

## SB0154S02 compared with SB0154

~~text~~ shows text that was in SB0154 but was deleted in SB0154S02.

text shows text that was not in SB0154 but was inserted into SB0154S02.

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Senator Chris H. Wilson proposes the following substitute bill:

### ADOPTION AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Chris H. Wilson**

House Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill addresses adoptions.

##### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ addresses Medicaid coverage and payments related to a birth mother who considers or proceeds with an adoptive placement for a child;
- ▶ prohibits a child-placing agency from charging ~~an adoptive parent~~ for services that are not actually rendered or for medical or hospital expenses that were paid for with public funds;
- ▶ requires certain child-placing agencies to join a child-placing consortium by which the consortium can serve all birth mothers and all prospective adoptive parents;

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- ▶ provides protections for ~~{private}~~consortium-member child-placing agencies that ~~{decline to}~~cannot participate in child placing that is contrary to the agency's ~~{sincerely held}~~ religious teachings, practices, or beliefs, or ~~{the}~~certain wishes of the birth mother;
- ~~{~~ → allows the court to waive a home study for prospective adoptive parents in certain circumstances;
- ‡ ▶ requires the Judicial Council to create a uniform fee and expense form for adoption proceedings;
- ▶ with certain conditions and exceptions:
  - requires a prospective adoptive parent to file a fee and expense form with the court prior to the finalization of an adoption;
  - requires the court to review a fee and expense form for completeness~~{and~~ reasonableness};
  - requires a child placing agency to file a fee and expense form with the Office of Licensing within the Department of Health and Human Services; and
  - requires the Department of Health and Human Services to provide an annual report to the Health and Human Services Interim Committee and Judicial Council regarding adoption costs in the state; and
- ▶ makes technical and conforming changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

[26-18-3, as last amended by Laws of Utah 2021, Chapter 422](#)

**62A-2-108.6**, as last amended by Laws of Utah 2022, Chapters 287, 326 and renumbered and amended by Laws of Utah 2022, Chapter 334 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 334

**63G-20-102**, as enacted by Laws of Utah 2015, Chapter 46

**63G-20-202**, as enacted by Laws of Utah 2015, Chapter 46

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~~{ 78B-6-128, as last amended by Laws of Utah 2022, Chapter 335~~

~~— 78B-6-129, as last amended by Laws of Utah 2012, Chapter 340~~

~~— 78B-6-130, as last amended by Laws of Utah 2017, Chapter 280~~

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

ENACTS:

63G-20-203.5, Utah Code Annotated 1953

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

Section 1. Section 26-18-3 is amended to read:

**26-18-3. Administration of Medicaid program by department -- Reporting to the Legislature -- Disciplinary measures and sanctions -- Funds collected -- Eligibility standards -- Internal audits -- Health opportunity accounts.**

(1) The department shall be the single state agency responsible for the administration of the Medicaid program in connection with the United States Department of Health and Human Services pursuant to Title XIX of the Social Security Act.

(2) (a) The department shall implement the Medicaid program through administrative rules in conformity with this chapter, Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements of Title XIX, and applicable federal regulations.

(b) The rules adopted under Subsection (2)(a) shall include, in addition to other rules necessary to implement the program:

(i) the standards used by the department for determining eligibility for Medicaid services;

(ii) the services and benefits to be covered by the Medicaid program;

(iii) reimbursement methodologies for providers under the Medicaid program; and

(iv) a requirement that:

(A) a person receiving Medicaid services shall participate in the electronic exchange of clinical health records established in accordance with Section 26-1-37 unless the individual opts out of participation;

(B) prior to enrollment in the electronic exchange of clinical health records the enrollee shall receive notice of enrollment in the electronic exchange of clinical health records and the right to opt out of participation at any time; and

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(C) beginning July 1, 2012, when the program sends enrollment or renewal information to the enrollee and when the enrollee logs onto the program's website, the enrollee shall receive notice of the right to opt out of the electronic exchange of clinical health records.

(3) (a) The department shall, in accordance with Subsection (3)(b), report to the Social Services Appropriations Subcommittee when the department:

(i) implements a change in the Medicaid State Plan;  
(ii) initiates a new Medicaid waiver;  
(iii) initiates an amendment to an existing Medicaid waiver;  
(iv) applies for an extension of an application for a waiver or an existing Medicaid waiver;

(v) applies for or receives approval for a change in any capitation rate within the Medicaid program; or

(vi) initiates a rate change that requires public notice under state or federal law.

