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CHILD WELFARE AMENDMENTS
2024 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: Wayne A. Harper
House Sponsor: Christine F. Watkins

LONG TITLE

General Description:

This bill amends provisions relating to child welfare.

Highlighted Provisions:

This bill:

- extends the sunset date for the Interdisciplinary Parental Representation Pilot Program from December 31, 2024, to December 31, 2026;
- extends certain deadlines related to contested adoptions;
- clarifies that the Division of Child and Family Services shall provide necessary information when filing a complaint for failure to report child abuse or neglect; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 63I-1-278**, as last amended by Laws of Utah 2022, Chapters 188, 318, 384, and 423
 - 78B-6-133**, as last amended by Laws of Utah 2021, Chapter 262
 - 80-2-608**, as enacted by Laws of Utah 2022, Chapter 334
 - 80-2-609**, as last amended by Laws of Utah 2022, Chapter 415 and renumbered and amended by Laws of Utah 2022, Chapter 334
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Be it enacted by the Legislature of the state of Utah:

Section 1. Section **63I-1-278** is amended to read:

28 **63I-1-278 . Repeal dates: Title 78A and Title 78B.**

29 (1) Subsections 78A-2-301(4) and 78A-2-301.5(12), regarding the suspension of filing fees
30 for petitions for expungement, are repealed on July 1, 2023.

31 (2) Section 78B-3-421, regarding medical malpractice arbitration agreements, is repealed
32 July 1, 2029.

33 (3) Subsection 78A-7-106(6), regarding the transfer of a criminal action involving a
34 domestic violence offense from the justice court to the district court, is repealed on July
35 1, 2024.

36 (4) Section 78B-4-518, regarding the limitation on employer liability for an employee
37 convicted of an offense, is repealed on July 1, 2025.

38 (5) Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act, is repealed July 1,
39 2026.

40 (6) Title 78B, Chapter 12, Part 4, Advisory Committee, which creates the Child Support
41 Guidelines Advisory Committee, is repealed July 1, 2026.

42 (7) Section 78B-22-805, regarding the Interdisciplinary Parental Representation Pilot
43 Program, is repealed December 31, [~~2024~~] 2026.

44 Section 2. Section **78B-6-133** is amended to read:

45 **78B-6-133 . Contested adoptions -- Rights of parties -- Determination of custody.**

46 (1) If a person whose consent for an adoption is required pursuant to Subsection 78B-6-120
47 (1)(b), (c), (d), (e), or (f) refused to consent, the court shall determine whether proper
48 grounds exist for the termination of that person's rights pursuant to the provisions of this
49 chapter or Title 80, Chapter 4, Termination and Restoration of Parental Rights.

50 (2) (a) If there are proper grounds to terminate the person's parental rights, the court
51 shall order that the person's rights be terminated.

52 (b) If there are not proper grounds to terminate the person's parental rights, the court
53 shall:

54 (i) dismiss the adoption petition;

55 (ii) conduct an evidentiary hearing to determine who should have custody of the
56 child; and

57 (iii) award custody of the child in accordance with the child's best interest.

58 (c) Termination of a person's parental rights does not terminate the right of a relative of
59 the parent to seek adoption of the child.

60 (3) Evidence considered at the custody hearing may include:

61 (a) evidence of psychological or emotional bonds that the child has formed with a third

