

**Senator Thomas V. Hatch** proposes the following substitute bill:

**REVISIONS TO CHILD WELFARE**

2005 GENERAL SESSION

STATE OF UTAH

**Sponsor: Wayne A. Harper**

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**LONG TITLE**

**General Description:**

This bill amends child welfare provisions of the Utah Human Services Code, the Utah Criminal Code, and the Judicial Code, and repeals the pilot program for differentiated responses to child abuse and neglect reports.

**Highlighted Provisions:**

This bill:

- ▶ defines terms and modifies definition provisions;
- ▶ removes the requirement that the Division of Child and Family Services provide services to unwed parents;
- ▶ provides that a supported finding by the Division of Child and Family Services, upon completion of an investigation, must be based upon a determination that it is more likely than not that abuse, neglect, or dependency occurred;
- ▶ lists the training that a child welfare caseworker is required to receive;
- ▶ provides for the removal of a person's name and information from the Licensing Information System, created in Section 62A-4a-116.2, when a court finds that an allegation against that person of severe child abuse or neglect is unsubstantiated or without merit or when a court finds that the allegation is substantiated, but the finding is overturned on appeal;
- ▶ deletes and repeals the provisions relating to the pilot program for differentiated



- 26 responses to child abuse and neglect reports;
- 27       ▶ lists the rights and responsibilities of parents and the state, including those related to  
28 discipline and medical and mental health care of a child;
- 29       ▶ limits the ability of the Division of Child and Family Services to withhold family  
30 preservation services;
- 31       ▶ addresses family preservation services and procedures for conducting an  
32 investigation and developing a treatment plan;
- 33       ▶ clarifies when services should be provided to eliminate the need to remove a child  
34 from the custody of the child's parent or guardian;
- 35       ▶ provides authority for taking protective custody of, and other action in regard to, a  
36 child in danger of abuse;
- 37       ▶ expands the information that must be provided to a parent or guardian when the  
38 child of the parent or guardian is taken into protective custody;
- 39       ▶ requires that all reasonable efforts be made to notify the parent or guardian of a  
40 child taken into protective custody;
- 41       ▶ amends provisions relating to a treatment plan for a child in the temporary custody  
42 of the Division of Child and Family Services;
- 43       ▶ lists the circumstances under which parental visitation may be denied by a court or  
44 the Division of Child and Family Services;
- 45       ▶ lists the circumstances where reporting of abuse or neglect is required;
- 46       ▶ reduces the time that a physician may hold a child in protective custody without a  
47 court order to 36 hours;
- 48       ▶ limits the services that a parent or guardian may be charged for when a child is  
49 taken into protective custody by a physician;
- 50       ▶ describes when the Division of Child and Family Services is required to make a  
51 preremoval investigation;
- 52       ▶ provides that when the Division of Child and Family Services is required to inform  
53 a parent of an interview prior to interviewing a child, the division must inform the  
54 parent of the specific allegations concerning the child and the time and place of the  
55 interview;
- 56       ▶ lists circumstances under which a parent or guardian is not guilty of child abuse or

- 57 neglect of a disabled child;
- 58       ▶ describes when a court may order medical care for a disabled child;
- 59       ▶ describes the authority of a guardian;
- 60       ▶ describes and limits the circumstances where a court can issue a search warrant or
- 61 subpoena in a protective custody matter;
- 62       ▶ addresses the services that may be provided to a minor who is the subject of a
- 63 petition filed in juvenile court;
- 64       ▶ limits the authority of a court to order medical and mental health treatment of a
- 65 child;
- 66       ▶ requires that when placing a child in guardianship or legal custody, a court shall
- 67 take into consideration the religious preferences of a minor and the minor's parents;
- 68       ▶ limits the circumstances under which a court may order that a child be placed into
- 69 protective custody;
- 70       ▶ clarifies the evidence that may be presented by a parent or guardian at a shelter
- 71 hearing;
- 72       ▶ requires that a court honor, as nearly as practicable, a request by a parent or
- 73 guardian to continue a shelter hearing;
- 74       ▶ describes when a court must order a child released from protective custody;
- 75       ▶ describes the circumstances under which the Division of Child and Family Services
- 76 and the court are required to provide services to:
- 77           • maintain or return a child to the child's home; or
- 78           • attempt to rehabilitate an offending parent;
- 79       ▶ addresses reunification services;
- 80       ▶ describes the circumstances under which a court can order the termination of
- 81 parental rights;
- 82       ▶ establishes a rebuttable presumption that discipline of a child by a parent does not
- 83 constitute abusive conduct;
- 84       ▶ provides that upon granting a voluntary relinquishment of parental rights, a court
- 85 may enter an order relating to the child's health and safety;
- 86       ▶ increases the time within which a court must hold a permanency hearing from eight
- 87 months to 12 months; and

88           ▶ makes technical changes.

89 **Monies Appropriated in this Bill:**

90           None

91 **Other Special Clauses:**

92           This bill takes effect on January 1, 2006.

93 **Utah Code Sections Affected:**

94 AMENDS:

- 95           **62A-2-121**, as last amended by Chapter 86, Laws of Utah 2004
- 96           **62A-4a-101**, as last amended by Chapter 356, Laws of Utah 2004
- 97           **62A-4a-106**, as renumbered and amended by Chapter 260, Laws of Utah 1994
- 98           **62A-4a-107**, as last amended by Chapter 94, Laws of Utah 2003
- 99           **62A-4a-116.1**, as last amended by Chapter 210, Laws of Utah 2003
- 100          **62A-4a-116.2**, as last amended by Chapter 86, Laws of Utah 2004
- 101          **62A-4a-116.4**, as enacted by Chapter 283, Laws of Utah 2002
- 102          **62A-4a-116.5**, as last amended by Chapter 74, Laws of Utah 2004
- 103          **62A-4a-116.6**, as last amended by Chapter 210, Laws of Utah 2003
- 104          **62A-4a-117**, as last amended by Chapter 94, Laws of Utah 2003
- 105          **62A-4a-201**, as last amended by Chapter 274, Laws of Utah 2000
- 106          **62A-4a-202**, as last amended by Chapter 100, Laws of Utah 2004
- 107          **62A-4a-202.1**, as last amended by Chapter 180, Laws of Utah 2004
- 108          **62A-4a-202.2**, as last amended by Chapter 10, Laws of Utah 2001, First Special
- 109 Session
- 110          **62A-4a-202.6**, as last amended by Chapter 58, Laws of Utah 2001
- 111          **62A-4a-203**, as last amended by Chapter 274, Laws of Utah 1998
- 112          **62A-4a-205**, as last amended by Chapter 356, Laws of Utah 2004
- 113          **62A-4a-208**, as enacted by Chapter 274, Laws of Utah 1998
- 114          **62A-4a-209**, as last amended by Chapters 265 and 306, Laws of Utah 2002
- 115          **62A-4a-302**, as renumbered and amended by Chapter 260, Laws of Utah 1994
- 116          **62A-4a-402**, as last amended by Chapter 274, Laws of Utah 1998
- 117          **62A-4a-403**, as last amended by Chapter 21, Laws of Utah 1999
- 118          **62A-4a-407**, as last amended by Chapter 302, Laws of Utah 1995

- 119            **62A-4a-409**, as last amended by Chapter 356, Laws of Utah 2004
- 120            **62A-4a-414**, as enacted by Chapter 315, Laws of Utah 2004
- 121            **63-55-262**, as last amended by Chapter 134, Laws of Utah 2001
- 122            **76-5-109**, as last amended by Chapter 125, Laws of Utah 2000
- 123            **76-5-110**, as last amended by Chapter 303, Laws of Utah 1997
- 124            **78-3a-103**, as last amended by Chapter 171, Laws of Utah 2003
- 125            **78-3a-106**, as last amended by Chapter 267, Laws of Utah 2003
- 126            **78-3a-109**, as last amended by Chapter 180, Laws of Utah 2001
- 127            **78-3a-110**, as enacted by Chapter 365, Laws of Utah 1997
- 128            **78-3a-118**, as last amended by Chapters 102 and 267, Laws of Utah 2004
- 129            **78-3a-301**, as last amended by Chapter 356, Laws of Utah 2004
- 130            **78-3a-306**, as last amended by Chapters 131 and 267, Laws of Utah 2003
- 131            **78-3a-311**, as last amended by Chapter 356, Laws of Utah 2004
- 132            **78-3a-320**, as last amended by Chapter 210, Laws of Utah 2003
- 133            **78-3a-402**, as renumbered and amended by Chapter 260, Laws of Utah 1994
- 134            **78-3a-406**, as last amended by Chapter 332, Laws of Utah 2003
- 135            **78-3a-407**, as last amended by Chapter 246, Laws of Utah 2002
- 136            **78-3a-408**, as last amended by Chapter 274, Laws of Utah 1998
- 137            **78-3a-414**, as last amended by Chapter 101, Laws of Utah 2001

138 REPEALS:

- 139            **62A-4a-202.7**, as last amended by Chapter 94, Laws of Utah 2003
- 140            **78-3a-403**, as last amended by Chapter 318, Laws of Utah 1996

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

143            Section 1. Section **62A-2-121** is amended to read:

144            **62A-2-121. Access to abuse and neglect information for licensing purposes.**

145            (1) With respect to human services licensees, the department may access only the  
146 Licensing Information System of the Division of Child and Family Services created by Section  
147 62A-4a-116.2 and juvenile court records under Subsection 78-3a-320(4), for the purpose of:

148            (a) determining whether:

149            (i) a person associated with a licensee, with direct access to children, is listed in the

150 Licensing Information System; or ~~[has a substantiated finding by]~~

151 (ii) a juvenile court [of a] made a substantiated finding that a person committed severe  
152 ~~[type of]~~ child abuse or neglect under Subsections 78-3a-320(1) and (2); and

153 (b) informing a licensee that;

154 (i) a person associated with the licensee is listed in the Licensing Information System;  
155 ~~or [has a substantiated finding by a juvenile court of a severe type of]~~

156 (ii) a juvenile court made a substantiated finding that a person associated with the  
157 licensee committed severe child abuse or neglect under Subsections 78-3a-320(1) and (2).

158 (2) Notwithstanding Subsection (1), the department may access the Division of Child  
159 and Family Service's Management Information System under Section 62A-4a-116 for the  
160 purpose of licensing and monitoring foster parents.

161 (3) After receiving identifying information for a person under Subsection  
162 62A-2-120(1), the department shall process the information for the purposes described in  
163 Subsection (1).

164 (4) The department shall adopt rules under Title 63, Chapter 46a, Utah Administrative  
165 Rulemaking Act, consistent with this chapter, defining the circumstances under which a person  
166 who has direct access to children and who is listed in the Licensing Information System or has  
167 a substantiated finding by a court of a severe ~~[type of]~~ child abuse or neglect under Subsections  
168 78-3a-320(1) and (2) may provide services to children.

169 Section 2. Section **62A-4a-101** is amended to read:

170 **62A-4a-101. Definitions.**

171 As used in this chapter:

172 (1) (a) "Abuse" means:

173 ~~[(a) actual or threatened nonaccidental physical or mental harm;]~~

174 ~~[(b) negligent treatment;]~~

175 ~~[(c) sexual exploitation; or]~~

176 ~~[(d) any sexual abuse].~~

177 (i) causing:

178 (A) nonaccidental physical harm;

179 (B) physical injury, as defined in Section 76-5-109; or

180 (C) serious physical injury, as defined in Section 76-5-109;

- 181            (ii) engaging in:
- 182            (A) mental cruelty, as defined in Section 76-5-109;
- 183            (B) sexual exploitation of a child, as defined in Section 62A-4a-402; or
- 184            (C) sexual abuse, as defined in Section 62A-4a-402;
- 185            (iii) while having care or custody of a child, causing or permitting another to:
- 186            (A) inflict on the child an injury or harm described in Subsection (1)(a)(i); or
- 187            (B) engage in conduct, described in Subsection (1)(a)(ii), involving the child; or
- 188            (iv) subjecting a child to mistreatment or abuse.
- 189            (b) "Abuse" does not include:
- 190            (i) disciplining or managing a child in a manner that does not constitute abuse under
- 191 Subsection (1)(a), including:
- 192            (A) withholding privileges from a child; or
- 193            (B) other discipline;
- 194            (ii) accidental conduct;
- 195            (iii) conduct described in Subsection 53A-11-802(2);
- 196            (iv) conduct described in Section 76-2-401; or
- 197            (v) the use of reasonable and necessary physical restraint or force on a child:
- 198            (A) in self-defense;
- 199            (B) in defense of others;
- 200            (C) to protect the child; or
- 201            (D) to remove a weapon in the possession of a child for any of the reasons described in
- 202 Subsections (1)(b)(v)(A) through (C).
- 203            (2) "Adoption services" means:
- 204            (a) placing children for adoption[;];
- 205            (b) subsidizing adoptions under Section 62A-4a-105[;];
- 206            (c) supervising adoption placements until the adoption is finalized by the court[;];
- 207            (d) conducting adoption studies[;];
- 208            (e) preparing adoption reports upon request of the court[;]; and
- 209            (f) providing postadoptive placement services, upon request of a family, for the
- 210 purpose of stabilizing a possible disruptive placement.
- 211            (3) "Board" means the Board of Child and Family Services established in accordance

212 with Sections 62A-1-105, 62A-1-107, and 62A-4a-102.

213 (4) "Child" [~~has the same meaning as "minor," as defined in this section~~] means a  
214 person under the age of 18.

215 [~~(6)~~] (5) "Chronic [~~physical~~] abuse" means [~~repeated or patterned physical~~] a pattern of  
216 abuse.

217 [~~(7)~~] (6) "Chronic neglect" means a [~~repeated or patterned failure or refusal by a parent,~~  
218 ~~guardian, or custodian to provide necessary care for a minor's safety, morals, or well-being~~]  
219 pattern of neglect.

220 [~~(8)~~] "~~Chronic emotional abuse~~" means ~~repeated or patterned emotional abuse.~~]

221 [~~(5)~~] (7) "Consumer" means a person who receives services offered by the division in  
222 accordance with this chapter.

223 (8) "Criminal negligence" is as defined in Section 76-2-103.

224 (9) "Custody," with regard to the division, means the custody of a [~~child~~] minor in the  
225 division as of the date of disposition.

226 (10) "Day-care services" means care of a child for a portion of the day which is:

227 (a) less than 24 hours[;];

228 (b) in [~~his~~] the child's own home by a responsible person[;]; or

229 (c) outside of [~~his~~] the child's home in a:

230 (i) day-care center[;];

231 (ii) family group home[;]; or

232 (iii) family child care home.

233 (11) "Dependent child" or "dependency" means a child, or the condition of a child, who  
234 is homeless or without proper care through no fault of the child's parent, guardian, or custodian.

235 (12) "Director" means the director of the Division of Child and Family Services.

236 (13) "Division" means the Division of Child and Family Services.

237 (14) (a) "Domestic violence services" means temporary shelter, treatment, and related  
238 services to persons who are victims of abuse and their dependent children and treatment  
239 services for domestic violence perpetrators.

240 (b) As used in this Subsection (14):

241 (i) "abuse" means the same as that term is defined in Section 30-6-1[;]; and

242 (ii) "domestic violence perpetrator" means a person who is alleged to have committed,

243 has been convicted of, or has pled guilty to an act of domestic violence as defined in  
244 Subsection 77-36-1(2).

245 (15) "Homemaking service" means the care of individuals in their domiciles, and help  
246 given to individual caretaker relatives to achieve improved household and family management  
247 through the services of a trained homemaker.

248 (16) "Intentionally" is as defined in Section 76-2-103.

249 (17) "Knowingly" is as defined in Section 76-2-103.

250 ~~[(16)]~~ (18) (a) "Minor" means a person under 18 years of age.

251 (b) "Minor" may also include a person under 21 years of age for whom the division has  
252 been specifically ordered by the juvenile court to provide services.

253 ~~[(17)]~~ (19) "Natural parent" means a minor's biological or adoptive parent, and  
254 includes a minor's noncustodial parent.

255 ~~[(18)]~~ (20) (a) "Neglect" means:

256 (i) substantial failure by a parent, guardian, or person with care or custody of a child to  
257 provide the child with proper or necessary:

258 (A) care;

259 (B) food;

260 (C) shelter;

261 (D) clothing;

262 (E) training;

263 (F) physical safety; or

264 (G) medical or mental health care;

265 ~~[(19)]~~ (ii) abandonment of a child, except as provided in Title 62A, Chapter 4a, Part 8,  
266 Safe Relinquishment of a Newborn Child;

267 ~~[(ii) subjecting a child to mistreatment or abuse;]~~

268 ~~[(iii) lack of proper parental care by reason of the fault or habits of the parent,~~  
269 ~~guardian, or custodian;]~~

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

273 ~~[(v) a child at risk of being neglected or abused because another child in the same~~

274 home is neglected or abused.]

275 ~~[(b) The aspect of neglect relating to education, described in Subsection (18)(a)(iv),~~  
276 ~~means that, after receiving notice that a child has been frequently absent from school without~~  
277 ~~good cause, or that the child has failed to cooperate with school authorities in a reasonable~~  
278 ~~manner, a parent or guardian fails to make a good faith effort to ensure that the child receives~~  
279 ~~an appropriate education.]~~

280 (iii) that there is a substantial risk that a child may suffer abuse or neglect by a  
281 caretaker who neglected or abused another child in the child's home;

282 (iv) failure by a parent or guardian to make a good faith effort to ensure that the child  
283 receives an appropriate education after the parent or guardian receives notice that the child is  
284 frequently absent from school without good cause; or

285 (v) an act or failure to act that presents an imminent risk of serious harm.

286 (b) "Neglect" does not include:

287 ~~[(c) A]~~ (i) a parent or guardian legitimately practicing religious beliefs [and] who, for  
288 that reason, does not provide specified medical or mental health treatment for a child[; is not  
289 guilty of neglect.]; or

290 (ii) disciplining or managing a child.

291 ~~[(19)]~~ (21) "Protective custody," with regard to the division, means the shelter of a  
292 child by the division from the time the child is removed from the child's home until the shelter  
293 hearing, or the ~~[child's return]~~ child returns home, whichever occurs earlier.

294 ~~[(20)]~~ (22) "Protective services" means expedited services that are provided:

295 (a) in response to evidence of neglect, abuse, or dependency of a minor;

296 (b) to a cohabitant who is neglecting or abusing a child, in order to help the cohabitant  
297 develop recognition of the cohabitant's duty of care and of the causes of neglect or abuse, and  
298 to strengthen the cohabitant's ability to provide safe and acceptable care; and

299 (c) in cases where the child's welfare is endangered:

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

302 (ii) to cause a protective order to be issued for the protection of the minor, when  
303 appropriate; and

304 (iii) to protect the child from the circumstances that endanger the child's welfare

305 including, when appropriate, removal from the child's home, placement in substitute care, and  
306 petitioning the court for termination of parental rights.

