1 **ADOPTION REVISIONS** 2 **2024 GENERAL SESSION** 3 STATE OF UTAH **Chief Sponsor: Chris H. Wilson** 4 House Sponsor: Jefferson S. Burton 5 6 7 LONG TITLE 8 **General Description:** 9 This bill addresses adoptions. 10 **Highlighted Provisions:** 11 This bill: 12 defines terms; 13 allows the Office of Licensing within the Department of Health and Human ► 14 Services (department) to issue a conditional human services program license for a 15 license applicant whose license was previously revoked; 16 requires the department to provide pregnancy support services, subject to available funding; 17 18 amends language concerning appointment of an indigent defense service provider 19 for termination of parental rights proceedings; 20 ► allows a birth parent to elect to receive certain postpartum counseling at the expense 21 of a child-placing agency or prospective adoptive parents; 22 ► amends provisions relating to consent to adoption by an unmarried biological father; 23 allows a prospective adoptive parent to use a foster care home study for purposes of ► 24 adoption; 25 • modifies when a final decree of adoption may be entered; and 26 makes technical and conforming changes.

27 Money Appropriated in this Bill:



S.B. 147

28	This bill appropriates in fiscal year 2025:
29	 to Department of Health and Human Services - Children, Youth, & Families -
30	Family Health as an ongoing appropriation:
31	• from the General Fund, \$245,000
32	Other Special Clauses:
33	None
34	Utah Code Sections Affected:
35	AMENDS:
36	26B-2-105 , as renumbered and amended by Laws of Utah 2023, Chapter 305
37	26B-4-301 , as renumbered and amended by Laws of Utah 2023, Chapter 307 and last
38	amended by Coordination Clause, Laws of Utah 2023, Chapter 307
39	78B-6-103, as last amended by Laws of Utah 2023, Chapter 330
40	78B-6-112, as last amended by Laws of Utah 2021, Chapter 262
41	78B-6-119, as last amended by Laws of Utah 2009, Chapter 159
42	78B-6-120, as last amended by Laws of Utah 2017, Chapter 156
43	78B-6-121, as last amended by Laws of Utah 2021, Chapter 262
44	78B-6-122, as last amended by Laws of Utah 2023, Chapter 289
45	78B-6-128, as last amended by Laws of Utah 2023, Chapter 330
46	78B-6-136.5, as last amended by Laws of Utah 2021, Chapter 65
47	ENACTS:
48	26B-4-326, Utah Code Annotated 1953
49	
50	Be it enacted by the Legislature of the state of Utah:
51	Section 1. Section 26B-2-105 is amended to read:
52	26B-2-105. Licensure requirements Expiration Renewal.
53	(1) Except as provided in Section 26B-2-115, an individual, agency, firm, corporation,
54	association, or governmental unit acting severally or jointly with any other individual, agency,
55	firm, corporation, association, or governmental unit may not establish, conduct, or maintain a
56	human services program in this state without a valid and current license issued by and under
57	the authority of the office as provided by this part and the rules under the authority of this part.
58	(2) (a) For purposes of this Subsection (2), "member" means a person or entity that is

59	associated with another person or entity:
60	(i) as a member;
61	(ii) as a partner;
62	(iii) as a shareholder; or
63	(iv) as a person or entity involved in the ownership or management of a human
64	services program owned or managed by the other person or entity.
65	(b) A license issued under this part may not be assigned or transferred.
66	(c) [An] The office shall treat an application for a license under this part [shall be
67	treated] as an application for reinstatement of a revoked license if:
68	(i) (A) the person or entity applying for the license had a license revoked under this
69	part; and
70	(B) the revoked license described in Subsection (2)(c)(i)(A) is not reinstated before the
71	application described in this Subsection (2)(c) is made; or
72	(ii) a member of an entity applying for the license:
73	(A) (I) had a license revoked under this part; and
74	(II) the revoked license described in Subsection (2)(c)(ii)(A)(I) is not reinstated before
75	the application described in this Subsection (2)(c) is made; or
76	(B) (I) was a member of an entity that had a license revoked under this part at any time
77	before the license was revoked; and
78	(II) the revoked license described in Subsection (2)(c)(ii)(B)(I) is not reinstated before
79	the application described in this Subsection (2)(c) is made.
80	(3) (a) Ŝ→ [The] Subject to Section 26B-2-110, and after the five-year waiting period
80a	described in Subsection 26B-2-110(1)(c), the $\leftarrow \hat{S}$ office may conditionally approve an application
80b	for reinstatement as
81	described in Subsection (2)(c), for a maximum of two years, if:
82	(i) the applicant's license was previously revoked due to repeated or chronic violations;
83	or
84	(ii) after the applicant's license was previously revoked, the applicant associated with
85	another human services program that provides a service that is substantially similar to the
86	services for which the applicant was previously licensed.
87	(b) If the office issues a conditional license under Subsection (3)(a), the office shall
88	prepare a conditional license plan describing the terms and conditions of the conditional
89	license.

