

ADOPTION RECORDS ACCESS AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jim Nielson

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies Title 78B, Chapter 6, Particular Proceedings, by amending the procedures for disclosing information in an adoption record and creating a restricted account.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ states that for an adoption finalized before March 22, 1941, the original birth certificate is a public document and shall be made available upon request;
- ▶ permits the release of identifying information about a birth mother, with her permission, under certain circumstances;
- ▶ authorizes the Office of Vital Records and Statistics to collect a \$50 fee from an adult adoptee accessing the mutual-consent, voluntary adoption registry, unless the individual is impecunious, and directs the office to deposit money in a designated restricted account;
- ▶ directs the Office of Vital Records and Statistics to, as funding allows:
 - implement broad search terms and methods when attempting to find a match in the mutual-consent, voluntary adoption registry; and
 - advertise the services offered by the mutual-consent, voluntary adoption registry;



- 28 ▶ authorizes the Office of Vital Records and Statistics to partner with a private or
- 29 nonprofit organization to seek private funding for advertising and the operation of
- 30 the mutual-consent, voluntary adoption registry;
- 31 ▶ requires an annual report on the effectiveness of the mutual-consent, voluntary
- 32 adoption registry to the Health and Human Services Interim Committee; and
- 33 ▶ makes technical changes.

34 **Money Appropriated in this Bill:**

35 This bill appropriates:

- 36 ▶ to the Department of Health - Office of Vital Statistics:
 - 37 • from the Mutual-Consent, Voluntary Adoption Registry Restricted Account,
 - 38 \$50,000, subject to intent language that the appropriation shall be used to fund
 - 39 programs and services described in Section 78B-6-144.

40 **Other Special Clauses:**

41 None

42 **Utah Code Sections Affected:**

43 AMENDS:

44 **78B-6-141**, as last amended by Laws of Utah 2012, Chapter 340

45 **78B-6-144**, as last amended by Laws of Utah 2012, Chapter 340

46 ENACTS:

47 **78B-6-144.5**, Utah Code Annotated 1953



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

50 Section 1. Section **78B-6-141** is amended to read:

51 **78B-6-141. Petition, report, and documents sealed -- Exceptions.**

52 (1) As used in this section:

53 (a) "Adult adoptee" means a person at least 18 years old who was adopted as a child.

54 (b) "Identifying information" means information that may lead to the positive
55 identification of a birth parent, adoptee, or other biological relative, including a name, address,
56 or place of employment.

57 ~~[(1)–A]~~ (2) For an adoption that is finalized before January 1, 2014, a petition for
58 adoption, the written report described in Section 78B-6-135, and any other documents filed in

59 connection with the petition are sealed.

60 (3) For an adoption that is finalized before March 22, 1941, the original birth
61 certificate is a public document and shall be made available for inspection upon request.

62 (4) For an adoption that is finalized on or after January 1, 2014, a petition for adoption,
63 the written report described in Section 78B-6-135, and any other documents filed in connection
64 with the petition:

65 (a) the original documents are sealed; and

66 (b) except as provided in Subsection (5), copies of the original documents in the
67 possession of the office shall be made available for inspection upon written request in the form
68 established by the office by:

69 (i) an adoptive parent who was a party to the adoption; or

70 (ii) an adult adoptee.

71 (5) (a) For an adoption that is finalized on or after January 1, 2014, a birth mother may
72 elect, in writing at the time of finalization, to refuse to permit identifying information about the
73 birth mother to be made available by the office for inspection by any individual.

74 (b) If a birth mother elects under Subsection (5)(a) to refuse to permit identifying
75 information about the birth mother to be made available for inspection, the office shall redact
76 all identifying information about the birth mother in the documents described Subsection
77 (4)(b).

78 (c) A birth mother may, at any time:

79 (i) change the election described in Subsection (5)(a); or

80 (ii) elect to make other information, including an updated medical history, available for
81 inspection by a party to the adoption or adult adoptee, if she makes the election in writing.