307 (23) "Recklessly" is as defined in Section 76-2-103.

308 [~~(22) "Severe"~~] (24) "Serious neglect" means neglect that causes [or threatens to cause  
309 serious harm] serious physical injury, as defined in Section 76-5-109, to a minor.

310 [~~(21) "Services to unwed parents" means social, educational, and medical services~~  
311 ~~arranged for or provided to unwed parents to help them plan for themselves and the unborn~~  
312 ~~child.~~]

313 (25) "Severe child abuse or neglect" means:

314 (a) if committed by a person 18 years of age or older:

315 (i) causing serious physical injury, as defined in Section 76-5-109; or

316 (ii) committing:

317 (A) chronic abuse;

318 (B) sexual abuse, as defined in Section 62A-4a-402;

319 (C) sexual exploitation of a child, as defined in Section 62A-4a-402;

320 (D) abandonment of a child, except as provided in Title 62A, Chapter 4a, Part 8, Safe

321 Relinquishment of a Newborn Child;

322 (E) serious neglect;

323 (F) chronic neglect; or

324 (G) mental cruelty, as defined in Section 76-5-109; or

325 (b) if committed by a person under the age of 18:

326 (i) inflicting serious physical injury, as defined in Section 76-5-109, to another child  
327 when that conduct indicates that the person poses an actual risk to other children, as determined  
328 in accordance with risk assessment factors established by the division, by rule, as provided in  
329 Section 62A-4a-102; or

330 (ii) committing sexual behavior with or upon another child when that conduct  
331 indicates that the person poses an actual risk to other children, as determined in accordance  
332 with risk assessment factors established by the division, by rule, as provided in Section  
333 62A-4a-102.

334 [~~(23)~~] (26) "Shelter care" means the temporary care of [minors] a minor in a nonsecure  
335 [facilities] facility.

336           ~~[(24)]~~ (27) "State" means a state of the United States, the District of Columbia, the  
337 Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern  
338 Mariana Islands, or a territory or possession administered by the United States.

339           ~~[(25)]~~ "Severe emotional abuse" means emotional abuse that causes or threatens to  
340 cause serious harm to a minor.]

341           ~~[(26)]~~ "Severe physical abuse" means physical abuse that causes or threatens to cause  
342 serious harm to a minor.]

343           ~~[(27)]~~ (28) "State plan" means the written description of the programs for children,  
344 youth, and family services administered by the division in accordance with federal law.

345           ~~[(28)]~~ (29) "Status offense" means a violation of the law that would not be a violation  
346 but for the age of the offender.

347           ~~[(29)]~~ (30) "Substantiated" or "substantiation" means a judicial finding based on a  
348 preponderance of the evidence that abuse or neglect occurred. Each allegation made or  
349 identified in a given case shall be considered separately in determining whether there should be  
350 a finding of substantiated.

351           ~~[(30)]~~ (31) "Substitute care" means:

352           (a) the placement of a minor in a family home, group care facility, or other placement  
353 outside the minor's own home, either at the request of a parent ~~[or other]~~, guardian, or  
354 responsible relative, or upon court order, when it is determined that continuation of care in the  
355 child's own home would be contrary to the child's welfare;

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

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

358           ~~[(31)]~~ (32) "Supported" means a finding by the division ~~[based on the evidence~~  
359 ~~available]~~ at the completion of an investigation that there is a reasonable basis to conclude that  
360 abuse, neglect, or dependency occurred. Each allegation made or identified during the course  
361 of the investigation shall be considered separately in determining whether there should be a  
362 finding of supported.

363           ~~[(32)]~~ (33) "Temporary custody," with regard to the division, means the custody of a  
364 child in the division from the date of the shelter hearing until disposition.

365           ~~[(33)]~~ (34) "Transportation services" means travel assistance given to an individual  
366 with escort service, if necessary, to and from community facilities and resources as part of a

367 service plan.

368 ~~[(34)]~~ (35) "Unsubstantiated" means a judicial finding that ~~[there is insufficient]~~ it has  
369 not been established beyond a preponderance of the evidence ~~[to conclude]~~ that abuse or  
370 neglect occurred.

371 ~~[(35)]~~ (36) "Unsupported" means a finding at the completion of an investigation by the  
372 division that there is insufficient evidence to conclude that abuse, neglect, or dependency  
373 occurred. However, a finding of unsupported means also that the division worker did not  
374 conclude that the allegation was without merit.

375 ~~[(36)]~~ (37) "Without merit" means a finding at the completion of an investigation by  
376 the division, or a judicial finding, that the alleged abuse, neglect, or dependency did not occur,  
377 or that the alleged perpetrator was not responsible for the abuse, neglect, or dependency.

378 Section 3. Section **62A-4a-106** is amended to read:

379 **62A-4a-106. Services provided by division.**

380 (1) The division may provide, directly or through contract, services that include~~[-but~~  
381 ~~are not limited to;]~~ the following:

- 382 (a) adoptions;
- 383 (b) day care for children;
- 384 ~~[(c) services to unwed parents;]~~
- 385 ~~[(d)]~~ (c) out-of-home placements for minors;
- 386 ~~[(e)]~~ (d) health-related services;
- 387 ~~[(f)]~~ (e) homemaking services;
- 388 ~~[(g)]~~ (f) home management services;
- 389 ~~[(h)]~~ (g) protective services for minors;
- 390 ~~[(i)]~~ (h) transportation services; and
- 391 ~~[(j)]~~ (i) domestic violence services.

392 (2) Services provided directly by the division or through contract shall be monitored by  
393 the division to insure compliance with applicable:

- 394 (a) state law~~[-];~~ and
- 395 (b) standards and rules of the division.

396 Section 4. Section **62A-4a-107** is amended to read:

397 **62A-4a-107. Mandatory education and training of caseworkers -- Development of**

398 **curriculum.**

399 (1) There is created within the division a full-time position of Child Welfare Training  
400 Coordinator, who shall be appointed by and serve at the pleasure of the director. The employee  
401 in that position [~~shall~~] is not [be] responsible for direct casework services or the supervision of  
402 those services, but [~~shall~~] is required to:

403 (a) develop child welfare curriculum that:

404 (i) is current and effective, consistent with the division's mission and purpose for child  
405 welfare; and

406 (ii) utilizes curriculum and resources from a variety of sources including those from:

407 (A) the public sector;

408 (B) the private sector; and

409 (C) inside and outside of the state;

410 (b) recruit, select, and supervise child welfare trainers;

411 (c) develop a statewide training program, including a budget and identification of  
412 sources of funding to support that training;

413 (d) evaluate the efficacy of training in improving job performance;

414 (e) assist child protective services and foster care workers in developing and fulfilling  
415 their individual training plans;

416 (f) monitor staff compliance with division training requirements and individual training  
417 plans; and

418 (g) expand the collaboration between the division and schools of social work within  
419 institutions of higher education in developing child welfare services curriculum, and in  
420 providing and evaluating training.

421 (2) (a) The director shall, with the assistance of the child welfare training coordinator,  
422 establish a core curriculum for child welfare services that is substantially equivalent to the  
423 Child Welfare League of America's Core Training for Child Welfare Caseworkers Curriculum.

424 (b) Any child welfare [~~worker~~] caseworker who is employed by the division for the  
425 first time after July 1, 1999, shall, before assuming significant independent casework  
426 responsibilities, successfully complete:

427 (i) the core curriculum; and

428 (ii) except as provided in Subsection (2)(c), on-the-job training that consists of

429 observing and accompanying at least two capable and experienced child welfare [workers]  
430 caseworkers as they perform work-related functions:

431 (A) for three months if the [worker] caseworker has less than six months of on-the-job  
432 experience as a child welfare [worker] caseworker; or

433 (B) for two months if the [worker] caseworker has six months or more but less than 24  
434 months of on-the-job experience as a child welfare [worker] caseworker.

435 (c) A child welfare [worker] caseworker with at least 24 months of on-the-job  
436 experience is not required to receive on-the-job training under Subsection (2)(b)(ii).

437 (3) Child welfare caseworkers shall complete training in:

438 (a) the legal duties of a child welfare caseworker;

439 (b) the responsibility of a child welfare caseworker to protect the safety and legal rights  
440 of children, parents, and families at all stages of a case, including:

441 (i) initial contact;

442 (ii) investigation; and

443 (iii) treatment;

444 (c) recognizing situations involving:

445 (i) substance abuse;

446 (ii) domestic violence;

447 (iii) abuse; and

448 (iv) neglect; and

449 (d) the relationship of the Fourth and Fourteenth Amendments of the Constitution of  
450 the United States to the child welfare caseworker's job, including:

451 (i) search and seizure of evidence;

452 (ii) the warrant requirement;

453 (iii) exceptions to the warrant requirement; and

454 (iv) removing a child from the custody of the child's parent or guardian.

455 (4) The division shall train its child welfare caseworkers to apply the risk assessment  
456 factors and rules described in Subsection 62A-4a-101(25)(b)(ii).

457 (5) When a child welfare caseworker is hired, before assuming significant independent  
458 casework responsibilities, the child welfare caseworker shall complete the training described in  
459 Subsections (3) and (4).

460 Section 5. Section **62A-4a-116.1** is amended to read:

461 **62A-4a-116.1. Supported finding of severe types of abuse or neglect -- Notation in**  
462 **Licensing Information System -- Juvenile court petition or notice to alleged perpetrator --**  
463 **Rights of alleged perpetrator -- Juvenile court finding.**

464 (1) If the division makes a supported finding [~~of one or more of the~~] that a person  
465 committed severe [~~types of~~] child abuse or neglect [~~described in Subsection (2)~~], the division  
466 shall:

467 (a) serve notice of the finding on the alleged perpetrator [~~and~~];

468 (b) enter into the Licensing Information System created in Section 62A-4a-116.2 the  
469 name and other identifying information of the perpetrator with the supported finding[;];

470 (i) without identifying the person as a perpetrator or alleged perpetrator[;]; and

471 (ii) with a notation to the effect that an investigation regarding the person is pending;

472 and

473 [~~(b)~~] (c) if the division considers it advisable, file a petition for substantiation within  
474 one year of the supported finding.

475 [~~(2) Except as otherwise provided in Subsection (3), the severe types of child abuse or~~  
476 ~~neglect referred to in Subsection (1) are as follows:]~~

477 [~~(a) if committed by a person 18 years of age or older:]~~

478 [~~(i) severe or chronic physical abuse;]~~

479 [~~(ii) sexual abuse;]~~

480 [~~(iii) sexual exploitation;]~~

481 [~~(iv) abandonment;]~~

482 [~~(v) medical neglect resulting in death, disability, or serious illness;]~~

483 [~~(vi) chronic or severe neglect; or]~~

484 [~~(vii) chronic or severe emotional abuse; or]~~

485 [~~(b) if committed by a person under the age of 18:]~~

486 [~~(i) serious physical injury, as defined in Subsection 76-5-109(1)(d), to another child~~  
487 ~~which indicates a significant risk to other children; or]~~

488 [~~(ii) sexual behavior with or upon another child which indicates a significant risk to~~  
489 ~~other children.]~~

490 [~~(3) Severe child abuse or neglect in Subsection (2) does not include:]~~

491 ~~[(a) the use of reasonable and necessary physical restraint or force by an educator in~~  
 492 ~~accordance with Subsection 53A-11-802(2) or Section 76-2-401; or]~~  
 493 ~~[(b) a person's conduct that:]~~  
 494 ~~[(i) is justified under Section 76-2-401; or]~~  
 495 ~~[(ii) constitutes the use of reasonable and necessary physical restraint or force in~~  
 496 ~~self-defense or otherwise appropriate to the circumstances to obtain possession of a weapon or~~  
 497 ~~other dangerous object in the possession or under the control of a child or to protect the child or~~  
 498 ~~another person from physical injury.]~~

499 ~~[(4) (a) For purposes of Subsection (2)(b), "significant risk" shall be determined in~~  
 500 ~~accordance with risk assessment tools and rules established by the division that focus on age,~~  
 501 ~~social factors, emotional factors, sexual factors, intellectual factors, family risk factors, and~~  
 502 ~~other related considerations.]~~

503 ~~[(b) The division shall train its child protection workers to apply the risk assessment~~  
 504 ~~tools and rules established under Subsection (4)(a).]~~

505 ~~[(5)] (2) The notice referred to in Subsection (1)(a):~~

506 ~~(a)~~ shall state that:

507 ~~[(a)] (i)~~ the division has conducted an investigation regarding alleged child abuse or  
 508 neglect;

509 ~~[(b)] (ii)~~ the division has made a supported finding ~~[of one of the]~~ that the person  
 510 described in Subsection (1) committed severe ~~[types of]~~ child abuse or neglect ~~[described in~~  
 511 Subsection (2)];

512 ~~[(c)] (iii)~~ facts gathered by the division support the supported finding;

513 ~~[(d)] (iv)~~ as a result of the supported finding, the ~~[alleged perpetrator's]~~ name and other  
 514 identifying information of the person described in Subsection (1) have been listed in the  
 515 Licensing Information System in accordance with Subsection (1)~~[(a)]~~ (b);

516 ~~[(e)] (v)~~ the ~~[alleged perpetrator]~~ person described in Subsection (1) may be  
 517 disqualified from adopting a child or being licensed by:

518 ~~[(i)] (A)~~ the department;

519 ~~[(ii)] (B)~~ a human services licensee;

520 ~~[(iii)] (C)~~ a child care provider or program; ~~[and]~~

521 ~~[(iv)] (D)~~ a covered health care facility;

522           ~~[(f)]~~ (E) the alleged perpetrator has the rights described in Subsection ~~[(6)]~~ (3); and  
523           ~~[(g)]~~ (F) failure to take either action described in Subsection ~~[(6)]~~ (3)(a) within one  
524 year after service of the notice will result in the action described in Subsection ~~[(6)]~~ (3)(b)[-];  
525           (b) shall include a general statement of the nature of the findings; and  
526           (c) may not include:  
527           (i) the name of a victim or witness; or  
528           (ii) any privacy information related to the victim or a witness.  
529           ~~[(6)]~~ (3) (a) Upon receipt of the notice described in ~~[Subsection (5)]~~ Subsections (1)(a)  
530 and (2), the alleged perpetrator shall have the right to:  
531           (i) file a written request asking the division to review the findings made under  
532 Subsection ~~[(2)]~~ (1);  
533           (ii) immediately petition the juvenile court under Section 78-3a-320; or  
534           (iii) sign a written consent to:  
535           (A) the supported finding made under Subsection (1); and  
536           (B) entry into the Licensing Information System of:  
537           (I) the alleged perpetrator's name; and  
538           (II) other information regarding the supported finding [of abuse or neglect into the  
539 Licensing Information System] made under Subsection (1).  
540           (b) Except as provided in Subsection (3)(e), the alleged perpetrator's name and the  
541 information described in Subsection (1)(b) shall remain in the Licensing Information System;  
542           ~~[(b) - (f)]~~ (i) if the alleged perpetrator fails to take action as described in Subsection ~~[(6)]~~  
543 (3)(a) within one year after service of the notice described in ~~[Subsection (5), the alleged~~  
544 perpetrator's name and the notation described in Subsection (1)(a) shall remain in the Licensing  
545 Information System. This information shall also remain in the Licensing Information System  
546 while] Subsections (1)(a) and (2);  
547           (ii) during the time that the division awaits a response from the alleged perpetrator  
548 pursuant to Subsection ~~[(6)]~~ (3)(a); and  
549           (iii) during the pendency of any proceeding[-, including an appeal of a finding of  
550 unsubstantiated or without merit, under Section 78-3a-320].  
551           (c) The alleged perpetrator ~~[shall have]~~ has no right to petition the juvenile court under  
552 Subsection ~~[(6)(b)]~~ (3)(a)(ii) if the court ~~[has]~~ previously held a hearing on the same alleged

553 incident of abuse or neglect pursuant to the filing of a petition under Section 78-3a-305 by  
554 some other party.

555 (d) Consent under Subsection [~~(6)~~] (3)(a)(iii) by a minor [~~shall~~] may only be given by  
556 the minor's parent or guardian.

557 (e) (i) Notwithstanding Subsection (3)(b), the alleged perpetrator's name and the  
558 information described in Subsection (1)(b) shall be removed from the Licensing Information  
559 System if the severe child abuse or neglect upon which the Licensing Information System entry  
560 was made:

561 (A) is found to be unsubstantiated or without merit by the juvenile court under Section  
562 79-3a-320; or

563 (B) is found to be substantiated, but is subsequently reversed on appeal.

564 (ii) An alleged perpetrator's name and information that is removed from the Licensing  
565 Information System under Subsection (3)(e)(i), may be placed back on the Licensing  
566 Information System if the court action that was the basis for removing the alleged perpetrator's  
567 name and information is subsequently reversed on appeal.

568 [~~(7)~~] (4) Upon the filing of a petition under Subsection (1)[~~(b)~~](c), the juvenile court  
569 shall make a finding of substantiated, unsubstantiated, or without merit as provided in  
570 Subsections 78-3a-320(1) and (2).

571 [~~(8)~~] (5) Service of the notice under Subsections (1)(a) and [~~(5)~~] (2):

572 (a) shall be personal service in accordance with [~~Rule 4 of the~~] Utah Rules of Civil  
573 Procedure, Rule 4; and

574 (b) does not preclude civil or criminal action against the alleged perpetrator.

575 Section 6. Section **62A-4a-116.2** is amended to read:

576 **62A-4a-116.2. Licensing Information System -- Contents -- Juvenile court finding**  
577 **-- Protected record -- Access -- Criminal penalty.**

578 (1) The division shall maintain a sub-part of the Management Information System  
579 established pursuant to Section 62A-4a-116, to be known as the Licensing Information System,  
580 to be used solely for licensing purposes. The Licensing Information System shall include only  
581 the following information:

582 (a) the information described in Subsections 62A-4a-116.1(1)[~~(a)~~] (b) and [~~(6)~~] (3)(b);

583 (b) consented-to supported findings by alleged perpetrators under Subsection

584 62A-4a-116.1[~~(6)~~](3)(a)(iii); and

585 (c) the information in the licensing part of the division's Management Information  
586 System as of May 6, 2002.

587 (2) Notwithstanding Subsection (1), the department's access to information in the  
588 Management Information System for the licensure and monitoring of foster parents is governed  
589 by Sections 62A-4a-116 and 62A-2-121.

590 (3) [~~The division shall promptly amend the Licensing Information System;~~] Except as  
591 provided in Subsections 62A-4a-116.1(3)(b)(iii) and (e), upon receipt of a finding from the  
592 juvenile court under Section 78-3a-320, the division shall:

593 (a) promptly amend the Licensing Information System; and [~~shall~~]

594 (b) enter the same information in the Management Information System. [~~However, if a~~  
595 ~~finding of unsubstantiated or without merit is appealed, the supported finding shall not be~~  
596 ~~amended until the appeal is concluded.~~]

597 (4) Information contained in the Licensing Information System is classified as a  
598 protected record under Title 63, Chapter 2, Government Records Access and Management Act.