- 62 person, including the prospective adoptive parent; and
- 63 (b) any detriment that a change in custody may cause the child.
- 64 (4) If the court dismisses the adoption petition, the fact that a person relinquished a child for
- 65 adoption or consented to the adoption may not be considered as evidence in a custody
- 66 proceeding described in this section, or in any subsequent custody proceeding, that it is
- 67 not in the child's best interest for custody to be awarded to such person or that:
- 68 (a) the person is unfit or incompetent to be a parent;
- 69 (b) the person has neglected or abandoned the child;
- 70 (c) the person is not interested in having custody of the child; or
- 71 (d) the person has forfeited the person's parental presumption.
- 72 (5) Any custody order entered pursuant to this section may also:
- 73 (a) include provisions for:
- 74 (i) parent-time; or
- 75 (ii) visitation by an interested third party; and
- 76 (b) provide for the financial support of the child.
- 77 (6) (a) If a person or entity whose consent is required for an adoption under Subsection
- 78 78B-6-120(1)(a) or (g) refuses to consent, the court shall proceed with an evidentiary
- 79 hearing and award custody as set forth in Subsection (2).
- 80 (b) The court may also finalize the adoption if doing so is in the best interest of the child.
- 81 (7) (a) A person may not contest an adoption after the final decree of adoption is
- 82 entered, if that person:
- 83 (i) was a party to the adoption proceeding;
- 84 (ii) was served with notice of the adoption proceeding; or
- 85 (iii) executed a consent to the adoption or relinquishment for adoption.
- 86 (b) No person may contest an adoption after one year from the day on which the final
- 87 decree of adoption is entered.
- 88 (c) The limitations on contesting an adoption action, described in this Subsection (7),
- 89 apply to all attempts to contest an adoption:
- 90 (i) regardless of whether the adoption is contested directly or collaterally; and
- 91 (ii) regardless of the basis for contesting the adoption, including claims of fraud,
- 92 duress, undue influence, lack of capacity or competency, mistake of law or fact, or
- 93 lack of jurisdiction.
- 94 (d) The limitations on contesting an adoption action, described in this Subsection (7), do
- 95 not prohibit a timely appeal of:

- 96 (i) a final decree of adoption; or
- 97 (ii) a decision in an action challenging an adoption, if the action was brought within
- 98 the time limitations described in Subsections (7)(a) and (b).
- 99 (8) A court that has jurisdiction over a child for whom more than one petition for adoption
- 100 is filed shall grant a hearing only under the following circumstances:
- 101 (a) to a petitioner:
- 102 (i) with whom the child is placed;
- 103 (ii) who has custody or guardianship of the child;
- 104 (iii) who has filed a written statement with the court within [~~120 days~~] eight months
- 105 after the day on which the shelter hearing is held:
- 106 (A) requesting immediate placement of the child with the petitioner; and
- 107 (B) expressing the petitioner's intention of adopting the child;
- 108 (iv) who is a relative with whom the child has a significant and substantial
- 109 relationship and who was unaware, within the first [~~120 days~~] eight months after
- 110 the day on which the shelter hearing is held, of the child's removal from the child's
- 111 parent; or
- 112 (v) who is a relative with whom the child has a significant and substantial
- 113 relationship and, in a case where the child is not placed with a relative or is placed
- 114 with a relative that is unable or unwilling to adopt the child:
- 115 (A) was actively involved in the child's child welfare case with the division or the
- 116 juvenile court while the child's parent engaged in reunification services; and
- 117 (B) filed a written statement with the court that includes the information described
- 118 in Subsections (8)(a)(iii)(A) and (B) within 30 days after the day on which the
- 119 court terminated reunification services; or
- 120 (b) if the child:
- 121 (i) has been in the current placement for less than 180 days before the day on which
- 122 the petitioner files the petition for adoption; or
- 123 (ii) is placed with, or is in the custody or guardianship of, an individual who
- 124 previously informed the division or the court that the individual is unwilling or
- 125 unable to adopt the child.
- 126 (9) (a) If the court grants a hearing on more than one petition for adoption, there is a
- 127 rebuttable presumption that it is in the best interest of a child to be placed for
- 128 adoption with a petitioner:
- 129 (i) who has fulfilled the requirements described in Title 78B, Chapter 6, Part 1, Utah

- 130 Adoption Act; and
- 131 (ii) (A) with whom the child has continuously resided for six months;
- 132 (B) who has filed a written statement with the court within [~~120 days~~] eight months
- 133 after the day on which the shelter hearing is held, as described in Subsection
- 134 (8)(a)(iii); or
- 135 (C) who is a relative described in Subsection (8)(a)(iv).
- 136 (b) The court may consider other factors relevant to the best interest of the child to
- 137 determine whether the presumption is rebutted.
- 138 (c) The court shall weigh the best interest of the child uniformly between petitioners if
- 139 more than one petitioner satisfies a rebuttable presumption condition described in
- 140 Subsection (9)(a).

