

Effective 5/14/2019

Superseded 7/1/2024

78B-6-110 Notice of adoption proceedings.

- (1)
 - (a) An unmarried biological father, by virtue of the fact that he has engaged in a sexual relationship with a woman:
 - (i) is considered to be on notice that a pregnancy and an adoption proceeding regarding the child may occur; and
 - (ii) has a duty to protect his own rights and interests.
 - (b) An unmarried biological father is entitled to actual notice of a birth or an adoption proceeding with regard to his child only as provided in this section or Section 78B-6-110.5.
- (2) Notice of an adoption proceeding shall be served on each of the following persons:
 - (a) any person or agency whose consent or relinquishment is required under Section 78B-6-120 or 78B-6-121, unless that right has been terminated by:
 - (i) waiver;
 - (ii) relinquishment;
 - (iii) actual or implied consent; or
 - (iv) judicial action;
 - (b) any person who has initiated a paternity proceeding and filed notice of that action with the state registrar of vital statistics within the Department of Health, in accordance with Subsection (3);
 - (c) any legally appointed custodian or guardian of the adoptee;
 - (d) the petitioner's spouse, if any, only if the petitioner's spouse has not joined in the petition;
 - (e) the adoptee's spouse, if any;
 - (f) any person who, prior to the time the mother executes her consent for adoption or relinquishes the child for adoption, is recorded on the birth certificate as the child's father, with the knowledge and consent of the mother;
 - (g) a person who is:
 - (i) openly living in the same household with the child at the time the consent is executed or relinquishment made; and
 - (ii) holding himself out to be the child's father; and
 - (h) any person who is married to the child's mother at the time she executes her consent to the adoption or relinquishes the child for adoption, unless the court finds that the mother's spouse is not the child's father under Section 78B-15-607.
- (3)
 - (a) In order to preserve any right to notice, an unmarried biological father shall, consistent with Subsection (3)(d):
 - (i) initiate proceedings in a district court of Utah to establish paternity under Title 78B, Chapter 15, Utah Uniform Parentage Act; and
 - (ii) file a notice of commencement of the proceedings described in Subsection (3)(a)(i) with the office of vital statistics within the Department of Health.
 - (b) If the unmarried, biological father does not know the county in which the birth mother resides, he may initiate his action in any county, subject to a change in trial pursuant to Section 78B-3-307.
 - (c) The Department of Health shall provide forms for the purpose of filing the notice described in Subsection (3)(a)(ii), and make those forms available in the office of the county health department in each county.
 - (d) When the state registrar of vital statistics receives a completed form, the registrar shall:

- (i) record the date and time the form was received; and
 - (ii) immediately enter the information provided by the unmarried biological father in the confidential registry established by Subsection 78B-6-121(3)(c).
- (e) The action and notice described in Subsection (3)(a):
 - (i) may be filed before or after the child's birth; and
 - (ii) shall be filed prior to the mother's:
 - (A) execution of consent to adoption of the child; or
 - (B) relinquishment of the child for adoption.
- (4) Notice provided in accordance with this section need not disclose the name of the mother of the child who is the subject of an adoption proceeding.
- (5) The notice required by this section:
 - (a) may be served at any time after the petition for adoption is filed, but may not be served on a birth mother before she has given birth to the child who is the subject of the petition for adoption;
 - (b) shall be served at least 30 days prior to the final dispositional hearing;
 - (c) shall specifically state that the person served shall fulfill the requirements of Subsection (6)
 - (a) within 30 days after the day on which the person receives service if the person intends to intervene in or contest the adoption;
 - (d) shall state the consequences, described in Subsection (6)(b), for failure of a person to file a motion for relief within 30 days after the day on which the person is served with notice of an adoption proceeding;
 - (e) is not required to include, nor be accompanied by, a summons or a copy of the petition for adoption;
 - (f) shall state where the person may obtain a copy of the petition for adoption; and
 - (g) shall indicate the right to the appointment of counsel for a party whom the court determines is indigent and at risk of losing the party's parental rights.
- (6)
 - (a) A person who has been served with notice of an adoption proceeding and who wishes to contest the adoption shall file a motion to intervene in the adoption proceeding:
 - (i) within 30 days after the day on which the person was served with notice of the adoption proceeding;
 - (ii) setting forth specific relief sought; and
 - (iii) accompanied by a memorandum specifying the factual and legal grounds upon which the motion is based.
 - (b) A person who fails to fully and strictly comply with all of the requirements described in Subsection (6)(a) within 30 days after the day on which the person was served with notice of the adoption proceeding:
 - (i) waives any right to further notice in connection with the adoption;
 - (ii) forfeits all rights in relation to the adoptee; and
 - (iii) is barred from thereafter bringing or maintaining any action to assert any interest in the adoptee.
- (7) Service of notice under this section shall be made as follows:
 - (a)
 - (i) Subject to Subsection (5)(e), service on a person whose consent is necessary under Section 78B-6-120 or 78B-6-121 shall be in accordance with the provisions of the Utah Rules of Civil Procedure.
 - (ii) If service of a person described in Subsection (7)(a)(i) is by publication, the court shall designate the content of the notice regarding the identity of the parties.

- (iii) The notice described in this Subsection (7)(a) may not include the name of a person seeking to adopt the adoptee.
- (b)
 - (i) Except as provided in Subsection (7)(b)(ii) to any other person for whom notice is required under this section, service by certified mail, return receipt requested, is sufficient.
 - (ii) If the service described in Subsection (7)(b)(i) cannot be completed after two attempts, the court may issue an order providing for service by publication, posting, or by any other manner of service.
- (c) Notice to a person who has initiated a paternity proceeding and filed notice of that action with the state registrar of vital statistics in the Department of Health in accordance with the requirements of Subsection (3), shall be served by certified mail, return receipt requested, at the last address filed with the registrar.
- (8) The notice required by this section may be waived in writing by the person entitled to receive notice.
- (9) Proof of service of notice on all persons for whom notice is required by this section shall be filed with the court before the final dispositional hearing on the adoption.
- (10) Notwithstanding any other provision of law, neither the notice of an adoption proceeding nor any process in that proceeding is required to contain the name of the person or persons seeking to adopt the adoptee.
- (11) Except as to those persons whose consent to an adoption is required under Section 78B-6-120 or 78B-6-121, the sole purpose of notice under this section is to enable the person served to:
 - (a) intervene in the adoption; and
 - (b) present evidence to the court relevant to the best interest of the child.