599 (5) Notwithstanding the disclosure provisions of Title 63, Chapter 2, Government  
600 Records Access and Management Act, the information contained in the Licensing Information  
601 System may only be used or disclosed as specifically provided in this chapter and Section  
602 62A-2-121 and is accessible only to:

603 (a) the Office of Licensing within the department, for licensing purposes only;

604 (b) the division, for the following purposes:

605 (i) to screen a person at the request of the Office of the Guardian Ad Litem Director[;]:

606 (A) at the time that person seeks a paid or voluntary position with the Office of the  
607 Guardian Ad Litem Director; and [~~each year thereafter~~]

608 (B) on an annual basis, throughout the time that the person remains with [that office]  
609 the Office of the Guardian Ad Litem Director; and

610 (ii) to respond to a request for information from a person whose name is listed in the  
611 Licensing Information System;

612 (c) two persons designated by and within the Department of Health, only for the  
613 following purposes:

614 (i) licensing a child care program or provider; or

615 (ii) determining whether a person associated with a covered health care facility, as  
616 defined by the Department of Health by rule, who provides direct care to a child, has a  
617 supported finding of severe child abuse or neglect; and

618 (d) the department, as specifically provided in this chapter.

619 ~~[(5)]~~ (6) The two persons designated by the Department of Health under Subsection  
620 ~~[(4)]~~ (5)(c) shall adopt measures to:

621 (a) protect the security of the Licensing Information System; and

622 (b) strictly limit access to the Licensing Information System to those persons  
623 designated by statute.

624 ~~[(6)]~~ (7) All persons designated by statute as having access to information contained in  
625 the Licensing Information System shall receive training from the department with respect to:

626 (a) accessing the Licensing Information System;

627 (b) maintaining strict security; and

628 (c) the criminal provisions of Sections 62A-4a-412 and 63-2-801 pertaining to the  
629 improper release of information.

630 ~~[(7) No]~~ (8) A person, except those authorized by this chapter, may not request  
631 another person to obtain or release any other information in the Licensing Information System  
632 to screen for potential perpetrators of child abuse or neglect.

633 (9) A person who requests information knowing that it is a violation of ~~[this]~~  
634 Subsection ~~[(7)]~~ (8) to do so is subject to the criminal penalty described in Sections  
635 62A-4a-412 and 63-2-801.

636 Section 7. Section **62A-4a-116.4** is amended to read:

637 **62A-4a-116.4. Timeframes for deletion of specified information or reports.**

638 (1) Unless the executive director determines that there is good cause for keeping a  
639 report of abuse or neglect in the Management Information System, based on standards  
640 established by rule, the division shall delete any reference to:

641 (a) a report that is without merit, if no subsequent report involving the same alleged  
642 perpetrator has occurred within one year; or

643 (b) a report that has been determined by a court of competent jurisdiction to be  
644 unsubstantiated or without merit, if no subsequent report involving the same alleged  
645 perpetrator has occurred within five years.

646 (2) (a) The division shall maintain a separation of reports as follows:  
647 (i) those that are supported;  
648 (ii) those that are unsupported;  
649 (iii) those that are without merit;  
650 (iv) those that are unsubstantiated under the law in effect prior to May 6, 2002;  
651 (v) those that are substantiated under the law in effect prior to May 6, 2002; and  
652 (vi) those that are consented-to supported findings under Subsection  
653 62A-4a-116.1[(6)(a)(ii)](3)(a)(iii).

654 (b) Only persons with statutory authority have access to information contained in any  
655 of the reports identified in Subsection (2)(a).

656 Section 8. Section **62A-4a-116.5** is amended to read:

657 **62A-4a-116.5. Notice and opportunity to challenge supported finding in**  
658 **Management Information System -- Right of judicial review.**

659 (1) (a) Except as provided in Subsection (2), the division shall send a notice of agency  
660 action to a person with respect to whom the division makes a supported finding. In addition, if  
661 the alleged perpetrator is under the age of 18, the division shall:

662 (i) make reasonable efforts to identify the alleged perpetrator's parent or guardian; and  
663 (ii) send a notice to each parent or guardian identified under Subsection (1)(a)(i) that  
664 lives at a different address, unless there is good cause, as defined by rule, for not sending a  
665 notice to a parent or guardian.

666 (b) Nothing in this section may be construed as affecting:

667 (i) the manner in which the division conducts an investigation; or  
668 (ii) the use or effect, in any other setting, of a supported finding by the division at the  
669 completion of an investigation for any purpose other than for notification under Subsection (1)  
670 (a).

671 (2) Subsection (1) does not apply to a person who has been served with notice under  
672 Subsection 62A-4a-116.1(1)(a).

673 (3) The notice described in Subsection (1) shall state:

674 (a) that the division has conducted an investigation regarding alleged child abuse,  
675 neglect, or dependency;

676 (b) that the division has made a supported finding of abuse, neglect, or dependency;

677 (c) that facts gathered by the division support the supported finding;

678 (d) that the person has the right to request:

679 (i) a copy of the report; and

680 (ii) an opportunity to challenge the supported finding by the division; and

681 (e) that failure to request an opportunity to challenge the supported finding within 30  
682 days of receiving the notice will result in an unappealable supported finding of child abuse,  
683 neglect, or dependency unless the person can show good cause for why compliance within the  
684 30-day requirement was virtually impossible or unreasonably burdensome.

685 (4) (a) A person may make a request to challenge a supported finding within 30 days of  
686 a notice being received under this section.

687 (b) Upon receipt of a request under Subsection (4)(a), the Office of Administrative  
688 Hearings shall hold an adjudicative proceeding pursuant to Title 63, Chapter 46b,  
689 Administrative Procedures Act.

690 (5) (a) In an adjudicative proceeding held pursuant to this section, the division shall  
691 have the burden of proving, by a preponderance of the evidence, [~~that there is a reasonable~~  
692 ~~basis to conclude~~] that child abuse, neglect, or dependency occurred and that the alleged  
693 perpetrator was substantially responsible for the abuse or neglect that occurred.

694 (b) Any party shall have the right of judicial review of final agency action, in  
695 accordance with Title 63, Chapter 46b, Administrative Procedures Act.

696 (6) Except as otherwise provided in this chapter, an alleged perpetrator who, after  
697 receiving notice, fails to challenge a supported finding in accordance with this section, may not  
698 further challenge the finding and shall have no right to agency review or to an adjudicative  
699 hearing or judicial review of the finding.

700 (7) (a) An alleged perpetrator may not make a request under Subsection (4) to  
701 challenge a supported finding if a court of competent jurisdiction entered a finding, in a  
702 proceeding in which the alleged perpetrator was a party, that the alleged perpetrator is  
703 substantially responsible for the abuse, neglect, or dependency which was also the subject of  
704 the supported finding. This Subsection (7)(a) does not apply to pleas in abeyance or diversion  
705 agreements.

706 (b) An adjudicative proceeding under Subsection (5) may be stayed during the time a  
707 judicial action on the same matter is pending.

708 (8) ~~[An]~~ Pursuant to Section 78-3a-320, an adjudicative proceeding on a supported  
709 finding of ~~[one of the nonsevere types of]~~ a type of abuse or neglect that does not constitute  
710 severe child abuse or neglect ~~[under Section 78-3a-320]~~ may be joined in the juvenile court  
711 with an adjudicative proceeding on a supported finding of ~~[a]~~ severe ~~[type of]~~ child abuse or  
712 neglect.

713 Section 9. Section 62A-4a-116.6 is amended to read:

714 **62A-4a-116.6. Notice and opportunity for court hearing for persons listed in**  
715 **Licensing Information System.**

716 (1) Persons whose names were listed on the Licensing Information System as of May  
717 6, 2002 and who have not been the subject of a court determination with respect to the alleged  
718 incident of abuse or neglect may at any time:

719 (a) request review by the division of their case and removal of their name from the  
720 Licensing Information System pursuant to Subsection (3); or

721 (b) file a petition for an evidentiary hearing and a request for a finding of  
722 unsubstantiated or without merit.

723 (2) Subsection (1) does not apply to an individual who has been the subject of any of  
724 the following court determinations with respect to the alleged incident of abuse or neglect:

725 (a) conviction;

726 (b) adjudication under Title 78, Chapter 3a, Juvenile ~~[Courts]~~ Court Act of 1996;

727 (c) plea of guilty;

728 (d) plea of guilty and mentally ill; or

729 (e) no contest.

730 (3) If an alleged perpetrator listed on the Licensing Information System prior to May 6,  
731 2002 requests removal of ~~[their]~~ the alleged perpetrator's name from the Licensing Information  
732 System, the division shall, within 30 days:

733 (a) (i) review the case to determine whether the incident of alleged abuse or neglect  
734 qualifies as severe ~~[or chronic under Subsection 62A-4a-116.1(2) and if it does not,]~~ child  
735 abuse or neglect; and

736 (ii) if the alleged abuse or neglect does not qualify as severe child abuse or neglect,  
737 remove the name of the alleged perpetrator from the Licensing Information System; or

738 (b) determine whether to file a petition for substantiation.

739 (4) If the division decides to file a petition, that petition must be filed no more than 14  
740 days after the decision.

741 (5) The juvenile court shall act on the petition as provided in Subsection 78-3a-320(3).

742 (6) If a person whose name appears on the Licensing Information System prior to May  
743 6, 2002 files a petition pursuant to Section 78-3a-320 during the time that an alleged  
744 perpetrator's application for clearance to work with children or vulnerable adults is pending, the  
745 court shall hear the matter on an expedited basis.

746 Section 10. Section **62A-4a-117** is amended to read:

747 **62A-4a-117. Performance monitoring system.**

748 (1) As used in this section:

749 (a) "Performance goals" means a target level of performance or an expected level of  
750 performance against which actual performance is compared.

751 (b) "Performance indicators" means actual performance information regarding a  
752 program or activity.

753 (c) "Performance monitoring system" means a process to regularly collect and analyze  
754 performance information including performance indicators and performance goals.

755 (2) On or before May 1, 1996, the director, in cooperation with the board, shall develop  
756 a performance monitoring system of each area in the child welfare system, including foster care  
757 and other substitute care, child protective services, and adoption.

758 (3) On or before June 1, 1996, the director shall submit a description of that monitoring  
759 system to the Child Welfare Legislative Oversight Panel for review.

760 (4) The division shall fully implement a performance monitoring system on or before  
761 October 1, 1996.

762 (5) Before January 1 each year the director shall submit a written report describing the  
763 difference between actual performance and performance goals for the prior fiscal year to the  
764 Child Welfare Legislative Oversight Panel, the Joint Health and Human Services  
765 Appropriations Subcommittee, and the Utah Tomorrow Strategic Planning Committee. The  
766 report shall include:

767 (a) a summary of the division's efforts during the prior fiscal year to implement the  
768 Performance Milestone Plan;

769 (b) a summary of how performance must be improved to achieve full implementation

770 of the Performance Milestone Plan;

771 (c) data on the extent to which new and experienced division employees have received  
772 training pursuant to statute and division policy; and

773 (d) an analysis of the use and efficacy of family preservation services, both before and  
774 after removal of children from their homes~~[-and]~~;

775 ~~[(e) a description of the extent to which the pilot program under Section 62A-4a-202.7  
776 has been expanded during the prior fiscal year and an explanation of how the performance of  
777 regions that have previously implemented the program has been affected by the program,  
778 including data showing the number of referrals to the division:]~~

779 ~~[(i) accepted for an investigation;]~~

780 ~~[(ii) accepted for a family assessment; or]~~

781 ~~[(iii) not accepted.]~~

782 Section 11. Section **62A-4a-201** is amended to read:

783 **62A-4a-201. Rights of parents -- Children's rights -- Interest and responsibility of**  
784 **state.**

785 (1) ~~[(a)]~~ Courts have recognized a general presumption that it is in the best interest and  
786 welfare of a child to be raised under the care and supervision of ~~[his]~~ the child's natural parents.  
787 A child's need for a normal family life in a permanent home, and for positive, nurturing family  
788 relationships will usually best be met by ~~[his]~~ the child's natural parents. ~~[Additionally, the]~~

789 (2) The integrity of the family unit, and the right of parents to conceive and raise their  
790 children have found protection in the due process clause of the Fourteenth Amendment to the  
791 United States Constitution. The right of a fit, competent parent to raise his child has long been  
792 protected by the laws and Constitution of this state and of the United States.

793 (3) The state recognizes that:

794 (a) a parent has the right, obligation, responsibility, and authority to raise, manage,  
795 train, educate, provide for, and discipline his child;

796 (b) the state's role is secondary and supportive to the primary role of a parent; and

797 (c) the reasonable exercise of a parent's right to discipline a child is not grounds to  
798 subject a parent to punishment, restriction, or disqualification.

799 ~~[(b)]~~ (4) (a) It is the public policy of this state that ~~[parents retain]~~;

800 (i) a parent retains the fundamental right and duty to exercise primary control over the

801 care, supervision, upbringing, and education of ~~[their children who are in their custody. (2) It is~~  
 802 ~~also the public policy of this state that children have]~~ any child of the parent who is in the  
 803 parent's custody;

804 (ii) each child has the right to protection from abuse and neglect~~[-]; and [that]~~

805 (iii) the state retains a compelling interest in investigating, prosecuting, and punishing  
 806 abuse and neglect, as defined in this chapter, and in Title 78, Chapter 3a, Juvenile Court Act of  
 807 1996. [Therefore, as]

808 (b) As a counterweight to parental rights, the state~~[-as parens patriae,]~~ has an interest  
 809 in, and responsibility to protect ~~[children whose parents abuse them or do not adequately~~  
 810 ~~provide for their welfare. There are circumstances where a parent's conduct or condition is a~~  
 811 ~~substantial departure from the norm and the parent is unable or unwilling to render safe and~~  
 812 ~~proper parental care and protection. Under those circumstances, the welfare and protection of~~  
 813 ~~children is the consideration of paramount importance.],~~ a child who is abused or neglected by  
 814 his parents.

815 ~~[(3)]~~ (5) When the division intervenes on behalf of an abused, neglected, or dependent  
 816 child, it shall take into account the child's need for protection from immediate harm.

817 Throughout ~~[its]~~ the division's involvement, the division shall utilize the least intrusive means  
 818 available to protect a child, in an effort to ensure that children are brought up in stable,  
 819 permanent families, rather than in temporary foster placements, or other placements, under the  
 820 supervision of the state.

821 ~~[(4)]~~ (6) (a) When circumstances within the family pose ~~[a]~~ an immediate serious threat  
 822 to the child's safety ~~[or welfare,];~~

823 (i) the state's interest in the child's welfare is paramount to the rights of a parent[-  
 824 The]; and

825 (ii) the division may;

826 (A) obtain custody of the child for a planned period; and

827 (B) place [him] the child in a safe environment, in accordance with the requirements of  
 828 Title 78, Chapter 3a, Part 3, Abuse, Neglect, and Dependency Proceedings.

829 (b) Subject to Subsection (6)(c), the fact that a child's home is dirty or unkempt does  
 830 not constitute grounds for the division to intervene or to remove a child from the child's home,  
 831 unless the condition of the home poses a serious threat to a child's safety.

832 (c) Nothing in Subsection (6)(b) shall be interpreted to limit the division's:

833 (i) investigation responsibilities; or

834 (ii) ability to provide voluntary services to a family.

835 ~~[(5)] (7)~~ In determining and making "reasonable efforts" ~~[with regard to a child]~~ to  
836 maintain a child in the child's home, pursuant to the provisions of Section 62A-4a-203, and in  
837 keeping with the presumptions described in Subsection (1), both the division's and the court's  
838 paramount concern shall be the child's health~~;~~ and safety~~;~~ ~~and welfare~~.

839 ~~[(6)] (8) (a)~~ In cases where actual sexual abuse, abandonment, or serious physical

840 ~~[abuse]~~ injury or serious neglect are involved, the state has no duty to:

841 (i) make "reasonable efforts" to maintain a child in the child's home; or ~~[to;~~

842 (ii) in any other way, attempt to;

843 (A) maintain a child in [his] the child's home;

844 (B) provide reunification services; or ~~[to]~~

845 (C) attempt to rehabilitate the offending parent or parents. ~~[This Subsection (6) does~~  
846 ~~not exempt]~~

847 (b) Notwithstanding Subsection (8)(a), the division [from providing] shall provide  
848 court-ordered services.

849 ~~[(7)] (9) (a)~~ It is the division's obligation, under federal law, to achieve permanency for  
850 children who are:

851 (i) abused;

852 (ii) neglected; or

853 (iii) dependent.

854 (b) If the use or continuation of "reasonable efforts;" to maintain a child in the child's  
855 home as described in Subsections ~~[(5) and (6)] (7) and (8)~~, is determined to be inconsistent  
856 with the permanency plan for a child, then measures shall be taken, in a timely manner~~;~~ to:

857 (i) place the child in accordance with the permanency plan; and ~~[to]~~

858 (ii) complete whatever steps are necessary to finalize the permanent placement of the  
859 child.

860 ~~[(b)] (c)~~ If, because of ~~[his]~~ a parent's conduct or condition, a parent is determined to  
861 be unfit or incompetent based on the grounds for termination of parental rights described in  
862 Title 78, Chapter 3a, Part 4, Termination of Parental Rights Act, the welfare and best interest of

863 the child is of paramount importance, and shall govern in determining whether that parent's  
864 rights should be terminated.

865 (10) The state's right to direct or intervene in the provision of medical or mental health  
866 care for a child is subject to Subsection 78-3a-118(2)(n).

867 Section 12. Section **62A-4a-202** is amended to read:

868 **62A-4a-202. Preventive services -- Family preservation services.**

869 (1) (a) Within appropriations from the Legislature and monies obtained under  
870 Subsection (5), the division shall provide preventive, in-home services and family preservation  
871 services for ~~[families whose children are]~~ any family with a child whose health and safety is  
872 not immediately endangered, when:

873 (i) the child is at immediate risk of being removed from the home ~~[and for families]; or~~

874 (ii) the family is in crisis~~[-if:].~~

875 ~~[(i) the child's welfare is not immediately endangered; and]~~

876 ~~[(ii) the division determines that it is possible and appropriate.]~~

877 (b) In determining whether preventive or family preservation services are reasonable  
878 and appropriate, in keeping with the provisions of Subsection 62A-4a-201(1) the child's health,  
879 safety, and welfare shall be the paramount concern.

880 (c) The division shall consider whether [those] the services described in Subsection  
881 (1)(b):

882 (i) will be effective within a six-month period[-]; and [whether they]

883 (ii) are likely to prevent [reabuse] abuse or continued neglect of the child.

