

Adoption Modifications
2025 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: Rex P. Shipp
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill amends provisions regarding adoptive evaluations.

Highlighted Provisions:

This bill:

- creates exceptions to the requirement of a preplacement adoptive evaluation; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-6-128, as last amended by Laws of Utah 2024, Chapter 261

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

Section 1. Section **78B-6-128** is amended to read:

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

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

Subsection (1)(a) does not apply if:

(A) a pre-existing parent has legal custody of the child to be adopted and the prospective adoptive parent is related to ~~[that]~~ the 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.]~~ ;

(B) a pre-existing parent has or had legal custody of the child to be adopted, the prospective adoptive parent was previously married to the pre-existing parent, and the prospective adoptive parent has lived with the child for at least 180 days before the day on which the petition for adoption was filed; or

(C) the child to be adopted has lived in the adoptive home with the prospective adoptive parent for at least one year before the day on which the petition for adoption was filed and the court finds that the adoption is in the best interests of the child.

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

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

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

(2) The preplacement adoptive evaluation shall include:

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

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

(ii) subject to Subsection (3), if the child is not in state custody, an adoption service

63 provider or an attorney representing a prospective adoptive parent shall submit
64 fingerprints from the prospective adoptive parent and any other adult living in the
65 prospective home to the Criminal and Technical Services Division of Public
66 Safety for a regional and nationwide background check, to the Office of
67 Background Processing within the Department of Health and Human Services for
68 a background check in accordance with Section 26B-2-120, or to the Federal
69 Bureau of Investigation;

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

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

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

86 (c) in accordance with Subsection (6), a home study conducted by an adoption service
87 provider that is:

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

89 (ii) a certified social worker;

90 (iii) a clinical social worker;

91 (iv) a marriage and family therapist;

92 (v) a psychologist;

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

94 (vii) a clinical mental health counselor; or

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

(d) in accordance with Subsection (7), if the child to be adopted is a child who is in the custody of any public child welfare agency, and is a child who has a special need as defined in Section 80-2-801, the preplacement adoptive evaluation shall be conducted by the Department of Health and Human Services or a child-placing agency that has entered into a contract with the department to conduct the preplacement adoptive evaluations for children with special needs.

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

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

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

(4) In order to comply with Subsection (3), the manner in which the criminal history background check is submitted shall be approved by the court.

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

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

(i) this state; or

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

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

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

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

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

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

- 131 individual who is related to the prospective adoptive parent;
- 132 (iv) a medical history and a doctor's report, based upon a doctor's physical
- 133 examination of the prospective adoptive parent, made within two years before the
- 134 date of the application; and
- 135 (v) a description of an inspection of the home to determine whether sufficient space
- 136 and facilities exist to meet the needs of the child and whether basic health and
- 137 safety standards are maintained.
- 138 (7) Any fee assessed by the evaluating agency described in Subsection (2)(d) is the
- 139 responsibility of the adopting parent.
- 140 (8) The person conducting the preplacement adoptive evaluation shall, in connection with
- 141 the preplacement adoptive evaluation, provide the prospective adoptive parent with
- 142 literature approved by the Division of Child and Family Services relating to adoption,
- 143 including information relating to:
- 144 (a) the adoption process;
- 145 (b) developmental issues that may require early intervention; and
- 146 (c) community resources that are available to the prospective adoptive parent.
- 147 (9) A copy of the preplacement adoptive evaluation shall be filed with the court.
- 148 (10) A home study completed for the purposes of foster care licensing in accordance with
- 149 Title 80, Chapter 2, Part 3, Division Responsibilities, shall be accepted by the court for a
- 150 proceeding under this part.

151 Section 2. **Effective date.**

152 This bill takes effect on May 7, 2025.