

ADOPTION MODIFICATIONS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephanie Gricius

Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill amends provisions related to adoption.

Highlighted Provisions:

This bill:

- ▶ requires a clerk of the court to provide a report of adoption, upon request, to an attorney or child-placing agency in certain circumstances;
- ▶ amends the circumstances under which the consent of an unmarried biological father is required in relation to the adoption of a child;
- ▶ clarifies who must sign an affidavit of fees or expenses filed with the court before a final decree of adoption is entered; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-2-25, as last amended by Laws of Utah 2021, Chapter 65

78B-6-122, as last amended by Laws of Utah 2013, Chapter 474

78B-6-140, as last amended by Laws of Utah 2021, Chapter 65

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

30 Section 1. Section **26-2-25** is amended to read:

31 **26-2-25. Divorce or adoption -- Duty of court clerk to file certificates or reports.**

32 (1) For each adoption, annulment of adoption, divorce, and annulment of marriage
33 ordered or decreed in this state, the clerk of the court shall prepare a divorce certificate or
34 report of adoption on a form furnished by the state registrar or, for a report of adoption, the
35 state of the child's birth.

36 (2) The petitioner shall provide the clerk of the court with the information necessary to
37 prepare the certificate or report under Subsection (1), including the form furnished by the
38 child's state of birth if the child was born in another state.

39 (3) The clerk shall:

40 (a) prepare the certificate or report under Subsection (1); and

41 (b) complete the remaining entries for the certificate or report immediately after the
42 decree or order becomes final.

43 (4) On or before the 15th day of each month, the clerk shall forward the divorce
44 certificates and reports of adoption under Subsection (1) completed by the clerk during the
45 preceding month to the state registrar, except for reports of adoption provided to an attorney or
46 child-placing agency under Subsection (5)(b).

47 (5) (a) [~~A~~] In addition to the report of adoption that the clerk forwards to the state
48 registrar under Subsection (4), the clerk shall also provide an original report of adoption under
49 Subsection (1) [~~may be provided~~], upon request, to the attorney who is providing representation
50 of a party to the adoption, or the child-placing agency, as defined in Section 78B-6-103, that is
51 placing the child.

52 (b) If the child was born in another state, the clerk of court shall prepare and provide
53 one original report of adoption, upon request, to the attorney who is providing representation of
54 a party to the adoption, or the child-placing agency that is placing the child, and the attorney or
55 child-placing agency shall be responsible for submitting the report to the state of the child's

56 birth.

57 (c) If the attorney or child-placing agency does not request an original report of
58 adoption under Subsection (5)(a) or (b), the clerk shall forward the report of adoption to the
59 state registrar pursuant to Subsection (4).

60 [~~(b)~~] (d) [~~If~~] If, pursuant to Subsection (5)(a), an original report of adoption is
61 provided to the attorney or the child-placing agency, as defined in Section 78B-6-103, the
62 attorney or the child-placing agency shall immediately provide the report of adoption to the
63 state registrar.

64 Section 2. Section 78B-6-122 is amended to read:

65 **78B-6-122. Qualifying circumstance.**

66 (1) (a) For purposes of this section, "qualifying circumstance" means that, at any point
67 during the time period beginning at the conception of the child and ending at the time the
68 mother executed a consent to adoption or relinquishment of the child for adoption:

69 (i) the child or the child's mother resided on a permanent basis, or a temporary basis of
70 no less than 30 consecutive days, in the state;

71 (ii) the mother intended to give birth to the child in the state;

72 (iii) the child was born in the state; or

73 (iv) the mother intended to execute a consent to adoption or relinquishment of the child
74 for adoption:

75 (A) in the state; or

76 (B) under the laws of the state.