(b) The report required by Subsection (3)(a) shall:

(i) be submitted to the Social Services Appropriations Subcommittee prior to the department implementing the proposed change; and

(ii) include:

(A) a description of the department's current practice or policy that the department is proposing to change;

(B) an explanation of why the department is proposing the change;

(C) the proposed change in services or reimbursement, including a description of the effect of the change;

(D) the effect of an increase or decrease in services or benefits on individuals and families;

(E) the degree to which any proposed cut may result in cost-shifting to more expensive services in health or human service programs; and

(F) the fiscal impact of the proposed change, including:

(I) the effect of the proposed change on current or future appropriations from the Legislature to the department;

(II) the effect the proposed change may have on federal matching dollars received by the state Medicaid program;

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(III) any cost shifting or cost savings within the department's budget that may result from the proposed change; and

(IV) identification of the funds that will be used for the proposed change, including any transfer of funds within the department's budget.

(4) Any rules adopted by the department under Subsection (2) are subject to review and reauthorization by the Legislature in accordance with Section 63G-3-502.

(5) The department may, in its discretion, contract with the Department of Human Services or other qualified agencies for services in connection with the administration of the Medicaid program, including:

(a) the determination of the eligibility of individuals for the program;

(b) recovery of overpayments; and

(c) consistent with Section 26-20-13, and to the extent permitted by law and quality control services, enforcement of fraud and abuse laws.

(6) The department shall provide, by rule, disciplinary measures and sanctions for Medicaid providers who fail to comply with the rules and procedures of the program, provided that sanctions imposed administratively may not extend beyond:

(a) termination from the program;

(b) recovery of claim reimbursements incorrectly paid; and

(c) those specified in Section 1919 of Title XIX of the federal Social Security Act.

(7) (a) Funds collected as a result of a sanction imposed under Section 1919 of Title XIX of the federal Social Security Act shall be deposited in the General Fund as dedicated credits to be used by the division in accordance with the requirements of Section 1919 of Title XIX of the federal Social Security Act.

(b) In accordance with Section 63J-1-602.2, sanctions collected under this Subsection (7) are nonlapsing.

(8) (a) In determining whether an applicant or recipient is eligible for a service or benefit under this part or Chapter 40, Utah Children's Health Insurance Act, the department shall, if Subsection (8)(b) is satisfied, exclude from consideration one passenger vehicle designated by the applicant or recipient.

(b) Before Subsection (8)(a) may be applied:

(i) the federal government shall:

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(A) determine that Subsection (8)(a) may be implemented within the state's existing public assistance-related waivers as of January 1, 1999;

(B) extend a waiver to the state permitting the implementation of Subsection (8)(a); or

(C) determine that the state's waivers that permit dual eligibility determinations for cash assistance and Medicaid are no longer valid; and

(ii) the department shall determine that Subsection (8)(a) can be implemented within existing funding.

(9) (a) For purposes of this Subsection (9):

(i) "aged, blind, or has a disability" means an aged, blind, or disabled individual, as defined in 42 U.S.C. Sec. 1382c(a)(1); and

(ii) "spend down" means an amount of income in excess of the allowable income standard that shall be paid in cash to the department or incurred through the medical services not paid by Medicaid.

(b) In determining whether an applicant or recipient who is aged, blind, or has a disability is eligible for a service or benefit under this chapter, the department shall use 100% of the federal poverty level as:

(i) the allowable income standard for eligibility for services or benefits; and

(ii) the allowable income standard for eligibility as a result of spend down.

(10) The department shall conduct internal audits of the Medicaid program.

(11) (a) The department may apply for and, if approved, implement a demonstration program for health opportunity accounts, as provided for in 42 U.S.C. Sec. 1396u-8.

(b) A health opportunity account established under Subsection (11)(a) shall be an alternative to the existing benefits received by an individual eligible to receive Medicaid under this chapter.

(c) Subsection (11)(a) is not intended to expand the coverage of the Medicaid program.

(12) (a) (i) The department shall apply for, and if approved, implement an amendment to the state plan under this Subsection (12) for benefits for:

(A) medically needy pregnant women;

(B) medically needy children; and

(C) medically needy parents and caretaker relatives.

(ii) The department may implement the eligibility standards of Subsection (12)(b) for

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eligibility determinations made on or after the date of the approval of the amendment to the state plan.