82 ~~[(2)]~~ (6) The documents described in Subsection ~~[(1)]~~ (2) may only be open to
83 inspection as follows:

84 (a) in accordance with Subsection ~~[(3)]~~ (7)(a), by a party to the adoption proceeding:

85 (i) while the proceeding is pending; or

86 (ii) within six months after the day on which the adoption decree is entered;

87 (b) subject to Subsection ~~[(3)]~~ (7)(b), a court enters an order permitting access to the
88 documents by a person who has appealed the denial of that person's motion to intervene;

89 (c) upon order of the court expressly permitting inspection or copying, after good cause

90 has been shown;

91 (d) as provided under Section 78B-6-144;

92 (e) those records shall become public on the one hundredth anniversary of the date the
93 final decree of adoption was entered; or

94 (f) if the adoptee is an adult at the time the final decree of adoption is entered, the
95 documents described in this section are open to inspection and copying without a court order
96 by the adoptee or a parent who adopted the adoptee, unless the final decree of adoption is
97 entered by the juvenile court under Subsection 78B-6-115(3)(b).

98 ~~(7)~~ (7) (a) A person who files a motion to intervene in an adoption proceeding:

99 (i) is not a party to the adoption proceeding, unless the motion to intervene is granted;

100 and

101 (ii) may not be granted access to the documents described in Subsection ~~(1)~~ (2),
102 unless the motion to intervene is granted.

103 (b) An order described in Subsection ~~(2)~~ (6)(b) shall:

104 (i) prohibit the person described in Subsection ~~(2)~~ (6)(b) from inspecting a document
105 described in Subsection ~~(1)~~ (2) that contains identifying information of the adoptive or
106 prospective adoptive parent; and

107 (ii) permit the person described in Subsection ~~(3)~~ (7)(b)(i) to review a copy of a
108 document described in Subsection ~~(3)~~ (7)(b)(i) after the identifying information described in
109 Subsection ~~(3)~~ (7)(b)(i) is redacted from the document.

110 (8) A birth mother who opts out of disclosure of information under Subsection (5), may
111 participate in the mutual-consent, voluntary adoption registry described in Section 78B-6-144.

112 (9) The office may charge a fee to an individual who requests information under this
113 section, limited to:

114 (a) the cost of providing the service; and

115 (b) \$50, unless the individual is impecunious, to be deposited in the Mutual-Consent,
116 Voluntary Adoption Registry Restricted Account.

117 Section 2. Section **78B-6-144** is amended to read:

118 **78B-6-144. Mutual-consent, voluntary adoption registry -- Procedures -- Fees.**

119 (1) As used in this section, "adult adoptee" is as defined in Section 78B-6-141.

120 ~~(1)~~ (2) The office shall establish a mutual-consent, voluntary adoption registry.

121 (a) ~~[Adult adoptees]~~ An adult adoptee and a birth [parents] parent of an adult
122 [adoptees] adoptee, upon presentation of positive identification, may request identifying
123 information from the office, in the form established by the office. A court of competent
124 jurisdiction or a child-placing agency may accept that request from the adult adoptee or birth
125 parent, in the form provided by the office, and transfer that request to the office. The adult
126 adoptee or birth parent is responsible for notifying the office of any change in information
127 contained in the request.

128 (b) The office may only release identifying information to an adult adoptee or birth
129 parent when:

130 (i) it receives requests from both the adoptee and the adoptee's birth parent[-]; or

131 (ii) pursuant to Subsections 78B-6-141(4) through (7).

132 (c) After matching the request of an adult adoptee with that of at least one of the
133 adoptee's birth parents, the office shall notify both the adoptee and the birth parent that the
134 requests have been matched, and disclose the identifying information to those parties.
135 However, if that adult adoptee has a sibling of the same birth parent who is under the age of 18
136 years, and who was raised in the same family setting as the adult adoptee, the office shall not
137 disclose the requested identifying information to that adult adoptee or the adoptee's birth
138 parent.

139 ~~[(2)]~~ (3) (a) Adult adoptees and adult siblings of adult adoptees, upon presentation of
140 positive identification, may request identifying information from the office, in the form
141 established by the office. A court of competent jurisdiction or a child-placing agency may
142 accept that request from the adult adoptee or adult sibling, in the form provided by the office,
143 and transfer that request to the office. The adult adoptee or adult sibling is responsible for
144 notifying the office of any change in information contained in the request.

145 (b) The office may only release identifying information to an adult adoptee or adult
146 sibling when it receives requests from both the adoptee and the adoptee's adult sibling.

147 (c) After matching the request of an adult adoptee with that of the adoptee's adult
148 sibling, if the office has been provided with sufficient information to make that match, the
149 office shall notify both the adoptee and the adult sibling that the requests have been matched,
150 and disclose the identifying information to those parties.