90	[(3)] (4) A current license shall at all times be posted in the facility where each human
91	services program is operated, in a place that is visible and readily accessible to the public.
92	[(4)] (5) (a) Except as provided in Subsection $[(4)(c)]$ (5)(c), each license issued under
93	this part expires at midnight on the last day of the same month the license was issued, one year
94	following the date of issuance unless the license has been:
95	(i) previously revoked by the office;
96	(ii) voluntarily returned to the office by the licensee; or
97	(iii) extended by the office.
98	(b) A license shall be renewed upon application and payment of the applicable fee,
99	unless the office finds that the licensee:
100	(i) is not in compliance with the:
101	(A) provisions of this part; or
102	(B) rules made under this part;
103	(ii) has engaged in a pattern of noncompliance with the:
104	(A) provisions of this part; or
105	(B) rules made under this part;
106	(iii) has engaged in conduct that is grounds for denying a license under Section
107	26B-2-112; or
108	(iv) has engaged in conduct that poses a substantial risk of harm to any person.
109	(c) The office may issue a renewal license that expires at midnight on the last day of
110	the same month the license was issued, two years following the date of issuance, if:
111	(i) the licensee has maintained a human services license for at least 24 months before
112	the day on which the licensee applies for the renewal; and
113	(ii) the licensee has not violated this part or a rule made under this part.
114	[(5)] (6) Any licensee that is in operation at the time rules are made in accordance with
115	this part shall be given a reasonable time for compliance as determined by the rule.
116	[(6)] (2) (a) A license for a human services program issued under this section shall
117	apply to a specific human services program site.
118	(b) A human services program shall obtain a separate license for each site where the
119	human services program is operated.
120	Section 2. Section 26B-4-301 is amended to read:

121	26B-4-301. Definitions.
122	As used in this part:
123	(1) "Committee" means the Primary Care Grant Committee described in Section
124	26B-1-410.
125	(2) "Community based organization":
126	(a) means a private entity; and
127	(b) includes for profit and not for profit entities.
128	(3) "Cultural competence" means a set of congruent behaviors, attitudes, and policies
129	that come together in a system, agency, or profession and enables that system, agency, or
130	profession to work effectively in cross-cultural situations.
131	(4) "Emergency medical dispatch center" means a public safety answering point, as
132	defined in Section 63H-7a-103, that is designated as an emergency medical dispatch center by
133	the office.
134	(5) "Health literacy" means the degree to which an individual has the capacity to
135	obtain, process, and understand health information and services needed to make appropriate
136	health decisions.
137	(6) "Institutional capacity" means the ability of a community based organization to
138	implement public and private contracts.
139	(7) "Medically underserved population" means the population of an urban or rural area
140	or a population group that the committee determines has a shortage of primary health care.
141	(8) "Office" means the Office of Emergency Medical Services and Preparedness within
142	the department.
143	(9) "Pregnancy support services" means services that:
144	(a) encourage childbirth instead of voluntary termination of pregnancy; and
145	(b) assist pregnant women, or women who may become pregnant, to choose childbirth
146	whether they intend to parent or select adoption for the child.
147	[(9)] (10) "Primary care grant" means a grant awarded by the department under
148	Subsection 26B-4-310(1).
149	$\left[\frac{(10)}{(11)}\right]$ (a) "Primary health care" means:
150	(i) basic and general health care services given when a person seeks assistance to
151	screen for or to prevent illness and disease, or for simple and common illnesses and injuries;

152	and
153	(ii) care given for the management of chronic diseases.
154	(b) "Primary health care" includes:
155	(i) services of physicians, nurses, physician's assistants, and dentists licensed to
156	practice in this state under Title 58, Occupations and Professions;
157	(ii) diagnostic and radiologic services;
158	(iii) preventive health services including perinatal services, well-child services, and
159	other services that seek to prevent disease or its consequences;
160	(iv) emergency medical services;
161	(v) preventive dental services; and
162	(vi) pharmaceutical services.
163	Section 3. Section 26B-4-326 is enacted to read:
164	<u>26B-4-326.</u> Pregnancy support services.
165	The department shall, as funding permits and either directly or through one or more
166	third parties, provide pregnancy support services, which may include:
167	(1) medical care and information, including pregnancy tests, sexually transmitted
168	infection tests, pregnancy-related health screenings, ultrasound services, prenatal care, or birth
169	planning and classes;
170	(2) nutritional services and education;
171	(3) housing, education, and employment assistance during pregnancy and up to one
172	year following a birth;
173	(4) adoption education, planning, and services:
174	(5) child care assistance, if necessary for the client to receive pregnancy support
175	services;
176	(6) parenting education and support services for up to one year following a birth;
177	(7) material items that are supportive of pregnancy and childbirth, including cribs, car
178	seats, clothing, formula, and other safety devices; or
179	(8) information regarding health care benefits, including Medicaid coverage for the
180	client for pregnancy care that provides health coverage for the client's child upon birth.
181	Section 4. Section 78B-6-103 is amended to read:
182	78B-6-103. Definitions.

183	As used in this part:
184	(1) "Adoptee" means a person who:
185	(a) is the subject of an adoption proceeding; or
186	(b) has been legally adopted.
187	(2) "Adoption" means the judicial act that:
188	(a) creates the relationship of parent and child where it did not previously exist; and
189	(b) except as provided in Subsections 78B-6-138(2) and (4), terminates the parental
190	rights of any other person with respect to the child.
191	(3) "Adoption document" means an adoption-related document filed with the office, a
192	petition for adoption, a decree of adoption, an original birth certificate, or evidence submitted
193	in support of a supplementary birth certificate.
194	(4) <u>"Adoption proceeding" means any proceeding under this part.</u>
195	(5) "Adoption service provider" means:
196	(a) a child-placing agency;
197	(b) a licensed counselor who has at least one year of experience providing professional
198	social work services to:
199	(i) adoptive parents;
200	(ii) prospective adoptive parents; or
201	(iii) birth parents; or
202	(c) the Office of Licensing within the Department of Health and Human Services.
203	[(5)] (6) "Adoptive parent" means an individual who has legally adopted an adoptee.
204	[(6)] (7) "Adult" means an individual who is 18 years [of age] old or older.
205	[(7)] <u>(8)</u> "Adult adoptee" means an adoptee who is 18 years [of age] old or older and
206	was adopted as a minor.
207	[(8)] (9) "Adult sibling" means an adoptee's brother or sister, who is 18 years [of age]
208	old or older and whose birth mother or father is the same as that of the adoptee.
209	[(9)] (10) "Birth mother" means the biological mother of a child.
210	$\left[\frac{(10)}{(11)}\right]$ "Birth parent" means:
211	(a) a birth mother;
212	(b) a man whose paternity of a child is established;
213	(c) a man who:

214	(i) has been identified as the father of a child by the child's birth mother; and
215	(ii) has not denied paternity; or
216	(d) an unmarried biological father.
217	[(11)] (12) "Child-placing agency" means an agency licensed to place children for
218	adoption under Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities.
219	[(12)] (13) "Cohabiting" means residing with another person and being involved in a
220	sexual relationship with that person.
221	[(13)] (14) "Division" means the Division of Child and Family Services, within the
222	Department of Health and Human Services, created in Section 80-2-201.
223	[(14)] (15) "Extra-jurisdictional child-placing agency" means an agency licensed to
224	place children for adoption by a district, territory, or state of the United States, other than Utah.
225	[(15)] (16) "Genetic and social history" means a comprehensive report, when
226	obtainable, that contains the following information on an adoptee's birth parents, aunts, uncles,
227	and grandparents:
228	(a) medical history;
229	(b) health status;
230	(c) cause of and age at death;
231	(d) height, weight, and eye and hair color;
232	(e) ethnic origins;
233	(f) where appropriate, levels of education and professional achievement; and
234	(g) religion, if any.
235	[(16)] (17) "Health history" means a comprehensive report of the adoptee's health
236	status at the time of placement for adoption, and medical history, including neonatal,
237	psychological, physiological, and medical care history.
238	[(17)] (18) "Identifying information" means information that is in the possession of the
239	office and that contains the name and address of a pre-existing parent or an adult adoptee, or
240	other specific information that by itself or in reasonable conjunction with other information
241	may be used to identify a pre-existing parent or an adult adoptee, including information on a
242	birth certificate or in an adoption document.
243	[(18)] (19) "Licensed counselor" means an individual who is licensed by the state, or
244	another state, district, or territory of the United States as a:

245	(a) certified social worker;
246	(b) clinical social worker;
247	(c) psychologist;
248	(d) marriage and family therapist;
249	(e) clinical mental health counselor; or
250	(f) an equivalent licensed professional of another state, district, or territory of the
251	United States.
252	[(19)] (20) "Man" means a male individual, regardless of age.
253	[(20)] (21) "Mature adoptee" means an adoptee who is adopted when the adoptee is an
254	adult.
255	[(21)] (22) "Office" means the Office of Vital Records and Statistics within the
256	Department of Health and Human Services operating under Title 26B, Chapter 8, Part 1, Vital
257	Statistics.
258	[(22)] (23) "Parent," for purposes of <u>Subsection 78B-6-112(6) and</u> Section 78B-6-119,
259	means any person described in Subsections 78B-6-120(1)(b) through (f) from whom consent
260	for adoption or relinquishment for adoption is required under Sections 78B-6-120 through
261	78B-6-122.
262	[(23)] (24) "Potential birth father" means a man who:
263	(a) is identified by a birth mother as a potential biological father of the birth mother's
264	child, but whose genetic paternity has not been established; and
265	(b) was not married to the biological mother of the child described in Subsection
266	[(23)(a)] (24)(a) at the time of the child's conception or birth.
267	[(24)] (25) "Pre-existing parent" means:
268	(a) a birth parent; or
269	(b) an individual who, before an adoption decree is entered, is, due to an earlier
270	adoption decree, legally the parent of the child being adopted.
271	[(25)] (26) "Prospective adoptive parent" means an individual who seeks to adopt an
272	adoptee.
273	[(26)] <u>(27)</u> "Relative" means:
274	(a) an adult who is a grandparent, great grandparent, aunt, great aunt, uncle, great
275	uncle, brother-in-law, sister-in-law, stepparent, first cousin, stepsibling, sibling of a child, or

276	first cousin of a child's parent; and
277	(b) in the case of a child defined as an "Indian child" under the Indian Child Welfare
278	Act, 25 U.S.C. Sec. 1903, an "extended family member" as defined by that statute.
279	[(27)] (28) "Unmarried biological father" means a man who:
280	(a) is the biological father of a child; and
281	(b) was not married to the biological mother of the child described in Subsection
282	$\left[\frac{(27)(a)}{(28)(a)}\right]$ at the time of the child's conception or birth.
283	Section 5. Section 78B-6-112 is amended to read:
284	78B-6-112. District court jurisdiction over termination of parental rights
285	proceedings.
286	(1) A district court has jurisdiction to terminate parental rights in a child if the party
287	that filed the petition is seeking to terminate parental rights in the child for the purpose of
288	facilitating the adoption of the child.
289	(2) A petition to terminate parental rights under this section may be:
290	(a) joined with a proceeding on an adoption petition; or
291	(b) filed as a separate proceeding before or after a petition to adopt the child is filed.
292	(3) A court may enter a final order terminating parental rights before a final decree of
293	adoption is entered.
294	(4) (a) Nothing in this section limits the jurisdiction of a juvenile court relating to
295	proceedings to terminate parental rights as described in Section 78A-6-103.
296	(b) This section does not grant jurisdiction to a district court to terminate parental
297	rights in a child if the child is under the jurisdiction of the juvenile court in a pending abuse,
298	neglect, dependency, or termination of parental rights proceeding.
299	(5) The district court may terminate an individual's parental rights in a child if:
300	(a) the individual executes a voluntary consent to adoption, or relinquishment for
301	adoption, of the child, in accordance with:
302	(i) the requirements of this chapter; or
303	(ii) the laws of another state or country, if the consent is valid and irrevocable;
304	(b) the individual is an unmarried biological father who is not entitled to consent to
305	adoption, or relinquishment for adoption, under Section 78B-6-120 or 78B-6-121;
306	(c) the individual:

307	(i) received notice of the adoption proceeding relating to the child under Section
308	78B-6-110; and
309	(ii) failed to file a motion for relief, under Subsection 78B-6-110(6), within 30 days
310	after the day on which the individual was served with notice of the adoption proceeding;
311	(d) the court finds, under Section 78B-15-607, that the individual is not a parent of the
312	child; or
313	(e) the individual's parental rights are terminated on grounds described in Title 80,
314	Chapter 4, Termination and Restoration of Parental Rights, and termination is in the best
315	interests of the child.
316	(6) The court shall appoint an indigent defense service provider in accordance with
317	Title 78B, Chapter 22, Indigent Defense Act, to represent [an individual] a parent who faces
318	any action initiated by a private party under Title 80, Chapter 4, Termination and Restoration of
319	Parental Rights, or whose parental rights are subject to termination under this section.
320	(7) If a county incurs expenses in providing indigent defense services to an indigent
321	individual facing any action initiated by a private party under Title 80, Chapter 4, Termination
322	and Restoration of Parental Rights, or termination of parental rights under this section, the
323	county may apply for reimbursement from the Utah Indigent Defense Commission in
324	accordance with Section 78B-22-406.
325	(8) A petition filed under this section is subject to the procedural requirements of this
326	chapter.
327	Section 6. Section 78B-6-119 is amended to read:
328	78B-6-119. Counseling for parents.
329	(1) Subject to Subsection (2)(a), before relinquishing a child to a child-placing agency,
330	or consenting to the adoption of a child, a parent of the child has the right to participate in, or
331	elect to participate in, counseling:
332	(a) by a licensed counselor or an adoption service provider selected by the parent
333	participating in the counseling;
334	(b) for up to three sessions of at least 50 minutes per session completed prior to
335	relinquishing a child or within three months following the relinquishment of a child; and
336	(c) subject to Subsection (2)(b), at the expense of the:
337	(i) child-placing agency; or

338	(ii) prospective adoptive parents.
339	(2) (a) Notwithstanding Subsection (1), a parent who has the right to participate in the
340	counseling described in this section may waive that right.
341	(b) Notwithstanding Subsection (1)(c), the total amount required to be paid by a
342	child-placing agency or the prospective adoptive parents for the counseling described in
343	Subsection (1) may not exceed \$400, unless an agreement for a greater amount is signed by:
344	(i) the parent who receives the counseling; and
345	(ii) the child-placing agency or prospective adoptive parents.
346	(3) Before a parent relinquishes a child to a child-placing agency, or consents to the
347	adoption of a child, the parent shall be informed of the right described in Subsection (1) by the:
348	(a) child-placing agency;
349	(b) prospective adoptive parents; or
350	(c) representative of a person described in Subsection (3)(a) or (b).
351	(4) If the parent who is entitled to the counseling as described in Subsection (1) elects
352	to attend one or more counseling sessions following the relinquishment of a child:
353	(a) the parent of the child shall inform the child-placing agency or prospective adoptive
354	parents of this election prior to relinquishing the child to a child-placing agency or consenting
355	to the adoption of the child; and
356	(b) the parent of the child and the child-placing agency or attorney representing a
357	prospective adoptive parent of the child shall enter into an agreement to pay for the counseling
358	in accordance with this section.
359	[(4)] (5) (a) Subject to Subsections $[(4)(b)]$ (3)(b) and (c), before the day on which a
360	final decree of adoption is entered, a statement shall be filed with the court that:
361	(i) is signed by each parent who:
362	(A) relinquishes the parent's parental rights; or
363	(B) consents to the adoption; and
364	(ii) states that, before the parent took the action described in Subsection $[(4)(a)(i)(A)]$
365	(5)(a)(i)(A) or (B), the parent was advised of the parent's right to participate in the counseling
366	described in this section at the expense of the:
367	(A) child-placing agency; or
368	(B) prospective adoptive parents.

