

78B-6-122 Qualifying circumstance.

- (1)
- (a) For purposes of this section, "qualifying circumstance" means that, at any point during the time period beginning at the conception of the child and ending at the time the mother executed a consent to adoption or relinquishment of the child for adoption:
 - (i) the child or the child's mother resided on a permanent basis, or a temporary basis of no less than 30 consecutive days, in the state;
 - (ii) the mother intended to give birth to the child in the state;
 - (iii) the child was born in the state; or
 - (iv) the mother intended to execute a consent to adoption or relinquishment of the child for adoption:
 - (A) in the state; or
 - (B) under the laws of the state.
 - (b) For purposes of Subsection (1)(c)(i)(C) only, when determining whether an unmarried biological father has demonstrated a full commitment to his parental responsibilities, a court shall consider the totality of the circumstances, including, if applicable:
 - (i) efforts he has taken to discover the location of the child or the child's mother;
 - (ii) whether he has expressed or demonstrated an interest in taking responsibility for the child;
 - (iii) whether, and to what extent, he has developed, or attempted to develop, a relationship with the child;
 - (iv) whether he offered to provide and, if the offer was accepted, did provide, financial support for the child or the child's mother;
 - (v) whether, and to what extent, he has communicated, or attempted to communicate, with the child or the child's mother;
 - (vi) whether he has filed legal proceedings to establish his paternity of, and take responsibility for, the child;
 - (vii) whether he has filed a notice with a public official or agency relating to:
 - (A) his paternity of the child; or
 - (B) legal proceedings to establish his paternity of the child; or
 - (viii) other evidence that demonstrates that he has demonstrated a full commitment to his parental responsibilities.
 - (c) Notwithstanding the provisions of Section 78B-6-121, the consent of an unmarried biological father is required with respect to an adoptee who is under the age of 18 if:
 - (i)
 - (A) the unmarried biological father did not know, and through the exercise of reasonable diligence could not have known, before the time the mother executed a consent to adoption or relinquishment of the child for adoption, that a qualifying circumstance existed;
 - (B) before the mother executed a consent to adoption or relinquishment of the child for adoption, the unmarried biological father fully complied with the requirements to establish parental rights in the child, and to preserve the right to notice of a proceeding in connection with the adoption of the child, imposed by:
 - (I) the last state where the unmarried biological father knew, or through the exercise of reasonable diligence should have known, that the mother resided in before the mother executed the consent to adoption or relinquishment of the child for adoption; or
 - (II) the state where the child was conceived; and
 - (C) the unmarried biological father has demonstrated, based on the totality of the circumstances, a full commitment to his parental responsibilities, as described in Subsection (1)(b); or

- (ii)
 - (A) the unmarried biological father knew, or through the exercise of reasonable diligence should have known, before the time the mother executed a consent to adoption or relinquishment of the child for adoption, that a qualifying circumstance existed; and
 - (B) the unmarried biological father complied with the requirements of Section 78B-6-121 before the later of:
 - (I) 20 days after the day that the unmarried biological father knew, or through the exercise of reasonable diligence should have known, that a qualifying circumstance existed; or
 - (II) the time that the mother executed a consent to adoption or relinquishment of the child for adoption.
- (2) An unmarried biological father who does not fully and strictly comply with the requirements of Section 78B-6-121 and this section is considered to have waived and surrendered any right in relation to the child, including the right to:
 - (a) notice of any judicial proceeding in connection with the adoption of the child; and
 - (b) consent, or refuse to consent, to the adoption of the child.

Amended by Chapter 474, 2013 General Session