

CHILD WELFARE AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: Christine F. Watkins

LONG TITLE

General Description:

This bill amends provisions relating to child welfare.

Highlighted Provisions:

This bill:

- ▶ extends the sunset date for the Interdisciplinary Parental Representation Pilot Program from December 31, 2024, to December 31, 2026;
- ▶ extends certain deadlines related to contested adoptions;
- ▶ clarifies that the Division of Child and Family Services shall provide necessary information when filing a complaint for failure to report child abuse or neglect; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-278, as last amended by Laws of Utah 2022, Chapters 188, 318, 384, and 423

78B-6-133, as last amended by Laws of Utah 2021, Chapter 262

80-2-608, as enacted by Laws of Utah 2022, Chapter 334

80-2-609, as last amended by Laws of Utah 2022, Chapter 415 and renumbered and



28 amended by Laws of Utah 2022, Chapter 334

29

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

31 Section 1. Section **63I-1-278** is amended to read:

32 **63I-1-278. Repeal dates: Title 78A and Title 78B.**

33 (1) Subsections **78A-2-301(4)** and **78A-2-301.5(12)**, regarding the suspension of filing
34 fees for petitions for expungement, are repealed on July 1, 2023.

35 (2) Section **78B-3-421**, regarding medical malpractice arbitration agreements, is
36 repealed July 1, 2029.

37 (3) Subsection **78A-7-106(6)**, regarding the transfer of a criminal action involving a
38 domestic violence offense from the justice court to the district court, is repealed on July 1,
39 2024.

40 (4) Section **78B-4-518**, regarding the limitation on employer liability for an employee
41 convicted of an offense, is repealed on July 1, 2025.

42 (5) Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act, is repealed July 1,
43 2026.

44 (6) Title 78B, Chapter 12, Part 4, Advisory Committee, which creates the Child
45 Support Guidelines Advisory Committee, is repealed July 1, 2026.

46 (7) Section **78B-22-805**, regarding the Interdisciplinary Parental Representation Pilot
47 Program, is repealed December 31, [~~2024~~] 2026.

48 Section 2. Section **78B-6-133** is amended to read:

49 **78B-6-133. Contested adoptions -- Rights of parties -- Determination of custody.**

50 (1) If a person whose consent for an adoption is required pursuant to Subsection
51 **78B-6-120(1)(b), (c), (d), (e), or (f)** refused to consent, the court shall determine whether
52 proper grounds exist for the termination of that person's rights pursuant to the provisions of this
53 chapter or Title 80, Chapter 4, Termination and Restoration of Parental Rights.

54 (2) (a) If there are proper grounds to terminate the person's parental rights, the court
55 shall order that the person's rights be terminated.

56 (b) If there are not proper grounds to terminate the person's parental rights, the court
57 shall:

58 (i) dismiss the adoption petition;

59 (ii) conduct an evidentiary hearing to determine who should have custody of the child;
60 and

61 (iii) award custody of the child in accordance with the child's best interest.

62 (c) Termination of a person's parental rights does not terminate the right of a relative of
63 the parent to seek adoption of the child.

64 (3) Evidence considered at the custody hearing may include:

65 (a) evidence of psychological or emotional bonds that the child has formed with a third
66 person, including the prospective adoptive parent; and

67 (b) any detriment that a change in custody may cause the child.

68 (4) If the court dismisses the adoption petition, the fact that a person relinquished a
69 child for adoption or consented to the adoption may not be considered as evidence in a custody
70 proceeding described in this section, or in any subsequent custody proceeding, that it is not in
71 the child's best interest for custody to be awarded to such person or that:

72 (a) the person is unfit or incompetent to be a parent;

73 (b) the person has neglected or abandoned the child;

74 (c) the person is not interested in having custody of the child; or

75 (d) the person has forfeited the person's parental presumption.

76 (5) Any custody order entered pursuant to this section may also:

77 (a) include provisions for:

78 (i) parent-time; or

79 (ii) visitation by an interested third party; and

80 (b) provide for the financial support of the child.

81 (6) (a) If a person or entity whose consent is required for an adoption under Subsection
82 78B-6-120(1)(a) or (g) refuses to consent, the court shall proceed with an evidentiary hearing
83 and award custody as set forth in Subsection (2).

84 (b) The court may also finalize the adoption if doing so is in the best interest of the
85 child.

86 (7) (a) A person may not contest an adoption after the final decree of adoption is
87 entered, if that person:

88 (i) was a party to the adoption proceeding;

89 (ii) was served with notice of the adoption proceeding; or

90 (iii) executed a consent to the adoption or relinquishment for adoption.

91 (b) No person may contest an adoption after one year from the day on which the final
92 decree of adoption is entered.

93 (c) The limitations on contesting an adoption action, described in this Subsection (7),
94 apply to all attempts to contest an adoption:

95 (i) regardless of whether the adoption is contested directly or collaterally; and

96 (ii) regardless of the basis for contesting the adoption, including claims of fraud,
97 duress, undue influence, lack of capacity or competency, mistake of law or fact, or lack of
98 jurisdiction.

99 (d) The limitations on contesting an adoption action, described in this Subsection (7),
100 do not prohibit a timely appeal of:

101 (i) a final decree of adoption; or

102 (ii) a decision in an action challenging an adoption, if the action was brought within the
103 time limitations described in Subsections (7)(a) and (b).

