



1 AMENDS:

2 **62A-4a-101**, as last amended by Chapter 318, Laws of Utah 1996

3 **62A-4a-113**, as last amended by Chapter 329, Laws of Utah 1997

4 **62A-4a-206**, as last amended by Chapter 302, Laws of Utah 1995

5 **62A-4a-250**, as enacted by Chapter 329, Laws of Utah 1997

6 **62A-4a-402**, as renumbered and amended by Chapter 260, Laws of Utah 1994

7 **78-3a-103**, as last amended by Chapters 329 and 365, Laws of Utah 1997

8 **78-3a-104**, as last amended by Chapters 329 and 365, Laws of Utah 1997

9 **78-3a-105**, as last amended by Chapters 329 and 365, Laws of Utah 1997

10 **78-3a-116**, as last amended by Chapter 133 and renumbered and amended by Chapter 365,

11 Laws of Utah 1997

12 **78-3a-118**, as last amended by Chapters 329, 357, 358 and renumbered and amended by

13 Chapter 365, Laws of Utah 1997

14 **78-3a-305**, as last amended by Chapter 318, Laws of Utah 1996

15 **78-3a-306**, as last amended by Chapter 329, Laws of Utah 1997

16 **78-3a-307**, as last amended by Chapters 195 and 329, Laws of Utah 1997

17 **78-3a-312**, as last amended by Chapters 133 and 329, Laws of Utah 1997

18 **78-3a-350**, as enacted by Chapter 329, Laws of Utah 1997

19 **78-3a-408**, as last amended by Chapter 329, Laws of Utah 1997

20 **78-3a-903**, as last amended by Chapter 365, Laws of Utah 1997

21 **78-45a-5**, as last amended by Chapter 232, Laws of Utah 1997

22 ENACTS:

23 **62A-4a-202.6**, Utah Code Annotated 1953

24 **67-5-16**, Utah Code Annotated 1953

25 **78-3a-305.1**, Utah Code Annotated 1953

26 This act affects uncodified material as follows:

27 AMENDS:

28 **Uncodified Section 42, Chapter 329, Laws Of Utah 1997**

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

30 Section 1. Section **62A-4a-101** is amended to read:

31 **62A-4a-101. Definitions.**

1 As used in this chapter:

2 (1) "Abuse" means:

3 (a) actual or threatened nonaccidental physical or mental harm[-];

4 (b) negligent treatment[-];

5 (c) sexual exploitation[-, or];

6 (d) any sexual abuse[-]; or

7 (e) commission of domestic violence in the presence of a child.

8 (2) "Adoption services" means placing children for adoption, subsidizing adoptions under  
9 Section 62A-4a-105, supervising adoption placements until the adoption is finalized by the court,  
10 conducting adoption studies, preparing adoption reports upon request of the court, and providing  
11 post-adoptive placement services, upon request of a family, for the purpose of stabilizing a  
12 possible disruptive placement.

13 (3) "Board" means the Board of Child and Family Services established in accordance with  
14 Sections 62A-1-105, 62A-1-107, and 62A-4a-102.

15 (4) "Commission of domestic violence in the presence of a child" means committing an  
16 act of domestic violence against a cohabitant, as defined in Section 30-6-1:

17 (a) in the physical presence of a child; or

18 (b) having knowledge that a child is present and may see or hear an act of domestic  
19 violence.

20 [~~(4)~~] (5) "Consumer" means a person who receives services offered by the division in  
21 accordance with this chapter.

22 [~~(5)~~] (6) "Custody," with regard to the division, means the custody of a child in the  
23 division as of the date of disposition.

24 [~~(6)~~] (7) "Day-care services" means care of a child for a portion of the day which is less  
25 than 24 hours, in his own home by a responsible person, or outside of his home in a day-care  
26 center, family group home, or family child care home.

27 [~~(7)~~] (8) "Dependent child" means a child who is homeless or without proper care through  
28 no fault of his parent, guardian, or custodian.

29 [~~(8)~~] (9) "Director" means the director of the Division of Child and Family Services.

30 [~~(9)~~] (10) "Division" means the Division of Child and Family Services.

31 [~~(10)~~] (11) (a) "Domestic violence" means the same as that term is defined in Section

1 77-36-1.

2       **(b)** "Domestic violence services" means temporary shelter, treatment, and related services  
3 to persons who are victims of abuse and their dependent children and treatment services for  
4 domestic violence perpetrators.

5       **[(b)] (c)** As used in this subsection "abuse" means the same as that term is defined in  
6 Section 30-6-1, and "domestic violence perpetrator" means a person who is alleged to have  
7 committed, has been convicted of, or has pled guilty to an act of domestic violence as defined in  
8 Subsection 77-36-1(2).

9       **[(H)] (12)** "Homemaking service" means the care of individuals in their domiciles, and  
10 help given to individual caretaker relatives to achieve improved household and family management  
11 through the services of a trained homemaker.

12       **[(12)] (13)** "Minor" means a person under 18 years of age. "Minor" may also include a  
13 person under 21 years of age for whom the division has been specifically ordered by the juvenile  
14 court to provide services.

15       **[(13)] (14)** "Natural parent" means a child's biological or adoptive parent, and includes a  
16 child's noncustodial parent.

17       **[(14)] (15)** (a) "Neglect" means:

- 18       (i) abandonment of a child;
- 19       (ii) subjecting a child to mistreatment or abuse;
- 20       (iii) lack of proper parental care by reason of the fault or habits of the parent, guardian, or  
21 custodian;

22       (iv) failure or refusal of a parent, guardian, or custodian to provide proper or necessary  
23 subsistence, education, or medical care, including surgery or psychiatric services when required,  
24 or any other care necessary for his health, safety, morals, or well-being; or

25       (v) a child at risk of being neglected or abused because another child in the same home is  
26 neglected or abused.

27       (b) The aspect of neglect relating to education, described in Subsection (a)(iv), means that,  
28 after receiving notice that a child has been frequently absent from school without good cause, or  
29 that the child has failed to cooperate with school authorities in a reasonable manner, a parent or  
30 guardian fails to make a good faith effort to ensure that the child receives an appropriate education.

31       (c) A parent or guardian legitimately practicing religious beliefs and who, for that reason,

1 does not provide specified medical treatment for a child, is not guilty of neglect.

2       ~~[(15)]~~ (16) "Protective custody," with regard to the division, means the shelter of a child  
3 by the division from the time he is removed from his home until the shelter hearing, or his return  
4 home, whichever occurs earlier.

5       ~~[(16)]~~ (17) "Protective services" means expedited services that are provided:

6       (a) in response to evidence of neglect, abuse, or exploitation of a minor;

7       (b) in an effort to substantiate evidence of neglect, abuse, or exploitation;

8       (c) to a cohabitant who is neglecting or abusing a child, in order to help him develop  
9 recognition of his duty of care and of the causes of neglect or abuse, and to strengthen his ability  
10 to provide safe and acceptable care; and

11       (d) in cases where the child's welfare is endangered:

12       (i) to bring the situation to the attention of the appropriate juvenile court and law  
13 enforcement agency;

14       (ii) to cause a protective order to be issued for the protection of the child, when  
15 appropriate; and

16       (iii) to protect the child from the circumstances that endanger his welfare including, when  
17 appropriate, removal from his home, placement in substitute care, and petitioning the court for  
18 termination of parental rights.

19       ~~[(17)]~~ (18) "Services to unwed parents" means social, educational, and medical services  
20 arranged for or provided to unwed parents to help them plan for themselves and the unborn child.

21       ~~[(18)]~~ (19) "Shelter care" means the temporary care of minors in nonsecure facilities.

22       ~~[(19)]~~ (20) "State" means a state of the United States, the District of Columbia, the  
23 Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern  
24 Mariana Islands, or a territory or possession administered by the United States.

25       ~~[(20)]~~ (21) "State plan" means the written description of the programs for children, youth,  
26 and family services administered by the division in accordance with federal law.

27       ~~[(21)]~~ (22) "Status offender" means a minor who has been declared a runaway or  
28 ungovernable.

29       ~~[(22)]~~ (23) "Substitute care" means:

30       (a) the placement of a minor in a family home, group care facility, or other placement  
31 outside the minor's own home, either at the request of a parent or other responsible relative, or

1 upon court order, when it is determined that continuation of care in the child's own home would  
2 be contrary to the child's welfare;

3 (b) services provided for a child awaiting placement; and

4 (c) the licensing and supervision of a substitute care facility.

5 [(23)] (24) "Temporary custody," with regard to the division, means the custody of a child  
6 in the division from the date of the shelter hearing until disposition.

7 [(24)] (25) "Transportation services" means travel assistance given to an individual with  
8 escort service, if necessary, to and from community facilities and resources as part of a service  
9 plan.

10 [(25)] (26) "Youth services" means services provided to families in crisis when a minor  
11 is ungovernable or runaway or where there is parent-child conflict, in an effort to resolve family  
12 conflict, maintain or reunite minors with their families, and to divert minors from the juvenile  
13 justice system. Those services may include crisis intervention, short-term shelter, time-out  
14 placement, and family counseling.

15 Section 2. Section **62A-4a-113** is amended to read:

16 **62A-4a-113. Division's enforcement authority -- Responsibility of attorney general**  
17 **to represent division.**

18 (1) The division shall take legal action that is necessary to enforce the provisions of this  
19 chapter.

20 (2) (a) The attorney general shall enforce all provisions of this chapter, in addition to the  
21 requirements of Title 78, Chapter 3a, relating to protection and custody of abused, neglected, or  
22 dependent children. The attorney general may contract with the local county attorney to enforce  
23 the provisions of this chapter and Title 78, Chapter 3a.

24 [(3)] (b) It is the responsibility of the attorney general's office to:

25 [(a)] (i) advise the division regarding decisions to remove a child from his home;

26 [(b)] (ii) represent the division in all court and administrative proceedings related to child  
27 abuse, neglect, and dependency including, but not limited to, shelter hearings, dispositional  
28 hearings, dispositional review hearings, periodic review hearings, and petitions for termination of  
29 parental rights; and

30 [(c)] (iii) be available to and advise caseworkers on an ongoing basis.