(b) In determining whether an applicant is eligible for benefits described in Subsection (12)(a)(i), the department shall:

(i) disregard resources held in an account in the savings plan created under Title 53B, Chapter 8a, Utah Educational Savings Plan, if the beneficiary of the account is:

(A) under the age of 26; and

(B) living with the account owner, as that term is defined in Section 53B-8a-102, or temporarily absent from the residence of the account owner; and

(ii) include the withdrawals from an account in the Utah Educational Savings Plan as resources for a benefit determination, if the withdrawal was not used for qualified higher education costs as that term is defined in Section 53B-8a-102.5.

(13) (a) The department may not deny or terminate eligibility for Medicaid solely because an individual is:

(i) incarcerated; and

(ii) not an inmate as defined in Section 64-13-1.

(b) Subsection (13)(a) does not require the Medicaid program to provide coverage for any services for an individual while the individual is incarcerated.

(14) The department is a party to, and may intervene at any time in, any judicial or administrative action:

(a) to which the Department of Workforce Services is a party; and

(b) that involves medical assistance under:

(i) Title 26, Chapter 18, Medical Assistance Act; or

(ii) Title 26, Chapter 40, Utah Children's Health Insurance Act.

(15) (a) The department may not deny or terminate eligibility for Medicaid solely because a birth mother, as that term is defined in Section 78B-6-103, considers an adoptive placement for the child or proceeds with an adoptive placement of the child.

(b) A health care provider, as that term is defined in Section 26-18-17, may not decline payment by Medicaid for covered health and medical services provided to a birth mother, as that term is defined in Section 78B-6-103, who is enrolled in Utah's Medicaid program and who considers an adoptive placement for the child or proceeds with an adoptive placement of

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the child.

Section ~~41~~2. Section **62A-2-108.6** is amended to read:

**62A-2-108.6. Child placing licensure requirements -- Prohibited acts** ---

Consortium.

(1) As used in this section:

(a) (i) "Advertisement" means any written, oral, or graphic statement or representation made in connection with a solicitation of business.

(ii) "Advertisement" includes a statement or representation described in Subsection (1)(a)(i) by a noncable television system, radio, printed brochure, newspaper, leaflet, flyer, circular, billboard, banner, Internet website, social media, or sign.

(b) "Birth parent" means the same as that term is defined in Section 78B-6-103.

(c) "Clearly and conspicuously disclose" means the same as that term is defined in Section 13-11a-2.

(d) (i) "Matching advertisement" means any written, oral, or graphic statement or representation made in connection with a solicitation of business to provide the assistance described in Subsection (3)(a)(i), regardless of whether there is or will be an exchange described in Subsection (3)(a)(ii).

(ii) "Matching advertisement" includes a statement or representation described in Subsection (1)(d)(i) by a noncable television system, radio, printed brochure, newspaper, leaflet, flyer, circular, billboard, banner, Internet website, social media, or sign.

(2) (a) Subject to Section 78B-24-205, a person may not engage in child placing, or solicit money or other assistance for child placing, without a valid license issued by the office in accordance with this chapter.

(b) If a child-placing agency's license is suspended or revoked in accordance with this chapter, the care, control, or custody of any child who is in the care, control, or custody of the child-placing agency shall be transferred to the Division of Child and Family Services.

(3) (a) (i) An attorney, physician, or other person may assist:

(A) a birth parent to identify or locate a prospective adoptive parent who is interested in adopting the birth parent's child; or

(B) a prospective adoptive parent to identify or locate a child to be adopted.

(ii) A payment, charge, fee, reimbursement of expense, or exchange of value of any



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kind, or promise or agreement to make the same, may not be made for the assistance described in Subsection (3)(a)(i).

(b) An attorney, physician, or other person may not:

(i) issue or cause to be issued to any person a card, sign, or device indicating that the attorney, physician, or other person is available to provide the assistance described in Subsection (3)(a)(i);

(ii) cause, permit, or allow any sign or marking indicating that the attorney, physician, or other person is available to provide the assistance described in Subsection (3)(a)(i), on or in any building or structure;

(iii) announce, cause, permit, or allow an announcement indicating that the attorney, physician, or other person is available to provide the assistance described in Subsection (3)(a)(i), to appear in any newspaper, magazine, directory, on radio or television, or an Internet website relating to a business;

(iv) announce, cause, permit, or allow a matching advertisement; or

(v) announce, cause, permit, or allow an advertisement that indicates or implies the attorney, physician, or other person is available to provide the assistance described in Subsection (3)(a)(i) 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)(v)(A) through (D).