369	(b) The statement described in Subsection $[(4)(a)]$ (5)(a) may be included in the
370	document that:
371	(i) relinquishes the parent's parental rights; or
372	(ii) consents to the adoption.
373	(c) Failure by a person to give the notice described in Subsection (3), or pay for the
374	counseling described in this section:
375	(i) shall not constitute grounds for invalidating a:
376	(A) relinquishment of parental rights; or
377	(B) consent to adoption; and
378	(ii) shall give rise to a cause of action for the recovery of damages suffered, if any, by
379	the parent or guardian who took the action described in Subsection $[(4)(c)(i)(A)] (5)(c)(i)(A)$ or
380	(B) against the person required to:
381	(A) give the notice described in Subsection (3); or
382	(B) pay for the counseling described in this section.
383	Section 7. Section 78B-6-120 is amended to read:
384	78B-6-120. Necessary consent to adoption or relinquishment for adoption.
385	(1) Except as provided in Subsection (2), consent to adoption of a child, or
386	relinquishment of a child for adoption, is required from:
387	(a) the adoptee, if the adoptee is more than 12 years [of age] old, unless the adoptee
388	does not have the mental capacity to consent;
389	(b) a man or woman who:
390	(i) by operation of law under Section 78B-15-204, is recognized as the father or mother
391	of the proposed adoptee, unless:
392	(A) the presumption is rebutted under Section 78B-15-607; [or]
393	(B) at the time of the marriage, the man or woman knew or reasonably should have
394	known that the marriage to the mother of the proposed adoptee was or could be declared
395	invalid; or
396	[(B)] (C) the man or woman was not married to the mother of the proposed adoptee
397	until after the mother consented to adoption, or relinquishment for adoption, of the proposed
398	adoptee; or
399	(ii) is the father of the adoptee by a previous legal adoption;

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400 (c) the mother of the adoptee; 401 (d) a biological parent who has been adjudicated to be the child's biological father by a 402 court of competent jurisdiction prior to the mother's execution of consent to adoption or her 403 relinquishment of the child for adoption; 404 (e) consistent with Subsection (3), a biological parent who has executed and filed a 405 voluntary declaration of paternity with the state registrar of vital statistics within the 406 Department of Health in accordance with Title 78B, Chapter 15, Utah Uniform Parentage Act, 407 prior to the mother's execution of consent to adoption or her relinquishment of the child for 408 adoption; 409 (f) an unmarried biological father, of an adoptee, whose consent is not required under Subsection (1)(d) or (1)(e), only if he fully and strictly complies with the requirements of 410 411 Sections 78B-6-121 and 78B-6-122; and 412 (g) the person or agency to whom an adoptee has been relinquished and that is placing 413 the child for adoption. 414 (2) (a) The consent of a person described in Subsections (1)(b) through (g) is not 415 required if the adoptee is 18 years [of age] old or older. 416 (b) The consent of a person described in Subsections (1)(b) through (f) is not required 417 if the person's parental rights relating to the adoptee have been terminated. 418 (3) For purposes of Subsection (1)(e), a voluntary declaration of paternity is considered 419 filed when it is entered into a database that: 420 (a) can be accessed by the Department of Health and Human Services; and 421 (b) is designated by the state registrar of vital statistics as the official database for 422 voluntary declarations of paternity. 423 Section 8. Section 78B-6-121 is amended to read: 424 78B-6-121. Consent of unmarried biological father. 425 (1) Except as provided in Subsections (2)(a) and 78B-6-122(1), and subject to 426 Subsections (5) and (6), with regard to a child who is placed with prospective adoptive parents 427 more than six months after birth, consent of an unmarried biological father is not required 428 unless the unmarried biological father: 429 (a) (i) developed a substantial relationship with the child by: 430 (A) visiting the child monthly, unless the unmarried biological father was physically or

431 financially unable to visit the child on a monthly basis; or

- 432 (B) engaging in regular communication with the child or with the person or authorized433 agency that has lawful custody of the child;
- 434 (ii) took some measure of responsibility for the child and the child's future; and
- 435 (iii) demonstrated a full commitment to the responsibilities of parenthood by financial
- 436 support of the child of a fair and reasonable sum in accordance with the father's ability; or
- 437 (b) (i) openly lived with the child:
- (A) (I) <u>if the child is one year old or older</u>, for a period of at least six months during the
 one-year period immediately preceding the day on which the child is placed with prospective
 adoptive parents; or
- (II) if the child is less than one year old, for a period of at least six months during the
 period of time beginning on the day on which the child is born and ending on the day on which
 the child is placed with prospective adoptive parents; and
- (B) immediately preceding placement of the child with prospective adoptive parents;and
- 446 (ii) openly held himself out to be the father of the child during the six-month period447 described in Subsection (1)(b)(i)(A).
- 448 (2) (a) If an unmarried biological father was prevented from complying with a
 449 requirement of Subsection (1) by the person or authorized agency having lawful custody of the
 450 child, the unmarried biological father is not required to comply with that requirement.
- (b) The subjective intent of an unmarried biological father, whether expressed or
 otherwise, that is unsupported by evidence that the requirements in Subsection (1) have been
 met, shall not preclude a determination that the father failed to meet the requirements of
 Subsection (1).
- (3) Except as provided in Subsections (6) and 78B-6-122(1), and subject to Subsection
 (5), with regard to a child who is six months old or less at the time the child is placed with
 prospective adoptive parents, consent of an unmarried biological father is not required unless,
 prior to the time the mother executes her consent for adoption or relinquishes the child for
 adoption, the unmarried biological father:
- 460 (a) initiates proceedings in a district court of Utah to establish paternity under Title
 461 78B, Chapter 15, Utah Uniform Parentage Act;

