

Representative Stewart E. Barlow proposes the following substitute bill:

PERSONAL RECORDS AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stewart E. Barlow

Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill allows an adult adoptee to access the adoptee's original birth certificate in certain circumstances.

Highlighted Provisions:

This bill:

- amends rulemaking authority;
- allows an adult adoptee to access an adoption document related to the adult adoptee in certain circumstances;
- allows a birth parent to allow:
 - an adult adoptee's access to an adoption document; and
 - the sharing of contact information with the adult adoptee; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:



26 [26-2-22](#), as last amended by Laws of Utah 2015, Chapter 137

27 [78B-6-141](#), as last amended by Laws of Utah 2018, Chapter 30

28

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

29 Section 1. Section **26-2-22** is amended to read:

30 **26-2-22. Inspection of vital records.**

31 (1) (a) The vital records shall be open to inspection, but only in compliance with the
32 provisions of this chapter, department rules, and Sections [78B-6-141](#) and [78B-6-144](#).

33 (b) It is unlawful for any state or local officer or employee to disclose data contained in
34 vital records contrary to this chapter, department rule, Section [78B-6-141](#), or Section
35 [78B-6-144](#).

36 (c) (i) An adoption document is open to inspection as provided in Section [78B-6-141](#)
37 or Section [78B-6-144](#).

38 (ii) A birth parent may not access an adoption document under Subsection
39 [78B-6-141](#)(3).

40 (d) A custodian of vital records may permit inspection of a vital record or issue a
41 certified copy of a record or a part of a record when the custodian is satisfied that the applicant
42 has demonstrated a direct, tangible, and legitimate interest.

43 (2) A direct, tangible, and legitimate interest in a vital record is present only if:

44 (a) the request is from:

45 (i) the subject;

46 (ii) a member of the subject's immediate family;

47 (iii) the guardian of the subject;

48 (iv) a designated legal representative of the subject; or

49 (v) a person, including a child-placing agency as defined in Section [78B-6-103](#), with
50 whom a child has been placed pending finalization of an adoption of the child;

51 (b) the request involves a personal or property right of the subject of the record;

52 (c) the request is for official purposes of a public health authority or a state, local, or
53 federal governmental agency;

54 (d) the request is for a statistical or medical research program and prior consent has
55 been obtained from the state registrar; or
56

(e) the request is a certified copy of an order of a court of record specifying the record to be examined or copied.

(3) For purposes of Subsection (2):

(a) "immediate family member" means a spouse, child, parent, sibling, grandparent, or grandchild;

(b) a designated legal representative means an attorney, physician, funeral service director, genealogist, or other agent of the subject or the subject's immediate family who has been delegated the authority to access vital records;

(c) except as provided in Title 78B, Chapter 6, Part 1, Utah Adoption Act, a parent, or the immediate family member of a parent, who does not have legal or physical custody of or visitation or parent-time rights for a child because of the termination of parental rights pursuant to Title 78A, Chapter 6, Juvenile Court Act of 1996, or by virtue of consenting to or relinquishing a child for adoption pursuant to Title 78B, Chapter 6, Part 1, Utah Adoption Act, may not be considered as having a direct, tangible, and legitimate interest; and

(d) a commercial firm or agency requesting names, addresses, or similar information may not be considered as having a direct, tangible, and legitimate interest.

(4) Upon payment of a fee established in accordance with Section 63J-1-504, the office shall make the following records available to the public:

(a) except as provided in Subsection 26-2-10(4)(b), a birth record, excluding confidential information collected for medical and health use, if 100 years or more have passed since the date of birth;

(b) a death record if 50 years or more have passed since the date of death; and

(c) a vital record not subject to Subsection (4)(a) or (b) if 75 years or more have passed since the date of the event upon which the record is based.

(5) Upon payment of a fee established in accordance with Section 63J-1-504, the office shall make an adoption document available as provided in Sections 78B-6-141 and 78B-6-144.

(6) The office shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing procedures and the content of forms as follows:

(a) for the inspection of adoption documents under Subsection 78B-6-141(4);

[(a)] (b) for a birth parent's election to permit identifying information about the birth parent to be made available, under Section 78B-6-141;

88 ~~[(b)]~~ (c) for the release of information by the mutual-consent, voluntary adoption
89 registry, under Section 78B-6-144; and

90 ~~[(c)]~~ (d) for collecting fees and donations pursuant to Section 78B-6-144.5.