151 (d) After receiving a request for information from an adult adoptee under this section,

152 the office shall:

153 (i) search death certificates in the possession of the office for the adult adoptee's birth
154 parent; and

155 (ii) if the adult adoptee's birth parent is dead, inform the adult adoptee that the birth
156 parent is dead.

157 (e) The office shall notify an individual who requests information under this section:

158 (i) of the results of the initial search for a match; and

159 (ii) if the initial search does not produce a match, that the request will be kept on file
160 and the individual shall be notified in the event of a match.

161 ~~[(3)]~~ (4) Information registered with the bureau under this section is available only to a
162 registered adult adoptee and the adoptee's registered birth parent or registered adult sibling,
163 under the terms of this section.

164 ~~[(4)]~~ (5) Information regarding a birth parent who has not registered a request with the
165 bureau may not be disclosed, except as provided in Section 78B-6-141.

166 ~~[(5)]~~ (6) The ~~[bureau may]~~ office:

167 (a) except as provided in Subsection (6)(b), shall charge an adult adoptee a fee of \$50
168 for services provided under this section~~[-, limited to the cost of providing those services.];~~

169 (b) may waive the fee described in Subsection (6)(a) if the adult adoptee is
170 impecunious; and

171 (c) shall deposit any funds received under Subsection (6)(a) in the Mutual-Consent,
172 Voluntary Adoption Registry Restricted Account created under Section 78B-6-144.5.

173 (7) The office shall, as funding allows:

174 (a) maximize potential matches by utilizing broad search terms and methods; and

175 (b) advertise the services provided by the mutual-consent, voluntary adoption registry,
176 including providing registration forms to local motor vehicle division offices for distribution
177 with vehicle registration information.

178 (8) The office may partner with a private or nonprofit organization to:

179 (a) seek funding for activities authorized under this section, which shall be deposited in
180 the Mutual-Consent, Voluntary Adoption Registry Donation Fund created under Section
181 78B-6-144.5; or

182 (b) supplement the advertising described in Subsection (7)(b).

183 (9) The offices shall make an annual report on the effectiveness of the mutual-consent,
184 voluntary adoption registry to the Health and Human Services Interim Committee.

185 (10) Nothing in this section shall limit the disclosure of information as described in
186 Section 78B-6-141.

187 Section 3. Section **78B-6-144.5** is enacted to read:

188 **78B-6-144.5. Mutual-Consent, Voluntary Adoption Registry Restricted Account.**

189 (1) There is created a restricted account within the General Fund known as the
190 "Mutual-Consent, Voluntary Adoption Registry Restricted Account."

191 (2) The Legislature shall appropriate funds from the account described in Subsection
192 (1) to fund the services provided by the Office of Vital Records and Statistics in maintaining
193 and operating the mutual-consent adoption registry, and advertising the service provided by the
194 registry.

195 (3) There is created a restricted special revenue fund known as the "Mutual-Consent,
196 Voluntary Adoption Registry Donation Fund."

197 (4) The fund described in Subsection (3) shall be funded by donations and grants from
198 public or private entities.

199 (5) The office may spend money in the Mutual-Consent, Voluntary Adoption Registry
200 Donation Fund to fund activities described in Section 78B-6-144.

201 (6) The office may not spend money in the Mutual-Consent, Voluntary Adoption
202 Registry Donation Fund except as described in Subsection (5).

203 Section 4. **Appropriation.**

204 Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for
205 the fiscal year beginning July 1, 2013, and ending June 30, 2014, the following sums of money
206 are appropriated from resources not otherwise appropriated or reduced from amounts
207 previously appropriated out of the funds or accounts indicated for the fiscal year beginning July
208 1, 2013 and ending June 30, 2014. These are additions to any amounts previously appropriated
209 for fiscal year 2013.

210 To Department of Health - Office of Vital Statistics

211 From Mutual-Consent, Voluntary Adoption Registry Restricted Account \$50,000

212 Schedule of Programs:

213 Mutual-Consent, Voluntary Adoption Registry

214
215
216
217

Restricted Account

\$50,000

The Legislature intends that, under Section 63J-1-603, the appropriations under this section shall be used by the Office of Vital Statistics to maintain, operate, and advertise the services provided by the mutual consent adoption registry.

Legislative Review Note
as of 2-13-13 1:12 PM

Office of Legislative Research and General Counsel