462 (b) files with the court that is presiding over the paternity proceeding a sworn affidavit: 463 (i) stating that he is fully able and willing to have full custody of the child; 464 (ii) setting forth his plans for care of the child; and 465 (iii) agreeing to a court order of child support and the payment of expenses incurred in 466 connection with the mother's pregnancy and the child's birth; 467 (c) consistent with Subsection (4), files notice of the commencement of paternity 468 proceedings, described in Subsection (3)(a), with the state registrar of vital statistics within the 469 Department of Health and Human Services, in a confidential registry established by the 470 department for that purpose; and 471 (d) offered to pay and paid, during the pregnancy and after the child's birth, a fair and 472 reasonable amount of the expenses incurred in connection with the mother's pregnancy and the 473 child's birth, in accordance with his financial ability, unless: 474 (i) he did not have actual knowledge of the pregnancy: (ii) he was prevented from paying the expenses by the person or authorized agency 475 476 having lawful custody of the child; or 477 (iii) the mother refused to accept the unmarried biological father's offer to pay the 478 expenses described in this Subsection (3)(d). 479 (4) (a) The notice described in Subsection (3)(c) is considered filed when received by 480 the state registrar of vital statistics. 481 (b) If the unmarried biological father fully complies with the requirements of 482 Subsection (3), and an adoption of the child is not completed, the unmarried biological father 483 shall, without any order of the court, be legally obligated for a reasonable amount of child support, pregnancy expenses, and child birth expenses, in accordance with his financial ability. 484 485 (5) Unless his ability to assert the right to consent has been lost for failure to comply 486 with Section 78B-6-110.1, or lost under another provision of Utah law, an unmarried biological 487 father shall have at least one business day after the child's birth to fully and strictly comply with 488 the requirements of Subsection (3). 489 (6) Consent of an unmarried biological father is not required under this section if: 490 (a) the court determines, in accordance with the requirements and procedures of Title 491 80, Chapter 4, Termination and Restoration of Parental Rights, that the unmarried biological

492 father's rights should be terminated, based on the petition of any interested party;

493	(b) (i) a declaration of paternity declaring the unmarried biological father to be the
494	father of the child is rescinded under Section 78B-15-306; and
495	(ii) the unmarried biological father fails to comply with Subsection (3) within 10
496	business days after the day that notice of the rescission described in Subsection (6)(b)(i) is
497	mailed by the Office of Vital Records within the Department of Health and Human Services as
498	provided in Section 78B-15-306; or
499	(c) the unmarried biological father is notified under Section 78B-6-110.1 and fails to
500	preserve his rights in accordance with the requirements of that section.
501	(7) Unless the adoptee is conceived or born within a marriage, the petitioner in an
502	adoption proceeding shall, prior to entrance of a final decree of adoption, file with the court a
503	certificate from the state registrar of vital statistics within the Department of Health and Human
504	Services, stating:
505	(a) that a diligent search has been made of the registry of notices from unmarried
506	biological fathers described in Subsection (3)(d); and
507	(b) (i) that no filing has been found pertaining to the father of the child in question; or
508	(ii) if a filing is found, the name of the putative father and the time and date of filing.
509	Section 9. Section 78B-6-122 is amended to read:
510	78B-6-122. Qualifying circumstance.
511	(1) (a) For purposes of this section, "qualifying circumstance" means that, at any point
512	during the time period beginning at the conception of the child and ending at the time the
512 513	during the time period beginning at the conception of the child and ending at the time the mother executed a consent to adoption or relinquishment of the child for adoption:
513	mother executed a consent to adoption or relinquishment of the child for adoption:
513 514	mother executed a consent to adoption or relinquishment of the child for adoption: (i) the child or the child's mother resided on a permanent basis, or a temporary basis of
513 514 515	 mother executed a consent to adoption or relinquishment of the child for adoption: (i) the child or the child's mother resided on a permanent basis, or a temporary basis of no less than 30 consecutive days, in the state;
513 514 515 516	 mother executed a consent to adoption or relinquishment of the child for adoption: (i) the child or the child's mother resided on a permanent basis, or a temporary basis of no less than 30 consecutive days, in the state; (ii) the mother intended to give birth to the child in the state;
 513 514 515 516 517 	 mother executed a consent to adoption or relinquishment of the child for adoption: (i) the child or the child's mother resided on a permanent basis, or a temporary basis of no less than 30 consecutive days, in the state; (ii) the mother intended to give birth to the child in the state; (iii) the child was born in the state; or
 513 514 515 516 517 518 	 mother executed a consent to adoption or relinquishment of the child for adoption: (i) the child or the child's mother resided on a permanent basis, or a temporary basis of no less than 30 consecutive days, in the state; (ii) the mother intended to give birth to the child in the state; (iii) the child was born in the state; or (iv) the mother intended to execute a consent to adoption or relinquishment of the child
 513 514 515 516 517 518 519 	 mother executed a consent to adoption or relinquishment of the child for adoption: (i) the child or the child's mother resided on a permanent basis, or a temporary basis of no less than 30 consecutive days, in the state; (ii) the mother intended to give birth to the child in the state; (iii) the child was born in the state; or (iv) the mother intended to execute a consent to adoption or relinquishment of the child for adoption:
 513 514 515 516 517 518 519 520 	 mother executed a consent to adoption or relinquishment of the child for adoption: (i) the child or the child's mother resided on a permanent basis, or a temporary basis of no less than 30 consecutive days, in the state; (ii) the mother intended to give birth to the child in the state; (iii) the child was born in the state; or (iv) the mother intended to execute a consent to adoption or relinquishment of the child for adoption: (A) in the state; or