31 [(4)] (c) The attorney general shall designate no less than 16 full-time attorneys to advise

1 and represent the division in abuse, neglect, and dependency proceedings, including petitions for  
2 termination of parental rights. Those attorneys shall devote their full time and attention to that  
3 representation and, insofar as it is practicable, shall be housed in or near various offices of the  
4 division statewide.

5 (3) As of July 1, 1998, the attorney general's office shall represent the Division of Child  
6 and Family Services with regard to actions involving minors who have not been adjudicated as  
7 abused or neglect, but who are otherwise committed to the custody of the division by the juvenile  
8 court, and who are classified in the division's management information system as having been  
9 placed in custody primarily on the bases of delinquent behavior or a status offense.

10 Section 3. Section **62A-4a-202.6** is enacted to read:

11 **62A-4a-202.6. Child Protective Services Investigators Within Attorney General's**  
12 **Office -- Authority.**

13 (1) Pursuant to Section 67-5-16 the attorney general may employ, with the consent of the  
14 division, child protective services investigators to investigate reports of abuse or neglect of a child  
15 that occur while the child is in the custody of the division.

16 (2) The investigators described in Subsection (1) may also investigate allegations of abuse  
17 or neglect of a child by a department employee or a licensed substitute care provider.

18 (3) The investigators described in Subsection (1), if not peace officers, shall have the same  
19 rights, duties, and authority of a child protective services investigator employed by the division  
20 to:

21 (a) make a thorough investigation upon receiving either an oral or written report of alleged  
22 abuse or neglect of a child, with the primary purpose of that investigation being the protection of  
23 the child;

24 (b) make an inquiry into the child's home environment, emotional, or mental health, the  
25 nature and extent of the child's injuries, and the child's physical safety;

26 (c) make a written report of their investigation, including determination regarding whether  
27 the alleged abuse or neglect was substantiated, unsubstantiated, or inconclusive, and forward a  
28 copy of that report to the division within the time mandates for investigations established by the  
29 division;

30 (d) immediately consult with school authorities to verify the child's status in accordance  
31 with Sections 53A-11-101 through 53A-11-103 when a report is based upon or includes an

1 allegation of educational neglect;

2 (e) enter upon public or private premises, using appropriate legal processes, to investigate  
3 reports of alleged child abuse or neglect; and

4 (f) take a child into protective custody, and deliver the child to a law enforcement officer,  
5 or to the division. Control and jurisdiction over the child shall be determined by the provisions  
6 of Title 62A, Chapter 4a, Part 2, Child Welfare Services, Title 78, Chapter 3a, Juvenile courts, and  
7 as otherwise provided by law.

8 Section 4. Section **62A-4a-206** is amended to read:

9 **62A-4a-206. Process for removal of a child from foster family -- Procedural due**  
10 **process.**

11 (1) (a) The Legislature finds that, except with regard to a child's natural [~~parents~~] parent  
12 or legal guardian, a foster family has a very limited but recognized interest in its familial  
13 relationship with a foster child who has been in the care and custody of that family. In making  
14 determinations regarding removal of a child from a foster home, the division may not dismiss the  
15 foster family as a mere collection of unrelated individuals.

16 (b) The Legislature finds that children in the temporary custody and custody of the  
17 division are experiencing multiple changes in foster care placements with little or no  
18 documentation, and that numerous studies of child growth and development emphasize the  
19 importance of stability in foster care living arrangements.

20 (c) For the reasons described in Subsections (a) and (b), the division shall provide  
21 procedural due process for a foster family prior to removal of a foster child from their home,  
22 regardless of the length of time the child has been in that home, unless removal is for the purpose  
23 of returning the child to his natural parent or legal guardian, or for the purpose of placing the child  
24 in an adoptive home.

25 (2) (a) [~~On or before July 1, 1994, the~~] The division shall [~~establish~~] maintain and utilize  
26 due process procedures for removal of a foster child from a foster home, in accordance with the  
27 procedures and requirements of Title 63, Chapter 46b, Administrative Procedures Act.

28 (b) Those procedures shall include requirements for:

29 (i) personal communication with and explanation to foster parents prior to removal of the  
30 child; and

31 (ii) an opportunity for foster parents to present [~~written and oral testimony~~] their

1 information and concerns to the division and to request a review by a third party neutral fact finder  
2 prior to removal of the child.

3 (c) If the division determines that there is a reasonable basis to believe that the child is in  
4 danger or that there is a substantial threat of danger to the health or welfare of the child, it shall  
5 place the child in [~~temporary shelter~~] emergency foster care during the pendency of the procedures  
6 described in this subsection, instead of making another foster care placement.

7 (3) [~~As of July 1, 1994, whenever~~] Whenever the division places a child in a foster home,  
8 it shall provide the foster parents with:

9 (a) notification of the requirements of this section;

10 (b) a written description of the procedures enacted by the division pursuant to Subsection  
11 (2) and how to access those processes; and

12 (c) written notification of the foster parents' ability to petition the juvenile court directly  
13 for review of a decision to remove a foster child who has been in their custody for 12 months or  
14 longer, in accordance with the limitations and requirements of Section 78-3a-315.

15 (4) The requirements of this section do not apply to the removal of a child based on a  
16 foster parent's request for that removal.

17 Section 5. Section **62A-4a-250** is amended to read:

18 **62A-4a-250. Separate programs and procedures for minors committed to the custody**  
19 **of the Division of Child and Family Services on grounds other than abuse or neglect --**  
20 **Attorney general responsibility.**

21 (1) On or before July 1, 1998, the division shall have established programs designed to  
22 meet the needs of minors who have not been adjudicated as abused or neglected, but who are  
23 otherwise committed to the custody of the division by the juvenile court pursuant to Section  
24 78-3a-118, and who are classified in the division's management information system as having been  
25 placed in custody primarily on the basis of delinquent behavior or a status offense.

26 (2) (a) The processes and procedures designed to meet the needs of children who are  
27 abused or neglected, described in Part 2 and in Title 78, Chapter 3a, Part 3, Abuse, Neglect, and  
28 Dependency Proceedings, are not applicable to the minors described in Subsection (1).

29 (b) The procedures described in Subsection 78-3a-119(2)(a) are applicable to the minors  
30 described in Subsection (1).

31 (3) As of July 1, 1998, the attorney general's office has the responsibility to represent the

1 division with regard to actions involving minors described in Subsection (1).

2 Section 6. Section **62A-4a-402** is amended to read:

3 **62A-4a-402. Definitions.**

4 As used in this part:

5 (1) "A person responsible for a child's care" means the child's parent, guardian, or other  
6 person responsible for the child's care, whether in the same home as the child, a relative's home,  
7 a group, family, or center day care facility, a foster care home, or a residential institution.

8 (2) "Child" means a person under 18 years of age.

9 (3) "Child abuse or neglect" means causing harm or threatened harm to a child's health or  
10 welfare.

11 (4) "Commission of domestic violence in the presence of a child" means committing an  
12 act of domestic violence against a cohabitant, as defined in Section 30-6-1:

13 (a) in the physical presence of a child; or

14 (b) having knowledge that a child is present and may see or hear an act of domestic  
15 violence.

16 (5) "Domestic violence" means the same as that term is defined in Section 77-36-1.

17 [(4)] (6) "Harm or threatened harm" means damage or threatened damage to the physical  
18 or emotional health and welfare of a child through neglect or abuse, and includes but is not limited  
19 to:

20 (a) causing nonaccidental physical or mental injury[;];

21 (b) incest[;];

22 (c) sexual abuse[;];

23 (d) sexual exploitation[;];

24 (e) molestation[;or];

25 (f) repeated negligent treatment or maltreatment[;]; or

26 (g) commission of domestic violence in the presence of a child.

27 [(5)] (7) "Incest" means having sexual intercourse with a person whom the perpetrator  
28 knows to be his or her ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first  
29 cousin. The relationships referred to in this subsection include blood relationships of the whole  
30 or half blood without regard to legitimacy, and include relationships of parent and child by  
31 adoption, and relationships of stepparent and stepchild while the marriage creating the relationship

1 of a stepparent and stepchild exists.

2 [(6)] (8) "Molestation" means touching the anus or any part of the genitals of a child or  
3 otherwise taking indecent liberties with a child, or causing a child to take indecent liberties with  
4 the perpetrator or another with the intent to arouse or gratify the sexual desire of any person.

5 [(7)] (9) "Sexual abuse" means acts or attempted acts of sexual intercourse, sodomy, or  
6 molestation directed towards a child.

7 [(8)] (10) "Sexual exploitation of minors" means knowingly employing, using, persuading,  
8 inducing, enticing or coercing any minor to pose in the nude for the purpose of sexual arousal of  
9 any person or for profit, or to engage in any sexual or simulated sexual conduct for the purpose  
10 of photographing, filming, recording, or displaying in any way the sexual or simulated sexual  
11 conduct, and includes displaying, distributing, possessing for the purpose of distribution, or selling  
12 material depicting minors in the nude or engaging in sexual or simulated sexual conduct.

13 [(9)] (11) "Subject" or "subject of the report" means any person reported under this part,  
14 including, but not limited to, a child, parent, guardian, or other person responsible for a child's  
15 care.

16 [(10)] (12) "Unfounded report" means a report made pursuant to this part which, after  
17 investigation, is not supported by credible evidence.

18 Section 7. Section **67-5-16** is enacted to read:

19 **67-5-16. Child protective services investigators within attorney general's office --**  
20 **Authority.**

21 The attorney general may employ, with the consent of the Division of Child and Family  
22 Services within the Department of Human Services, and in accordance with Section 62A-4a-202.6,  
23 child protective services investigators to investigate alleged instances of abuse or neglect of a child  
24 that occur while a child is in the custody of the Division of Child and Family Services. Those  
25 investigators may also investigate reports of abuse or neglect of a child by an employee of the  
26 Department of Human Services, or involving a person or entity licensed to provide substitute care  
27 for children in the custody of the Division of Child and Family Services.