884 (2) The division shall maintain a statewide inventory of early intervention, preventive,  
885 and family preservation services available through public and private agencies or individuals  
886 for use by caseworkers. The inventory shall include:

887 (a) the method of accessing each service;

888 (b) eligibility requirements for each service; ~~[and]~~

889 (c) the geographic areas and the number of families that can be served by each  
890 service[-]; and

891 (d) information regarding waiting lists for each service.

892 (3) As a part of its preventive services, the division shall provide family preservation  
893 services that:

- 894 (a) are short-term, intensive, crisis intervention programs~~[-and that];~~  
895 (b) address:  
896 ~~[(a)]~~ (i) the safety of children; and  
897 ~~[(b)]~~ (ii) the physical and emotional needs of parents and children~~[-including~~  
898 ~~evaluating specific needs of the family, including depression, addiction, and mental illness];~~  
899 and  
900 ~~[(c) the child's physical surroundings, including cleaning and repairing physical~~  
901 ~~housing, and addressing needs for necessities such as food, heat, and electricity;]~~  
902 ~~[(d) personal cleanliness, nutrition, and provision of personal grooming supplies and~~  
903 ~~clothing;]~~  
904 ~~[(e) budgeting, money management, and employment; and]~~  
905 ~~[(f) parenting skills, including nonviolent discipline, nurturing, and structure, and~~  
906 ~~teaching responsibility, respect for others, cooperation, and moral values.]~~  
907 (c) as practicable, are provided within the region that the family resides, using existing  
908 division staff.  
909 (4) (a) The division may use ~~[only]~~ specially trained caseworkers ~~[or]~~, private  
910 providers, or other persons to provide the family preservation services described in Subsection  
911 (3).  
912 (b) Family preservation caseworkers may:  
913 (i) only be assigned a ~~[minimum]~~ minimal number of families~~[-but the division shall~~  
914 ~~require that they];~~  
915 (ii) be available 24 hours for an intensive period of at least six weeks~~[-];~~; and ~~[that they]~~  
916 (iii) respond to an assigned family within 24 hours.  
917 (c) The division shall allow family preservation caseworkers to be creative and flexible  
918 in responding to the needs of each individual family.  
919 (5) To provide, expand, and improve the delivery of in-home services to prevent the  
920 removal of children from their homes and promote the preservation of families, the division  
921 shall make substantial effort to obtain funding, including:  
922 (a) federal grants;  
923 (b) federal waivers; and  
924 (c) private monies.

925 Section 13. Section **62A-4a-202.1** is amended to read:

926 **62A-4a-202.1. Entering home of a minor -- Taking a minor into protective**  
927 **custody -- Caseworker accompanied by peace officer -- Preventive services -- Shelter care**  
928 **or emergency kinship.**

929 (1) A state officer, peace officer, or child welfare worker may not enter the home of a  
930 minor who is not under the jurisdiction of the court, remove a minor from the minor's home or  
931 school, or take a minor into protective custody unless:

932 (a) the state officer, peace officer, or child welfare worker has obtained:

933 (i) the consent of the minor's parent or guardian; or

934 (ii) a court order issued under Section 78-3a-106; or

935 (b) there exist exigent circumstances.

936 (2) A child welfare worker within the division may take action under Subsection (1)  
937 accompanied by a peace officer, or without a peace officer when a peace officer is not  
938 reasonably available.

939 (3) (a) If possible, consistent with the minor's safety and welfare, before taking a minor  
940 into protective custody, the worker shall also determine whether there are services [~~reasonably~~]  
941 available to the worker which, if provided to the minor's parent or to the minor, would  
942 eliminate the need to remove the minor from the custody of the minor's parent or guardian.

943 (b) If [~~those services~~] the services described in Subsection (3)(a) are reasonably  
944 available, they shall be utilized.

945 (c) In determining whether the services described in Subsection (3)(a) are reasonably  
946 available, and in making all reasonable efforts to provide those services, the minor's health,  
947 safety, and welfare shall be the worker's paramount concern.

948 (4) (a) A minor removed or taken into custody under this section may not be placed or  
949 kept in a secure detention facility pending court proceedings unless the minor is detainable  
950 based on guidelines promulgated by the Division of Juvenile Justice Services.

951 (b) A minor removed from the custody of the minor's parent or guardian but who does  
952 not require physical restriction shall be given temporary care in:

953 (i) a shelter facility; or

954 (ii) an emergency kinship placement in accordance with Section 62A-4a-209.

955 Section 14. Section **62A-4a-202.2** is amended to read:

956           **62A-4a-202.2. Notice to parents upon removal of child -- Locating noncustodial**  
957 **parent -- Written statement of procedural rights and preliminary proceedings.**

958           (1) (a) Any peace officer or caseworker who takes a minor into protective custody  
959 pursuant to Section 62A-4a-202.1 shall immediately use reasonable efforts to locate and  
960 inform, through the most efficient means available, the parents, including a noncustodial  
961 parent, the guardian, or responsible relative:

962           (i) that the minor has been taken into protective custody;

963           (ii) the reasons for removal and placement of the minor in protective custody;

964           (iii) that a written statement is available that explains:

965           (A) the parent's or guardian's procedural rights; and

966           (B) the preliminary stages of the investigation and shelter hearing; [and]

967           (iv) of a telephone number where the parent or guardian may access further  
968 information[-];

969           (v) that the minor and the minor's parent or guardian are entitled to have an attorney  
970 present at the shelter hearing;

971           (vi) that if the minor's parent or guardian is indigent and desires to have an attorney,  
972 one will be provided; and

973           (vii) that resources are available to assist the minor's parent or guardian in locating:

974           (A) a parent advocate;

975           (B) a qualified attorney; and

976           (C) potential expert witnesses to testify on behalf of the:

977           (I) minor;

978           (II) minor's parent;

979           (III) minor's guardian; or

980           (IV) minor's family.

981           (b) For purposes of locating and informing the noncustodial parent as required in  
982 Subsection (1)(a), the division shall search for the noncustodial parent through the national  
983 parent locator database if the division is unable to locate the noncustodial parent through other  
984 reasonable efforts.

985           (2) (a) The [~~attorney general's office~~] Office of the Attorney General shall adopt, print,  
986 and distribute a form for the written statement described in Subsection (1)(a)(iii).

987           (b) The statement described in Subsections (1)(a)(iii) and (2)(a) shall:

988           (i) be made available to the division and for distribution in:

989           (A) schools[;];

990           (B) health care facilities[;];

991           (C) local police and sheriff's offices[;];

992           (D) the division[;]; and

993           (E) any other appropriate office within the Department of Human Services[~~;~~~~The~~

994 ~~notice shall~~];

995           (ii) be in simple language; and

996           (iii) include at least the following information:

997           [~~(a)~~] (A) the conditions under which a minor may be released[;];

998           (B) hearings that may be required[~~;~~~~and~~];

999           (C) the means by which the parent or guardian may access further specific information

1000 about a minor's case and conditions of protective and temporary custody; and

1001           [~~(b)~~] (D) the rights of a minor and of the parent or guardian to legal counsel and to

1002 appeal.

1003           (3) If [~~a good faith attempt was~~] all reasonable efforts are made by the peace officer or

1004 caseworker to notify the parent or guardian or a responsible relative in accordance with the

1005 requirements of Subsection (1), failure to notify [~~shall~~];

1006           (a) shall be considered to be due to circumstances beyond the control of the peace

1007 officer or caseworker; and

1008           (b) may not be construed to:

1009           (i) permit a new defense to any juvenile or judicial proceeding; or [~~to~~]

1010           (ii) interfere with any rights, procedures, or investigations provided for by this chapter

1011 or Title 78, Chapter 3a, Juvenile [~~Courts~~] Court Act of 1996.

1012           Section 15. Section **62A-4a-202.6** is amended to read:

1013           **62A-4a-202.6. Child protective services investigators within attorney general's**

1014 **office -- Authority.**

1015           (1) (a) Pursuant to Section 67-5-16 the attorney general may employ, with the consent

1016 of the division, child protective services investigators to investigate reports of abuse or neglect

1017 of a child that occur while the child is in the custody of the division.

1018 (b) (i) Under the direction of the Board of Child and Family Services, the division  
1019 shall, in accordance with Subsection 62A-4a-409(5), contract with an independent child  
1020 protective service investigator to investigate reports of abuse or neglect of a child that occur  
1021 while the child is in the custody of the division.

1022 (ii) The executive director of the department shall designate an entity within the  
1023 department, other than the division, to monitor the contract for the investigators described in  
1024 Subsection (1)(b)(i).

1025 (2) The investigators described in Subsection (1) may also investigate allegations of  
1026 abuse or neglect of a child by a department employee or a licensed substitute care provider.

1027 (3) The investigators described in Subsection (1), if not peace officers, shall have the  
1028 same rights, duties, and authority of a child protective services investigator employed by the  
1029 division to:

1030 (a) make a thorough investigation upon receiving either an oral or written report of  
1031 alleged abuse or neglect of a child, with the primary purpose of that investigation being the  
1032 protection of the child;

1033 (b) make an inquiry into the ~~[child's]~~;

1034 (i) child's home environment[-];

1035 (ii) child's emotional~~[-or mental health, the]~~ health;

1036 (iii) nature and extent of the child's injuries[-]; and ~~[the child's]~~

1037 (iv) child's physical safety;

1038 (c) (i) make a written report of ~~[their]~~ the investigation, including determination  
1039 regarding whether the alleged abuse or neglect was;

1040 (A) substantiated[-];

1041 (B) unsubstantiated[-]; or

1042 (C) without merit[-]; and

1043 (ii) forward a copy of ~~[that report]~~ the report described in Subsection (3)(c)(i) to the  
1044 division within the time mandates for investigations established by the division;

1045 (d) immediately consult with school authorities to verify the child's status in  
1046 accordance with Sections 53A-11-101 through 53A-11-103 when a report is based upon or  
1047 includes an allegation of educational neglect;

1048 (e) enter upon public or private premises, using appropriate legal processes, to

1049 investigate reports of alleged [~~child~~] abuse or neglect of a child; and

1050 (f) take a child into protective custody, and deliver the child to a law enforcement  
1051 officer, or to the division.

1052 (4) Control and jurisdiction over the child described in Subsection (3)(f) shall be  
1053 determined;

1054 (a) by the provisions of Title 62A, Chapter 4a, Part 2, Child Welfare Services[;];

1055 (b) by the provisions of Title 78, Chapter 3a, Juvenile [Courts, and] Court Act of 1996;

1056 or

1057 (c) as otherwise provided by law.

1058 Section 16. Section **62A-4a-203** is amended to read:

1059 **62A-4a-203. Removal of a child from home -- Reasonable efforts to maintain**  
1060 **child in home -- Exception -- Reasonable efforts for reunification.**

1061 (1) Because removal of a child from [~~his~~] the child's home [~~may affect~~] affects  
1062 protected, constitutional rights of the parent and has a dramatic, long-term impact on a child,  
1063 the division shall:

1064 (a) when possible and appropriate, without danger to the child's [~~welfare~~] safety, make  
1065 reasonable efforts to prevent or eliminate the need for removal of a child from [~~his~~] the child's  
1066 home prior to placement in substitute care;

1067 (b) determine whether there is substantial cause to believe that a child [~~has been or~~] is  
1068 in danger of abuse or neglect, in accordance with the guidelines described in Title 78, Chapter  
1069 3a, Part 3, Abuse, Neglect, and Dependency Proceedings, prior to removing the child from  
1070 [~~his~~] the child's home; and

1071 (c) when it is possible and appropriate, and in accordance with the limitations and  
1072 requirements of Sections 78-3a-311 and 78-3a-312, make reasonable efforts to make it possible  
1073 for a child in substitute care to return to [~~his~~] the child's home.

1074 (2) (a) In determining the reasonableness of efforts needed to maintain a child in [~~his~~]  
1075 the child's home or to return a child to [~~his~~] the child's home, in accordance with Subsection  
1076 (1)(a) or (c), the child's [~~health,~~] safety[;] and welfare shall be the paramount concern.

1077 [~~Additionally, the~~]

1078 (b) The division shall consider whether [~~those services would be effective within a~~  
1079 ~~six-month period, and whether they would be~~] the efforts described in Subsections (1) and

1080 ~~(2)(a)~~ are likely to prevent ~~[reabuse]~~ abuse or continued neglect of the child.

1081 (3) When removal and placement in substitute care is necessary to protect a child, the  
1082 "efforts" described in Subsections (1) and (2) ~~[would not be];~~

1083 (a) are not reasonable or appropriate; and~~[, therefore,]~~

1084 (b) should not be utilized.

1085 (4) In cases where ~~[obvious]~~ sexual abuse, abandonment, ~~[or]~~ serious physical ~~[abuse]~~  
1086 injury, or serious neglect are involved, the state has no duty to make "reasonable efforts" ~~[or]~~  
1087 to;

1088 (a) maintain a child in the child's home;

1089 (b) provide reunification services; or

1090 (c) in any [other] way;

1091 (i) attempt to maintain a child in [his] the child's home;

1092 (ii) provide reunification services; or ~~[to]~~

1093 (iii) attempt to rehabilitate the offending parent or parents. ~~[This subsection does not~~  
1094 exempt]

1095 (5) Nothing in Subsection (4) exempts the division from providing court ordered  
1096 services.

1097 Section 17. Section **62A-4a-205** is amended to read:

1098 **62A-4a-205. Treatment plans.**

1099 (1) No more than 45 days after a child enters the temporary custody of the division, the  
1100 child's treatment plan shall be finalized.

1101 ~~[(2) The division shall use an interdisciplinary team approach in developing each~~  
1102 ~~treatment plan. An interdisciplinary team shall include, but is not limited to, representatives~~  
1103 ~~from mental health, education, and, where appropriate, a representative of law enforcement.]~~

1104 (2) In developing the treatment plan, the division shall use the approach that it  
1105 determines best serves the needs of the child and family.

1106 (3) (a) The division shall involve all of the following in the development of a child's  
1107 treatment plan:

1108 (i) both of the child's natural parents, unless the whereabouts of a parent are unknown;

1109 (ii) the child;

1110 (iii) the child's foster parents; and

1111 (iv) where appropriate, the child's stepparent.

1112 (b) In relation to all information considered by the division in developing a treatment  
1113 plan, additional weight and attention shall be given to the input of the child's natural and foster  
1114 parents upon their involvement pursuant to Subsections (3)(a)(i) and (iii)[-], including their  
1115 preference to:

1116 (i) participate in a particular treatment program; or  
1117 (ii) receive services from a particular medical or mental health professional.

1118 (4) (a) The division shall make a substantial effort to develop a treatment plan with  
1119 which the child's parents agree.

1120 (b) If a parent does not agree with a treatment plan:

1121 (i) the division shall strive to resolve the disagreement between the division and the  
1122 parent; and

1123 (ii) if the disagreement described in Subsection (4)(b)(i) is not resolved, the division  
1124 shall inform the court of the disagreement.

1125 [(4)] (5) A copy of the treatment plan that is ordered by the court shall be provided to  
1126 the guardian ad litem, and to the child's natural parents and foster parents immediately upon  
1127 completion, or as soon as is reasonably possible thereafter.

1128 [(5)] (6) Each treatment plan shall:

1129 (a) specifically provide for the safety of the child, in accordance with federal law[-];  
1130 and

1131 (b) clearly define what actions or precautions will, or may be, necessary to provide for  
1132 the health[-, safety, protection,] and welfare of the child.

1133 [(6)] (7) The plan shall set forth, with specificity, at least the following:

1134 (a) the reason the child entered [~~Division of Child and Family Services~~] the division's  
1135 custody[-, and];

1136 (b) documentation of the:

1137 (i) reasonable efforts made to prevent placement[-]; or [~~documentation of the~~]  
1138 (ii) emergency situation that [~~existed and that~~] prevented the reasonable efforts  
1139 described in Subsection (7)(b)(i) from being made;

1140 [(7)] (c) the primary permanency goal for the child and the reason for selection of that  
1141 goal;

1142           ~~[(e)]~~ (d) the concurrent permanency goal for the child and the reason for the selection  
1143 of that goal;

1144           ~~[(d)]~~ (e) if the plan is for the child to return to the child's family~~[-, specifically]~~ what the  
1145 child's parents must do in order to enable the child to be returned home~~[-, specifically]~~ including  
1146 how those requirements;

1147           (i) may be accomplished~~[-];~~ and ~~[how those requirements]~~

1148           (ii) will be measured;

1149           ~~[(e)]~~ (f) the specific services needed to reduce the problems that necessitated placement  
1150 in the division's custody~~[-, and];~~

1151           (g) who will provide ~~[for]~~ and be responsible for case management;

1152           ~~[(f)]~~ (h) a parent-time schedule between the natural parent and the child;

1153           ~~[(g)]~~ (i) subject to Subsection (9), the health and mental health care to be provided to  
1154 address any known or diagnosed mental health needs of the child ~~[and, if residential treatment~~  
1155 ~~rather than a foster home is the proposed placement, a requirement for a specialized assessment~~  
1156 ~~of the child's health needs including an assessment of mental illness and behavior and conduct~~  
1157 ~~disorders];~~ and

1158           ~~[(h)]~~ (j) social summaries that include case history information pertinent to case  
1159 planning.

1160           (8) (a) Except as provided in Subsection (8)(b), parent-time may only be denied by  
1161 court order issued pursuant to Subsections 78-3a-311(2)(a)(ii) and (b).

1162           (b) Notwithstanding Subsection (8)(a), the person designated by the division or a court  
1163 to supervise a parent-time session may deny parent-time for that session if the supervising  
1164 person determines that, based on the parent's condition, it is necessary to deny parent-time in  
1165 order to:

1166           (i) protect the physical safety of the child;

1167           (ii) protect the life of the child; or

1168           (iii) consistent with Subsection (8)(c), prevent the child from being traumatized by  
1169 contact with the parent.