(c) An attorney, physician, or other person who is not licensed by the office shall clearly and conspicuously disclose in any print media advertisement or written contract regarding adoption services or adoption-related services that the attorney, physician, or other person is not licensed to provide adoption services by the office.

(4) A person who intentionally or knowingly violates Subsection (2) or (3) is guilty of a third degree felony.

(5) This section does not preclude payment of fees for medical, legal, or other lawful

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services rendered in connection with the care of a mother, delivery and care of a child, or lawful adoption proceedings, except that a child-placing agency may not:

(a) charge or accept payment ~~from a prospective adoptive parent~~ for services that were not actually rendered ~~to the prospective adoptive parent~~; or

(b) charge or accept payment from a prospective adoptive parent for medical or hospital expenses that were paid for by public funds.

(6) In accordance with federal law, only an agent or employee of the Division of Child and Family Services or of a licensed child-placing agency may certify to United States Citizenship and Immigration Services that a family meets the preadoption requirements of the Division of Child and Family Services.

(7) A licensed child-placing agency or an attorney practicing in this state may not place a child for adoption, either temporarily or permanently, with an individual who would not be qualified for adoptive placement under Sections 78B-6-102, 78B-6-117, and 78B-6-137.

(8) (a) A child-placing agency, as that term is defined in Section 63G-20-102, that serves a resident of the state who is a birth mother or a prospective adoptive parent must be a member of a statewide consortium of licensed child-placing agencies that, together, serve all birth mothers lawfully seeking to place a child for adoption and all qualified prospective adoptive parents.

(b) The department shall receive and investigate any complaint against a consortium of licensed child-placing agencies.

Section ~~2~~3. Section **63G-20-102** is amended to read:

### **63G-20-102. Definitions.**

As used in this chapter:

(1) "Child placing" means the same as that term is defined in Section 62A-2-101.

(2) "Child-placing agency" means a private person that ~~engages~~is engaged in child placing related to a child who is not in the custody of the state.

(3) "Government retaliation" means an action by a state or local government or an action by a state or local government official that:

(a) is taken in response to a person's exercise of a protection contained in Section 17-20-4, 63G-20-201, 63G-20-203.5, or 63G-20-301; and

(b) (i) imposes a formal penalty on, fines, disciplines, discriminates against, denies the

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rights of, denies benefits to, or denies tax-exempt status to a person; or

(ii) subjects a person to an injunction or to an administrative claim or proceeding.

~~[(2)]~~ (4) (a) "Religious official" means an officer or official of a religion, when acting as such.

(b) "Religious official" includes an individual designated by the religion as clergy, minister, priest, pastor, rabbi, imam, bishop, stake president, or sealer, when that individual is acting as such.

~~[(3)]~~ (5) "Religious organization" means:

(a) a religious organization, association, educational institution, or society;

(b) a religious corporation sole; or

(c) any corporation or association constituting a wholly owned subsidiary, affiliate, or agency of any religious organization, association, educational institution, society, or religious corporation sole.

~~[(4)]~~ (6) "Sexuality" includes legal sexual conduct, legal sexual expression, sexual desires, and the status of a person as male or female.

~~[(5)]~~ (7) "State or local government" means:

(a) a state government entity, agency, or instrumentality; or

(b) a local government entity, agency, or instrumentality.

~~[(6)]~~ (8) "State or local government official" means an officer, employee, or appointee of a state or local government.

Section ~~[(3)]~~4. Section **63G-20-202** is amended to read:

### **63G-20-202. Prohibition on government retaliation.**

Notwithstanding any other law, a state or local government or a state or local government official may not engage in government retaliation against:

(1) an individual, a religious official when acting as such, or a religious organization for exercising the protections contained in Section 17-20-4, 63G-20-201, or 63G-20-301~~[-]~~; or

(2) a child-placing agency for exercising the protections contained in Section 63G-20-203.5.

Section ~~[(4)]~~5. Section **63G-20-203.5** is enacted to read:

### **63G-20-203.5. Child-placing agencies.**

(1) As used in this section, "consortium" means a statewide consortium of

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child-placing agencies described in Subsection 62A-2-108.6(8).