28 Section 8. Section **78-3a-103** is amended to read:

29 **78-3a-103. Definitions.**

30 (1) As used in this chapter:

31 (a) "Abused child" includes a minor less than 18 years of age who:

1 (i) has suffered or been threatened with nonaccidental physical or mental harm, negligent  
2 treatment, or sexual exploitation~~[-or who]~~;

3 (ii) has been the victim of any sexual abuse~~[-]~~; or

4 (iii) has been the victim of "commission of domestic violence in the presence of a child,"  
5 as defined in this section.

6 (b) "Adjudication" means a finding by the court, incorporated in a decree, that the facts  
7 alleged in the petition have been proved.

8 (c) "Adult" means a person 18 years of age or over, except that persons 18 years or over  
9 under the continuing jurisdiction of the juvenile court pursuant to Section 78-3a-121 shall be  
10 referred to as minors.

11 (d) "Board" means the Board of Juvenile Court Judges.

12 (e) "Child placement agency" means:

13 (i) a private agency licensed to receive minors for placement or adoption under this code;  
14 or

15 (ii) a private agency receiving minors for placement or adoption in another state, which  
16 agency is licensed or approved where such license or approval is required by law.

17 (f) "Commit" means to transfer legal custody.

18 (g) "Commission of domestic violence in the presence of a child" means committing an  
19 act of domestic violence, as defined in Section 77-36-1, against a cohabitant, as defined in Section  
20 30-6-1:

21 (i) in the physical presence of a child; or

22 (ii) having knowledge that a child is present and may see or hear an act of domestic  
23 violence.

24 [~~g~~] (h) "Court" means the juvenile court.

25 [~~h~~] (i) "Dependent child" includes a minor who is homeless or without proper care  
26 through no fault of his parent, guardian, or custodian.

27 [~~i~~] (j) "Deprivation of custody" means transfer of legal custody by the court from a parent  
28 or the parents or a previous legal custodian to another person, agency, or institution.

29 [~~j~~] (k) "Detention" means home detention and secure detention as defined in Section  
30 62A-7-101 for the temporary care of minors who require secure custody in physically restricting  
31 facilities:

1 (i) pending court disposition or transfer to another jurisdiction; or

2 (ii) while under the continuing jurisdiction of the court.

3 [~~(k)~~] (l) "Formal referral" means a written report from a peace officer or other person  
4 informing the court that a minor is or appears to be within the court's jurisdiction and that a  
5 petition may be filed.

6 [~~(h)~~] (m) "Group rehabilitation therapy" means psychological and social counseling of one  
7 or more persons in the group, depending upon the recommendation of the therapist.

8 [~~(m)~~] (n) "Guardianship of the person" includes the authority to consent to marriage, to  
9 enlistment in the armed forces, to major medical, surgical, or psychiatric treatment, and to legal  
10 custody, if legal custody is not vested in another person, agency, or institution.

11 [~~(n)~~] (o) "Legal custody" means a relationship embodying the following rights and duties:

12 (i) the right to physical custody of the minor;

13 (ii) the right and duty to protect, train, and discipline the minor;

14 (iii) the duty to provide the minor with food, clothing, shelter, education, and ordinary  
15 medical care;

16 (iv) the right to determine where and with whom the minor shall live; and

17 (v) the right, in an emergency, to authorize surgery or other extraordinary care.

18 [~~(o)~~] (p) "Minor" means a person under the age of 18 years. It includes the term "child"  
19 as used in other parts of this chapter.

20 [~~(p)~~] (q) "Natural parent" means a minor's biological or adoptive parent, and includes the  
21 minor's noncustodial parent.

22 [~~(q)~~] (r) (i) "Neglected child" means a minor:

23 (A) whose parent, guardian, or custodian has abandoned or subjected the minor to  
24 mistreatment or abuse;

25 (B) who lacks proper parental care by reason of the fault or habits of the parent, guardian,  
26 or custodian;

27 (C) whose parent, guardian, or custodian fails or refuses to provide proper or necessary  
28 subsistence, education, or medical care, including surgery or psychiatric services when required,  
29 or any other care necessary for health, safety, morals, or well-being; or

30 (D) who is at risk of being a neglected or abused child as defined in this chapter because  
31 another minor in the same home is a neglected or abused child as defined in this chapter.

1 (ii) The aspect of neglect related to education, described in Subsection (1)(q)(i)(C), means  
2 that, after receiving notice that a minor has been frequently absent from school without good  
3 cause, or that the minor has failed to cooperate with school authorities in a reasonable manner, a  
4 parent or guardian fails to make a good faith effort to ensure that the minor receives an appropriate  
5 education.

6 (iii) A parent or guardian legitimately practicing religious beliefs and who, for that reason,  
7 does not provide specified medical treatment for a minor, is not guilty of neglect.

8 [(r)] (s) "Nonjudicial adjustment" means closure of the case by the assigned probation  
9 officer without judicial determination upon the consent in writing of the minor, the parent, legal  
10 guardian or custodian, and the assigned probation officer.

11 [(s)] (t) "Probation" means a legal status created by court order following an adjudication  
12 on the ground of a violation of law or under Section 78-3a-104, whereby the minor is permitted  
13 to remain in his home under prescribed conditions and under supervision by the probation  
14 department or other agency designated by the court, subject to return to the court for violation of  
15 any of the conditions prescribed.

16 [(t)] (u) "Protective supervision" means a legal status created by court order following an  
17 adjudication on the ground of abuse, neglect, or dependency, whereby the minor is permitted to  
18 remain in his home, and supervision and assistance to correct the abuse, neglect, or dependency  
19 is provided by the probation department or other agency designated by the court.

20 [(u)] (v) "Residual parental rights and duties" means those rights and duties remaining  
21 with the parent after legal custody or guardianship, or both, have been vested in another person or  
22 agency, including the responsibility for support, the right to consent to adoption, the right to  
23 determine the child's religious affiliation, and the right to reasonable visitation unless restricted  
24 by the court. If no guardian has been appointed, "residual parental rights and duties" also include  
25 the right to consent to marriage, to enlistment, and to major medical, surgical, or psychiatric  
26 treatment.

27 [(v)] (w) "Secure facility" means any facility operated by or under contract with the  
28 Division of Youth Corrections, that provides 24-hour supervision and confinement for youth  
29 offenders committed to the division for custody and rehabilitation.

30 [(w)] (x) "Shelter" means the temporary care of minors in physically unrestricted facilities  
31 pending court disposition or transfer to another jurisdiction.

1           ~~[(x)]~~ (y) "Termination of parental rights" means the permanent elimination of all parental  
2 rights and duties, including residual parental rights and duties, by court order.

3           ~~[(y)]~~ (z) "Therapist" means a person employed by a state division or agency for the  
4 purpose of conducting psychological treatment and counseling of a minor in its custody, or any  
5 other person licensed or approved by the state for the purpose of conducting psychological  
6 treatment and counseling.

7           (2) As used in Part 3, Abuse, Neglect, and Dependency Proceedings, with regard to the  
8 Division of Child and Family Services:

9           (a) "Custody" means the custody of a minor in the Division of Child and Family Services  
10 as of the date of disposition.

11           (b) "Protective custody" means the shelter of a minor by the Division of Child and Family  
12 Services from the time the minor is removed from home until the shelter hearing, or the minor's  
13 return home, whichever occurs earlier.

14           (c) "Temporary custody" means the custody of a minor in the Division of Child and  
15 Family Services from the date of the shelter hearing until disposition.

16           ~~[(3) In determining whether a minor is neglected or abused, as defined in this section, it  
17 may be presumed that the person having the minor under his direct and exclusive care and control  
18 at the time of the abuse is responsible for the neglect or abuse.]~~

19           Section 9. Section **78-3a-104** is amended to read:

20           **78-3a-104. Jurisdiction of juvenile court -- Original -- Exclusive.**

21           (1) Except as otherwise provided by law, the juvenile court has exclusive original  
22 jurisdiction in proceedings concerning:

23           (a) a minor who has violated any federal, state, or local law or municipal ordinance or a  
24 person younger than 21 years of age who has violated any law or ordinance before becoming 18  
25 years of age, regardless of where the violation occurred, excluding traffic laws and ordinances;

26           (b) a person 21 years of age or older who has failed or refused to comply with an order of  
27 the juvenile court to pay a fine or restitution, if the order was imposed prior to the person's 21st  
28 birthday; however, the continuing jurisdiction is limited to causing compliance with existing  
29 orders;

30           (c) a minor who is an abused child, neglected child, or dependent child, as those terms are  
31 defined in Section 78-3a-103;

1            (d) a protective order for a minor who is alleged to be an abused child or neglected child,  
2 except as provided in Section 78-3a-105, and unless the petition is filed by a natural parent of the  
3 minor against a natural parent of the minor;

4            [~~(d)~~] (e) the determination of the custody of a minor or to appoint a guardian of the person  
5 or other guardian of a minor who comes within the court's jurisdiction under other provisions of  
6 this section;

7            [~~(e)~~] (f) the termination of the legal parent-child relationship in accordance with Part 4,  
8 Termination of Parental Rights Act, including termination of residual parental rights and duties;

9            [~~(f)~~] (g) the treatment or commitment of a mentally retarded minor;

10           [~~(g)~~] (h) a minor who, in defiance of earnest and persistent efforts on the part of his parents  
11 and school authorities as required under Section 53A-11-103, is a habitual truant from school;

12           [~~(h)~~] (i) the judicial consent to the marriage of a minor under age 16 upon a determination  
13 of voluntariness or where otherwise required by law, employment, or enlistment of a minor when  
14 consent is required by law;

15           [~~(i)~~] (j) any parent or parents of a minor committed to a secure youth corrections facility,  
16 to order, at the discretion of the court and on the recommendation of a secure youth corrections  
17 facility, the parent or parents of a minor committed to a secure youth corrections facility for a  
18 custodial term, to undergo group rehabilitation therapy under the direction of a secure youth  
19 corrections facility therapist, who has supervision of that parent's or parents' minor, or any other  
20 therapist the court may direct, for a period directed by the court as recommended by a secure youth  
21 corrections facility;

22           [~~(j)~~] (k) a minor under Title 55, Chapter 12, Interstate Compact on Juveniles;

23           [~~(k)~~] (l) the treatment or commitment of a mentally ill child. The court may commit a  
24 child to the physical custody of a local mental health authority or to the legal custody of the  
25 Division of Mental Health in accordance with the procedures and requirements of Title 62A,  
26 Chapter 12, Part 2A, Commitment of Persons Under Age 18 to Division of Mental Health. The  
27 court may not commit a child directly to the Utah State Hospital; and

28           [~~(l)~~] (m) the commitment of a minor in accordance with Section 62A-8-501.

