

## Fathers Blast Utah's Strict Adoption Laws

*Suit Filed on Behalf of Men Who Fought to Keep Their Biological Babies From Being Adopted*

By  
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Jake Strickland, one of the plaintiffs in the federal suit, also seeks to invalidate the placement of his son, now 2 years old, with adoptive parents. *Brandon Sullivan for The Wall Street Journal*

A federal lawsuit is taking aim at Utah's adoption laws, claiming they don't adequately protect the rights of unmarried biological fathers in the name of getting newborns into stable, two-parent families.

Utah's laws are among the most "adoption-friendly" in the nation, say legal experts, and largely reflect the state's desire to discourage both abortions and a proliferation of single-parent families.

An unwed mother living in Utah generally can relinquish her rights to a baby to an adoption agency 24 hours after she gives birth, sooner than is allowed in most other states. Utah also bars her from

undoing her decision if she changes her mind. Fathers, meanwhile, have limited grounds to challenge the adoptive parents' custody of their child. It typically isn't enough to argue that the mother failed to disclose her plans to seek an adoption or outright misled the father.

The lawsuit was filed last month in Salt Lake City federal court on behalf of 12 men who fought to keep their babies from being placed into adoption by their mothers. Three succeeded; nine didn't. It names the state attorney general's office and two former state attorneys general as defendants. A spokeswoman for the attorney general's office declined to comment.

It is the latest challenge to Utah's adoption laws, which place hundreds of children a year into two-parent homes. Last March, the Utah Supreme Court heard arguments in a case challenging the constitutionality of the laws. The court, which has yet to rule, will soon consider two other suits making similar claims.

"Compared to most others', Utah's laws are draconian," said Bruce Boyer, director of the Civitas ChildLaw Clinic at the Loyola University Chicago School of Law. "The state does not make it easy for fathers to protect their rights."

An unwed father living in Utah who seeks to block an adoption in the state must first file a paternity action in court and submit a filing that includes a parenting plan for after the child's birth and proof that he has paid—or attempted to pay—for much of the mother's prenatal care. The father must then let the state's Office of Vital Records know about the suit. All of this requires hiring a lawyer, and can cost thousands of dollars. It also has to happen quickly.

If a father hasn't completed these requirements by the time the mother relinquishes the baby to an adoption agency, he is typically out of luck, even if he didn't know the mother was planning an adoption, according to several Utah family lawyers.

Defenders of the laws say they reflect a valid and justifiable legislative determination. "It's a religious state in which the traditional two-parent family structure is still very highly cherished," said Lorie Fowlke, a Republican former member of the state's House of Representatives and now a family lawyer in Provo.

Ms. Fowlke said that while Utah's laws may be less forgiving for fathers than those elsewhere, they still afford rights to those who show a commitment to parenting. "We say, 'OK, dad, if you've been involved, buying diapers and prenatal vitamins and you file your paperwork on time, then yes, you can have the rights,' " she said. "Otherwise, we think mothers should be empowered to decide this on their own."

Utah courts have dealt with a number of cases on this issue. In 2010, Jake Strickland, then a 23-year-old Salt Lake City-area resident, began a relationship with a married woman who became pregnant with his child. The couple stayed in communication and had discussed co-parenting, according to court papers filed by Mr. Strickland's attorney in a suit challenging the child's adoption. Based on her assurances, he didn't take the necessary legal steps to protect his rights before the child's birth.

Toward the end of her pregnancy, the mother told Mr. Strickland that a caesarean section had been scheduled for Jan. 12, 2011, according to Mr. Strickland's court papers. But on Jan. 5, 2011, the mother told Mr. Strickland that she had delivered the baby a week earlier and already had put the boy up for adoption.

Mr. Strickland, also one of the plaintiffs in the new suit, has been unsuccessful in trying to invalidate the adoption in the lower courts and his case is pending with the Utah Supreme Court. "I wouldn't wish this on anyone," he said.

Larry Jenkins, the lawyer for the adoptive parents in Mr. Strickland's lawsuit to invalidate the adoption, didn't respond to requests for comment. In court papers, Mr. Jenkins said Mr. Strickland ignored advice to take certain steps to protect his rights. "By statute, Strickland had the responsibility to protect his own rights. He must bear the burden of his failure."

A lawyer who represented the biological mother shortly after the adoption declined to comment. But in court papers filed in 2011, the lawyer argued that Mr. Strickland "was fully aware of the pregnancy and discussed with [the mother] her desire to place the child for adoption," and that Mr. Strickland acknowledged that he knew of his legal obligations but failed to follow through.

As recently as the 1970s, states afforded fathers relatively few rights in regard to children conceived out of wedlock. Over time, legislatures softened their positions and allowed unwed fathers more say over their children.

Utah didn't follow the trend, and in recent years has made the laws even less forgiving for fathers, say legal experts.

Wes Hutchins, the lawyer representing the 12 men, said Utah's courts have been slow to address the problems, part of the reason he turned to the federal courts to declare key sections of the state's adoption laws unconstitutional. "Utah has focused so intensely on 'finality and stability' with its adoption laws that it's lost sight of what's in the best interest of the children in many of these cases," he said.

Todd Weiler, a Republican state senator from Woods Cross who largely supports Utah's adoption laws, said, "As a policy matter, the state has taken the position that we want adoptions to happen

easily and quickly—and the vast majority of adoptions of Utah do." Mr. Weiler said that of all the adoptions processed in the state every year, "only a minuscule number have problems," and that the state's courts do a good job of clamping down on abuses.

A number of lawsuits in recent years have involved mothers who travel to Utah to take advantage of Utah's adoption-friendly laws. Under Utah law, an out-of-state mother can put a child up for adoption in Utah without explicitly telling a father she's doing so.

"The law is just riddled with traps for fathers," said Scott Wisner, a family lawyer in Salt Lake City who has represented fathers in paternity and other actions. "But for out-of-state fathers, Utah can be brutal."

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