{deleted text} shows text that was in SB0215 but was deleted in SB0215S01.

Inserted text shows text that was not in SB0215 but was inserted into SB0215S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Senator Luz Escamilla proposes the following substitute bill:

ADOPTION SERVICE AGENCIES AMENDMENTS

2019 GENERAL SESSION STATE OF UTAH

Chief Sponsor: Luz Escamilla House Sponsor:

LONG TITLE

General Description:

This bill modifies provisions relating to licensed adoption services.

Highlighted Provisions:

This bill:

- \{\text{modifies the definition of "adoption services"};}\}
- requires a person engaging in defines "advertisement";
- <u>clarifies provisions prohibiting advertisements for certain</u>
 {adoption} adoption-related services {to be licensed by the Office of Licensing within the Department of Human Services;
- prohibits certain unlicensed persons from using certain adoption terms to describe employees or services;
 - prohibits an unlicensed person from charging a fee for adoptive services under

certain circumstances;

- requires the Office of Licensing <u>within the Department of Human Services</u> to provide notice to certain persons upon finding the person is providing certain {adoption} adoption-related services without a license; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

62A-4a-101, as last amended by Laws of Utah 2017, Chapters 209, 323, and 459

62A-4a-602, as last amended by Laws of Utah 2017, Chapter 148

62A-4a-603, as renumbered and amended by Laws of Utah 1994, Chapter 260

78B-6-124, as last amended by Laws of Utah 2017, Chapter 148

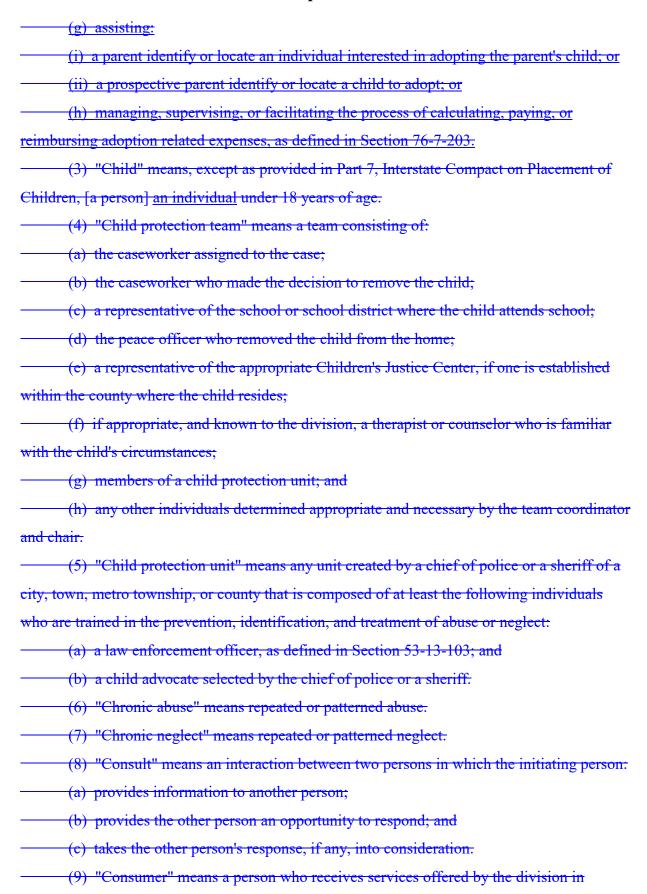
Be it enacted by the Legislature of the state of Utah:

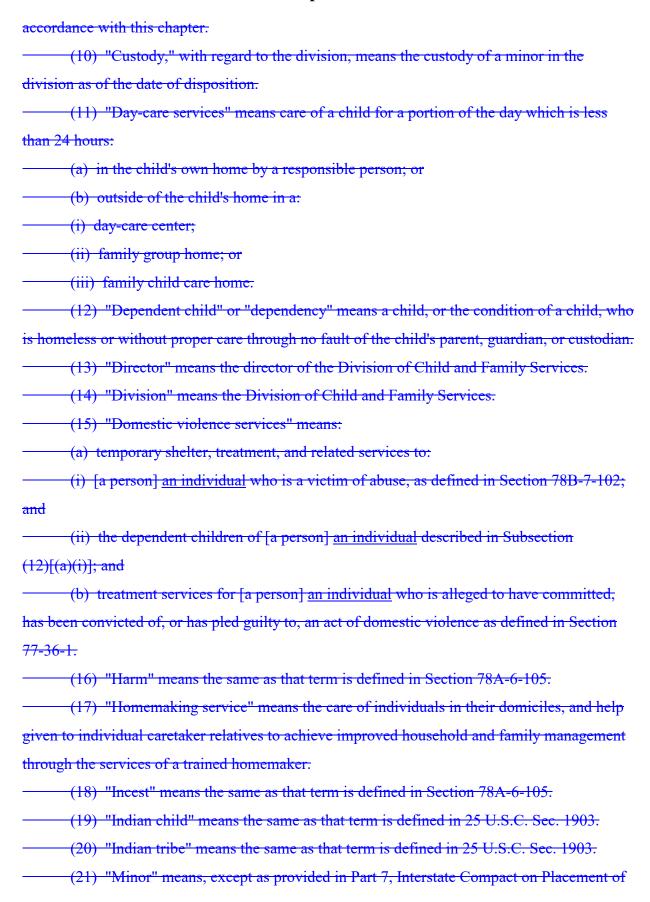
Section 1. Section $\frac{(62A-4a-101)}{62A-4a-602}$ is amended to read:

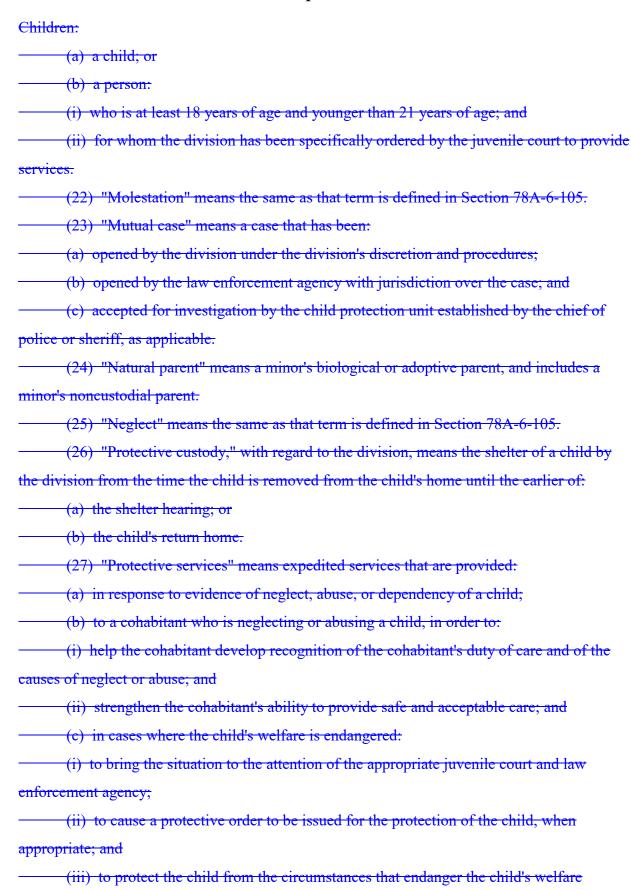
62A-4a-101. Definitions.

