v) the court finds that it is in the best interest of the child to grant the adoption without  
118x releasing the pre-existing parent from parental rights and duties.
- 118y (b) This Subsection (4) does not permit a child to have more than two natural parents, as that  
118z term is defined in Section 78A-6-105.
- 118aa (5) This section may not be construed as terminating any child support obligation of a parent  
118ab incurred before the adoption. ←Ĥ

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Legislative Review Note  
Office of Legislative Research and General Counsel