1170           (c) In determining whether the condition of the parent described in Subsection (8)(b)  
1171 will traumatize a child, the person supervising a parent-time session shall consider the impact  
1172 that the parent's condition will have on the child in light of:

1173 (i) the child's fear of the parent; and  
 1174 (ii) the nature of the alleged abuse or neglect.  
 1175 (9) (a) Subject to Subsection (9)(b), in addition to the information required under  
 1176 Subsection (7)(i), the plan shall include a specialized assessment of the medical and mental  
 1177 health needs of a child if the child:  
 1178 (i) is placed in residential treatment; and  
 1179 (ii) has medical or mental health issues that need to be addressed.  
 1180 (b) Notwithstanding Subsection (9)(a), a parent shall retain the right to seek a separate  
 1181 medical or mental health diagnosis of the parent's child from a licensed practitioner of the  
 1182 parent's choice.  
 1183 ~~[(7)]~~ (10) (a) Each treatment plan shall be specific to each child and the child's family,  
 1184 rather than general.  
 1185 (b) The division shall train its workers to develop treatment plans that comply with  
 1186 federal mandates and the specific needs of the particular child and the child's family.  
 1187 ~~[(b) All treatment plans and expectations]~~  
 1188 (c) A treatment plan and the plan's expectations shall be individualized and contain  
 1189 specific time frames.  
 1190 ~~[(c) Treatment plans]~~ (d) Subject to Subsection (10)(e), a treatment plan shall address  
 1191 problems that keep ~~[children]~~ a child:  
 1192 (i) in placement; and ~~[keep them]~~  
 1193 (ii) from achieving permanence in ~~[their lives;]~~ the child's life.  
 1194 ~~[(d) Each treatment plan shall]~~  
 1195 (e) For purposes of Subsection (10)(d), a treatment plan shall:  
 1196 (i) only include requirements that:  
 1197 (A) address findings or orders made by the court; or  
 1198 (B) (I) are requested or consented to by a parent or guardian of the child; and  
 1199 (II) are agreed to by the division and the guardian ad litem; and  
 1200 (ii) be designed to minimize disruption to the normal activities of the child's family,  
 1201 including:  
 1202 (A) employment; and  
 1203 (B) school. ~~[In particular]~~

1204            (f) For purposes of Subsection (10)(e)(ii)(A), the time, place, [and] amount of services,  
1205            hearings, and other requirements ordered by the court shall be designed, as much as practicable,  
1206            to help the child's parents maintain or obtain employment.

1207            ~~[(e) The]~~ (11) A child's natural parents, foster parents, and where appropriate,  
1208            stepparents, shall be kept informed of, and supported to participate in, important meetings and  
1209            procedures related to the child's placement.

1210            ~~[(8)]~~ (12) With regard to a child who is three years of age or younger, if the goal is not  
1211            to return the child home, the permanency plan for that child shall be adoption. However, if the  
1212            division documents to the court that there is a compelling reason that adoption, reunification,  
1213            guardianship, and kinship placement are not in the child's best interest, the court may order  
1214            another planned permanent living arrangement in accordance with federal law.

1215            Section 18. Section **62A-4a-208** is amended to read:

1216            **62A-4a-208. Child protection ombudsman -- Responsibility -- Authority.**

1217            (1) As used in this section:

1218            (a) "Complainant" means a person who initiates a complaint with the ombudsman.

1219            (b) "Ombudsman" means the child protection ombudsman appointed pursuant to this  
1220            section.

1221            (2) (a) (i) There is created within the department the position of child protection  
1222            ombudsman.

1223            (ii) The ombudsman described in Subsection (2)(a)(i) shall be appointed by and serve  
1224            at the pleasure of the executive director.

1225            (b) The ombudsman shall be:

1226            (i) an individual of recognized executive and administrative capacity;

1227            (ii) selected solely with regard to qualifications and fitness to discharge the duties of  
1228            ombudsman; and

1229            (iii) have experience in child welfare, and in state laws and policies governing abused,  
1230            neglected, and dependent children.

1231            (c) The ombudsman shall devote full time to the duties of office.

1232            (3) (a) Except as provided in Subsection (3)(b), the ombudsman shall, upon receipt of a  
1233            complaint from any person, investigate whether an act or omission of the division with respect  
1234            to a particular ~~[child]~~ minor:

- 1235 (i) is contrary to statute, rule, or policy;
- 1236 (ii) places a ~~child's~~ minor's health or safety at risk;
- 1237 (iii) is made without an adequate statement of reason; or
- 1238 (iv) is based on irrelevant, immaterial, or erroneous grounds.
- 1239 (b) The ombudsman may decline to investigate any complaint. If the ombudsman
- 1240 declines to investigate a complaint or continue an investigation, the ombudsman shall notify
- 1241 the complainant and the division of the decision and of the reasons for that decision.
- 1242 (c) The ombudsman may conduct an investigation on his own initiative.
- 1243 (4) The ombudsman shall:
- 1244 (a) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
- 1245 make rules that govern the following:
- 1246 (i) receiving and processing complaints;
- 1247 (ii) notifying complainants and the division regarding a decision to investigate or to
- 1248 decline to investigate a complaint;
- 1249 (iii) prioritizing workload;
- 1250 (iv) maximum time within which investigations shall be completed;
- 1251 (v) conducting investigations;
- 1252 (vi) notifying complainants and the division regarding the results of investigations; and
- 1253 (vii) making recommendations based on the findings and results of recommendations;
- 1254 (b) report findings and recommendations in writing to the complainant and the
- 1255 division, in accordance with the provisions of this section;
- 1256 (c) within appropriations from the Legislature, employ staff as may be necessary to
- 1257 carry out the ombudsman's duties under this part;
- 1258 (d) provide information regarding the role, duties, and functions of the ombudsman to
- 1259 public agencies, private entities, and individuals;
- 1260 (e) annually report to the:
- 1261 (i) Child Welfare Legislative Oversight Panel;
- 1262 (ii) governor;
- 1263 (iii) Board of Child and Family Services;
- 1264 (iv) executive director of the department; and
- 1265 (v) director of the division; and

1266 (f) as appropriate, make recommendations to the division regarding individual cases,  
1267 and the rules, policies, and operations of the division.

1268 (5) (a) Upon rendering a decision to investigate a complaint, the ombudsman shall  
1269 notify the complainant and the division of that decision.

1270 (b) (i) The ombudsman may advise a complainant to pursue all administrative remedies  
1271 or channels of complaint before pursuing a complaint with the ombudsman.

1272 (ii) Subsequent to processing a complaint, the ombudsman may conduct further  
1273 investigations upon the request of the complainant or upon the ombudsman's own initiative.

1274 (iii) Nothing in this Subsection (5) precludes a complainant from making a complaint  
1275 directly to the ombudsman before pursuing an administrative remedy.

1276 (c) If the ombudsman finds that an individual's act or omission violates state or federal  
1277 criminal law, the ombudsman shall immediately report that finding to the appropriate county or  
1278 district attorney or to the attorney general.

1279 (d) The ombudsman shall immediately notify the division if the ombudsman finds that  
1280 a child needs protective custody, as that term is defined in Section 78-3a-103.

1281 (e) The ombudsman shall immediately comply with Part 4, Child Abuse or Neglect  
1282 Reporting Requirements.

1283 (6) (a) (i) All records of the ombudsman regarding individual cases shall be classified  
1284 in accordance with federal law and the provisions of Title 63, Chapter 2, Government Records  
1285 Access and Management Act.

1286 (ii) The ombudsman may make public a report prepared pursuant to this section in  
1287 accordance with the provisions of Title 63, Chapter 2, Government Records Access and  
1288 Management Act.

1289 (b) (i) The ombudsman shall have access to all of the department's written and  
1290 electronic records and databases, including those regarding individual cases.

1291 (ii) In accordance with Title 63, Chapter 2, Government Records Access and  
1292 Management Act, all documents and information received by the ombudsman shall maintain  
1293 the same classification that was designated by the department.

1294 (7) (a) The ombudsman shall prepare a written report of the findings and  
1295 recommendations, if any, of each investigation.

1296 (b) The ombudsman shall make recommendations to the division if the ombudsman

1297 finds that:

- 1298 (i) a matter should be further considered by the division;
- 1299 (ii) an administrative act should be addressed, modified, or canceled;
- 1300 (iii) action should be taken by the division with regard to one of its employees; or
- 1301 (iv) any other action should be taken by the division.

1302 Section 19. Section **62A-4a-209** is amended to read:

1303 **62A-4a-209. Emergency kinship placement.**

1304 (1) The division may use an emergency kinship placement under Subsection

1305 62A-4a-202.1[(6)](4) when:

1306 (a) the case worker has made the determination that:

- 1307 (i) the child's home is unsafe;
- 1308 (ii) removal is necessary under [~~the provisions of~~] Section 62A-4a-202.1; and
- 1309 (iii) the child's custodial parent or guardian will agree to not remove the child from the
- 1310 relative's home who serves as the kinship placement and not have any contact with the child
- 1311 until after the shelter hearing required by Section 78-3a-306;

1312 (b) a relative, with preference being given to a noncustodial parent in accordance with

1313 Section 78-3a-307, can be identified who has the ability and is willing to provide care for the

1314 child who would otherwise be placed in shelter care, including:

1315 (i) taking the child to medical, mental health, dental, and educational appointments at

1316 the request of the division; and

1317 (ii) the relative has the ability to make the child available to division services and the

1318 guardian ad litem; and

1319 (c) the relative agrees to care for the child on an emergency basis under the following

1320 conditions:

1321 (i) the relative meets the criteria for an emergency kinship placement under Subsection

1322 (2);

1323 (ii) the relative agrees to not allow the custodial parent or guardian to have any contact

1324 with the child until after the shelter hearing unless authorized by the division in writing;

1325 (iii) the relative agrees to contact law enforcement and the division if the custodial

1326 parent or guardian attempts to make unauthorized contact with the child;

1327 (iv) the relative agrees to allow the division and the child's guardian ad litem to have

1328 access to the child;

1329 (v) the relative has been informed and understands that the division may continue to  
1330 search for other possible kinship placements for long-term care, if needed;

1331 (vi) the relative is willing to assist the custodial parent or guardian in reunification  
1332 efforts at the request of the division, and to follow all court orders; and

1333 (vii) the child is comfortable with the relative.

1334 (2) Before the division places a child in an emergency kinship placement, the division  
1335 must:

1336 (a) request the name of a reference and when possible, contact the reference and  
1337 determine the answer to the following questions:

1338 (i) would the person identified as a reference place a child in the home of the  
1339 emergency kinship placement; and

1340 (ii) are there any other relatives to consider as a possible emergency or long-term  
1341 placement for the child;

1342 (b) have the custodial parent or guardian sign an emergency kinship placement  
1343 agreement form during the investigation;

1344 (c) complete a criminal background check described in Sections 62A-4a-202.4 and  
1345 78-3a-307.1 on all persons living in the relative's household;

1346 (d) complete a home inspection of the relative's home; and

1347 (e) have the emergency kinship placement approved by a family service specialist.

1348 (3) As soon as possible after the emergency placement and prior to the shelter hearing  
1349 required by Section 78-3a-306, the division shall convene a family unity meeting.

1350 (4) After an emergency kinship placement, the division caseworker must:

1351 (a) respond to the emergency kinship placement's calls within one hour if the custodial  
1352 parents or guardians attempt to make unauthorized contact with the child or attempt to remove  
1353 the child;

1354 (b) complete all removal paperwork, including the notice provided to the custodial  
1355 parents and guardians under Section 78-3a-306;

1356 (c) contact the attorney general to schedule a shelter hearing;

1357 (d) complete the kinship procedures required in Section 78-3a-307, including, within  
1358 five days after placement, the criminal history record check described in Subsection (5); and

1359 (e) continue to search for other relatives as a possible long-term placement, if needed.

1360 (5) (a) In order to determine the suitability of the kinship placement and to conduct a  
 1361 background screening and investigation of individuals living in the household in which a child  
 1362 is placed, each individual living in the household in which the child is placed who has not lived  
 1363 in the state substantially year round for the most recent five consecutive years ending on the  
 1364 date the investigation is commenced shall be fingerprinted. If no disqualifying record is  
 1365 identified at the state level, the fingerprints shall be forwarded by the division to the Federal  
 1366 Bureau of Investigation for a national criminal history record check.

1367 (b) The cost of those investigations shall be borne by whomever received placement of  
 1368 the child, except that the division may pay all or part of the cost of those investigations if the  
 1369 person with whom the child is placed is unable to pay.

1370 Section 20. Section **62A-4a-302** is amended to read:

1371 **62A-4a-302. Definitions.**

1372 As used in this part:

1373 (1) "Council" means the Child Abuse Advisory Council established under Section  
 1374 62A-4a-311.

1375 (2) "Child abuse and neglect" [~~means the same as the term "child abuse or neglect,"~~] is  
 1376 as defined in Section 62A-4a-402.

1377 Section 21. Section **62A-4a-402** is amended to read:

1378 **62A-4a-402. Definitions.**

1379 As used in this part:

1380 (1) "A person responsible for a child's care" means the child's parent, guardian, or other  
 1381 person responsible for the child's care, whether in:

1382 (a) the same home as the child[;];

1383 (b) a relative's home[;];

1384 (c) a group, family, or center day care facility[;];

1385 (d) a foster care home[;]; or

1386 (e) a residential institution.

1387 [~~(2) "Child" means a person under 18 years of age.]~~

1388 [~~(3) (2) "Child abuse or neglect" means [causing harm or threatened harm to a child's~~  
 1389 ~~health or welfare.];~~

1390 ~~[(4) "Harm or threatened harm" means damage or threatened damage to the physical or~~  
1391 ~~emotional health and welfare of a child through neglect or abuse, and includes but is not~~  
1392 ~~limited to:]~~

1393 ~~[(a) causing nonaccidental physical or mental injury;]~~

1394 ~~[(b) incest;]~~

1395 ~~[(c) sexual abuse;]~~

1396 ~~[(d) sexual exploitation;]~~

1397 ~~[(e) molestation; or]~~

1398 ~~[(f) repeated negligent treatment or maltreatment.]~~

1399 (a) abuse, as defined in Section 62A-4a-101; or

1400 (b) neglect, as defined in Section 62A-4a-101.

1401 ~~[(5)]~~ (3) (a) "Incest" means having sexual intercourse with a person whom the  
1402 perpetrator knows to be [his or her] the perpetrator's:

1403 (i) ancestor[;];

1404 (ii) descendant[;];

1405 (iii) brother[;];

1406 (iv) sister[;];

1407 (v) uncle[;];

1408 (vi) aunt[;];

1409 (vii) nephew[;];

1410 (viii) niece[;]; or

1411 (ix) first cousin.

1412 (b) The relationships referred to in [this] Subsection (3)(a) include:

1413 (i) blood relationships of the whole or half blood without regard to legitimacy[ ~~and~~  
1414 include];

1415 (ii) relationships of parent and child by adoption[;]; and

1416 (iii) relationships of stepparent and stepchild while the marriage creating the  
1417 relationship of a stepparent and stepchild exists.

1418 ~~[(6)]~~ (4) "Molestation" means:

1419 (a) touching;

1420 (i) the anus of a child; or

1421 (ii) any part of the genitals of a child ~~[or]~~;

1422 (b) otherwise taking indecent liberties with a child~~[-]~~; or

1423 (c) causing a child to take indecent liberties with the perpetrator or another with the  
1424 intent to arouse or gratify the sexual desire of any person.

1425 ~~[(7)]~~ (5) "Sexual abuse" means acts or attempted acts of sexual intercourse, sodomy, or  
1426 molestation directed towards a child.

1427 ~~[(8)]~~ (6) "Sexual exploitation of ~~[minors]~~ a child" means knowingly employing, using,  
1428 persuading, inducing, enticing or coercing ~~[any minor]~~ a child to pose in the nude for the  
1429 purpose of sexual arousal of any person or for profit, or to engage in any sexual or simulated  
1430 sexual conduct for the purpose of photographing, filming, recording, or displaying in any way  
1431 the sexual or simulated sexual conduct, and includes displaying, distributing, possessing for the  
1432 purpose of distribution, or selling material depicting ~~[minors]~~ a child in the nude or engaging in  
1433 sexual or simulated sexual conduct.

1434 ~~[(9)]~~ (7) "Subject" or "subject of the report" means any person reported under this part,  
1435 including~~[-but not limited to,-]~~;

1436 (a) a child~~[-]~~;

1437 (b) a parent~~[-]~~;

1438 (c) a guardian~~[-]~~; or

1439 (d) any other person responsible for a child's care.

1440 Section 22. Section **62A-4a-403** is amended to read:

1441 **62A-4a-403. Reporting requirements.**

1442 (1) For purposes of this section:

1443 (a) "Child abuse or neglect" means:

1444 (i) "abuse" as defined in Section 62A-4a-101;

1445 (ii) "neglect" as defined in Section 62A-4a-101; and

1446 (iii) conduct that constitutes a violation of:

1447 (A) child abuse, as described in Section 76-5-109;

1448 (B) enticement of a minor, as described in Section 76-4-401;

1449 (C) child kidnapping, as described in Section 76-5-301.1;

1450 (D) unlawful detention, as described in Section 76-5-304, if the victim is a person

1451 under the age of 18 at the time of the conduct; and

1452 (E) any of the offenses described in Title 76, Chapter 5, Part 4, Sexual Offenses, if the  
1453 victim is a person under the age of 18 at the time of the conduct.

1454 (b) "Minister" means a person recognized by a bona fide religious organization as a:

1455 (i) minister;

1456 (ii) member of the clergy;

1457 (iii) priest; or

1458 (iv) similar religious official.

1459 (c) "Serious harm" means:

1460 (i) serious physical injury, as defined in Section 76-5-109; or

1461 (ii) mental cruelty, as defined in Section 76-5-109.

1462 ~~[(+)]~~ (2) (a) Except as provided in [Subsection (2), when any] Subsections (3) through  
1463 (5), a person, including persons licensed under Title 58, Chapter 67, Utah Medical Practice  
1464 Act, or Title 58, Chapter 31b, Nurse Practice Act, shall immediately notify a peace officer, law  
1465 enforcement agency, or office of the division when that person:

1466 (i) has reason to believe that a child has been subjected to [~~incest, molestation, sexual~~  
1467 exploitation, sexual abuse, physical abuse, or neglect, or who] child abuse or neglect; or

1468 (ii) observes a child being subjected to conditions or circumstances which would  
1469 reasonably result in [~~sexual abuse, physical abuse, or neglect, he shall immediately notify the~~  
1470 nearest peace officer, law enforcement agency, or office of the division] child abuse or neglect.

1471 (b) On receipt of [~~this~~] the notice described in Subsection (2)(a), the peace officer or  
1472 law enforcement agency shall immediately notify the nearest office of the division.

1473 (c) If an initial report of child abuse or neglect is made to the division, the division  
1474 shall immediately notify the appropriate local law enforcement agency.

1475 (d) The division shall, in addition to its own investigation, comply with and lend  
1476 support to investigations by law enforcement undertaken pursuant to a report made under this  
1477 section.

1478 ~~[(2)]~~ (3) The notification requirements of Subsection [~~(+)] (2) do not apply to a~~  
1479 [~~clergyman or priest~~] minister, without the consent of the person making the confession, with  
1480 regard to any confession made to [~~him in his~~] the minister in the minister's professional  
1481 character in the course of discipline enjoined by the church to which [~~he~~] the minister belongs,  
1482 if the:

1483 (a) ~~[the]~~ confession was made directly to the ~~[clergyman or priest]~~ minister by the  
1484 perpetrator; and

1485 ~~[(b) the clergyman or priest is, under canon law or church doctrine or practice, bound~~  
1486 ~~to maintain the confidentiality of that confession.]~~

1487 (b) minister is bound to maintain the confidentiality of that confession under:

1488 (i) canon law;

1489 (ii) church doctrine; or

1490 (iii) practice.