As used in this chapter:

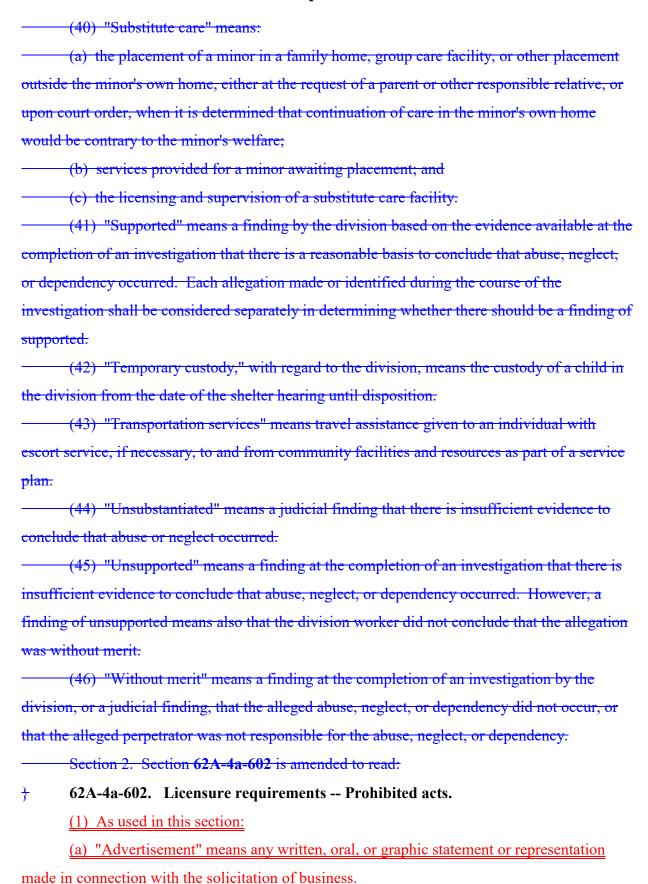
- (1) "Abuse" means the same as that term is defined in Section 78A-6-105.
- (2) "Adoption services" means:
- (a) placing children for adoption;
 - (b) subsidizing adoptions under Section 62A-4a-105;
- (c) supervising adoption placements until the adoption is finalized by the court;
- (d) conducting adoption studies, with or without the supervision of a child placing agency, as defined in Section 62A-2-101;
- (e) preparing adoption reports upon request of the court, with or without the supervision of a child placing agency, as defined in Section 62A-2-101; [and]
- (f) providing postadoptive placement services, upon request of a family, for the purpose of stabilizing a possible disruptive placement[.];







including, when appropriate:
(A) removal from the child's home;
(B) placement in substitute care; and
(C) petitioning the court for termination of parental rights.
(28) "Severe abuse" means the same as that term is defined in Section 78A-6-105.
(29) "Severe neglect" means the same as that term is defined in Section 78A-6-105.
(30) "Sexual abuse" means the same as that term is defined in Section 78A-6-105.
(31) "Sexual exploitation" means the same as that term is defined in Section
78A-6-105.
(32) "Shelter care" means the temporary care of a minor in a nonsecure facility.
(33) "Sibling" means a child who shares or has shared at least one parent in common
either by blood or adoption.
(34) "Sibling visitation" means services provided by the division to facilitate the
interaction between a child in division custody with a sibling of that child.
(35) "State" means:
(a) a state of the United States;
(b) the District of Columbia;
(c) the Commonwealth of Puerto Rico;
(d) the Virgin Islands;
(e) Guam;
(f) the Commonwealth of the Northern Mariana Islands; or
(g) a territory or possession administered by the United States.
(36) "State plan" means the written description of the programs for children, youth, and
family services administered by the division in accordance with federal law.
(37) "Status offense" means a violation of the law that would not be a violation but for
the age of the offender.
(38) "Substance abuse" means the same as that term is defined in Section 78A-6-105.
(39) "Substantiated" or "substantiation" means a judicial finding based on a
preponderance of the evidence that abuse or neglect occurred. Each allegation made or
identified in a given case shall be considered separately in determining whether there should be
a finding of substantiated.