(2) Notwithstanding any other provision of law, a state or local government, a state or local government official, or another accrediting, certifying, or licensing body, including the Office of Licensing within the Department of Health and Human Services, may not:

(a) require a consortium-member child-placing agency to perform, assist, counsel, recommend, consent to, facilitate, or participate in child placing, with a qualified prospective adoptive parent, that is contrary to:

~~\_\_\_\_\_ (i) the child-placing agency's religious teaching, practices, or sincerely held religious beliefs; or~~

~~\_\_\_\_\_ (ii) the good faith wishes of the birth mother as to the optimal placement of the child;~~

(b) deny a consortium-member child-placing agency any grant, contract, or participation in a government program because of the child-placing agency cannot, consistent with the child-placing agency's objection to performing, assisting, counseling, recommending, consenting to, facilitating, or participating in child placing that is contrary to:

~~\_\_\_\_\_ (i) the child-placing agency's religious teaching, practices, or sincerely held religious beliefs; or~~

~~\_\_\_\_\_ (ii) consistent with the good faith wishes of the birth mother;~~

~~\_\_\_\_\_ (2) The Office of Licensing within the Department of Health and Human Services, created by Section 62A-2-103, may not deny an application for an initial license or renewal of a license, or revoke the license of a child-placing agency because of the child-placing agency's objection to performing, assisting, counseling, recommending, consenting to, facilitating, or participating in child placing that is contrary to:~~

~~\_\_\_\_\_ (a) the child-placing agency's sincerely held religious beliefs; or~~

~~\_\_\_\_\_ (b) the wishes of the birth mother;~~

~~\_\_\_\_\_ (3) Refusal by a child-placing agency to as to the optimal placement of the child, perform, assist, counsel, recommend, consent to, facilitate, or participate in child placing that is contrary to a child placement with a qualified prospective adoptive parent; or~~

(c) deny an application for an initial license or accreditation, deny the renewal of a license or accreditation, or revoke the license or accreditation of a consortium-member child-placing agency that cannot, consistent with the child-placing agency's religious teaching,

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practices, or sincerely held ~~religious~~ beliefs, or ~~that is contrary to~~ consistent with the good faith wishes of the birth mother ~~as to the optimal placement of the child, perform, assist, counsel, recommend, consent to, facilitate, or participate in a child placement with a qualified prospective adoptive parent.~~

(3) (a) A consortium-member child-placing agency that cannot, consistent with the child-placing agency's religious teaching, practices, or sincerely held beliefs, or consistent with the good faith wishes of the birth mother as to the optimal placement of the child, perform, assist, counsel, recommend, consent to, facilitate, or participate in a child placement with a qualified prospective adoptive parent, shall refer the individual who is seeking child-placement services to another child-placing agency in the consortium.

(b) A referral by a child-placing agency under Subsection (3)(a) does not constitute a determination that a proposed placement is not in the best interest of the child.

(4) ~~If~~ The fact that a consortium-member child-placing agency ~~declines to~~ cannot, consistent with the child-placing agency's religious teaching, practices, or sincerely held beliefs, or consistent with the good faith wishes of the birth mother as to the optimal placement of the child, perform, assist, counsel, recommend, consent to, facilitate, or participate in a child ~~placing that is contrary to the child-placing agency's sincerely held religious beliefs, or that is contrary to the wishes of the birth mother, the child-placing agency shall refer the individual to another child-placing agency that the referring child-placing agency believes in good faith will be able to provide the service sought by the individual.~~

~~(5) Refusal of a child-placing agency to perform, assist, counsel, recommend, consent to, facilitate, or participate in child placing that is contrary to the child-placing agency's sincerely held religious beliefs, or that is contrary to the wishes of the birth mother~~ placement with a qualified prospective adoptive parent, may not form the basis for:

(a) the imposition of a civil fine or other adverse administrative action; or

(b) any claim or cause of action under any state or local law.