29           (2) In addition to the provisions of Subsection (1)(a) the juvenile court has exclusive  
30 jurisdiction over any traffic offense committed by a minor under 16 years of age and concurrent  
31 jurisdiction over all other traffic offenses committed by a minor 16 years of age or older, except

1 that the court shall have exclusive jurisdiction over the following traffic offenses committed by  
2 a minor under 18 years of age:

- 3 (a) Section 76-5-207, automobile homicide;
- 4 (b) Section 41-6-44, operating a vehicle while under the influence of alcohol or drugs;
- 5 (c) Section 41-6-45, reckless driving;
- 6 (d) Section 41-1a-1311, unauthorized control over a motor vehicle, trailer, or semitrailer;
- 7 (e) Section 41-1a-1314, unauthorized control over a motor vehicle, trailer, or semitrailer  
8 for an extended period of time; and
- 9 (f) Section 41-6-13.5, fleeing a peace officer.

10 (3) The court also has jurisdiction over traffic offenses that are part of a single criminal  
11 episode filed in a petition that contains an offense over which the court has jurisdiction.

12 (4) The juvenile court has jurisdiction over questions of custody, support, and visitation  
13 certified to it by the district court pursuant to Section 78-3a-105.

14 (5) The juvenile court has jurisdiction over an ungovernable or runaway minor who is  
15 referred to it by the Division of Child and Family Services or by public or private agencies that  
16 contract with the division to provide services to that minor where, despite earnest and persistent  
17 efforts by the division or agency, the minor has demonstrated that he:

- 18 (a) is beyond the control of his parent, guardian, lawful custodian, or school authorities  
19 to the extent that his behavior or condition endangers his own welfare or the welfare of others; or
- 20 (b) has run away from home.

21 (6) This section does not restrict the right of access to the juvenile court by private  
22 agencies or other persons.

23 (7) The juvenile court has jurisdiction of all magistrate functions relative to cases arising  
24 under Section 78-3a-602.

25 Section 10. Section **78-3a-105** is amended to read:

26 **78-3a-105. Concurrent jurisdiction -- District court and juvenile court.**

27 (1) The district court or other court has concurrent jurisdiction with the juvenile court as  
28 follows:

- 29 (a) when a person who is 18 years of age or older and who is under the continuing  
30 jurisdiction of the juvenile court under Section 78-3a-118 violates any federal, state, or local law  
31 or municipal ordinance; [and]

1 (b) in adoption proceedings, when the juvenile court has previously entered an order  
2 terminating the rights of a parent, and finds that adoption is in the best interest of the minor.  
3 Adoption proceedings under this section shall be conducted in accordance with the procedures  
4 described in Title 78, Chapter 30, Adoption[-];

5 (c) in establishing paternity and ordering testing for the purposes of establishing paternity,  
6 in accordance with Title 78, Chapter 45a, Uniform Act on Paternity, with regard to proceedings  
7 initiated under Part 3, Abuse, Neglect, and Dependency Proceedings, or Part 4, Termination of  
8 Parental Rights Act; and

9 (d) in proceedings brought on behalf of a minor pursuant to Title 30, Chapter 6, Cohabitant  
10 Abuse Act, unless the petition is filed by a natural parent of the minor against a natural parent of  
11 the minor.

12 (2) The juvenile court has jurisdiction over petitions to modify a minor's birth certificate  
13 if the court otherwise has jurisdiction over the minor.

14 (3) (a) This section does not deprive the district court of jurisdiction to appoint a guardian  
15 for a minor, or to determine the support, custody, and visitation of a minor upon writ of habeas  
16 corpus or when the question of support, custody, and visitation is incidental to the determination  
17 of a cause in the district court.

18 (b) However, if a petition involving the same minor is pending in the juvenile court or the  
19 juvenile court has previously acquired continuing jurisdiction over the same minor, the district  
20 court shall certify the question of support, custody, and visitation to the juvenile court for  
21 determination.

22 (4) When a question is certified to the juvenile court under Subsection (3), the findings and  
23 order of the juvenile court judge are the order of the district court.

24 (5) (a) Where a support, custody, or visitation award has been made by a district court in  
25 a divorce action or other proceeding, and the jurisdiction of the district court in the case is  
26 continuing, the juvenile court may acquire jurisdiction in a case involving the same minor if the  
27 minor is dependent, abused, neglected, or otherwise comes within the jurisdiction of the juvenile  
28 court under Section 78-3a-104.

29 (b) The juvenile court may, by order, change the custody, support, and visitation rights  
30 previously ordered in the district court as necessary to implement the order of the juvenile court  
31 for the safety and welfare of the minor. The juvenile court order remains in effect so long as the

1 jurisdiction of the juvenile court continues.

2 (6) When a copy of the findings and order of the juvenile court has been filed with the  
3 district court, the findings and order of the juvenile court are binding on the parties to the divorce  
4 action as though entered in the district court.

5 Section 11. Section **78-3a-116** is amended to read:

6 **78-3a-116. Hearings -- Record -- County attorney or district attorney responsibilities**  
7 **-- Attorney general responsibilities -- Admissibility of evidence.**

8 (1) A verbatim record of the proceedings shall be taken by an official court reporter or by  
9 means of a mechanical recording device in all cases that might result in deprivation of custody as  
10 defined in this chapter. In all other cases a verbatim record shall also be made unless dispensed  
11 with by the court.

12 (2) (a) Except as provided in Subsection (2)(b), the county attorney or, if within a  
13 prosecution district, the district attorney shall represent the state in any proceeding in a minor's  
14 case.

15 (b) The attorney general shall enforce all provisions of Title 62A, Chapter 4a, Family  
16 Services, and Title 78, Chapter 3a, Juvenile Courts, relating to:

17 (i) protection or custody of an abused, neglected, or dependent child[ ~~and~~];

18 (ii) petitions for termination of parental rights; and

19 (iii) actions involving minors who have not been adjudicated as abused or neglect, but who  
20 are otherwise committed to the custody of the Division of Child and Family Services by the  
21 juvenile court, and who are classified in that division's management information system as having  
22 been placed in custody primarily on the bases of delinquent behavior or a status offense.

23 (3) The board may adopt special rules of procedure to govern proceedings involving  
24 violations of traffic laws or ordinances, fish and game laws, and boating laws. However,  
25 proceedings involving offenses under Section 78-3a-506 are governed by that section regarding  
26 suspension of driving privileges.

27 (4) (a) For the purposes of determining proper disposition of the minor in dispositional  
28 hearings and establishing the fact of abuse, neglect, or dependency in adjudication hearings and  
29 in hearings upon petitions for termination of parental rights, written reports and other material  
30 relating to the minor's mental, physical, and social history and condition may be received in  
31 evidence and may be considered by the court along with other evidence. The court may require

1 that the person who wrote the report or prepared the material appear as a witness if the person is  
2 reasonably available.

3 (b) For the purpose of determining proper disposition of [the] a minor alleged to be or  
4 adjudicated as abused, neglected, or dependent, dispositional reports prepared by Foster Care  
5 Citizen Review Boards pursuant to Section 78-3g-103 may be received in evidence and may be  
6 considered by the court along with other evidence. The court may require any person who  
7 participated in preparing the dispositional report to appear as a witness, if the person is reasonably  
8 available.

9 (5) For the purpose of establishing the fact of abuse, neglect, or dependency, the court  
10 may, in its discretion, consider evidence of statements made by a minor under eight years of age  
11 to a person in a trust relationship.

12 Section 12. Section **78-3a-118** is amended to read:

13 **78-3a-118. Adjudication of jurisdiction of juvenile court -- Disposition of cases --**  
14 **Enumeration of possible court orders -- Considerations of court.**

15 (1) (a) When a minor is found to come within the provisions of Section 78-3a-104, the  
16 court shall so adjudicate. The court shall make a finding of the facts upon which it bases its  
17 jurisdiction over the minor. However, in cases within the provisions of Subsection 78-3a-104(1),  
18 findings of fact are not necessary.

19 (b) If the court adjudicates a minor for a crime of violence or an offense in violation of  
20 Title 76, Chapter 10, Part 5, Weapons, it shall order that notice of the adjudication be provided to  
21 the school superintendent of the district in which the minor resides or attends school. Notice shall  
22 be made to the district superintendent within three days and shall include the specific offenses for  
23 which the minor was adjudicated.

24 (2) Upon adjudication the court may make the following dispositions by court order:

25 (a) (i) The court may place the minor on probation or under protective supervision in the  
26 minor's own home and upon conditions determined by the court, including community service as  
27 provided in Section 78-11-20.7.

28 (ii) If the court orders probation, the court shall direct that notice of its order be provided  
29 to designated persons in the local law enforcement agency and the school or transferee school, if  
30 applicable, which the minor attends. The designated persons may receive the information for  
31 purposes of the minor's supervision and student safety.

1 (iii) Any employee of the local law enforcement agency and the school which the minor  
2 attends who discloses the court's order of probation is not:

3 (A) civilly liable except when the disclosure constitutes fraud or malice as provided in  
4 Section 63-30-4; and

5 (B) civilly or criminally liable except when the disclosure constitutes a knowing violation  
6 of Section 63-2-801.

