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ADOPTION REVISIONS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Chris H. Wilson

House Sponsor: Jefferson S. Burton

LONG TITLE

General Description:

This bill addresses adoptions.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ allows the Office of Licensing within the Department of Health and Human Services (department) to issue a conditional human services program license for a license applicant whose license was previously revoked;
- ▶ requires the department to provide pregnancy support services, subject to available funding;
- ▶ amends language concerning appointment of an indigent defense service provider for termination of parental rights proceedings;
- ▶ allows a birth parent to elect to receive certain postpartum counseling at the expense of a child-placing agency or prospective adoptive parents;
- ▶ amends provisions relating to consent to adoption by an unmarried biological father;
- ▶ allows a prospective adoptive parent to use a foster care home study for purposes of adoption;
- ▶ modifies when a final decree of adoption may be entered; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:



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



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) The office may conditionally approve an application 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)]~~ (7) (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; and145 (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 [~~10~~] (11) (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 **26B-4-326. 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) "Adoption proceeding" means any proceeding under this part.

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~~] (8) "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 [~~10~~] (11) "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 Subsection 78B-6-112(6) and 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)]~~ (27) "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 [~~(27)~~](a) (28)(a) 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;

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
410 Subsection (1)(d) or (1)(e), only if he fully and strictly complies with the requirements of
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 authorized
433 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:

438 (A) (I) if the child is one year old or older, for a period of at least six months during the
439 one-year period immediately preceding the day on which the child is placed with prospective
440 adoptive parents; or

441 (II) if the child is less than one year old, for a period of at least six months during the
442 period of time beginning on the day on which the child is born and ending on the day on which
443 the child is placed with prospective adoptive parents; and

444 (B) immediately preceding placement of the child with prospective adoptive parents;
445 and

446 (ii) openly held himself out to be the father of the child during the six-month period
447 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.

451 (b) The subjective intent of an unmarried biological father, whether expressed or
452 otherwise, that is unsupported by evidence that the requirements in Subsection (1) have been
453 met, shall not preclude a determination that the father failed to meet the requirements of
454 Subsection (1).

455 (3) Except as provided in Subsections (6) and [78B-6-122\(1\)](#), and subject to Subsection
456 (5), with regard to a child who is six months old or less at the time the child is placed with
457 prospective adoptive parents, consent of an unmarried biological father is not required unless,
458 prior to the time the mother executes her consent for adoption or relinquishes the child for
459 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;

475 (ii) he was prevented from paying the expenses by the person or authorized agency

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

484 support, pregnancy expenses, and child birth expenses, in accordance with his financial ability.

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
513 mother executed a consent to adoption or relinquishment of the child for adoption:

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

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

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

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

520 (A) in the state; or

521 (B) under the laws of the state.

522 (b) For purposes of Subsection (1)(c)(i)(C) only, when determining whether an
523 unmarried biological father has demonstrated a full commitment to his parental

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
527 the child;

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:

537 (A) his paternity of the child; or

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
545 adoption or relinquishment of the child for adoption, that a qualifying circumstance existed;

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

553 (II) the state where the child was conceived; and

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 **78B-6-128. Preplacement adoptive evaluations -- Exceptions.**

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

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

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

584 (ii) The prospective adoptive parent described in this Subsection (1)(c) shall obtain the
585 information described in Subsections (2)(a) and (b), and file that documentation with the court

586 prior to finalization of the adoption.

587 (d) (i) The preplacement adoptive evaluation shall be completed or updated within the
588 12-month period immediately preceding the placement of a child with the prospective adoptive
589 parent.

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

595 (2) The preplacement adoptive evaluation shall include:

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

599 (i) if the child is in state custody, each prospective adoptive parent and any other adult
600 living in the prospective home shall submit fingerprints to the Department of Health and
601 Human Services, which shall perform a criminal history background check in accordance with
602 Section 26B-2-120; or

603 (ii) subject to Subsection (3), if the child is not in state custody, an adoption service
604 provider or an attorney representing a prospective adoptive parent shall submit fingerprints
605 from the prospective adoptive parent and any other adult living in the prospective home to the
606 Criminal and Technical Services Division of Public Safety for a regional and nationwide
607 background check, to the Office of ~~Licensing~~ Background Processing within the Department
608 of Health and Human Services for a background check in accordance with Section 26B-2-120,
609 or to the Federal Bureau of Investigation;

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

615 (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;

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

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

648 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.

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

655 (i) this state; or

656 (ii) the state, district, or territory of the United States where the prospective adoptive
657 parent or other person living in the prospective adoptive home resides.

658 (b) Neither the Department of Health and Human Services nor any of the department's
659 divisions may proscribe who qualifies as an expert in family relations or who may conduct a
660 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:

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

665 (ii) a description of in-person interviews with the prospective adoptive parent, the
666 prospective 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;

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

673 (v) a description of an inspection of the home to determine whether sufficient space
674 and facilities exist to meet the needs of the child and whether basic health and safety standards
675 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
692 until the earlier of:

693 (a) when the child has lived in the home of the prospective adoptive parent for [~~six~~]
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.