Section ~~{5}6~~. Section ~~{78B-6-128}~~ 78B-6-140 is amended to read:

~~{~~ ~~78B-6-128. Preplacement adoptive evaluations -- Exceptions.~~

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

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~~requirements of this section.~~

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

~~—— (c) (i) Subsection (1)(a) does not apply if a pre-existing parent has legal custody of the child to be adopted and the prospective adoptive parent is related to that child or the pre-existing parent as a stepparent, sibling by half or whole blood or by adoption, grandparent, aunt, uncle, or first cousin, unless the court otherwise requests the preplacement adoption.~~

~~—— (ii) The prospective adoptive parent described in this Subsection (1)(c) shall obtain the information described in Subsections (2)(a) and (b), and file that documentation with the court prior to finalization of the adoption.~~

~~—— (d) (i) The preplacement adoptive evaluation shall be completed or updated within the 12-month period immediately preceding the placement of a child with the prospective adoptive parent.~~

~~—— (ii) If the prospective adoptive parent has previously received custody of a child for the purpose of adoption, the preplacement adoptive evaluation shall be completed or updated within the 12-month period immediately preceding the placement of a child with the prospective adoptive parent and after the placement of the previous child with the prospective adoptive parent.~~

~~—— (2) The preplacement adoptive evaluation shall include:~~

~~—— (a) a criminal history background check regarding each prospective adoptive parent and any other adult living in the prospective home, prepared no earlier than 18 months immediately preceding placement of the child in accordance with the following:~~

~~—— (i) if the child is in state custody, each prospective adoptive parent and any other adult living in the prospective home shall submit fingerprints to the Department of Health and Human Services, which shall perform a criminal history background check in accordance with Section 62A-2-120; or~~

~~—— (ii) subject to Subsection [(3)] (4), if the child is not in state custody, an adoption service provider or an attorney representing a prospective adoptive parent shall submit fingerprints from the prospective adoptive parent and any other adult living in the prospective home to the Criminal and Technical Services Division of Public Safety for a regional and~~

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~~nationwide background check, to the Office of Licensing within the Department of Health and Human Services for a background check in accordance with Section 62A-2-120, or to the Federal Bureau of Investigation;~~

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

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

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

~~—— (c) in accordance with Subsection [(6)] (7), a home study conducted by an adoption service provider that is:~~

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

~~—— (ii) a certified social worker;~~

~~—— (iii) a clinical social worker;~~

~~—— (iv) a marriage and family therapist;~~

~~—— (v) a psychologist;~~

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

~~—— (vii) a clinical mental health counselor; or~~

~~—— (viii) an Office of Licensing employee within the Department of Health and Human Services who is trained to perform a home study; and~~

~~—— (d) in accordance with Subsection [(7)] (8), if the child to be adopted is a child who is in the custody of any public child welfare agency, and is a child who has a special need as defined in Section 80-2-801, the preplacement adoptive evaluation shall be conducted by the~~

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~~Department of Health and Human Services or a child-placing agency that has entered into a contract with the department to conduct the preplacement adoptive evaluations for children with special needs:~~

~~—— (3) (a) Upon the request of the petitioner, the court may waive a home study described in Subsection (2)(c) if each prospective adoptive parent and any other adult living in the prospective home has been subject to a home study conducted in accordance with Subsection (2)(c) within the four years immediately preceding placement of the child in the prospective adoptive home:~~

~~—— (b) Each prospective adoptive parent and any other adult living in the prospective home shall provide the following documents to the court before the court may consider waiving a home study:~~

~~—— (i) the background check required by Subsection (2)(a);~~

~~—— (ii) the report required by Subsection (2)(b); and~~

~~—— (iii) the results of the home study that was conducted within the preceding four years;~~

~~—— (c) The court may not waive the home study described in Subsection (2)(c) if the court determines that it is in the best interest of the child to require the home study:~~

~~—— [(3)] (4) For purposes of Subsection (2)(a)(ii), subject to Subsection [(4)] (5), the criminal history background check described in Subsection (2)(a)(ii) shall be submitted in a manner acceptable to the court that will:~~

~~—— (a) preserve the chain of custody of the results; and~~

~~—— (b) not permit tampering with the results by a prospective adoptive parent or other interested party:~~

~~—— [(4)] (5) In order to comply with Subsection [(3)] (4), the manner in which the criminal history background check is submitted shall be approved by the court:~~

~~—— [(5)] (6) Except as provided in Subsection 78B-6-131(2), in addition to the other requirements of this section, before a child in state custody is placed with a prospective foster parent or a prospective adoptive parent, the Department of Health and Human Services shall comply with Section 78B-6-131:~~

~~—— [(6)] (7) (a) An individual described in Subsections (2)(c)(i) through (vii) shall be licensed to practice under the laws of:~~

~~—— (i) this state; or~~



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~~—— (i) the state, district, or territory of the United States where the prospective adoptive parent or other person living in the prospective adoptive home resides;~~

~~—— (b) Neither the Department of Health and Human Services nor any of the department's divisions may proscribe who qualifies as an expert in family relations or who may conduct a home study under Subsection (2)(c);~~