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524 responsibilities, a court shall consider the totality of the circumstances, including, if applicable: 525 (i) efforts he has taken to discover the location of the child or the child's mother; 526 (ii) whether he has expressed and demonstrated an interest in taking responsibility for the child; 527 528 (iii) whether, and to what extent, he has developed, or attempted to develop, a 529 relationship with the child; 530 (iv) whether he offered to provide and, unless the offer was rejected, did provide, 531 financial support for the child or the child's mother: 532 (v) whether, and to what extent, he has communicated, or attempted to communicate, 533 with the child or the child's mother: 534 (vi) whether he has timely filed legal proceedings to establish his paternity of, and take 535 responsibility for, the child; 536 (vii) whether he has timely filed a notice with a public official or agency relating to: (A) his paternity of the child; or 537 538 (B) legal proceedings to establish his paternity of the child; or 539 (viii) other evidence that shows whether he has demonstrated a full commitment to his 540 parental responsibilities. 541 (c) Notwithstanding the provisions of Section 78B-6-121, the consent of an unmarried 542 biological father is required with respect to an adoptee who is under the age of 18 if: 543 (i) (A) the unmarried biological father did not know, and through the exercise of 544 reasonable diligence could not have known, before the time the mother executed a consent to adoption or relinquishment of the child for adoption, that a qualifying circumstance existed; 545 546 (B) before the mother executed a consent to adoption or relinquishment of the child for 547 adoption, the unmarried biological father fully complied with the requirements to establish 548 parental rights and duties in the child, and to preserve the right to notice of a proceeding in 549 connection with the adoption of the child, imposed by: 550 (I) the last state where the unmarried biological father knew, or through the exercise of 551 reasonable diligence should have known, that the mother resided in before the mother executed 552 the consent to adoption or relinquishment of the child for adoption; or (II) the state where the child was conceived; and 553 554 (C) the unmarried biological father has demonstrated, based on the totality of the

555	circumstances, a full commitment to his parental responsibilities, as described in Subsection
556	(1)(b); or
557	(ii) (A) the unmarried biological father knew, or through the exercise of reasonable
558	diligence should have known, before the time the mother executed a consent to adoption or
559	relinquishment of the child for adoption, that a qualifying circumstance existed; and
560	(B) the unmarried biological father complied with the requirements of Section
561	78B-6-121 before the later of:
562	(I) 20 days after the day that the unmarried biological father knew, or through the
563	exercise of reasonable diligence should have known, that a qualifying circumstance existed; or
564	(II) the time that the mother executed a consent to adoption or relinquishment of the
565	child for adoption.
566	(2) An unmarried biological father who does not fully and strictly comply with the
567	requirements of Section 78B-6-121 and this section is considered to have waived and
568	surrendered any right in relation to the child, including the right to:
569	(a) notice of any judicial proceeding in connection with the adoption of the child; and
570	(b) consent, or refuse to consent, to the adoption of the child.
571	Section 10. Section 78B-6-128 is amended to read:
572	
572	78B-6-128. Preplacement adoptive evaluations Exceptions.
573	78B-6-128. Preplacement adoptive evaluations Exceptions.(1) (a) Except as otherwise provided in this section, a child may not be placed in an
573	(1) (a) Except as otherwise provided in this section, a child may not be placed in an
573 574	(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
573 574 575	(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
573 574 575 576	(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 requirements of this section.
573 574 575 576 577	 (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 requirements of this section. (b) Except as provided in Section 78B-6-131, the court may, at any time, authorize
573 574 575 576 577 578	 (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 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
573 574 575 576 577 578 579	 (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 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.
573 574 575 576 577 578 579 580	 (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 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
573 574 575 576 577 578 579 580 581	 (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 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
573 574 575 576 577 578 579 580 581 582	 (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 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,
573 574 575 576 577 578 579 580 581 582 583	 (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 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.

586 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.

595

(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 26B-2-120; or

(ii) subject to Subsection (3), 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 nationwide
background check, to the Office of [Licensing] Background Processing within the Department
of Health and Human Services for a background check in accordance with Section 26B-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

616 parent's home is a resident of Utah, is prepared by the Department of Health and Human

617 Services from the records of the Department of Health and Human Services; or 618 (ii) if the prospective adoptive parent or the adult living in the prospective adoptive 619 parent's home is not a resident of Utah, prepared by the Department of Health and Human 620 Services, or a similar agency in another state, district, or territory of the United States, where 621 each prospective adoptive parent and any other adult living in the prospective home resided in 622 the five years immediately preceding the day on which the child is placed in the prospective 623 adoptive home; 624 (c) in accordance with Subsection (6), a home study conducted by an adoption service 625 provider that is: 626 (i) an expert in family relations approved by the court; 627 (ii) a certified social worker; 628 (iii) a clinical social worker; 629 (iv) a marriage and family therapist; 630 (v) a psychologist; (vi) a social service worker, if supervised by a certified or clinical social worker; 631 632 (vii) a clinical mental health counselor; or 633 (viii) an Office of Licensing employee within the Department of Health and Human 634 Services who is trained to perform a home study: and 635 (d) in accordance with Subsection (7), if the child to be adopted is a child who is in the 636 custody of any public child welfare agency, and is a child who has a special need as defined in 637 Section 80-2-801, the preplacement adoptive evaluation shall be conducted by the Department 638 of Health and Human Services or a child-placing agency that has entered into a contract with 639 the department to conduct the preplacement adoptive evaluations for children with special 640 needs. 641 (3) For purposes of Subsection (2)(a)(ii), subject to Subsection (4), the criminal history 642 background check described in Subsection (2)(a)(ii) shall be submitted in a manner acceptable 643 to the court that will: 644 (a) preserve the chain of custody of the results; and 645 (b) not permit tampering with the results by a prospective adoptive parent or other 646 interested party. 647 (4) In order to comply with Subsection (3), the manner in which the criminal history

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background check is submitted shall be approved by the court.