141 (10) Nothing in this section shall be construed to prevent the division or the child's guardian

142 ad litem from appearing or participating in any proceeding for a petition for adoption.

143 (11) The division shall use best efforts to provide a known relative with timely information

144 relating to the relative's rights or duties under this section.

145 Section 3. Section **80-2-608** is amended to read:

146 **80-2-608 . Confidential identity of person who reports.**

147 Except as provided in Sections 80-2-609, 80-2-611, and 80-2-1005, the division and a

148 law enforcement agency shall ensure the anonymity of the person who makes the initial

149 report under this part and any other person involved in the division's or law enforcement

150 agency's subsequent investigation of the report.

151 Section 4. Section **80-2-609** is amended to read:

152 **80-2-609 . Failure to report -- Threats and intimidation -- Penalty.**

153 (1) If the division has substantial grounds to believe that a person knowingly failed to report

154 under Section 80-2-602 or 80-2-603, the division shall file a complaint with:

- 155 (a) the Division of Professional Licensing if the person is a health care provider, as
- 156 defined in Subsection 80-2-603(1)(a)(i), or a mental health therapist, as defined in
- 157 Section 58-60-102;
- 158 (b) the appropriate law enforcement agency if the person is a law enforcement officer, as
- 159 defined in Section 53-13-103; or
- 160 (c) the State Board of Education if the person is an educator, as defined in Section
- 161 53E-6-102.

162 (2) The division shall:

- 163 (a) provide the information deemed necessary for action on the complaint by the entities

164 listed in Subsection (1); and

165 (b) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative
 166 Rulemaking Act, specifying the information the division shall provide under
 167 Subsection (1).

168 ~~[(2)]~~ (3) (a) A person is guilty of a class B misdemeanor if the person willfully fails to
 169 report under Section 80-2-602 or 80-2-603.

170 (b) If a person is convicted under Subsection ~~[(2)(a)]~~ (3)(a), the court may order the
 171 person, in addition to any other sentence the court imposes, to:

172 (i) complete community service hours; or

173 (ii) complete a program on preventing abuse and neglect of children.

174 (c) In determining whether it would be appropriate to charge a person with a violation of
 175 Subsection ~~[(2)(a)]~~ (3)(a), the prosecuting attorney shall take into account whether a
 176 reasonable person would not have reported suspected abuse or neglect of a child
 177 because reporting would have placed the person in immediate danger of death or
 178 serious bodily injury.

179 (d) Notwithstanding any contrary provision of law, a prosecuting attorney may not use a
 180 person's violation of Subsection ~~[(2)(a)]~~ (3)(a) as the basis for charging the person
 181 with another offense.

182 (e) A prosecution for failure to report under Subsection ~~[(2)(a)]~~ (3)(a) shall be
 183 commenced within two years after the day on which the person had knowledge of the
 184 suspected abuse or neglect or the circumstances described in Subsection 80-2-603(2)
 185 and willfully failed to report.

186 ~~[(3)]~~ (4) Under circumstances not amounting to a violation of Section 76-8-508, a person is
 187 guilty of a class B misdemeanor if the person threatens, intimidates, or attempts to
 188 intimidate a child who is the subject of the report under Section 80-2-602 or 80-2-603,
 189 the person who made the report, a witness, or any other person cooperating with an
 190 investigation conducted in accordance with this chapter or Chapter 2a, Removal and
 191 Protective Custody of a Child.

192 **Section 5. Effective date.**

193 This bill takes effect on May 1, 2024.