1491 ~~[(3)]~~ (4) (a) When a ~~[clergyman or priest]~~ minister receives information about child  
1492 abuse or neglect from any source other than confession of the perpetrator, ~~[he]~~ the minister is  
1493 required to give notification on the basis of that information even though ~~[he]~~ the minister may  
1494 have also received a report of child abuse or neglect from the confession of the perpetrator.

1495 (b) Exemption of notification requirements for a ~~[clergyman or priest]~~ minister does  
1496 not exempt a ~~[clergyman or priest]~~ minister from any other efforts required by law to prevent  
1497 further child abuse or neglect by the perpetrator.

1498 (5) In the case of potential neglect due to failure to provide adequate medical care, the  
1499 notification described in Subsection (2) is not required if a parent or guardian of the child:

1500 (a) declines counsel or treatment for the child's condition:

1501 (i) in order to seek counsel or treatment for the child's condition from one or more  
1502 other licensed practitioners, as defined in Section 78-3a-103; or

1503 (ii) because the treatment poses a substantial risk of serious harm to the child;

1504 (b) obtains counsel or treatment for the child's condition from a licensed practitioner,  
1505 as defined in Section 78-3a-103, other than the child's usual primary care doctor or specialist;

1506 (c) obtains reasonable nontraditional treatment for the child's condition; or

1507 (d) acts in a manner consistent with what a reasonable parent or guardian would do  
1508 under similar circumstances.

1509 Section 23. Section ~~62A-4a-407~~ is amended to read:

1510 **62A-4a-407. Protective custody.**

1511 (1) A physician examining or treating a child may take the child into protective custody  
1512 not to exceed ~~[72]~~ 36 hours, without the consent of the child's parent, guardian, or any other  
1513 person responsible for the child's care or exercising temporary or permanent control over the

1514 child, when the physician has reason to believe that the child's life or safety will be in danger  
1515 unless protective custody is exercised.

1516 (2) The person in charge of a hospital or similar medical facility may retain protective  
1517 custody of a child suspected of being abused or neglected, when he reasonably believes the  
1518 facts warrant that retention. This action may be taken regardless of whether additional medical  
1519 treatment is required, and regardless of whether the person responsible for the child's care  
1520 requests the child's return.

1521 (3) The division shall be immediately notified of protective custody exercised under  
1522 this section. Protective custody under this section may not exceed [72] 36 hours without an  
1523 order of the district or juvenile court.

1524 (4) A person who takes a child into, or retains a child in, protective custody under this  
1525 section, shall document the grounds upon which the child was taken into, or retained in,  
1526 protective custody.

1527 (5) A parent or guardian of a child placed in protective custody under this section may  
1528 not be charged for any services or medical treatment rendered to the child during the period of  
1529 protective custody described in this section, unless:

- 1530 (a) the services or medical treatment are necessary to medically stabilize the child; or
- 1531 (b) a parent or guardian of the child consents to the services or medical treatment.

1532 Section 24. Section **62A-4a-409** is amended to read:

1533 **62A-4a-409. Investigation by division -- Temporary protective custody --**  
1534 **Preremoval interviews of children.**

1535 (1) (a) The division shall make a thorough preremoval investigation upon receiving  
1536 either an oral or written report of alleged abuse, neglect, fetal alcohol syndrome, or fetal drug  
1537 dependency, when there is reasonable ~~cause to suspect~~ suspicion to believe that a situation of  
1538 abuse, neglect, fetal alcohol syndrome, or fetal drug dependency exists.

1539 (b) The primary purpose of ~~that~~ the investigation described in Subsection (1)(a) shall  
1540 be protection of the child.

1541 (2) The preremoval investigation described in Subsection (1)(a) shall include the same  
1542 investigative requirements described in Section 62A-4a-202.3.

1543 (3) The division shall make a written report of its investigation~~[- The written report]~~  
1544 that shall include a determination regarding whether the alleged abuse or neglect [was] is:

1545 (a) supported[;];

1546 (b) unsupported[;]; or

1547 (c) without merit.

1548 (4) ~~(a)~~ The division ~~shall~~ may use an interdisciplinary approach ~~[whenever~~  
1549 ~~possible]~~ when appropriate in dealing with reports made under this part.

1550 ~~[(b) For this purpose, the division shall convene appropriate interdisciplinary "child~~  
1551 ~~protection teams" to assist it in its protective, diagnostic, assessment, treatment, and~~  
1552 ~~coordination services.]~~

1553 ~~[(c) A representative of the division shall serve as the team's coordinator and chair.~~  
1554 ~~Members of the team shall serve at the coordinator's invitation. Whenever possible, the team~~  
1555 ~~shall include representatives of:]~~

1556 ~~[(i) health, mental health, education, and law enforcement agencies;]~~

1557 ~~[(ii) the child;]~~

1558 ~~[(iii) parent and family support groups unless the parent is alleged to be the perpetrator;~~  
1559 ~~and]~~

1560 ~~[(iv) other appropriate agencies or individuals.]~~

1561 (5) In any case where the division supervises, governs, or directs the affairs of any  
1562 individual, institution, or facility that ~~[has been]~~ is alleged to be involved in acts or omissions  
1563 of child abuse or neglect, the investigation of the reported child abuse or neglect shall be  
1564 conducted by an agency other than the division.

1565 (6) If a report of neglect is based upon or includes an allegation of educational neglect,  
1566 the division shall immediately consult with school authorities to verify the child's status in  
1567 accordance with Sections 53A-11-101 through 53A-11-103.

1568 (7) When the division ~~[has completed]~~ completes its initial investigation under this  
1569 part, it shall give notice of that completion to the person who made the initial report.

1570 (8) Division workers or other child protection team members have authority to enter  
1571 upon public or private premises, using appropriate legal processes, to investigate reports of  
1572 alleged child abuse or neglect, upon notice to parents of their rights under the Child Abuse  
1573 Prevention and Treatment Act, 42 U.S.C. Sec. 5106, or any successor thereof.

1574 (9) With regard to any interview of a child prior to removal of that child from the  
1575 child's home:

1576 (a) except as provided in Subsection (9)(b) or (c), the division shall [~~notify~~] inform a  
1577 parent of the child prior to the interview[;] of:

1578 (i) the specific allegations concerning the child; and

1579 (ii) the time and place of the interview;

1580 (b) if a child's parent or stepparent, or a parent's paramour has been identified as the  
1581 alleged perpetrator, the division [~~need not notify a parent of the child prior to an initial~~  
1582 ~~interview with the child~~] is not required to comply with Subsection (9)(a);

1583 (c) if the perpetrator is unknown, or if the perpetrator's relationship to the child's family  
1584 is unknown, the division may conduct a minimal interview or conversation, not to exceed 15  
1585 minutes, with the child prior to [~~notification of the child's parent~~] complying with Subsection  
1586 (9)(a);

1587 (d) in all cases described in Subsection (9)(b) or (c), a parent of the child shall be  
1588 notified as soon as practicable after the child has been interviewed, but in no case later than 24  
1589 hours after the interview has taken place;

1590 (e) a child's parents shall be notified of the time and place of all subsequent interviews  
1591 with the child; and

1592 (f) (i) the child shall be allowed to have a support person of the child's choice present;  
1593 and

1594 (ii) the person described in Subsection (9)(f)(i):

1595 (A) may include:

1596 (I) a school teacher;

1597 (II) an administrator;

1598 (III) a guidance counselor;

1599 (IV) a child care provider; [~~or~~]

1600 (V) a family member;

1601 (VI) a family advocate; or

1602 [~~(V) clergy~~] (VII) a minister, as defined in Section 62A-4a-403; and

1603 (B) may not be a person who is alleged to be, or potentially may be, the perpetrator.

1604 (10) In accordance with the procedures and requirements of Sections 62A-4a-202.1  
1605 through 62A-4a-202.3, a division worker or child protection team member may take a child  
1606 into protective custody and deliver the child to a law enforcement officer, or place the child in

1607 an emergency shelter facility approved by the juvenile court, at the earliest opportunity  
1608 subsequent to the child's removal from the child's original environment. Control and  
1609 jurisdiction over the child is determined by the provisions of Title 78, Chapter 3a, Juvenile  
1610 Court Act of 1996, and as otherwise provided by law.

1611 (11) With regard to cases in which law enforcement has or is conducting an  
1612 investigation of alleged abuse or neglect of a child:

1613 (a) the division shall coordinate with law enforcement to ensure that there is an  
1614 adequate safety plan to protect the child from further abuse or neglect; and

1615 (b) the division is not required to duplicate an aspect of the investigation that, in the  
1616 division's determination, has been satisfactorily completed by law enforcement.

1617 Section 25. Section **62A-4a-414** is amended to read:

1618 **62A-4a-414. Interviews of children -- Recording required.**

1619 (1) (a) Interviews of children during an investigation in accordance with Section  
1620 62A-4a-409, and involving allegations of sexual abuse or serious physical [~~abuse~~] injury of a  
1621 child, shall be conducted only under the following conditions:

1622 (i) the interview shall be recorded visually and aurally on film, videotape, or by other  
1623 electronic means;

1624 (ii) both the interviewer and the child shall be simultaneously recorded and visible on  
1625 the final product;

1626 (iii) the time and date of the interview shall be continuously and clearly visible to any  
1627 subsequent viewer of the recording; and

1628 (iv) the recording equipment shall run continuously for the duration of the interview.

1629 (b) This Subsection (1) does not apply to initial or minimal interviews conducted in  
1630 accordance with Subsection 62A-4a-409(9)(b) or (c).

1631 (2) Interviews conducted in accordance with Subsection (1) shall be carried out in an  
1632 existing Children's Justice Center or in a soft interview room, when available.

1633 (a) If the Children's Justice Center or a soft interview room is not available, the  
1634 interviewer shall use the best setting available under the circumstances.

1635 (b) If the equipment required under Subsection (1) is not available, the interview shall  
1636 be audiotaped, provided that the interviewer shall clearly state at the beginning of the tape:

1637 (i) the time, date, and place of the interview;

1638 (ii) the full name and age of the child being interviewed; and  
1639 (iii) that the equipment required under Subsection (1) is not available and why.  
1640 (3) All other investigative interviews shall be audiotaped using electronic means. At  
1641 the beginning of the tape, the worker shall state clearly the time, date, and place of the meeting,  
1642 and the full name and age of the child in attendance.

1643 Section 26. Section **63-55-262** is amended to read:

1644 **63-55-262. Repeal dates, Title 62A.**

1645 [~~(1) Section 62A-4a-202.7, Pilot Program for Differentiated Responses to Child Abuse~~  
1646 ~~and Neglect Reports, is repealed July 1, 2005.]~~

1647 [~~(2) Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a Newborn Child, is~~  
1648 ~~repealed July 1, 2006.]~~

1649 Section 27. Section **76-5-109** is amended to read:

1650 **76-5-109. Child abuse.**

1651 (1) As used in this section:

1652 (a) "Child" means a ~~[human being]~~ person who is under 18 years of age.

1653 (b) "Child abuse" means any offense described in Subsection (2) or (3), or in Section  
1654 76-5-109.1.

1655 (c) "Mental cruelty" means conduct that causes a child to suffer:

1656 (i) mental anguish; or

1657 (ii) serious emotional injury.

1658 [~~(c) (d) (i) "Physical injury" means an injury [to or condition] or set of injuries of a~~  
1659 ~~child [which impairs] that:~~

1660 (A) results in actual harm to the physical condition or health of the child[~~including~~];  
1661 and

1662 (B) is not a serious physical injury.

1663 (ii) Subject to Subsection (1)(d)(i)(B), "physical injury" includes:

1664 [~~(i) (A) a serious~~ bruise or other contusion of the skin;

1665 [~~(ii) (B) a minor laceration or abrasion;~~

1666 [~~(iii) (C) failure to thrive or malnutrition; or~~

1667 [~~(iv) any other] (D) a condition [which] that imperils the child's health [or], welfare  
1668 [~~and which is not a serious physical injury as defined in Subsection (1)(d)], or safety.~~~~

1669           ~~[(d)]~~ (e) "Serious physical injury" means ~~[any physical]~~;

1670           (i) an injury or set of injuries ~~[which]~~ that:

1671           (A) seriously impairs the child's health~~[, or which involves]~~;

1672           (B) constitutes or results from physical torture ~~[or causes serious emotional harm to the~~

1673 ~~child, or which involves a substantial risk of death to the child, including: (i)]~~

1674           ~~[fracture of any bone or bones]~~;

1675           (C) causes:

1676           (I) death;

1677           (II) disability;

1678           (III) serious illness;

1679           (IV) substantial impairment of a major bodily function;

1680           (V) permanent disfigurement; or

1681           (VI) protracted loss or impairment of the function of a:

1682           (Aa) body member;

1683           (Bb) limb; or

1684           (Cc) organ;

1685           (D) poses a substantial risk of death; or

1686           (E) that results in substantial physical harm, including:

1687           (I) fracture of a bone;

1688           ~~[(ii)]~~ (II) intracranial bleeding, swelling, or contusion of the brain~~[, whether]~~ caused by

1689 any method, including:

1690           (Aa) blows~~[;]~~;

1691           (Bb) shaking~~[;]~~; or

1692           (Cc) causing the child's head to impact with an object or surface;

1693           ~~[(iii)]~~ (III) any burn, including burns inflicted by:

1694           (Aa) hot water~~[;]~~; or ~~[those caused by]~~

1695           (Bb) placing a hot object upon the skin or body of the child;

1696           ~~[(iv)]~~ (IV) any injury caused by use of a dangerous weapon as defined in Section

1697 76-1-601;

1698           ~~[(v)]~~ (V) any combination of two or more reportable physical injuries inflicted by the

1699 same person~~[, either]~~;

1700 (Aa) at the same time; or [~~on different occasions;~~]  
1701 (Bb) within a three-year period; or  
1702 [~~(vi)~~] (VI) any damage to internal organs of the body;  
1703 (ii) mental cruelty;  
1704 [~~(vii)~~] (iii) any conduct toward a child [~~which~~] that results in [~~severe emotional harm;~~]  
1705 severe developmental delay [~~or retardation, or severe impairment of the child's ability to~~  
1706 ~~function~~];  
1707 [~~(viii)~~] any injury which creates a permanent disfigurement or protracted loss or  
1708 impairment of the function of a bodily member, limb, or organ;]  
1709 [~~(ix)~~] (iv) any conduct [~~which~~] that causes a child to cease breathing, even if  
1710 resuscitation is successful following the conduct; or  
1711 [~~(x)~~] (v) any conduct [~~which~~] that results in starvation or failure to thrive or  
1712 malnutrition that jeopardizes [~~the~~] a child's life.  
1713 (2) [~~Any~~] Subject to Subsections (5) and (6), any person who inflicts upon a child  
1714 serious physical injury or, having the care or custody of such child, causes or permits another to  
1715 inflict serious physical injury upon a child is guilty of an offense as follows:  
1716 (a) if done intentionally or knowingly, the offense is a felony of the second degree;  
1717 (b) if done recklessly, the offense is a felony of the third degree; or  
1718 (c) if done with criminal negligence, the offense is a class A misdemeanor.  
1719 (3) [~~Any~~] Subject to Subsections (5) and (6), any person who inflicts upon a child  
1720 physical injury or, having the care or custody of such child, causes or permits another to inflict  
1721 physical injury upon a child is guilty of an offense as follows:  
1722 (a) if done intentionally or knowingly, the offense is a class A misdemeanor;  
1723 (b) if done recklessly, the offense is a class B misdemeanor; or  
1724 (c) if done with criminal negligence, the offense is a class C misdemeanor.  
1725 (4) A parent or legal guardian who provides a child with treatment by spiritual means  
1726 alone through prayer, in lieu of medical or mental health treatment, in accordance with the  
1727 tenets and practices of an established church or religious denomination of which the parent or  
1728 legal guardian is a member or adherent [~~shall~~] may not, for that reason alone, be [~~deemed~~]  
1729 considered to have committed an offense under this section.  
1730 (5) A parent or guardian is not guilty of an offense under this section for refusing

1731 traditional medical or mental health treatment on behalf of the parent's or guardian's child in  
 1732 order to seek reasonable nontraditional treatment.

1733 (6) A person is not guilty of an offense under this section for conduct that constitutes:

1734 (a) discipline or management of a child, including:

1735 (i) withholding privileges from a child; or

1736 (ii) other discipline that does not result in:

1737 (A) physical injury; or

1738 (B) serious physical injury;

1739 (b) accidental conduct;

1740 (c) conduct described in Subsection 53A-11-802(2);

1741 (d) conduct described in Section 76-2-401; or

1742 (e) the use of reasonable and necessary physical restraint or force on a child:

1743 (i) in self-defense;

1744 (ii) in defense of others;

1745 (iii) to protect the child; or

1746 (iv) to remove a weapon in the possession of a child for any of the reasons described in

1747 Subsections (6)(e)(i) through (iii).

1748 Section 28. Section **76-5-110** is amended to read:

1749 **76-5-110. Abuse or neglect of disabled child.**

1750 (1) As used in this section:

1751 (a) "Abuse" means:

1752 (i) inflicting physical injury, as that term is defined in Section 76-5-109;

1753 (ii) having the care or custody of a disabled child, causing or permitting another to  
 1754 inflict physical injury, as that term is defined in Section 76-5-109; or

1755 (iii) unreasonable confinement.

1756 (b) "Caretaker" means:

1757 (i) ~~any~~ a parent, legal guardian, or other person having under his care and custody a  
 1758 disabled child; or

1759 (ii) ~~any~~ a person, corporation, or public institution that has assumed by contract or  
 1760 court order the responsibility to provide food, shelter, clothing, medical or mental health, and  
 1761 other necessities to a disabled child.

1762 (c) "Disabled child" means any person under 18 years of age who is impaired because  
1763 of mental illness, mental deficiency, physical illness or disability, or other cause, to the extent  
1764 that ~~[he]~~ the person is unable to:

1765 (i) care for ~~[his]~~ the person's own personal safety; or ~~[to]~~

1766 (ii) provide necessities such as food, shelter, clothing, and medical care.

1767 (d) "Neglect" means failure by a caretaker to provide care, nutrition, clothing, shelter,  
1768 supervision, or medical care.

1769 (2) Any caretaker who abuses or neglects a disabled child is guilty of a third degree  
1770 felony.

1771 (3) (a) A parent or legal guardian who provides a child with treatment by spiritual  
1772 means alone through prayer, in lieu of medical or mental health treatment, in accordance with  
1773 the tenets and practices of an established church or religious denomination of which the parent  
1774 or legal guardian is a member or adherent ~~[shall]~~ may not, for that reason alone, be considered  
1775 to be in violation under this section.

1776 (b) ~~[The]~~ Subject to Subsection 78-3a-118(2)(n), the exception under Subsection (3)(a)  
1777 ~~[shall]~~ does not preclude a court from ordering medical services from a ~~[physician]~~ licensed ~~[to~~  
1778 ~~engage in the practice of medicine]~~ practitioner, as defined in Section 78-3a-103, to be  
1779 provided to the child where there is an actual and substantial risk of harm to the child's health  
1780 or ~~[welfare]~~ safety if the treatment is not provided.