7 (b) The court may place the minor in the legal custody of a relative or other suitable  
8 person, with or without probation or protective supervision, but the juvenile court may not assume  
9 the function of developing foster home services.

10 (c) (i) The court may vest legal custody of the minor in the Division of Child and Family  
11 Services, Division of Youth Corrections, or the Division of Mental Health, and may order the  
12 Department of Human Services to provide dispositional recommendations and services.

13 (ii) Minors who are committed to the custody of the Division of Child and Family Services  
14 on grounds other than abuse or neglect are subject to the provisions of Part 3A and Title 62A,  
15 Chapter 4a, Part 2A. At least five days prior to making a recommendation that the court place a  
16 minor in the custody of the Division of Child and Family Services on grounds other than abuse  
17 or neglect, the probation department shall provide the division with notice of that recommendation.

18 (d) (i) The court may commit the minor to the Division of Youth Corrections for secure  
19 confinement.

20 (ii) A minor under the jurisdiction of the court solely on the ground of abuse, neglect, or  
21 dependency under Subsection 78-3a-104(1)(c) may not be committed to the Division of Youth  
22 Corrections.

23 (e) The court may commit the minor, subject to the court retaining continuing jurisdiction  
24 over him, to the temporary custody of the Division of Youth Corrections for observation and  
25 evaluation for a period not to exceed 90 days.

26 (f) (i) The court may commit the minor to a place of detention or an alternative to  
27 detention for a period not to exceed 30 days subject to the court retaining continuing jurisdiction  
28 over the minor.

29 (ii) Subsection (f) applies only to those minors adjudicated for an act which if committed  
30 by an adult would be a criminal offense or for contempt of court under Section 78-3a-901. This  
31 commitment may be stayed or suspended upon conditions ordered by the court.

1 (g) The court may vest legal custody of an abused, neglected, or dependent minor in the  
2 Division of Child and Family Services or any other appropriate person in accordance with the  
3 requirements and procedures of Part 3, Abuse, Neglect, and Dependency Proceedings.

4 (h) The court may place the minor on a ranch or forestry camp, or similar facility for care  
5 and also for work, if possible, if the person, agency, or association operating the facility has been  
6 approved or has otherwise complied with all applicable state and local laws. A minor placed in  
7 a forestry camp or similar facility may be required to work on fire prevention, forestation and  
8 reforestation, recreational works, forest roads, and on other works on or off the grounds of the  
9 facility and may be paid wages, subject to the approval of and under conditions set by the court.

10 (i) The court may order that the minor be required to repair, replace, or otherwise make  
11 restitution for damage or loss caused by the minor's wrongful act, including costs of treatment as  
12 stated in Section 78-3a-318, and may impose fines in limited amounts.

13 (j) The court may issue orders necessary for the collection of restitution and fines ordered  
14 by the court, including garnishments, wage withholdings, and executions.

15 (k) (i) The court may through its probation department encourage the development of  
16 employment or work programs to enable minors to fulfill their obligations under Subsection (2)(i)  
17 and for other purposes considered desirable by the court.

18 (ii) Consistent with the order of the court, the probation officer may permit the minor  
19 found to be within the jurisdiction of the court to participate in a program of work restitution or  
20 community service in lieu of paying part or all of the fine imposed by the court. The work  
21 restitution or community service permitted by the probation officer may not affect the amount of  
22 the surcharge.

23 (l) In violations of traffic laws within the court's jurisdiction, the court may, in addition  
24 to any other disposition, restrain the minor from driving for periods of time the court considers  
25 necessary and take possession of the minor's driver license. However, proceedings involving an  
26 offense under Section 78-3a-506 are governed by that section regarding suspension of driving  
27 privileges.

28 (m) (i) When a minor is found within the jurisdiction of the juvenile court under Section  
29 78-3a-104 because of violating Section 58-37-8, Title 58, Chapter 37a, Utah Drug Paraphernalia  
30 Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, the court shall, in addition to  
31 any fines or fees otherwise imposed, order that the minor perform a minimum of 20 hours, but no

1 more than 100 hours, of community service. Satisfactory completion of an approved substance  
2 abuse prevention or treatment program may be credited by the court as community service hours.

3 (ii) When a minor is found within the jurisdiction of the juvenile court under Section  
4 78-3a-104 because of a violation of Section 32A-12-209 or Subsection 76-9-701(1), the court may,  
5 upon the first adjudication, and shall, upon a second or subsequent adjudication, order that the  
6 minor perform a minimum of 20 hours, but no more than 100 hours of community service, in  
7 addition to any fines or fees otherwise imposed. Satisfactory completion of an approved substance  
8 abuse prevention or treatment program may be credited by the court as community service hours.

9 (n) The court may order that the minor be examined or treated by a physician, surgeon,  
10 psychiatrist, or psychologist or that he receive other special care. For these purposes the court may  
11 place the minor in a hospital or other suitable facility.

12 (o) (i) The court may appoint a guardian for the minor if it appears necessary in the interest  
13 of the minor, and may appoint a public or private institution or agency as guardian in which legal  
14 custody of the minor is vested.

15 (ii) In placing a minor under the guardianship or legal custody of an individual or of a  
16 private agency or institution, the court shall give primary consideration to the welfare of the minor.  
17 When practicable, the court may take into consideration the religious preferences of the minor and  
18 of the minor's parents.

19 (p) (i) In support of a decree under Section 78-3a-104, the court may order reasonable  
20 conditions to be complied with by the parents or guardian, the minor, the minor's custodian, or any  
21 other person who has been made a party to the proceedings. Conditions may include:

- 22 (A) visitation by the parents or one parent;
- 23 (B) restrictions on the minor's associates;
- 24 (C) restrictions on the minor's occupation and other activities; and
- 25 (D) requirements to be observed by the parents or custodian.

26 (ii) A minor whose parents or guardians successfully complete a family or other  
27 counseling program may be credited by the court for detention, confinement, or probation time.

28 (q) The court may order the minor to be placed in the legal custody of the Division of  
29 Mental Health or committed to the physical custody of a local mental health authority, in  
30 accordance with the procedures and requirements of Title 62A, Chapter 12, Part 2A, Commitment  
31 of Persons Under Age 18 to Division of Mental Health.

1 (r) The court may make an order committing a minor within its jurisdiction to the Utah  
2 State Developmental Center if the minor has been found mentally retarded in accordance with the  
3 provisions of Title 62A, Chapter 5, Part 3, Admission to Mental Retardation Facility. The  
4 procedure applicable in the district courts with respect to judicial commitments to the Utah State  
5 Developmental Center shall be followed by the juvenile court in these cases.

6 (s) The court may terminate all parental rights upon a finding of compliance with the  
7 provisions of Part 4, Termination of Parental Rights Act.

8 (t) The court may make any other reasonable orders for the best interest of the minor or  
9 as required for the protection of the public, except that a person younger than 18 years of age may  
10 not be committed to jail or prison, and offenses under Section 78-3a-506 are governed by that  
11 section regarding suspension of driving privileges.

12 (u) The court may combine several of the above-listed modes of disposition if they are  
13 compatible.

14 (v) [~~Before depriving any parent of custody, the court shall give due consideration to the~~  
15 ~~rights of parents concerning their minors.~~] The court may transfer custody of a minor to another  
16 person, agency, or institution in accordance with the requirements and procedures of Part 3, Abuse,  
17 Neglect, and Dependency Proceedings.

18 (w) Except as provided in Subsection (2)(y)(i), an order under this section for probation  
19 or placement of a minor with an individual or an agency shall include a date certain for a review  
20 of the case by the court. A new date shall be set upon each review.

21 (x) In reviewing foster home placements, special attention shall be given to making  
22 adoptable minors available for adoption without delay.

23 (y) (i) The juvenile court may enter an order of permanent custody and guardianship with  
24 a relative or individual of a minor where the court has previously acquired jurisdiction as a result  
25 of an adjudication of abuse, neglect, or dependency, excluding cases arising under Subsection  
26 78-3a-105(4).

27 (ii) Such orders remain in effect until the minor reaches majority and are not subject to  
28 review under Section 78-3a-119, but may be modified by petition or motion as provided in Section  
29 78-3a-903.

30 (iii) Orders permanently terminating the rights of a parent, guardian, or custodian and  
31 permanent orders of custody and guardianship do not expire with a termination of jurisdiction of

1 the juvenile court.

2 Section 13. Section **78-3a-305** is amended to read:

3 **78-3a-305. Petition filed -- Protective orders.**

4 (1) Any interested [party] person may file a petition to commence proceedings in the  
5 juvenile court alleging that a minor is abused, neglected, or dependent.

6 (2) Any interested person may file a petition seeking a protective order on behalf of a  
7 minor who is alleged to be an abused child or a neglected child, except as provided in Sections  
8 78-3a-104 and 78-3a-105.

9 [~~2~~] (3) If the child who is the subject of a petition was removed from his home by the  
10 Division of Child and Family Services that petition shall be filed on or before the date of the initial  
11 shelter hearing described in Section 78-3a-306.

12 [~~3~~] (4) The petition shall be verified, and contain all of the following:

13 (a) the name, age, and address, if any, of the minor upon whose behalf the petition is  
14 brought;

15 (b) the names and addresses, if known to the petitioner, of both parents and any guardian  
16 of the minor;

17 (c) a concise statement of facts, separately stated, to support the conclusion that the minor  
18 upon whose behalf the petition is being brought is abused, neglected, or dependent; and

19 (d) a statement regarding whether the minor is in protective custody, and if so, the date and  
20 precise time the minor was taken into protective custody.

21 Section 14. Section **78-3a-305.1** is enacted to read:

22 **78-3a-305.1. Presumption of Responsibility.**

23 In determining whether a minor is an abused child or neglected child it may be presumed  
24 that the person having the minor under his direct and exclusive care and control at the time of the  
25 abuse is responsible for the abuse or neglect.