77 (b) For purposes of Subsection (1)(c)(i)(C) only, when determining whether an
78 unmarried biological father has demonstrated a full commitment to his parental
79 responsibilities, a court shall consider the totality of the circumstances, including, if applicable:

80 (i) efforts he has taken to discover the location of the child or the child's mother;

81 (ii) whether he has expressed [~~or~~] and demonstrated an interest in taking responsibility
82 for the child;

- 83 (iii) whether, and to what extent, he has developed, or attempted to develop, a
84 relationship with the child;
- 85 (iv) whether he offered to provide and, [if] unless the offer was [~~accepted~~] rejected, did
86 provide, financial support for the child or the child's mother;
- 87 (v) whether, and to what extent, he has communicated, or attempted to communicate,
88 with the child or the child's mother;
- 89 (vi) whether he has timely filed legal proceedings to establish his paternity of, and take
90 responsibility for, the child;
- 91 (vii) whether he has timely filed a notice with a public official or agency relating to:
92 (A) his paternity of the child; or
93 (B) legal proceedings to establish his paternity of the child; or
94 (viii) other evidence that [~~demonstrates that~~] shows whether he has demonstrated a full
95 commitment to his parental responsibilities.
- 96 (c) Notwithstanding the provisions of Section 78B-6-121, the consent of an unmarried
97 biological father is required with respect to an adoptee who is under the age of 18 if:
- 98 (i) (A) the unmarried biological father did not know, and through the exercise of
99 reasonable diligence could not have known, before the time the mother executed a consent to
100 adoption or relinquishment of the child for adoption, that a qualifying circumstance existed;
- 101 (B) before the mother executed a consent to adoption or relinquishment of the child for
102 adoption, the unmarried biological father fully complied with the requirements to establish
103 parental rights in the child, and to preserve the right to notice of a proceeding in connection
104 with the adoption of the child, imposed by:
- 105 (I) the last state where the unmarried biological father knew, or through the exercise of
106 reasonable diligence should have known, that the mother resided in before the mother executed
107 the consent to adoption or relinquishment of the child for adoption; or
108 (II) the state where the child was conceived; and
109 (C) the unmarried biological father has demonstrated, based on the totality of the

110 circumstances, a full commitment to his parental responsibilities, as described in Subsection
111 (1)(b); or

112 (ii) (A) the unmarried biological father knew, or through the exercise of reasonable
113 diligence should have known, before the time the mother executed a consent to adoption or
114 relinquishment of the child for adoption, that a qualifying circumstance existed; and

115 (B) the unmarried biological father complied with the requirements of Section
116 78B-6-121 before the later of:

117 (I) 20 days after the day that the unmarried biological father knew, or through the
118 exercise of reasonable diligence should have known, that a qualifying circumstance existed; or

119 (II) the time that the mother executed a consent to adoption or relinquishment of the
120 child for adoption.

121 (2) An unmarried biological father who does not fully and strictly comply with the
122 requirements of Section 78B-6-121 and this section is considered to have waived and
123 surrendered any right in relation to the child, including the right to:

- 124 (a) notice of any judicial proceeding in connection with the adoption of the child; and
- 125 (b) consent, or refuse to consent, to the adoption of the child.

126 Section 3. Section 78B-6-140 is amended to read:

127 **78B-6-140. Itemization of fees and expenses.**

128 (1) Except as provided in Subsection (4), before the date that a final decree of adoption
129 is entered, an affidavit regarding fees and expenses, signed by the prospective adoptive parent
130 or parents and, if the child was placed by a child-placing agency, the [person or] agency placing
131 the child, shall be filed with the court.

132 (2) The affidavit described in Subsection (1) shall itemize the following items in
133 connection with the adoption:

- 134 (a) all legal expenses, maternity expenses, medical or hospital expenses, and living
135 expenses that have been or will be paid to or on behalf of the preexisting parents of the child,
136 including the source of payment;

- 137 (b) fees paid by the prospective adoptive parent or parents in connection with the
138 adoption;
- 139 (c) all gifts, property, or other items that have been or will be provided to the
140 preexisting parents, including the source of the gifts, property, or other items;
- 141 (d) all public funds used for any medical or hospital costs in connection with the:
- 142 (i) pregnancy;
- 143 (ii) delivery of the child; or
- 144 (iii) care of the child;
- 145 (e) the state of residence of the:
- 146 (i) birth mother or the preexisting parents; and
- 147 (ii) prospective adoptive parent or parents;
- 148 (f) a description of services provided to the prospective adoptive parents or preexisting
149 parents in connection with the adoption; and
- 150 (g) that Section [76-7-203](#) has not been violated.
- 151 (3) If a child-placing agency, that is licensed by this state, placed the child, a copy of
152 the affidavit described in Subsection (1) shall be provided to the Office of Licensing within the
153 Department of Health and Human Services.
- 154 (4) This section does not apply if the prospective adoptive parent is the legal spouse of
155 a preexisting parent.