1781 Section 29. Section **78-3a-103** is amended to read:

1782 **78-3a-103. Definitions.**

1783 (1) As used in this chapter:

1784 ~~[(a) "Abused child" includes a minor less than 18 years of age who:]~~

1785 ~~[(i) has suffered or been threatened with nonaccidental physical or mental harm,~~  
1786 ~~negligent treatment, or sexual exploitation; or]~~

1787 ~~[(ii) has been the victim of any sexual abuse.]~~

1788 (a) "Abuse" is as defined in Section 62A-4a-101.

1789 (b) "Abused child" means a person under the age of 18 who has suffered abuse as  
1790 defined in Section 62A-4a-101.

1791 ~~[(b)]~~ (c) "Adjudication" means a finding by the court, incorporated in a decree, that the  
1792 facts alleged in the petition have been proved.

1793            [~~(e)~~] (d) "Adult" means a person 18 years of age or over, except that persons 18 years  
 1794 or over under the continuing jurisdiction of the juvenile court pursuant to Section 78-3a-121  
 1795 shall be referred to as minors.

1796            [~~(d)~~] (e) "Board" means the Board of Juvenile Court Judges.

1797            [~~(e)~~] (f) "Child placement agency" means:

1798            (i) a private agency licensed to receive minors for placement or adoption under this  
 1799 code; or

1800            (ii) a private agency receiving minors for placement or adoption in another state, which  
 1801 agency is licensed or approved where such license or approval is required by law.

1802            [~~(f)~~] (g) "Commit" means to transfer legal custody.

1803            [~~(g)~~] (h) "Court" means the juvenile court.

1804            [~~(h)~~] (i) "Dependent child" includes a minor who is homeless or without proper care  
 1805 through no fault of [~~his~~] the minor's parent, guardian, or custodian.

1806            [~~(i)~~] (j) "Deprivation of custody" means transfer of legal custody by the court from a  
 1807 parent or the parents or a previous legal custodian to another person, agency, or institution.

1808            [~~(j)~~] (k) "Detention" means home detention and secure detention as defined in Section  
 1809 62A-7-101 for the temporary care of minors who require secure custody in physically  
 1810 restricting facilities:

1811            (i) pending court disposition or transfer to another jurisdiction; or

1812            (ii) while under the continuing jurisdiction of the court.

1813            [~~(k)~~] (l) "Division" means the Division of Child and Family Services.

1814            [~~(l)~~] (m) "Formal referral" means a written report from a peace officer or other person  
 1815 informing the court that a minor is or appears to be within the court's jurisdiction and that a  
 1816 petition may be filed.

1817            [~~(m)~~] (n) "Group rehabilitation therapy" means psychological and social counseling of  
 1818 one or more persons in the group, depending upon the recommendation of the therapist.

1819            [~~(n)~~] (o) "Guardianship of the person" includes the authority to consent to:

1820            (i) marriage[~~,-to~~];

1821            (ii) enlistment in the armed forces[~~,-to~~];

1822            (iii) major medical[~~;~~] treatment;

1823            (iv) major surgical, or psychiatric treatment;

1824 (v) mental health treatment~~[, and to];~~ or  
1825 (vi) legal custody, if legal custody is not vested in another person, agency, or  
1826 institution.  
1827 ~~[(p)]~~ (p) "Habitual truant" [is] means a school-age minor who ~~[has received];~~  
1828 (i) receives:  
1829 (A) more than two truancy citations within one school year from the school in which  
1830 the minor is or should be enrolled; and  
1831 (B) eight absences without a legitimate or valid excuse; or [who];  
1832 (ii) in defiance of efforts on the part of school authorities as required under Section  
1833 53A-11-103, refuses to regularly attend;  
1834 (A) school; or  
1835 (B) any scheduled period of the school day.  
1836 ~~[(p)]~~ (q) "Legal custody" means a relationship embodying the following rights and  
1837 duties:  
1838 (i) the right to physical custody of the minor;  
1839 (ii) the right and duty to protect, train, and discipline the minor;  
1840 (iii) the duty to provide the minor with:  
1841 (A) food[;];  
1842 (B) clothing[;];  
1843 (C) shelter[;];  
1844 (D) education[;]; and  
1845 (E) ordinary medical care;  
1846 (iv) the right to determine where and with whom the minor shall live; and  
1847 (v) the right, in an emergency, to authorize surgery or other extraordinary care.  
1848 (r) "Licensed practitioner" means a person who is:  
1849 (i) a health care provider, as defined in Section 78-14-3; and  
1850 (ii) licensed under the law of any state, district, or territory of the United States.  
1851 (s) "Mental cruelty" is as defined in Section 76-5-109.  
1852 ~~[(t)]~~ (t) (i) "Minor" means a person under the age of 18 years. [It]  
1853 (ii) "Minor" includes the term "child" as used in other parts of this chapter.  
1854 ~~[(r)]~~ (u) (i) "Natural parent" means a minor's biological or adoptive parent~~[, and].~~

- 1855           (ii) "Natural parent" includes the minor's noncustodial parent.
- 1856           (v) "Neglect" is as defined in Section 62A-4a-101.
- 1857           ~~(s)(i)~~ (w) "Neglected child" means a minor[?] who has suffered neglect as defined in
- 1858 Section 62A-4a-101.
- 1859           ~~[(A) whose parent, guardian, or custodian has abandoned the minor, except as provided~~
- 1860 ~~in Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a Newborn Child;]~~
- 1861           ~~[(B) whose parent, guardian, or custodian has subjected the minor to mistreatment or~~
- 1862 ~~abuse;]~~
- 1863           ~~[(C) who lacks proper parental care by reason of the fault or habits of the parent,~~
- 1864 ~~guardian, or custodian;]~~
- 1865           ~~[(D) whose parent, guardian, or custodian fails or refuses to provide proper or~~
- 1866 ~~necessary subsistence, education, or medical care, including surgery or psychiatric services~~
- 1867 ~~when required, or any other care necessary for health, safety, morals, or well-being; or]~~
- 1868           ~~[(E) who is at risk of being a neglected or abused child as defined in this chapter~~
- 1869 ~~because another minor in the same home is a neglected or abused child as defined in this~~
- 1870 ~~chapter.;~~
- 1871           ~~[(ii) The aspect of neglect related to education, described in Subsection (1)(s)(i)(D),~~
- 1872 ~~means that, after receiving notice that a minor has been frequently absent from school without~~
- 1873 ~~good cause, or that the minor has failed to cooperate with school authorities in a reasonable~~
- 1874 ~~manner, a parent or guardian fails to make a good faith effort to ensure that the minor receives~~
- 1875 ~~an appropriate education.;~~
- 1876           ~~[(iii) A parent or guardian legitimately practicing religious beliefs and who, for that~~
- 1877 ~~reason, does not provide specified medical treatment for a minor, is not guilty of neglect.]~~
- 1878           ~~(t)~~ (x) "Nonjudicial adjustment" means closure of the case by the assigned probation
- 1879 officer without judicial determination upon the consent in writing of the:
- 1880           (i) minor[~~the~~];
- 1881           (ii) parent, legal guardian or custodian[~~;~~]; and [~~the~~]
- 1882           (iii) assigned probation officer.
- 1883           (y) "Physical injury" is as defined in Section 76-5-109.
- 1884           ~~(u)~~ (z) "Probation" means a legal status created by court order following an
- 1885 adjudication on the ground of a violation of law or under Section 78-3a-104, whereby the

1886 minor is permitted to remain in [~~his~~] the minor's home under prescribed conditions and under  
1887 supervision by the probation department or other agency designated by the court, subject to  
1888 return to the court for violation of any of the conditions prescribed.

1889 [~~(v)~~] (aa) "Protective supervision" means a legal status created by court order following  
1890 an adjudication on the ground of abuse, neglect, or dependency, whereby the minor is permitted  
1891 to remain in [~~his~~] the minor's home, and supervision and assistance to correct the abuse,  
1892 neglect, or dependency is provided by the probation department or other agency designated by  
1893 the court.

1894 [~~(w)~~] (bb) (i) "Residual parental rights and duties" means those rights and duties  
1895 remaining with the parent after legal custody or guardianship, or both, [~~have been~~] are vested in  
1896 another person or agency, including:

1897 (A) the responsibility for support[~~;~~]; and

1898 (B) the right to:

1899 (I) consent to adoption[~~, the right to~~];

1900 (II) determine the child's religious affiliation[~~, and the right to~~]; and

1901 (III) reasonable parent-time unless restricted by the court.

1902 (ii) If no guardian has been appointed, "residual parental rights and duties" also include  
1903 the right to consent to:

1904 (A) marriage[~~, to~~];

1905 (B) enlistment[~~, and to~~];

1906 (C) major medical[~~;~~] treatment;

1907 (D) major surgical[~~;~~] treatment; or [~~psychiatric~~]

1908 (E) mental health treatment.

1909 [~~(x)~~] (cc) "Secure facility" means any facility operated by or under contract with the  
1910 Division of Juvenile Justice Services, that provides 24-hour supervision and confinement for  
1911 youth offenders committed to the division for custody and rehabilitation.

1912 (dd) "Serious neglect" is as defined in Section 62A-4a-101.

1913 (ee) "Serious physical injury" is as defined in Section 76-5-109.

1914 (ff) "Severe child abuse or neglect" is as defined in Section 62A-4a-101.

1915 (gg) "Sexual abuse" is as defined in Section 62A-4a-402.

1916 (hh) "Sexual exploitation of a child" is as defined in Section 62A-4a-402.

1917            ~~(ty)~~ (ii) "Shelter" means the temporary care of minors in physically unrestricted  
 1918 facilities pending court disposition or transfer to another jurisdiction.

1919            ~~(z)~~ (jj) "State supervision" means a disposition ~~[which]~~ that provides a more intensive  
 1920 level of intervention than standard probation but is less intensive or restrictive than a  
 1921 community placement with the Division of Juvenile Justice Services.

1922            ~~(aa)~~ (kk) "Substantiated" ~~[has the same meaning]~~ is as defined in Section  
 1923 62A-4a-101.

1924            ~~(bb)~~ (ll) "Supported" ~~[has the same meaning]~~ is as defined in Section 62A-4a-101.

1925            ~~(cc)~~ (mm) "Termination of parental rights" means the permanent elimination of all  
 1926 parental rights and duties, including residual parental rights and duties, by court order.

1927            ~~(dd)~~ (nn) "Therapist" means:

1928            (i) a person employed by a ~~[state]~~ division or agency of any state, district, or territory of  
 1929 the United States for the purpose of conducting psychological treatment and counseling of a  
 1930 minor in its custody[;]; or

1931            (ii) any other person licensed or approved by ~~[the]~~ any state, district, or territory of the  
 1932 United States for the purpose of conducting psychological treatment and counseling.

1933            ~~(ee)~~ (oo) "Unsubstantiated" ~~[has the same meaning]~~ is as defined in Section  
 1934 62A-4a-101.

1935            ~~(ff)~~ (pp) "Without merit" ~~[has the same meaning]~~ is as defined in Section  
 1936 62A-4a-101.

1937            (2) As used in Part 3, Abuse, Neglect, and Dependency Proceedings, with regard to the  
 1938 ~~[Division of Child and Family Services]~~ division:

1939            (a) "Custody" means the custody of a minor in the ~~[Division of Child and Family~~  
 1940 ~~Services]~~ division as of the date of disposition.

1941            (b) "Protective custody" means the shelter of a minor by the ~~[Division of Child and~~  
 1942 ~~Family Services]~~ division from the time the minor is removed from home until the shelter  
 1943 hearing, or the minor's return home, whichever occurs earlier.

1944            (c) "Temporary custody" means the custody of a minor in the ~~[Division of Child and~~  
 1945 ~~Family Services]~~ division from the date of the shelter hearing until disposition.

1946            Section 30. Section **78-3a-106** is amended to read:

1947            **78-3a-106. Search warrants and subpoenas -- Authority to issue.**

1948 (1) For purposes of this section:

1949 (a) "Child" means a person under the age of 18.

1950 (b) "Custody" means:

1951 (i) custody;

1952 (ii) care; and

1953 (iii) control.

1954 (c) "Officer" means a:

1955 (i) child welfare worker;

1956 (ii) peace officer; or

1957 (iii) state officer.

1958 ~~[(+)]~~ (2) The court has authority to issue search warrants, subpoenas, or investigative  
1959 subpoenas;

1960 (a) in:

1961 (i) criminal cases[;];

1962 (ii) delinquency[~~, and~~] proceedings; and

1963 (iii) abuse, neglect, and dependency proceedings; and

1964 (b) for the same purposes, in the same manner and pursuant to the same procedures set  
1965 forth in the code of criminal procedure for the issuance of search warrants[~~, subpoenas,~~] or  
1966 [~~investigative~~] subpoenas in other trial courts in the state.

1967 ~~[(2)(a) The]~~ (3) (a) Subject to Subsection (4), a court may issue a warrant authorizing  
1968 [~~a child protective services worker or peace~~] an officer to search for a child and take the child  
1969 into protective custody if it appears to the court [~~upon a verified petition, recorded sworn~~  
1970 testimony or an affidavit sworn to by a peace officer or any other person, and upon the  
1971 examination of other witnesses, if required by the judge,] that there is probable cause to believe  
1972 that:

1973 (i) there is an immediate threat to the safety of a child; [~~and~~]

1974 (ii) there is a substantial risk that the child will suffer abuse or neglect if the child is not  
1975 taken into protective custody; and

1976 ~~[(+)]~~ (iii) the applicant certifies to the court in writing or by recorded sworn testimony  
1977 [~~as to~~];

1978 (A) the efforts, if any, [~~that have been~~] made to give notice to the minor's parent or

1979 guardian; and

1980 (B) the reasons supporting the claim that notice and an opportunity to be heard should  
1981 not be required.

1982 (b) The court's decision on whether to issue a warrant under Subsection (3)(a), shall be  
1983 based on:

1984 (i) (A) a verified petition;

1985 (B) recorded sworn testimony; or

1986 (C) a sworn affidavit; and

1987 (ii) if required by the judge, the examination of other witnesses.

1988 ~~[(b)]~~ (c) A warrant removing a child from [his] the child's home or school, or having  
1989 the effect of depriving a parent or guardian of the [care,] custody[, and control of their minor]  
1990 of the parent's or guardian's child, may not be issued without notice to the [minor's] child's  
1991 parents and an opportunity to be heard unless the requirements of [Subsections (2)] Subsection  
1992 (3)(a)[(i) and (ii) have been] are satisfied.

1993 ~~[(c)]~~ (d) Pursuant to Section 77-23-210, a peace officer making the search described in  
1994 Subsection (3)(a) may enter a house or premises by force, if necessary, in order to remove the  
1995 child.

1996 ~~[(d)]~~ (e) The person executing the warrant described in Subsection (3)(a) shall [then]  
1997 take the child to the place of shelter designated by the court.

1998 (4) A warrant based solely on grounds of medical neglect may not be issued under  
1999 Subsection (2):

2000 (a) if the sole basis for the warrant is that a parent or guardian of a child:

2001 (i) declines medical counsel or treatment on behalf of the child to seek the medical  
2002 counsel or treatment of other licensed practitioners;

2003 (ii) obtains medical counsel or treatment from a licensed practitioner other than the  
2004 child's primary licensed practitioner;

2005 (iii) declines treatment on behalf of the child when the treatment poses a substantial  
2006 risk of serious harm to the child's immediate or future physical or mental health;

2007 (iv) obtains reasonable nontraditional treatment; or

2008 (v) acts in a manner consistent with what a reasonable parent or guardian would do  
2009 under the circumstances; and

2010 (b) unless not practicable, until the court examines the parent's or guardian's response,  
2011 whether oral or written, to the allegation of medical neglect.

2012 [~~3~~] (5) The parent or guardian to be notified must be the minor's primary caregiver, or  
2013 the person who has custody of the minor, when the order is sought.

2014 Section 31. Section **78-3a-109** is amended to read:

2015 **78-3a-109. Title of petition and other court documents -- Form and contents of**  
2016 **petition -- Order for temporary custody -- Physical or psychological examination of**  
2017 **minor, parent, or guardian -- Dismissal of petition.**

2018 (1) The petition and all subsequent court documents in the proceeding shall be entitled:  
2019 "State of Utah, in the interest of....., a person under 18 years of age (or a  
2020 person under 21 years of age)."

2021 (2) The petition shall be verified and statements in the petition may be made upon  
2022 information and belief.

2023 (3) The petition shall be written in simple and brief language and include the facts  
2024 which bring the minor within the jurisdiction of the court, as provided in Section 78-3a-104.

2025 (4) The petition shall further state:

2026 (a) the name, age, and residence of the minor;

2027 (b) the names and residences of the minor's parents;

2028 (c) the name and residence of the guardian, if there is one;

2029 (d) the name and address of the nearest known relative, if no parent or guardian is  
2030 known; and

2031 (e) the name and residence of the person having physical custody of the minor. If any  
2032 of the facts required are not known by the petitioner, the petition shall so state.

2033 (5) At any time after a petition is filed, the court may make an order:

2034 (a) providing for temporary custody of the minor[-]; or

2035 (b) that the Division of Child and Family Services provide protective services to the  
2036 child, if the court determines that:

2037 (i) the child is at risk of being removed from the child's home due to abuse or neglect;  
2038 and

2039 (ii) the provision of protective services will make the removal described in Subsection  
2040 (5)(b)(i) unnecessary.

2041 (6) The court may order that a minor concerning whom a petition has been filed shall  
2042 be examined by a physician, surgeon, psychiatrist, or psychologist and may place the minor in a  
2043 hospital or other facility for examination. After notice and a hearing set for the specific  
2044 purpose, the court may order a similar examination of a parent or guardian whose ability to care  
2045 for a minor is at issue, if the court finds from the evidence presented at the hearing that the  
2046 parent's or guardian's physical, mental, or emotional condition may be a factor in causing the  
2047 neglect, dependency, or delinquency of the minor.

2048 (7) Pursuant to Rule 506(d)(3), Utah Rules of Evidence, examinations conducted  
2049 pursuant to Subsection (6) are not privileged communications, but are exempt from the general  
2050 rule of privilege.

2051 (8) The court may dismiss a petition at any stage of the proceedings.

2052 (9) If the petition is filed under Section 78-3a-305 or 78-3a-405 or if the matter is  
2053 referred to the court under Subsection 78-3a-105[~~(3)(b)~~] (5):

2054 (a) the court may require the parties to participate in mediation in accordance with Title  
2055 78, Chapter 31b, Alternative Dispute Resolution Act; and

2056 (b) the Division of Child and Family Services or a party to the petition may request and  
2057 the court may order the parties to participate in a family unity conference under the authority of  
2058 the Division of Child and Family Services in accordance with Subsection (10).