~~—— (c) The home study described in Subsection (2)(c) shall be a written document that contains the following:~~

~~—— (i) a recommendation to the court regarding the suitability of the prospective adoptive parent for placement of a child;~~

~~—— (ii) a description of in-person interviews with the prospective adoptive parent, the prospective adoptive parent's children, and other individuals living in the home;~~

~~—— (iii) a description of character and suitability references from at least two individuals who are not related to the prospective adoptive parent and with at least one individual who is related to the prospective adoptive parent;~~

~~—— (iv) a medical history and a doctor's report, based upon a doctor's physical examination of the prospective adoptive parent, made within two years before the date of the application; and~~

~~—— (v) a description of an inspection of the home to determine whether sufficient space and facilities exist to meet the needs of the child and whether basic health and safety standards are maintained;~~

~~—— [(7)] (8) Any fee assessed by the evaluating agency described in Subsection (2)(d) is the responsibility of the adopting parent.~~

~~—— [(8)] (9) The person conducting the preplacement adoptive evaluation shall, in connection with the preplacement adoptive evaluation, provide the prospective adoptive parent with literature approved by the Division of Child and Family Services relating to adoption, including information relating to:~~

~~—— (a) the adoption process;~~

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

~~—— (c) community resources that are available to the prospective adoptive parent.~~

~~—— [(9)] (10) A copy of the preplacement adoptive evaluation shall be filed with the court.~~

~~—— Section 6. Section **78B-6-129** is amended to read:~~

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### ~~78B-6-129. Postplacement adoptive evaluations:~~

~~(1) Except as provided in Subsections (2) and (3), a postplacement evaluation shall be conducted and submitted to the court prior to the final hearing in an adoption proceeding. The postplacement evaluation shall include:~~

- ~~(a) verification of the allegations of fact contained in the petition for adoption;~~
- ~~(b) an evaluation of the progress of the child's placement in the adoptive home; and~~
- ~~(c) a recommendation regarding whether the adoption is in the best interest of the child.~~

~~(2) The exemptions from and requirements for evaluations, described in Subsections 78B-6-128(1)(c), (2)(c), [(6), and (8)] (7), and (9), also apply to postplacement adoptive evaluations.~~

~~(3) Upon the request of the petitioner, the court may waive the postplacement adoptive evaluation, unless it determines that it is in the best interest of the child to require the postplacement evaluation.~~

~~Section 7. Section 78B-6-130 is amended to read:~~

### ~~78B-6-130. Preplacement and postplacement adoptive evaluations -- Review by court:~~

~~(1) (a) If the person conducting the preplacement adoptive evaluation or postplacement adoptive evaluation disapproves the adoptive placement, the court may dismiss the petition for adoption.~~

~~(b) Upon request by a prospective adoptive parent, the court shall order that an additional preplacement adoptive evaluation or postplacement adoptive evaluation be conducted, and shall hold a hearing on the suitability of the adoption, including testimony of interested parties.~~

~~(2) Before finalization of a petition for adoption the court shall review and consider the information and recommendations contained in the preplacement adoptive evaluation and postplacement adoptive evaluation described in Sections 78B-6-128 and 78B-6-129.~~

~~(3) With respect to the home study required as part of the preplacement adoptive evaluation described in Subsection 78B-6-128(2)(c), a court may review and consider information other than the information contained in the home study described in Subsection [78B-6-128(6)(c)] 78B-6-128(7)(c).~~

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~~Section 8. Section 78B-6-140 is amended to read:~~

### ~~†~~ **78B-6-140. Itemization of fees and expenses -- Reporting.**

(1) (a) Except as provided in Subsection [(4)] (5), before the date that a final decree of adoption is entered, a prospective adoptive parent or, if the child was placed by a child-placing agency, the person or agency placing the child shall file with the court an affidavit regarding fees and expenses~~[, signed by the prospective adoptive parent or parents and the person or agency placing the child, shall be filed with the court]~~ on a form prescribed by the Judicial Council in accordance with Subsection (2).

(b) An affidavit filed pursuant to Subsection (1)(a) shall be signed by each prospective adoptive parent and, if the child was placed by a child-placing agency, the person or agency placing the child.