104 (8) A court that has jurisdiction over a child for whom more than one petition for
105 adoption is filed shall grant a hearing only under the following circumstances:

106 (a) to a petitioner:

107 (i) with whom the child is placed;

108 (ii) who has custody or guardianship of the child;

109 (iii) who has filed a written statement with the court within [~~120 days~~] eight months
110 after the day on which the shelter hearing is held:

111 (A) requesting immediate placement of the child with the petitioner; and

112 (B) expressing the petitioner's intention of adopting the child;

113 (iv) who is a relative with whom the child has a significant and substantial relationship
114 and who was unaware, within the first [~~120 days~~] eight months after the day on which the
115 shelter hearing is held, of the child's removal from the child's parent; or

116 (v) who is a relative with whom the child has a significant and substantial relationship
117 and, in a case where the child is not placed with a relative or is placed with a relative that is
118 unable or unwilling to adopt the child:

119 (A) was actively involved in the child's child welfare case with the division or the
120 juvenile court while the child's parent engaged in reunification services; and

121 (B) filed a written statement with the court that includes the information described in
122 Subsections (8)(a)(iii)(A) and (B) within 30 days after the day on which the court terminated
123 reunification services; or

124 (b) if the child:

125 (i) has been in the current placement for less than 180 days before the day on which the
126 petitioner files the petition for adoption; or

127 (ii) is placed with, or is in the custody or guardianship of, an individual who previously
128 informed the division or the court that the individual is unwilling or unable to adopt the child.

129 (9) (a) If the court grants a hearing on more than one petition for adoption, there is a
130 rebuttable presumption that it is in the best interest of a child to be placed for adoption with a
131 petitioner:

132 (i) who has fulfilled the requirements described in Title 78B, Chapter 6, Part 1, Utah
133 Adoption Act; and

134 (ii) (A) with whom the child has continuously resided for six months;

135 (B) who has filed a written statement with the court within [~~120 days~~] eight months
136 after the day on which the shelter hearing is held, as described in Subsection (8)(a)(iii); or

137 (C) who is a relative described in Subsection (8)(a)(iv).

138 (b) The court may consider other factors relevant to the best interest of the child to
139 determine whether the presumption is rebutted.

140 (c) The court shall weigh the best interest of the child uniformly between petitioners if
141 more than one petitioner satisfies a rebuttable presumption condition described in Subsection
142 (9)(a).

143 (10) Nothing in this section shall be construed to prevent the division or the child's
144 guardian ad litem from appearing or participating in any proceeding for a petition for adoption.

145 (11) The division shall use best efforts to provide a known relative with timely
146 information relating to the relative's rights or duties under this section.

147 Section 3. Section **80-2-608** is amended to read:

148 **80-2-608. Confidential identity of person who reports.**

149 Except as provided in Sections [80-2-609](#), [80-2-611](#), and [80-2-1005](#), the division and a
150 law enforcement agency shall ensure the anonymity of the person who makes the initial report
151 under this part and any other person involved in the division's or law enforcement agency's

152 subsequent investigation of the report.

153 Section 4. Section **80-2-609** is amended to read:

154 **80-2-609. Failure to report -- Threats and intimidation -- Penalty.**

155 (1) If the division has substantial grounds to believe that a person knowingly failed to
156 report under Section **80-2-602** or **80-2-603**, the division shall file a complaint with:

157 (a) the Division of Professional Licensing if the person is a health care provider, as
158 defined in Subsection **80-2-603(1)(a)(i)**, or a mental health therapist, as defined in Section
159 **58-60-102**;

160 (b) the appropriate law enforcement agency if the person is a law enforcement officer,
161 as defined in Section **53-13-103**; or

162 (c) the State Board of Education if the person is an educator, as defined in Section
163 **53E-6-102**.

164 (2) The division shall:

165 (a) provide the information ~~§~~→ **deemed** ←~~§~~ necessary ~~§~~→ **[to comply with the**
165a **requirements of] for action on the complaint by the entities listed in** ←~~§~~ Subsection
166 **(1); and**

167 (b) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative
168 Rulemaking Act, specifying the information the division shall provide under Subsection (1).

169 ~~[(2)]~~ (3) (a) A person is guilty of a class B misdemeanor if the person willfully fails to
170 report under Section **80-2-602** or **80-2-603**.

171 (b) If a person is convicted under Subsection ~~[(2)(a)]~~ (3)(a), the court may order the
172 person, in addition to any other sentence the court imposes, to:

173 (i) complete community service hours; or

174 (ii) complete a program on preventing abuse and neglect of children.

175 (c) In determining whether it would be appropriate to charge a person with a violation
176 of Subsection ~~[(2)(a)]~~ (3)(a), the prosecuting attorney shall take into account whether a
177 reasonable person would not have reported suspected abuse or neglect of a child because
178 reporting would have placed the person in immediate danger of death or serious bodily injury.

179 (d) Notwithstanding any contrary provision of law, a prosecuting attorney may not use
180 a person's violation of Subsection ~~[(2)(a)]~~ (3)(a) as the basis for charging the person with
181 another offense.

182 (e) A prosecution for failure to report under Subsection ~~[(2)(a)]~~ (3)(a) shall be

183 commenced within two years after the day on which the person had knowledge of the suspected
184 abuse or neglect or the circumstances described in Subsection 80-2-603(2) and willfully failed
185 to report.

186 ~~(3)~~ (4) Under circumstances not amounting to a violation of Section 76-8-508, a
187 person is guilty of a class B misdemeanor if the person threatens, intimidates, or attempts to
188 intimidate a child who is the subject of the report under Section 80-2-602 or 80-2-603, the
189 person who made the report, a witness, or any other person cooperating with an investigation
190 conducted in accordance with this chapter or Chapter 2a, Removal and Protective Custody of a
191 Child.

192 Section 5. **Effective date.**

193 This bill takes effect on May 1, 2024.