26 Section 15. Section **78-3a-306** is amended to read:

27 **78-3a-306. Shelter hearing.**

28 (1) [A] With regard to a child who has been removed by the Division of Child and Family  
29 Services, or who is in the protective custody of the division, a shelter hearing shall be held within  
30 72 hours after removal of [a] the child from his home, excluding weekends and holidays.

31 (2) Upon removal of a child from his home and receipt of that child into protective

1 custody, the division shall issue a notice that contains all of the following:

2 (a) the name and address of the person to whom the notice is directed;

3 (b) the date, time, and place of the shelter hearing;

4 (c) the name of the minor on whose behalf a petition is being brought;

5 (d) a concise statement regarding the allegations and code sections under which the  
6 proceeding has been instituted;

7 (e) a statement that the parent or guardian to whom notice is given, and the minor, are  
8 entitled to have an attorney present at the shelter hearing, and that if the parent or guardian is  
9 indigent and cannot afford an attorney, and desires to be represented by an attorney, one will be  
10 provided; and

11 (f) a statement that the parent or guardian is liable for the cost of support of the minor in  
12 the protective custody, temporary custody, and custody of the division, and the cost for legal  
13 counsel appointed for the parent or guardian under Subsection (2)(e), according to his financial  
14 ability.

15 (3) That notice shall be personally served as soon as possible, but at least 24 hours prior  
16 to the time set for the shelter hearing, on:

17 (a) the appropriate guardian ad litem; and

18 (b) both parents and any guardian of the minor, unless they cannot be located.

19 (4) The following persons shall be present at the shelter hearing:

20 (a) the child, unless it would be detrimental for the child;

21 (b) the child's parents or guardian, unless they cannot be located, or fail to appear in  
22 response to the notice;

23 (c) counsel for the parents, if one has been requested;

24 (d) the child's guardian ad litem;

25 (e) the caseworker from the Division of Child and Family Services who has been assigned  
26 to the case; and

27 (f) the attorney from the attorney general's office who is representing the division.

28 (5) (a) At the shelter hearing, the court shall provide an opportunity for the minor's parent  
29 or guardian, if present, and any other person having relevant knowledge, to provide relevant  
30 testimony. The court may also provide an opportunity for the minor to testify.

31 (b) The court may consider all relevant evidence, in accordance with the Utah Rules of

1 Juvenile Procedure. The court shall hear relevant evidence presented by the minor, his parent or  
2 guardian, the requesting party, or their counsel, but may in its discretion limit testimony and  
3 evidence to only that which goes to the issues of removal and the child's need for continued  
4 protection.

5 (6) If the child is in the protective custody of the division, the division shall report to the  
6 court:

7 (a) the reasons why the minor was removed from the parent's or guardian's custody;

8 (b) any services provided to the child and his family in an effort to prevent removal;

9 (c) the need, if any, for continued shelter;

10 (d) the available services that could facilitate the return of the minor to the custody of his  
11 parent or guardian; and

12 (e) whether the child has any relatives who may be able and willing to take temporary  
13 custody.

14 (7) If necessary to protect the child, preserve the rights of a party, or for other good cause  
15 shown, the court may grant no more than one time-limited continuance, not to exceed five judicial  
16 days.

17 (8) The court shall order that the minor be released from the protective custody of the  
18 division unless it finds, by a preponderance of the evidence, that any one of the following exist:

19 (a) there is a substantial danger to the physical health or safety of the minor and the  
20 minor's physical health or safety may not be protected without removing him from his parent's  
21 custody. If a minor has previously been adjudicated as abused, neglected, or dependent and a  
22 subsequent incident of abuse, neglect, or dependency occurs, that fact constitutes prima facie  
23 evidence that the child cannot safely remain in the custody of his parent;

24 (b) the minor is suffering emotional damage, as may be indicated by, but is not limited to,  
25 extreme anxiety, depression, withdrawal, or negative aggressive behavior toward self or others,  
26 and there are no reasonable means available by which the minor's emotional health may be  
27 protected without removing the minor from the custody of his parent;

28 (c) the minor or another minor residing in the same household has been physically or  
29 sexually abused, or is deemed to be at substantial risk of being physically or sexually abused, by  
30 a parent, a member of the parent's household, or other person known to the parent. If a parent has  
31 received actual notice that physical or sexual abuse by a person known to the parent has occurred,

1 and there is evidence that the parent has allowed the child to be in the physical presence of the  
2 alleged abuser, that fact constitutes prima facie evidence that the child is at substantial risk of  
3 being physically or sexually abused;

4 (d) the parent is unwilling to have physical custody of the child;

5 (e) the minor has been left without any provision for his support;

6 (f) a parent who has been incarcerated or institutionalized has not or cannot arrange for  
7 safe and appropriate care for the minor;

8 (g) a relative or other adult custodian with whom the minor has been left by the parent is  
9 unwilling or unable to provide care or support for the minor, the whereabouts of the parent are  
10 unknown, and reasonable efforts to locate him have been unsuccessful;

11 (h) the minor is in immediate need of medical care;

12 (i) the physical environment or the fact that the child is left unattended poses a threat to  
13 the child's health or safety;

14 (j) the minor or another minor residing in the same household has been [severely]  
15 neglected; or

16 (k) the child's welfare is otherwise endangered.

17 (9) The court shall also make a determination on the record as to whether reasonable  
18 efforts were made to prevent or eliminate the need for removal of the minor from his home and  
19 whether there are available services that would prevent the need for continued removal. If the  
20 court finds that the minor can be safely returned to the custody of his parent or guardian through  
21 the provision of those services, it shall place the minor with his parent or guardian and order that  
22 those services be provided by the division.

23 (10) Where the division's first contact with the family occurred during an emergency  
24 situation in which the child could not safely remain at home, even with reasonable services being  
25 provided, the court shall make a finding that any lack of preplacement preventive efforts was  
26 reasonable.

27 (11) In cases where obvious sexual abuse or abandonment, or serious physical abuse or  
28 neglect are involved, neither the division nor the court has any duty to maintain a child in his  
29 home, return a child to his home, provide reunification services, or attempt to rehabilitate the  
30 offending parent or parents. The court may, however, determine that those services or efforts  
31 would be reasonable in specific circumstances, and order the division to provide those services.

1 (12) The court may not order continued removal of a minor solely on the basis of  
2 educational neglect as described in Subsection 78-3a-103(1)(q)(ii).

3 (13) (a) Whenever a court orders continued removal of a minor under this section, it shall  
4 state the facts on which that decision is based.

5 (b) If no continued removal is ordered and the minor is returned home, the court shall state  
6 the facts on which that decision is based.

7 (14) If the court finds that continued removal and temporary custody is necessary for the  
8 protection of a child because harm may result to the child if he were returned home, it shall order  
9 continued removal regardless of any error in the initial removal of the child, or the failure of a  
10 party to comply with notice provisions, or any other procedural requirement of this chapter or Title  
11 62A, Chapter 4a, Family Services.

12 Section 16. Section **78-3a-307** is amended to read:

13 **78-3a-307. Shelter hearing -- Placement with a noncustodial parent or relative --**  
14 **DCFS custody.**

15 (1) (a) At the shelter hearing, when the court orders that a child be removed from the  
16 custody of his parent in accordance with the requirements of Section 78-3a-306, the court shall  
17 first determine whether ~~[there is]~~ reasonable efforts have been made to identify or locate and  
18 provide notice to another natural parent as defined in Subsection (b), with whom the child was not  
19 residing at the time the events or conditions that brought him within the court's jurisdiction  
20 occurred, who desires to assume custody of the child. If that parent requests custody, the court  
21 shall place the minor with that parent unless it finds that the placement would be unsafe or  
22 otherwise detrimental to the child. [The provisions of this Subsection (1) are limited by the  
23 provisions of Subsection (8)(b).] Any preferential consideration for custody that may be granted  
24 to a natural parent pursuant to this subsection expires 30 days from the date of the shelter hearing.  
25 After that time the court shall base its custody decision solely on the best interest of the child.

26 (b) Notwithstanding the provisions of Section 78-3a-103, for purposes of this section  
27 "natural parent" includes only a biological or adoptive parent ~~[whose consent for adoption would~~  
28 ~~be required pursuant to Section 78-30-4.14]~~ who was married to the child's biological mother at  
29 the time the child was conceived or born, or who has strictly complied with the provisions of  
30 Section 78-30-4.14 prior to removal of the child or voluntary surrender of the child by the  
31 custodial parent. This definition applies regardless of whether the child has been or will be placed

1 with adoptive parents or whether adoption has been or will be considered as a long term goal for  
2 the child.

3 (c) (i) The court shall make a specific finding regarding the fitness of that parent to assume  
4 custody, and the safety and appropriateness of the placement.

5 (ii) The court shall, at a minimum, order the division to visit the parent's home, perform  
6 criminal background checks described in Sections 78-3a-307.1 and 62A-4a-202.4, and check the  
7 division's management information system for any previous reports of abuse or neglect received  
8 by the division regarding the parent at issue.

9 (iii) The court may order the Division of Child and Family Services to conduct any further  
10 investigation regarding the safety and appropriateness of the placement.

11 (iv) The division shall report its findings in writing to the court.

12 (v) The court may place the child in the temporary custody of the division, pending its  
13 determination regarding that placement.

14 (2) If the court orders placement with a parent under Subsection (1), the child and the  
15 parent are under the continuing jurisdiction of the court. The court may order that the parent  
16 assume custody subject to the supervision of the court, and order that services be provided to the  
17 parent from whose custody the child was removed, the parent who has assumed custody, or both.  
18 The court may also provide for reasonable visitation with the parent from whose custody the child  
19 was removed, if that is in the best interest of the child. The court's order shall be periodically  
20 reviewed to determine whether:

- 21 (a) placement with the parent continues to be in the child's best interest;
- 22 (b) the child should be returned to the original custodial parent;
- 23 (c) the child should be placed with a relative, pursuant to Subsection (5); or
- 24 (d) the child should be placed in the custody of the division.

25 (3) The time limitations described in Section 78-3a-311 with regard to reunification  
26 efforts, apply to children placed with a previously noncustodial parent in accordance with  
27 Subsection (1).