91 Section 2. Section **78B-6-141** is amended to read:

92 **78B-6-141. Court hearings may be closed -- Petition and documents sealed --**

93 **Exceptions.**

94 (1) (a) Notwithstanding Section 78A-6-114, court hearings in adoption cases may be
95 closed to the public upon request of a party to the adoption petition and upon court approval.

96 (b) In a closed hearing, only the following individuals may be admitted:

97 ~~[(a)]~~ (i) a party to the proceeding;

98 ~~[(b)]~~ (ii) the adoptee;

99 ~~[(c)]~~ (iii) a representative of an agency having custody of the adoptee;

100 ~~[(d)]~~ (iv) in a hearing to relinquish parental rights, the individual whose rights are to be
101 relinquished and invitees of that individual to provide emotional support;

102 ~~[(e)]~~ (v) in a hearing on the termination of parental rights, the individual whose rights
103 may be terminated;

104 ~~[(f)]~~ (vi) in a hearing on a petition to intervene, the proposed intervenor;

105 ~~[(g)]~~ (vii) in a hearing to finalize an adoption, invitees of the petitioner; and

106 ~~[(h)]~~ (viii) other individuals for good cause, upon order of the court.

107 (2) An adoption document and any other documents filed in connection with a petition
108 for adoption are sealed.

109 (3) The documents described in Subsection (2) may only be open to inspection and
110 copying:

111 (a) in accordance with Subsection (5)(a), by a party to the adoption proceeding:

112 (i) while the proceeding is pending; or

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

114 (b) subject to Subsection (5)(b), if a court enters an order permitting access to the
115 documents by an individual who has appealed the denial of that individual's motion to
116 intervene;

117 (c) upon order of the court expressly permitting inspection or copying, after good cause
118 has been shown;

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

(e) when the adoption document becomes public on the one hundredth anniversary of the date the final decree of adoption was entered;

(f) when the birth certificate becomes public on the one hundredth anniversary of the date of birth;

(g) to a mature adoptee or a parent who adopted the mature adoptee, without a court order, unless the final decree of adoption is entered by the juvenile court under Subsection 78B-6-115(3)(b); or

(h) to an adult adoptee, to the extent permitted under Subsection (4).

(4) (a) ~~[For an adoption finalized on or after January 1, 2016, a birth parent may elect, on a written consent form provided by the office, to permit identifying information about the birth parent to be made available for inspection by an]~~ An adult adoptee[.] that was born in the state may access an adoption document associated with the adult adoptee's adoption without a court order:

(i) to the extent that a birth parent consents under Subsection (4)(b); or

(ii) if the birth parents listed on the original birth certificate are deceased.

(b) A birth parent may[.];

(i) provide consent to allow the access described in Subsection (4)(a) by electing, electronically or on a written form provided by the office, allowing the birth parent to elect to:

(A) allow the office to provide the adult adoptee with the contact information of the birth parent that the birth parent indicates;

(B) allow the office to provide the adult adoptee with the contact information of an intermediary that the birth parent indicates;

(C) prohibit the office from providing any contact information to the adult adoptee;

(D) allow the office to provide the adult adoptee with a noncertified copy of the original birth certificate; and

(ii) at any time, file, electronically or on a written document with the office, to:

[(i)] (A) change the election described in Subsection [(4)(a)] (4)(b); or

[(ii)] (B) elect to make other information about the birth parent, including an updated medical history, available for inspection by an adult adoptee.

(c) A birth parent may not access any identifying information or an adoption document

150 under this Subsection (4).

151 (5) (a) An individual who files a motion to intervene in an adoption proceeding:

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

153 and

154 (ii) may not be granted access to the documents described in Subsection (2), unless the
155 motion to intervene is granted.

156 (b) An order described in Subsection (3)(b) shall:

157 (i) prohibit the individual described in Subsection (3)(b) from inspecting a document
158 described in Subsection (2) that contains identifying information of the adoptive or prospective
159 adoptive parent; and

160 (ii) permit the individual described in Subsection (5)(b)(i) to review a copy of a
161 document described in Subsection (5)(b)(i) after the identifying information described in
162 Subsection (5)(b)(i) is redacted from the document.

163 Section 3. **Effective date.**

164 This bill takes effect on November 1, 2021.