(b) "Advertisement" includes a statement or representation described in Subsection (1)(a) by a noncable television system, radio, printed brochure, newspaper, leaflet, flyer, circular, billboard, banner, Internet website, social media, or sign. [(1) No person may] (\{1\) Except as provided in Subsection (3), a person who is not licensed by the Office of Licensing within the department to provide child placing or adoption services may not: (a) \{2) (a) A person may not engage in child placing \{\) or adoption services\{\}, or solicit money or other assistance for child placing (f), without a valid license issued by the Office of Licensing, in accordance with Chapter 2, Licensure of Programs and Facilities. { or adoption services; (b) describe the person or the person's employee or agent using a term that implies the person, employee, or agent is able to provide adoption services; or (c) transact business under a name that includes the terms "adoption" or "adopt," or a derivative of the terms "adoption" or "adopt," unless: (i) the person participates in an adoption that does not involve a child; or (ii) the term is used: (A) by a law firm; (B) in a literary publication; or (C) by a nonprofit organization that employs at least one person who is licensed by the Office of Licensing to provide child placing or adoption services. (2) (b) When a child-placing agency's license is suspended or revoked in accordance with {{}} that chapter {{}} Chapter 2, Licensure of Programs and Facilities}, the care, control, or custody of any child who has been in the care, control, or custody of that agency shall be transferred to the division. [(2)] (3) (a) $\{(3)\}$ (b) An $\{(3)\}$ An $\{(3)\}$ An $\{(3)\}$ attorney, physician, or other person may{, regardless of whether the attorney, physician, or person is licensed by the Office of Licensing within the department: (i) assist a parent { in identifying or locating { identify or locate } a person interested in adopting the parent's child $\{\{\}\}$, or in identifying or locating $\{\}\}$ a child to be adopted $[\{\},\}]$

However, no

- (ii) No payment, charge, fee, reimbursement of expense, or exchange of value of any kind, or promise or agreement to make the same, may be made for [that{ assistance.]; or
- (ii) provide adoption-related services, including counseling, post-placement supervision, or expense management.} the assistance described in Subsection (3)(a)(i).
- (b) An attorney, physician, or other person {who is not licensed by the Office of Licensing within the department may not:
- (i) charge, accept, or exchange value of any kind for the assistance or services described in Subsection (3)(a);
 - [(i)] (ii)} may not:
- (i) issue or cause to be issued to any person a card, sign, or device indicating that [he] the attorney, physician, or other person is available to provide [that{ assistance}] the assistance described in Subsection (3)(a);
- {[}(ii){] (iii)} cause, permit, or allow any sign or marking indicating that [he] the attorney, physician, or other person is available to provide [that{ assistance}] the assistance described in Subsection (3)(a), on or in any building or structure;
- {[] (iii) {] (iv)} announce [or], cause, permit, or allow an announcement indicating that [he] the attorney, physician, or other person is available to provide [that { assistance}] the assistance described in Subsection ({3}2)(a), to appear in any newspaper, magazine, directory, [or], on radio or television {; or
 - [(iv)] (v) advertise by any other, or an Internet website; or
- (iv) [advertise] announce, cause, permit, or allow an advertisement by any [other] means that [he] indicates or implies the attorney, physician, or other person is available to provide [that{assistance}}] the assistance[:] described in Subsection (3)(a), including an advertisement that indicates or implies the attorney, physician, or other person is available to provide the assistance described in Subsection (3)(a) as part of, or related to, other adoption-related services by using any of the following terms:
 - (A) "comprehensive";
 - (B) "complete";
 - (C) "one-stop";
 - (D) "all-inclusive"; or
 - (E) any other term similar to the terms described in Subsections (3)(b)(iv)(A) through