28 (4) Legal custody of the child is not affected by an order entered under Subsection (1) or  
29 (2). In order to affect a previous court order regarding legal custody, the party must petition that  
30 court for modification of the order.

31 (5) (a) If, at the time of the shelter hearing, a child is removed from the custody of his

1 parent and is not placed in the custody of his other parent, the court shall, at that time, attempt to  
2 determine whether there is a relative who is able and willing to care for the child. The court may  
3 order the Division of Child and Family Services to conduct a reasonable search to determine  
4 whether there are relatives of the child who are willing and appropriate, in accordance with the  
5 requirements of this part and Title 62A, Chapter 4a, Part 2, Child Welfare Services, for placement  
6 of the child. The child may be placed in the temporary custody of the division pending that  
7 determination. This section may not be construed as a guarantee that an identified relative will  
8 receive custody of the child. However, preferential consideration may be given to a relative's  
9 request for placement of the child, if it is in the best interest of the child, and the provisions of this  
10 section are satisfied.

11 (b) (i) If a willing relative is identified pursuant to Subsection (5)(a), the court shall make  
12 a specific finding regarding the fitness of that relative to assume custody, and the safety and  
13 appropriateness of placement with that relative. In order to be considered a "willing relative"  
14 under this section, the relative shall be willing to cooperate if the child's permanency goal is  
15 reunification with his parent or parents, and be willing to adopt or take permanent custody of the  
16 child if that is determined to be in the best interest of the child.

17 (ii) The court shall, at a minimum, order the division to conduct criminal background  
18 checks described in Sections 78-3a-307.1 and 62A-4a-202.4, visit the relative's home, check the  
19 division's management information system for any previous reports of abuse or neglect regarding  
20 the relative at issue, report its findings in writing to the court, and provide sufficient information  
21 so that the court may determine whether:

22 (A) the relative has any history of abusive or neglectful behavior toward other children that  
23 may indicate or present a danger to this child;

24 (B) the child is comfortable with the relative;

25 (C) the relative recognizes the parent's history of abuse and is determined to protect the  
26 child;

27 (D) the relative is strong enough to resist inappropriate requests by the parent for access  
28 to the child, in accordance with court orders;

29 (E) the relative is committed to caring for the child as long as necessary; and

30 (F) the relative can provide a secure and stable environment for the child.

31 (iii) The court may order the Division of Child and Family Services to conduct any further

1 investigation regarding the safety and appropriateness of the placement.

2 (c) The court may place the child in the temporary custody of the division, pending the  
3 division's investigation pursuant to Subsection (b), and the court's determination regarding that  
4 placement. The court shall ultimately base its determination regarding placement with a relative  
5 on the best interest of the child.

6 (d) For purposes of this section, "relative" means an adult who is a grandparent, aunt,  
7 uncle, or sibling of the child.

8 (e) Any preferential consideration that a relative may be initially granted pursuant to this  
9 subsection expires 30 days from the date of the shelter hearing. After that time period has expired,  
10 a relative who has not obtained custody or asserted an interest in the child may not be granted  
11 preferential consideration by the division or the court.

12 (6) (a) When the court vests physical custody of a child with a relative pursuant to  
13 Subsection (5), it shall order that the relative assume custody subject to the continuing supervision  
14 of the court, and shall order that any necessary services be provided to the minor and the relative.  
15 That [placement] child is not within the temporary custody or custody of the Division of Child and  
16 Family Services. The child and any relative with whom the child is placed are under the  
17 continuing jurisdiction of the court. The court may enter any order that it considers necessary for  
18 the protection and best interest of the child.

19 (b) (i) Placement with a relative pursuant to Subsection (5) shall be periodically reviewed  
20 by the court, no less often than every six months, to determine whether:

21 [(a)] (A) placement with the relative continues to be in the child's best interest;

22 [(b)] (B) the child should be returned home; or

23 [(c)] (C) the child should be placed in the custody of the division.

24 ~~[(7) (a) When the court vests custody of a child with a relative pursuant to Subsection (5),~~  
25 ~~the child is not within the temporary custody or custody of the Division of Child and Family~~  
26 ~~Services. The child and any relative with whom the child is placed, are under the continuing~~  
27 ~~jurisdiction of the court. The court may enter any order that it considers necessary for the~~  
28 ~~protection and best interest of the child.]~~

29 (ii) No later than 12 months after placement with a relative the court shall schedule a  
30 hearing for the purpose of entering a permanent order in accordance with the best interest of the  
31 child.

1           (iii) The time limitations described in Section 78-3a-311, with regard to reunification  
2 efforts, apply to children placed with a relative pursuant to Subsection (5).

3           ~~[(b)] (7)~~ When the court orders that a child be removed from the custody of his parent and  
4 does not vest custody in another parent or relative under this section, the court shall order that the  
5 child be placed in the temporary custody of the Division of Child and Family Services, to proceed  
6 to adjudication and disposition and to be provided with care and services in accordance with this  
7 chapter and Title 62A, Chapter 4a, Child and Family Services.

8           ~~[(8) (a) Any preferential consideration that a relative may be initially granted pursuant to  
9 Subsection (5) expires 30 days from the date of the shelter hearing. After that time period has  
10 expired, a relative who has not obtained custody or asserted an interest in a child, may not be  
11 granted preferential consideration by the division or the court.]~~

12           ~~[(b) When a period of 30 days from the date of the shelter hearing has expired, the  
13 preferential consideration which may initially be granted to a natural parent in accordance with  
14 Subsection (1), is limited. After that time the court shall base its custody decision on the best  
15 interest of the child. The court shall take into consideration:]~~

16           ~~[(i) the extent of the natural parent's relationship with the child;]~~

17           ~~[(ii) whether the natural parent had actual knowledge of the child's removal from the other  
18 parent's custody;]~~

19           ~~[(iii) whether, in the past, the natural parent has participated in raising the child by taking  
20 responsibility for the child, maintaining a relationship with the child, and financially supporting  
21 the child in accordance with the parent's abilities; and]~~

22           ~~[(iv) the nature and extent of the child's relationships and well-being in his current  
23 placement.]~~

24           Section 17. Section **78-3a-312** is amended to read:

25           **78-3a-312. Permanency hearing -- Final plan -- Petition for termination of parental**  
26 **rights filed -- Hearing on termination of parental rights.**

27           (1) [A] When reunification services have been ordered in accordance with Section  
28 78-3a-311, with regard to a child who is in the custody of the Division of Child and Family  
29 Services, a permanency hearing shall be held by the court no later than 12 months after the original  
30 removal of the child.

31           (2) (a) ~~[If reunification services were ordered by the court in accordance with Section~~

1 78-3a-311,] At that hearing the court shall determine whether the child may safely be returned to  
2 the custody of his parent. If the court finds, by a preponderance of the evidence, that return of the  
3 child would create a substantial risk of detriment to the child's physical or emotional well-being,  
4 the child may not be returned to the custody of his parent. The failure of a parent or guardian to  
5 participate in, comply with, in whole or in part, or to meet the goals of a court approved treatment  
6 plan constitutes prima facie evidence that return of the child to that parent would create a  
7 substantial risk of detriment.

8 (b) In making a determination under this section, the court shall review the report prepared  
9 by the Division of Child and Family Services, a report prepared by the child's guardian ad litem,  
10 any report prepared by a foster care citizen review board pursuant to Section 78-3g-103, any  
11 evidence regarding the efforts or progress demonstrated by the parent, and the extent to which the  
12 parent cooperated and availed himself of services provided.

13 ~~[(c) The court shall determine whether reasonable services have been offered or provided~~  
14 ~~to the parent or guardian.]~~

15 (3) (a) If a child is not returned to his parent or guardian at the permanency hearing, the  
16 court shall order termination of reunification services to the parent, and make a final determination  
17 regarding whether termination of parental rights, adoption, guardianship, or long-term foster care  
18 is the most appropriate final plan for the child. If the child clearly desires contact with the parent,  
19 the court shall take the child's desire into consideration in determining the final plan.

20 (b) The court may, in its discretion, enter any other order that it determines to be in the  
21 best interest of the child. The court may order the division to provide protective supervision or  
22 other services to a child and the child's family after the division's custody of a child has been  
23 terminated.

24 (4) If the final plan for the child is to proceed toward termination of parental rights, the  
25 petition for termination of parental rights shall be filed, and a pretrial held, within 45 calendar days  
26 after the permanency hearing.

27 (5) Nothing in this section may be construed to:

28 (a) entitle any parent to reunification services for any specified period of time;

29 (b) limit a court's ability to terminate reunification services at any time prior to a  
30 permanency hearing; or

31 (c) limit or prohibit the filing of a petition for termination of parental rights by any party,

1 or a hearing on termination of parental rights, at any time prior to a permanency hearing. If a  
2 petition for termination of parental rights is filed prior to the date scheduled for a permanency  
3 hearing, the court may schedule the hearing on termination of parental rights in lieu of the  
4 permanency hearing; combine the permanency hearing and the hearing on termination of parental  
5 rights; or schedule the hearings separately. If the court schedules the hearing on termination of  
6 parental rights in lieu of the permanency hearing, any reunification services shall be terminated  
7 in accordance with the time lines described in Section 78-3a-311 and, in accordance with federal  
8 law, a determination regarding the permanency of the child shall be made within 18 months from  
9 the date of the child's removal.

10 Section 18. Section **78-3a-350** is amended to read:

11 **78-3a-350. Separate procedures for minors committed to the Division of Child and**  
12 **Family Services on grounds other than abuse or neglect -- Attorney general responsibility.**

13 (1) The processes and procedures described in Part 3, Abuse, Neglect, and Dependency  
14 Proceedings, designed to meet the needs of minors who are abused or neglected, are not applicable  
15 to a minor who is committed to the custody of the Division of Child and Family Services on a  
16 basis other than abuse or neglect and who are classified in the division's management information  
17 system as having been placed in custody primarily on the basis of delinquent behavior or a status  
18 offense.