(c) ~~†(i)†~~ The court shall review an affidavit filed under this section~~†:~~

~~— (A) †~~ for completeness and compliance with the requirements of this section~~†; and~~

~~— (B) to determine if the itemized amounts described in Subsection (2)(b) are reasonable considering the totality of the circumstances of the adoption.~~

~~— (ii) When making a determination~~†.

(d) The results of the court's review under Subsection (1)(c)~~†(i)(B), the court may consider information in the report described in Subsection (3)(b)†~~ shall be noted in the court's record.

(2) (a) The Judicial Council shall prescribe a uniform form for the affidavit described in Subsection (1).

(b) The uniform affidavit form shall [itemize] require itemization of the following items in connection with the adoption:

~~[(a)]~~ (i) all legal expenses~~[, maternity expenses, medical or hospital expenses, and living expenses]~~ that have been or will be paid to or on behalf of the preexisting parents of the child, including the source of payment;

(ii) all maternity expenses that have been or will be paid to or on behalf of the preexisting parents of the child, including the source of payment;

(iii) all medical or hospital expenses that have been or will be paid to or on behalf of the preexisting parents of the child, including the source of payment;

(iv) all living expenses that have been or will be paid to or on behalf of the preexisting

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parents of the child, including the source of payment:

~~[(b)]~~ (v) fees paid by the prospective adoptive parent or parents in connection with the adoption;

~~[(c)]~~ (vi) all gifts, property, or other items that have been or will be provided to the preexisting parents, including the source and approximate value of the gifts, property, or other items;

~~[(d)]~~ (vii) all public funds used for any medical or hospital costs in connection with the:

~~[(i)]~~ (A) pregnancy;

~~[(ii)]~~ (B) delivery of the child; or

~~[(iii)]~~ (C) care of the child; and

~~[(e) the state of residence of the:]~~

~~[(i) birth mother or the preexisting parents; and]~~

~~[(ii) prospective adoptive parent or parents;]~~

~~[(f)]~~ (viii) if a child-placing agency placed the child:

(A) a description of services provided to the prospective adoptive parents or preexisting parents in connection with the adoption; ~~[and]~~

~~[(g) that Section 76-7-203 has not been violated.]~~

~~—~~ (B) all expenses associated with matching the prospective adoptive parent or parents and the birth mother;

(C) all expenses associated with advertising; and

(D) any other agency fees or expenses paid by an adoptive parent that are not itemized under one of the other categories described in this Subsection (2)(b), including a description of the reason for the fee or expense.

~~[(g) that Section 76-7-203 has not been violated.]~~

(c) The uniform affidavit form shall require:

(i) a statement of the state of residence of the:

(A) birth mother or the preexisting parents; and

(B) prospective adoptive parent or parents;

(ii) a declaration that Section 76-7-203 has not been violated; and

(iii) if the affidavit includes an itemized amount for both of the categories described in

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Subsections (2)(b)(iii) and (vii), a statement explaining why certain medical or hospital expenses were paid by a source other than public funds.

(3) (a) If a child-placing agency, that is licensed by this state, placed the child, the child-placing agency shall provide a copy of the affidavit described in Subsection (1) [~~shall be provided~~] to the Office of Licensing within the Department of Health and Human Services.

(b) Before August 30 of each year, the Office of Licensing within the Department of Health and Human Services shall provide a written report to the Health and Human Services Interim Committee and to the Judicial Council regarding the cost of adoptions in the state that includes:

(i) the total number of affidavits provided to the Office of Licensing during the previous year; and

(ii) for each of the categories described in Subsection (2)(b):

(A) the average amount disclosed on affidavits submitted during the previous year; and

(B) the range of amounts disclosed on affidavits submitted during the previous year;

(iii) the average total amount disclosed on affidavits submitted during the previous year;

(iv) the range of total amounts disclosed on affidavits submitted during the previous year; and

(v) any recommended legislation that may help reduce the cost of adoptions.

(c) The Health and Human Services Interim Committee shall, based on information in reports provided under Subsection (3)(b) and in consultation with a consortium described in Subsection 62A-2-108.6(8), consider:

(i) what constitutes reasonable fees and expenses related to adoption; and

(ii) the standards that may be used to determine whether fees and expenses related to adoption are reasonable in a specific case.

(4) The Judicial Council shall make a copy of each report provided by the Office of Licensing under Subsection (3)(b) available to each court that may be required to review an affidavit under Subsection (1)(c).

~~(4)~~ (5) This section does not apply if the prospective adoptive parent is the legal spouse of a preexisting parent.