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

652 comply with Section 78B-6-131.

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

655 (i) this state; or

(ii) the state, district, or territory of the United States where the prospective adoptiveparent 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).

- 661 (c) The home study described in Subsection (2)(c) shall be a written document that 662 contains the following:
- (i) a recommendation to the court regarding the suitability of the prospective adoptiveparent for placement of a child;
- (ii) a description of in-person interviews with the prospective adoptive parent, theprospective adoptive parent's children, and other individuals living in the home;
- 667 (iii) a description of character and suitability references from at least two individuals
 668 who are not related to the prospective adoptive parent and with at least one individual who is
 669 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.
- 676 (7) Any fee assessed by the evaluating agency described in Subsection (2)(d) is the
 677 responsibility of the adopting parent.
- 678

(8) The person conducting the preplacement adoptive evaluation shall, in connection

679 with the preplacement adoptive evaluation, provide the prospective adoptive parent with 680 literature approved by the Division of Child and Family Services relating to adoption, including 681 information relating to: 682 (a) the adoption process; 683 (b) developmental issues that may require early intervention; and 684 (c) community resources that are available to the prospective adoptive parent. 685 (9) A copy of the preplacement adoptive evaluation shall be filed with the court. 686 (10) A home study completed for the purposes of foster care licensing in accordance 687 with Title 80, Chapter 2, Part 3, Division Responsibilities, shall be accepted by the court for a 688 proceeding under this part. 689 Section 11. Section 78B-6-136.5 is amended to read: 690 78B-6-136.5. Timing of entry of final decree of adoption -- Posthumous adoption. 691 (1) Except as provided in Subsection (2), a final decree of adoption may not be entered until the earlier of: 692 693 (a) when the child has lived in the home of the prospective adoptive parent for $\left[\frac{1}{3}\right]$ 694 three months: or 695 (b) when the child has been placed for adoption with the prospective adoptive parent 696 for [six] three months. 697 (2) (a) If the prospective adoptive parent is the spouse of the preexisting parent, a final 698 decree of adoption may not be entered until the child has lived in the home of that prospective 699 adoptive parent for [one year] six months, unless, based on a finding of good cause, the court 700 orders that the final decree of adoption may be entered at an earlier time. 701 (b) The court may, based on a finding of good cause, order that the final decree of 702 adoption be entered at [an earlier] a later time than described in Subsection (1). 703 (3) The court has authority to enter a final decree of adoption after a child's death upon 704 the request of the prospective adoptive parent or parents of the child if: 705 (a) the child dies during the time that the child is placed in the home of a prospective 706 adoptive parent or parents for the purpose of adoption; or 707 (b) the prospective adoptive parent is the spouse of a preexisting parent of the child and 708 the child lived with the prospective adoptive parent before the child's death. 709 (4) The court may enter a final decree of adoption declaring that a child is adopted by:

710	(a) both a deceased and a surviving adoptive parent if after the child is placed in the
711	home of the child's prospective adoptive parents:
712	(i) one of the prospective adoptive parents dies;
713	(ii) the surviving prospective adoptive parent requests that the court enter the decree;
714	and
715	(iii) the decree is entered after the child has lived in the home of the surviving
716	prospective adoptive parent for at least [six] three months; or
717	(b) a spouse of a preexisting parent if after the child has lived with the spouse of the
718	preexisting parent:
719	(i) the preexisting parent, or the spouse of the preexisting parent, dies;
720	(ii) the preexisting parent, or the spouse of the preexisting parent, requests that the
721	court enter the decree; and
722	(iii) the child has lived in the same home as the spouse of the preexisting parent for at
723	least [one year] six months.
724	(5) Upon request of a surviving preexisting parent, or a surviving parent for whom
725	adoption of a child has been finalized, the court may enter a final decree of adoption declaring
726	that a child is adopted by a deceased adoptive parent who was the spouse of the surviving
727	parent at the time of the prospective adoptive parent's death.
728	(6) The court may enter a final decree of adoption declaring that a child is adopted by
729	both deceased prospective adoptive parents if:
730	(a) both of the prospective adoptive parents die after the child is placed in the
731	prospective adoptive parents' home; and
732	(b) it is in the best interests of the child to enter the decree.
733	(7) Nothing in this section shall be construed to grant any rights to the preexisting
734	parents of a child to assert any interest in the child during the [six] three-month or [one-year]
735	six-month periods described in this section.
736	Section 12. FY 2025 Appropriation.
737	The following sums of money are appropriated for the fiscal year beginning July 1,
738	2024, and ending June 30, 2025. These are additions to amounts previously appropriated for
739	fiscal year 2025.
740	Subsection 12(a). Operating and Capital Budgets.

741	Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the
742	Legislature appropriates the following sums of money from the funds or accounts indicated for
743	the use and support of the government of the state of Utah.
744	ITEM 1 To Department of Health and Human Services - Children, Youth, & Families
745	From General Fund \$245,000
746	Schedule of Programs:
747	Family Health \$245,000
748	The Legislature intends that the Department of Health and Human Services use the
749	appropriation under this item to provide pregnancy support services in accordance with Section
750	26B-4-326.
751	Section 13. Effective date.
752	This bill takes effect on May 1, 2024.