19 (2) The procedures described in Subsection 78-3a-119(2)(a) are applicable to the minors  
20 described in Subsection (1).

21 (3) The court may appoint a guardian ad litem to represent the interests of a minor  
22 described in Subsection (1).

23 (4) As of July 1, 1998, the attorney general's office shall represent the Division of Child  
24 and Family Services with regard to actions involving minors who have not been adjudicated as  
25 abused or neglected, but who are otherwise committed to the custody of the division by the  
26 juvenile court, and who are classified in the division's management information system as having  
27 been placed in custody primarily on the bases of delinquent behavior or a status offense.

28 Section 19. Section **78-3a-408** is amended to read:

29 **78-3a-408. Evidence of grounds for termination.**

30 (1) In determining whether a parent or parents have abandoned a child, it is prima facie  
31 evidence of abandonment that the parent or parents:

1 (a) although having legal custody of the child, have surrendered physical custody of the  
2 child, and for a period of six months following the surrender have not manifested to the child or  
3 to the person having the physical custody of the child a firm intention to resume physical custody  
4 or to make arrangements for the care of the child;

5 (b) have failed to communicate with the child by mail, telephone, or otherwise for six  
6 months; or

7 (c) failed to have shown the normal interest of a natural parent, without just cause.

8 (2) In determining whether a parent or parents are unfit or have neglected a child the court  
9 shall consider, but is not limited to, the following circumstances, conduct, or conditions:

10 (a) emotional illness, mental illness, or mental deficiency of the parent that renders him  
11 unable to care for the immediate and continuing physical or emotional needs of the child for  
12 extended periods of time;

13 (b) conduct toward a child of a physically, emotionally, or sexually cruel or abusive  
14 nature;

15 (c) habitual or excessive use of intoxicating liquors, controlled substances, or dangerous  
16 drugs that render the parent unable to care for the child;

17 (d) repeated or continuous failure to provide the child with adequate food, clothing,  
18 shelter, education, or other care necessary for his physical, mental, and emotional health and  
19 development by a parent or parents who are capable of providing that care. However, a parent  
20 who, legitimately practicing his religious beliefs, does not provide specified medical treatment for  
21 a child is not for that reason alone a negligent or unfit parent;

22 (e) with regard to a child who is in the custody of the division, if the parent is incarcerated  
23 as a result of conviction of a felony, and the sentence is of such length that the child will be  
24 deprived of a normal home for more than one year; or

25 (f) a history of violent behavior.

26 (3) If a child has been placed in the custody of the division and the parent or parents fail  
27 to comply substantially with the terms and conditions of a plan within six months after the date  
28 on which the child was placed or the plan was commenced, whichever occurs later, that failure to  
29 comply is evidence of failure of parental adjustment.

30 (4) The following circumstances constitute prima facie evidence of unfitness:

31 (a) sexual abuse, injury, or death of a sibling of the child, or of any child, due to known

1 or substantiated abuse or neglect by the parent or parents;

2 (b) conviction of a [felony] crime, if the facts [of] surrounding the crime are of such a  
3 nature as to indicate the unfitness of the parent to provide adequate care to the extent necessary for  
4 the child's physical, mental, or emotional health and development; or

5 (c) a single incident of life-threatening or gravely disabling injury to or disfigurement of  
6 the child.

7 Section 20. Section **78-3a-903** is amended to read:

8 **78-3a-903. Modification or termination of custody order or decree -- Grounds --**  
9 **Procedure.**

10 (1) A parent, guardian, or next friend of a minor whose legal custody has been transferred  
11 by the court to an individual, agency, or institution, except a secure youth corrections facility, may  
12 petition the court for restoration of custody or other modification or revocation of the [decree]  
13 court's order, on the ground that a change of circumstances has occurred which requires such  
14 modification or revocation in the best interest of the minor or the public.

15 (2) The court shall make a preliminary investigation. If the court finds that the alleged  
16 change of circumstances, if proved, would not affect the decree, it may dismiss the petition. If the  
17 court finds that a further examination of the facts is needed, or if the court on its own motion  
18 determines that the decree should be reviewed, it shall conduct a hearing. Notice shall be given  
19 to all persons concerned. At the hearing, the court may enter an order continuing, modifying, or  
20 terminating the decree.

21 (3) A petition by a parent may not be filed under this section after his or her parental rights  
22 have been terminated in accordance with Part 4, Termination of Parental Rights Act.

23 (4) An individual, agency, or institution vested with legal custody of a minor may petition  
24 the court for a modification of the custody order on the ground that the change is necessary for the  
25 welfare of the minor or in the public interest. The court shall proceed upon the petition in  
26 accordance with Subsections (1) and (2).

27 Section 21. Section **78-45a-5** is amended to read:

28 **78-45a-5. Remedies.**

29 (1) (a) The district court [has] and the juvenile court have jurisdiction of an action to  
30 establish paternity, in accordance with the provisions of Section 78-3a-105. [Att]

31 (b) Except as provided in Section 78-3a-105, the district court has jurisdiction over all

1 remedies for enforcement of judgments for expenses of pregnancy and confinement for a wife or  
2 for education, necessary support, or funeral expenses for legitimate children [~~shall apply~~]. The  
3 appropriate court has continuing jurisdiction to modify or revoke a judgment for future education  
4 and necessary support. All remedies under Title 78, Chapter 45f, Uniform Interstate Family  
5 Support Act, are available for enforcement of duties of support under this chapter.

6 (2) (a) The obligee may enforce his right of support against the obligor and the state may  
7 proceed on behalf of the obligee or in its own behalf, pursuant to the provisions of Title 62A,  
8 Chapter 11, Recovery Services, to enforce that right of support against the obligor.

9 (b) The provisions of Title 62A, Chapter 11, Recovery Services, apply in all actions by  
10 the state.

11 (c) Whenever the state commences an action under this chapter, it shall be the duty of the  
12 attorney general or the county attorney of the county where the obligee resides to represent the  
13 state. Neither the attorney general nor the county attorney represents or has an attorney-client  
14 relationship with the obligee or the obligor, in carrying out his responsibilities under this chapter.

15 (3) Upon motion by a party, the district court shall issue a temporary order in a paternity  
16 action to require the payment of child support pending a determination of paternity if there is clear  
17 and convincing evidence of paternity in the form of genetic test results under Section 78-45a-7 or  
18 78-45a-10, or other evidence.

19 (4) The court may enter an order awarding costs, attorney fees, and witness fees in the  
20 manner prescribed by Section 30-3-3 upon a judgment or acknowledgment of paternity.

21 (5) Rule 55, Default Judgment, Utah Rules of Civil Procedure, applies to paternity actions  
22 commenced under this chapter.

23 Section 22. **Uncodified Section 42, Chapter 329, Laws Of Utah 1997** is amended to  
24 read:

25 Section 42. **Early Intervention for Juveniles Pilot Program -- Appropriation.**

26 (1) The Division of Child and Family Services and the probation department shall  
27 establish, within the counties served by the Third, Fourth, Fifth, and Sixth District Juvenile Courts,  
28 an Early Intervention for Juveniles Pilot Program that offers time limited, intensive treatment,  
29 including youth services, as defined in Section 62A-4a-101, as an alternative to out-of-home  
30 placement for ungovernable minors and juvenile offenders who:

31 (a) (i) are in the custody of the Division of Child and Family Services or under the

1 protective supervision of the division and who, absent the pilot program, would be in out-of-home  
2 care; or

3 (ii) are under the supervision of the probation department;

4 (b) have been determined to be ungovernable, or who have not complied with the terms of  
5 judicial orders issued before placement in the pilot project, including requirements of probation  
6 ordered under Section 78-3a-118;

7 (c) require continual supervision and intensive therapeutic intervention, but not secure  
8 confinement; and

9 (d) are likely to succeed in the pilot program based on an expressed commitment of the  
10 child and his family to fully participate in and comply with the program's requirements.

11 (2) The pilot program shall provide intensive services and interventions that include, but  
12 are not limited to:

13 (a) electronically monitored home detention;

14 (b) psychological assessment provided by or supervised by licensed mental health  
15 professionals;

16 (c) individual, family, and group psychotherapy conducted by or supervised by licensed  
17 mental health professionals;

18 (d) skills training, including problem solving and conflict resolution skills, parenting and  
19 discipline skills, and communication skills;

20 (e) academic assessment and intervention;

21 (f) academic placement, and individual tutoring or alterative education programs when  
22 appropriate; and

23 (g) aftercare.

24 (3) The juvenile court shall maintain continuing jurisdiction over minors who are receiving  
25 services in accordance with the pilot program described in this section.

26 (4) The court shall order the parent or guardian of the minor to:

27 (a) complete an assessment to determine appropriate treatment interventions;

28 (b) participate in training on problem solving skills, implementation of consequences for  
29 inappropriate behavior, and rewarding appropriate behavior; and

30 (c) pay the appropriate division for all or part of the costs associated with the child's  
31 involvement in the pilot program in accordance with their ability to pay.

1           (5) The juvenile court may issue any order that it deems appropriate to support a family’s  
2 successful completion of the pilot program.

3           (6) Payments received by the division under Subsection (3) shall be deposited in the  
4 General Fund.

5           (7) In accordance with the provisions of Title 63, Chapter 56, Utah Procurement Code, the  
6 division shall:

7           (a) contract for the provision of services necessary to implement the pilot program; and

8           (b) contract for an independent evaluation of the effectiveness of the pilot program.

9           (8) The pilot program is authorized from July 1, ~~[1997]~~ 1998 to June 30, ~~[1998]~~ 1999.

10           ~~[(9) There is appropriated from the General Fund, for fiscal year 1997-1998, \$320,000 to~~  
11 ~~the Division of Child and Family Services within the Department of Human Services solely for~~  
12 ~~the purpose of implementing the Early Intervention for Juveniles Pilot Program described in this~~  
13 ~~section.]~~

14           Section 23. **Effective date.**

15           This act takes effect on July 1, 1998.

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**Legislative Review Note**  
**as of 12-19-97 12:55 PM**

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**