

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:

26-2-22, as last amended by Laws of Utah 2015, Chapter 137

78B-6-141, as last amended by Laws of Utah 2018, Chapter 30

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

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

26-2-22. Inspection of vital records.

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

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

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

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

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

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

(a) the request is from:

(i) the subject;

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

(iii) the guardian of the subject;

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

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

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

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

(d) the request is for a statistical or medical research program and prior consent has

56 been obtained from the state registrar; or

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

59 (3) For purposes of Subsection (2):

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

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

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

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

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

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

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

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

81 (5) Upon payment of a fee established in accordance with Section 63J-1-504, the office
82 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;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(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;

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

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

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

124 (g) to a mature adoptee or a parent who adopted the mature adoptee, without a court
125 order, unless the final decree of adoption is entered by the juvenile court under Subsection
126 78B-6-115(3)(b); or

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

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

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

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

135 (b) A birth parent may[:];

136 (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 under this Subsection (4).

(d) If two birth parents are listed on the original birth certificate and only one birth parent consents under Subsection (4)(b) or is deceased, the office may redact the name of the other birth parent.

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

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

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

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

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

(ii) permit the individual described in Subsection (5)(b)(i) to review a copy of a

164 document described in Subsection (5)(b)(i) after the identifying information described in
165 Subsection (5)(b)(i) is redacted from the document.

166 Section 3. **Effective date.**

167 This bill takes effect on November 1, 2021.