<u>(D).</u>

- [(3)] (4) Nothing in this part:
- (a) precludes payment of fees for medical, legal, or other lawful services rendered in connection with the care of a mother, delivery and care of a child, or lawful adoption proceedings[; {[} and no provision of this part] {}; or
 - (b) abrogates the right of procedures for independent adoption as provided by law.
- [(4)] (5) In accordance with federal law, only agents or employees of the division and of licensed child placing agencies may certify to the United States Immigration and Naturalization Service that a family meets the division's preadoption requirements.
 - [(5) (a)Beginning May 1, 2000, neither]
- (6) (a) {{Beginning May 1, 2000, neither}} Neither a licensed child-placing agency nor any attorney practicing in this state may place a child for adoption, either temporarily or permanently, with any individual or individuals that would not be qualified for adoptive placement pursuant to the provisions of Sections 78B-6-117, 78B-6-102, and 78B-6-137.
- (b) [Beginning May 1, 2000, the] The division, as a licensed child-placing agency, may not place a child in foster care with any individual or individuals that would not be qualified for adoptive placement pursuant to the provisions of Sections 78B-6-117, 78B-6-102, and 78B-6-137. However, nothing in this Subsection [(5)] (6)(b) limits the placement of a child in foster care with the child's biological or adoptive parent.
- (c) [Beginning May 1, 2000, with] With regard to children who are in the custody of the state, the division shall establish a policy providing that priority for foster care and adoptive placement shall be provided to families in which both a man and a woman are legally married under the laws of this state. However, nothing in this Subsection [(5)] (6)(c) limits the placement of a child with the child's biological or adoptive parent.

Section $\frac{3}{2}$. Section 62A-4a-603 is amended to read:

62A-4a-603. Injunction -- Enforcement by county attorney or attorney general.

- (1) The division, Office of Licensing within the department, or any interested person may commence an action in district court to enjoin any person, agency, firm, corporation, or association violating Section 62A-4a-602.
 - (2) The Office of Licensing shall:
 - (a) solicit information from the public relating to violations of Section 62A-4a-602;

and

- (b) upon identifying a violation of Section 62A-4a-602:
- (i) send a written notice to the person who violated Section 62A-4a-602 that describes the alleged violation; and
 - (ii) notify the {local county attorney} following persons of the alleged violation {.}:
 - (A) local county attorney; and
 - (B) the Division of Occupational and Professional Licensing.
- [(2)] (3) (a) A county attorney or the attorney general shall institute legal action as necessary to enforce the provisions of Section 62A-4a-602 [when informed of any] after being informed of an alleged violation.
- (b) If [the] a county attorney does not take action within 30 days after [being informed] the day on which the county attorney is informed of an alleged violation of Section 62A-4a-602, the attorney general may be requested to take action, and shall then institute legal proceedings in place of the county attorney.
- [(3)] (4) (a) In addition to the remedies provided in Subsections (1) and [(2)] (3), any person, agency, firm, corporation, or association found to be in violation of Section 62A-4a-602 shall forfeit all proceeds identified as resulting from the transaction, and may also be assessed a civil penalty of not more than \$10,000 for each violation. [Every]
- (b) Each act in violation of Section 62A-4a-602, including each placement or attempted placement of a child, is a separate violation.
- [(4)] (5) (a) All amounts recovered as penalties under Subsection [(3)] (4) shall be placed in the General Fund of the prosecuting county, or in the state General Fund if the attorney general prosecutes.
- (b) If two or more governmental entities are involved in the prosecution, the penalty amounts recovered shall be apportioned by the court among the entities, according to their involvement.
- [(5)] (6) A judgment ordering the payment of any penalty or forfeiture under Subsection [(3) constitutes] (4) is a lien when recorded in the judgment docket, and has the same effect and is subject to the same rules as a judgment for money in a civil action.

Section 3. 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 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) A person executing a consent or relinquishment is entitled to receive a copy of the consent or relinquishment.
 - (6) 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 adoptee's immediate family.

(7) Except as provided in Subsection 62A-4a-602[(1)](2), a transfer of relinquishment from one child-placing agency to another child-placing agency shall be signed before a Notary Public.