

CHILD WELFARE APPEALS AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: Jefferson S. Burton

LONG TITLE

General Description:

This bill addresses an appeal from a juvenile court order related to adoption or child welfare.

Highlighted Provisions:

This bill:

- ▶ removes provisions requiring a party in an adoption or child welfare-related case to keep other parties and the appellate court informed of the party's whereabouts;
- ▶ requires a party to an adoption or child welfare-related case to keep the party's counsel informed of the party's whereabouts after a juvenile court disposition;
- ▶ removes the requirement that certain claims be made in an adoption or child welfare-related appeal;
- ▶ modifies the appeals information a juvenile court is required to provide a party at the conclusion of an adoption or child welfare-related case; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78A-6-359, as renumbered and amended by Laws of Utah 2021, Chapter 261

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

31 Section 1. Section **78A-6-359** is amended to read:

32 **78A-6-359. Appeals.**

33 (1) An appeal to the Court of Appeals may be taken from any order, decree, or
34 judgment of the juvenile court.

35 (2) (a) An appeal of right from an order, decree, or judgment by a juvenile court related
36 to a proceeding under Title 78B, Chapter 6, Part 1, Utah Adoption Act, Title 80, Chapter 3,
37 Abuse, Neglect, and Dependency Proceedings, and Title 80, Chapter 4, Termination and
38 Restoration of Parental Rights, shall be filed within 15 days after the day on which the juvenile
39 court enters the order, decree, or judgment.

40 (b) A notice of appeal must be signed by appellant's counsel, if any, and by appellant,
41 unless the appellant is a child or state agency.

42 (c) If an appellant fails to timely sign a notice of appeal, the appeal shall be dismissed.

43 (3) An order for a disposition from the juvenile court shall include the following
44 information:

45 (a) notice that the right to appeal described in Subsection (2)(a) is time sensitive and
46 must be taken within 15 days after the day on which the juvenile court enters the order, decree,
47 or judgment appealed from;

48 (b) the right to appeal within the specified time limits;

49 (c) the need for the signature of the parties on a notice of appeal in an appeal described
50 in Subsection (2)(a); and

51 (d) the need for [~~parties~~] each party to maintain regular contact with the [~~parties'~~] the
52 party's counsel and to keep [~~all other parties and the appellate court~~] the party's counsel
53 informed of the [~~parties'~~] party's whereabouts.

54 (4) If [~~the parties are~~] a party is not present in the courtroom, the juvenile court shall
55 provide a statement containing the information provided in Subsection (3) to the [~~parties~~] party
56 at the [~~parties'~~] party's last known address.

57 (5) [~~(a)~~] The juvenile court shall inform [~~the parties' counsel~~] each party's counsel at

58 the conclusion of the proceedings that, if an appeal is filed, ~~[the parties' counsel]~~ appellate
59 counsel must represent the ~~[parties]~~ party throughout the appellate process ~~[unless relieved of~~
60 ~~that obligation by the juvenile court upon a showing of extraordinary circumstances]~~ unless
61 appellate counsel is not appointed under the Utah Rules of Appellate Procedure, Rule 55.

62 ~~[(b) (i) Until the petition on appeal is filed, claims of ineffective assistance of counsel~~
63 ~~do not constitute extraordinary circumstances.]~~

64 ~~[(ii) If a claim is raised by trial counsel or a party, the claim must be included in the~~
65 ~~petition on appeal.]~~

66 (6) During the pendency of an appeal under Subsection (2)(a), ~~[parties]~~ a party shall
67 maintain regular contact with the ~~[parties']~~ party's appellate counsel, if any, and keep ~~[all other~~
68 ~~parties and the appellate court]~~ the party's appellate counsel informed of the ~~[parties']~~ party's
69 whereabouts.

70 (7) (a) In all other appeals of right, the appeal shall be taken within 30 days after the
71 day on which the juvenile court enters the order, decree, or judgment.

72 (b) A notice of appeal under Subsection (7)(a) must be signed by appellant's counsel, if
73 any, or by appellant.

74 (8) The attorney general shall represent the state in all appeals under this chapter and
75 Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, Title 80, Chapter 4,
76 Termination and Restoration of Parental Rights, and Title 80, Chapter 6, Juvenile Justice.

77 (9) Unless the juvenile court stays the juvenile court's order, the pendency of an appeal
78 does not stay the order or decree appealed from in a minor's case, unless otherwise ordered by
79 the Court of Appeals, if suitable provision for the care and custody of the minor involved is
80 made pending the appeal.

81 (10) Access to the record on appeal is governed by Title 63G, Chapter 2, Government
82 Records Access and Management Act.