2059 (10) (a) A family unity conference may be ordered by the court for any of the following  
2060 purposes:

2061 (i) discussing and reviewing the case history;

2062 (ii) designing a service plan for the child and family, including concurrent planning;

2063 (iii) discussing a visitation schedule and rules for visitation;

2064 (iv) identifying possible kinship placements under the requirements of Subsection  
2065 78-3a-307(5), and designing services to support the kinship placement;

2066 (v) conflict resolution between the family and Division of Child and Family Services  
2067 staff;

2068 (vi) discussing child custody issues; or

2069 (vii) crisis clinical intervention to reduce trauma to the child and family.

2070 (b) ~~[The]~~ Unless otherwise ordered by the court, the family unity conference may;

2071 (i) only be attended by individuals [~~chosen~~] agreed upon by the family and the Division

2072 of Child and Family Services[-]; and [may]

2073 (ii) subject to Subsection (10)(b)(i), include extended family members, friends, clergy,  
2074 service providers, and others who may support the family in keeping the child safe.

2075 (c) A family unity conference may not be held in the following circumstances:

2076 (i) when there is a criminal charge pending in the case;

2077 (ii) to resolve petition disputes; and

2078 (iii) when a family unity conference may pose a threat to the safety of a child or other  
2079 family member.

2080 (d) With regard to a family unity conference ordered by a court under Subsection  
2081 (9)(b):

2082 (i) the requirements of Subsection 78-31b-7(3)(b) apply except all parties to the  
2083 proceeding:

2084 (A) shall be given no less than five days notice of any recommendation made to the  
2085 court from the family unity conference; and

2086 (B) shall be given an opportunity to be heard by the court; and

2087 (ii) the confidentiality requirements of Section 78-31b-8 apply, except that admissions  
2088 by a party to the allegations on the petition are admissible at any proceeding.

2089 (e) A family unity conference may only be held if:

2090 (i) ordered by the court; or

2091 (ii) agreed upon by a parent or guardian of the minor concerning whom a petition  
2092 described in this section has been filed.

2093 Section 32. Section **78-3a-110** is amended to read:

2094 **78-3a-110. Summons -- Service and process -- Issuance and contents -- Notice to**  
2095 **absent parent or guardian -- Emergency medical or surgical treatment -- Compulsory**  
2096 **process for attendance of witnesses when authorized.**

2097 (1) (a) After a petition is filed, the court shall promptly issue a summons, unless the  
2098 judge directs that a further investigation is needed. [No]

2099 (b) A summons is not required as to any person who appears voluntarily or who files a  
2100 written waiver of service with the clerk of the court at or prior to the hearing.

2101 (2) The summons shall contain:

2102 (a) the name of the court;

- 2103 (b) the title of the proceedings; and
- 2104 (c) except for a published summons, a brief statement of the substance of the
- 2105 allegations in the petition.
- 2106 (3) A published summons shall state:
- 2107 (a) that a proceeding concerning the minor is pending in the court; and
- 2108 (b) an adjudication will be made.
- 2109 (4) (a) The summons shall require the person or persons who have physical custody of
- 2110 the minor to appear personally and bring the minor before the court at a time and place stated.
- 2111 (b) If the person or persons summoned under Subsection (4)(a) are not the parent,
- 2112 parents, or guardian of the minor, the summons shall also be issued to the parent, parents, or
- 2113 guardian, as the case may be, notifying them of the pendency of the case and of the time and
- 2114 place set for the hearing.
- 2115 (5) Summons may be issued requiring the appearance of any other person whose
- 2116 presence the court finds necessary.
- 2117 (6) If it appears to the court that the welfare of the minor or of the public requires that
- 2118 the minor be taken into custody, the court may by endorsement upon the summons direct that
- 2119 the person serving the summons take the minor into custody at once.
- 2120 (7) ~~Upon~~ Subject to Subsection 78-3a-118(2)(n), upon the sworn testimony of one or
- 2121 more reputable physicians, the court may order emergency medical or surgical treatment that is
- 2122 immediately necessary for a minor concerning whom a petition has been filed pending the
- 2123 service of summons upon ~~his~~ the minor's parents, guardian, or custodian.
- 2124 (8) (a) A parent or guardian is entitled to the issuance of compulsory process for the
- 2125 attendance of witnesses on ~~his~~:
- 2126 (i) the parent's or guardian's own behalf; or ~~on~~
- 2127 (ii) behalf of the minor.
- 2128 (b) A guardian ad litem or a probation officer is entitled to compulsory process for the
- 2129 attendance of witnesses on behalf of the minor.
- 2130 (9) Service of summons and process and proof of service shall be made in the manner
- 2131 provided in the Utah Rules of Civil Procedure.
- 2132 (10) Service of summons or process shall be made:
- 2133 (a) by the sheriff, or a deputy sheriff, of the county where the service is to be made~~, or~~

2134 ~~by his deputy, but]; or~~

2135 (b) upon request of the court [~~service shall be made~~] by:

2136 (i) any other peace officer[~~, or by]; or~~

2137 (ii) another suitable person selected by the court.

2138 (11) (a) Service of summons in the state shall be made personally, by delivering a copy  
2139 to the person summoned[~~; provided, however, that~~].

2140 (b) If the parents of a minor [~~living~~] live together at [~~their~~] the parent's usual place of  
2141 abode [~~may~~], both parents may be served by personal delivery to either parent of [~~copies of the~~  
2142 summons;] one copy of the summons for each parent.

2143 (12) If [~~the~~] a judge makes a written finding that [~~he~~] the judge has reason to believe  
2144 that personal service of the summons will be unsuccessful, or will not accomplish notification  
2145 within a reasonable time after issuance of the summons, [~~he~~] the judge may order service by  
2146 registered mail, with a return receipt to be signed by the addressee only, to be addressed to the  
2147 last-known address of the person to be served in the state. Service shall be complete upon  
2148 return to the court of the signed receipt.

2149 (13) (a) If the parents, parent, or guardian required to be summoned under Subsection  
2150 (4) cannot be found within the state, the fact of their minor's presence within the state shall  
2151 confer jurisdiction on the court in proceedings in minor's cases under this chapter as to any  
2152 absent parent or guardian, provided that due notice has been given [~~in the following manner;~~]  
2153 as provided in Subsection (13)(b).

2154 [~~(a)~~] (b) (i) If the address of the parent or guardian is known, due notice is given by  
2155 sending [~~him~~] the parent or guardian a copy of the summons by registered mail with a return  
2156 receipt to be signed by the addressee only, or by personal service outside the state, as provided  
2157 in the Utah Rules of Civil Procedure. Service by registered mail shall be complete upon return  
2158 to the court of the signed receipt.

2159 [~~(b)~~] (ii) If the address or whereabouts of the parent or guardian outside the state  
2160 cannot after diligent inquiry be ascertained, due notice is given by publishing a summons in a  
2161 newspaper having general circulation in the county in which the proceeding is pending. The  
2162 summons shall be published once a week for four successive weeks. Service shall be complete  
2163 on the day of the last publication.

2164 (c) Service of summons as provided in this Subsection (13) shall vest the court with

2165 jurisdiction over the parent or guardian served in the same manner and to the same extent as if  
2166 the person served was served personally within the state.

2167 (14) (a) In the case of service in the state, service completed not less than 48 hours  
2168 before the time set in the summons for the appearance of the person served, shall be sufficient  
2169 to confer jurisdiction.

2170 (b) In the case of service outside the state, service completed not less than five days  
2171 before the time set in the summons for appearance of the person served, shall be sufficient to  
2172 confer jurisdiction.

2173 (15) Computation of periods of time under this chapter shall be made in accordance  
2174 with the Utah Rules of Civil Procedure.

2175 Section 33. Section **78-3a-118** is amended to read:

2176 **78-3a-118. Adjudication of jurisdiction of juvenile court -- Disposition of cases --**  
2177 **Enumeration of possible court orders -- Considerations of court -- Obtaining DNA**  
2178 **sample.**

2179 (1) (a) When a minor is found to come within the provisions of Section 78-3a-104, the  
2180 court shall so adjudicate. The court shall make a finding of the facts upon which it bases its  
2181 jurisdiction over the minor. However, in cases within the provisions of Subsection  
2182 78-3a-104(1), findings of fact are not necessary.

2183 (b) If the court adjudicates a minor for a crime of violence or an offense in violation of  
2184 Title 76, Chapter 10, Part 5, Weapons, it shall order that notice of the adjudication be provided  
2185 to the school superintendent of the district in which the minor resides or attends school. Notice  
2186 shall be made to the district superintendent within three days of the adjudication and shall  
2187 include:

2188 (i) the specific offenses for which the minor was adjudicated; and

2189 (ii) if available, [if] whether the victim:

2190 (A) resides in the same school district as the minor; or

2191 (B) attends the same school as the minor.

2192 (2) Upon adjudication the court may make the following dispositions by court order:

2193 (a) (i) The court may place the minor on probation or under protective supervision in  
2194 the minor's own home and upon conditions determined by the court, including compensatory  
2195 service as provided in Section 78-11-20.7.

2196 (ii) The court may place the minor in state supervision with the probation department  
2197 of the court, under the legal custody of:

- 2198 (A) [~~his~~] the minor's parent or guardian;
- 2199 (B) the Division of Juvenile Justice Services; or
- 2200 (C) the Division of Child and Family Services.

2201 (iii) If the court orders probation or state supervision, the court shall direct that notice  
2202 of its order be provided to designated persons in the local law enforcement agency and the  
2203 school or transferee school, if applicable, which the minor attends. The designated persons  
2204 may receive the information for purposes of the minor's supervision and student safety.

2205 (iv) Any employee of the local law enforcement agency and the school which the  
2206 minor attends who discloses the court's order of probation is not:

- 2207 (A) civilly liable except when the disclosure constitutes fraud or willful misconduct as  
2208 provided in Section 63-30d-202; and
- 2209 (B) civilly or criminally liable except when the disclosure constitutes a knowing  
2210 violation of Section 63-2-801.

2211 (b) The court may place the minor in the legal custody of a relative or other suitable  
2212 person, with or without probation or protective supervision, but the juvenile court may not  
2213 assume the function of developing foster home services.

2214 (c) (i) The court may:

2215 (A) vest legal custody of the minor in the Division of Child and Family Services,  
2216 Division of Juvenile Justice Services, or the Division of Substance Abuse and Mental Health;  
2217 and

2218 (B) order the Department of Human Services to provide dispositional  
2219 recommendations and services.

2220 (ii) For minors who may qualify for services from two or more divisions within the  
2221 Department of Human Services, the court may vest legal custody with the department.

2222 (iii) (A) Minors who are committed to the custody of the Division of Child and Family  
2223 Services on grounds other than abuse or neglect are subject to the provisions of Title 78,  
2224 Chapter 3a, Part 3A, Minors in Custody on Grounds Other Than Abuse or Neglect, and Title  
2225 62A, Chapter 4a, Part 2A, Minors in Custody on Grounds Other Than Abuse or Neglect.

2226 (B) Prior to the court entering an order to place a minor in the custody of the Division

2227 of Child and Family Services on grounds other than abuse or neglect, the court shall provide  
2228 the division with notice of the hearing no later than five days before the time specified for the  
2229 hearing so the division may attend the hearing.

2230 (C) Prior to committing a minor to the custody of the Division of Child and Family  
2231 Services, the court shall make a finding as to what reasonable efforts have been attempted to  
2232 prevent the minor's removal from ~~[his]~~ the minor's home.

2233 (d) (i) The court may commit the minor to the Division of Juvenile Justice Services for  
2234 secure confinement.

2235 (ii) A minor under the jurisdiction of the court solely on the ground of abuse, neglect,  
2236 or dependency under Subsection 78-3a-104(1)(c) may not be committed to the Division of  
2237 Juvenile Justice Services.

2238 (e) The court may commit the minor, subject to the court retaining continuing  
2239 jurisdiction over ~~[him]~~ the minor, to the temporary custody of the Division of Juvenile Justice  
2240 Services for observation and evaluation for a period not to exceed 45 days, which period may  
2241 be extended up to 15 days at the request of the director of the Division of Juvenile Justice  
2242 Services.

2243 (f) (i) The court may commit the minor to a place of detention or an alternative to  
2244 detention for a period not to exceed 30 days subject to the court retaining continuing  
2245 jurisdiction over the minor. This commitment may be stayed or suspended upon conditions  
2246 ordered by the court.

2247 (ii) This Subsection (2)(f) applies only to those minors adjudicated for:

2248 (A) an act which if committed by an adult would be a criminal offense; or

2249 (B) contempt of court under Section 78-3a-901.

2250 (g) The court may vest legal custody of an abused, neglected, or dependent minor in  
2251 the Division of Child and Family Services or any other appropriate person in accordance with  
2252 the requirements and procedures of Title 78, Chapter 3a, Part 3, Abuse, Neglect, and  
2253 Dependency Proceedings.

2254 (h) (i) The court may place the minor on a ranch or forestry camp, or similar facility for  
2255 care and also for work, if possible, if the person, agency, or association operating the facility  
2256 has been approved or has otherwise complied with all applicable state and local laws.

2257 (ii) A minor placed in a forestry camp or similar facility may be required to work on

2258 fire prevention, forestation and reforestation, recreational works, forest roads, and on other  
2259 works on or off the grounds of the facility and may be paid wages, subject to the approval of  
2260 and under conditions set by the court.

2261 (i) (i) The court may order the minor to repair, replace, or otherwise make restitution  
2262 for damage or loss caused by the minor's wrongful act, including costs of treatment as stated in  
2263 Section 78-3a-318 and impose fines in limited amounts.

2264 (ii) The court may also require the minor to reimburse an individual, entity, or  
2265 governmental agency who offered and paid a reward to a person or persons for providing  
2266 information resulting in a court adjudication that the minor is within the jurisdiction of the  
2267 juvenile court due to the commission of a criminal offense.

2268 (iii) If a minor has been returned to this state under the Interstate Compact on  
2269 Juveniles, the court may order the minor to make restitution for costs expended by any  
2270 governmental entity for the return.

2271 (j) The court may issue orders necessary for the collection of restitution and fines  
2272 ordered by the court, including garnishments, wage withholdings, and executions.

2273 (k) (i) The court may through its probation department encourage the development of  
2274 employment or work programs:

2275 (A) to enable [~~minors~~] a minor to fulfill [~~their~~] the minor's obligations under  
2276 Subsection (2)(i); and

2277 (B) for other purposes considered desirable by the court.

2278 (ii) Consistent with the order of the court, the probation officer may permit the minor  
2279 found to be within the jurisdiction of the court to participate in a program of work restitution or  
2280 compensatory service in lieu of paying part or all of the fine imposed by the court.

2281 (l) (i) [~~In violations of traffic laws~~] For a violation of a traffic law within the court's  
2282 jurisdiction, the court may, in addition to any other disposition authorized by this section:

2283 (A) restrain the minor from driving for periods of time the court considers necessary;  
2284 and

2285 (B) take possession of the minor's driver license.

2286 (ii) The court may enter any other disposition under Subsection (2)(l)(i); however, the  
2287 suspension of driving privileges for an offense under Section 78-3a-506 are governed only by  
2288 Section 78-3a-506.

2289 (m) (i) When a minor is found within the jurisdiction of the juvenile court under  
2290 Section 78-3a-104 because of violating Section 58-37-8, Title 58, Chapter 37a, Utah Drug  
2291 Paraphernalia Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, the court  
2292 shall, in addition to any fines or fees otherwise imposed, order that the minor perform a  
2293 minimum of 20 hours, but no more than 100 hours, of compensatory service. Satisfactory  
2294 completion of an approved substance abuse prevention or treatment program may be credited  
2295 by the court as compensatory service hours.

2296 (ii) When a minor is found within the jurisdiction of the juvenile court under Section  
2297 78-3a-104 because of a violation of Section 32A-12-209 or Subsection 76-9-701(1), the court  
2298 may, upon the first adjudication, and shall, upon a second or subsequent adjudication, order  
2299 that the minor perform a minimum of 20 hours, but no more than 100 hours of compensatory  
2300 service, in addition to any fines or fees otherwise imposed. Satisfactory completion of an  
2301 approved substance abuse prevention or treatment program may be credited by the court as  
2302 compensatory service hours.

2303 (n) (i) ~~[The]~~ Subject to Subsection (2)(n)(iii), the court may order that the minor:  
2304 (A) be examined or treated by a physician, surgeon, psychiatrist, or psychologist; or  
2305 [that he]

2306 (B) receive other special care.

2307 (ii) For ~~[these]~~ purposes of receiving the examination, treatment, or care described in  
2308 Subsection (2)(n)(i), the court may place the minor in a hospital or other suitable facility.

2309 (iii) A court may not enter an order under this Subsection (2)(n) or any other provision  
2310 of law unless the examination, treatment, or care described in Subsection (2)(n)(i):

2311 (A) is ordered with the consent of a parent or guardian of the minor;

2312 (B) does not pose a significant risk of producing serious side effects including:

2313 (I) death;

2314 (II) blindness;

2315 (III) suppression of growth;

2316 (IV) behavioral disturbances, including:

2317 (Aa) suicidal ideation; or

2318 (Bb) homicidal ideation;

2319 (V) thought disorders;

2320 (VI) tardive dyskensia;  
2321 (VII) brain function impairment; or  
2322 (VIII) emotional or physical harm resulting from the compulsory nature of the  
2323 examination, treatment, or care; or  
2324 (C) is shown, by clear and convincing evidence, to be necessary to avoid an immediate  
2325 serious threat to the minor's:  
2326 (I) life; or  
2327 (II) essential physiological functions.  
2328 (o) (i) The court may appoint:  
2329 (A) a guardian for the minor if [it] an appointment appears necessary in the interest of  
2330 the minor[;]; and [may appoint]  
2331 (B) as guardian a public or private institution or agency in which legal custody of the  
2332 minor is vested.  
2333 (ii) In placing a minor under the guardianship or legal custody of an individual or of a  
2334 private agency or institution, the court shall:  
2335 (A) give primary consideration to the welfare of the minor[. When practicable, the  
2336 court may]; and  
2337 (B) take into consideration the religious preferences of the minor and [of] the minor's  
2338 parents.  
2339 (p) (i) In support of a decree under Section 78-3a-104, the court may order reasonable  
2340 conditions to be complied with by [the parents or guardian];  
2341 (A) a parent or guardian of the minor;  
2342 (B) the minor[;];  
2343 (C) the minor's custodian[;]; or  
2344 (D) any other person who has been made a party to the proceedings. [Conditions]  
2345 (ii) The conditions described in Subsection (2)(p)(i) may include:  
2346 (A) parent-time [by the parents or one parent];  
2347 (B) restrictions on the minor's associates;  
2348 (C) restrictions on the minor's occupation and other activities; and  
2349 (D) requirements to be observed by [the parents] a parent or custodian.  
2350 [(it)] (iii) A minor whose parents or guardians successfully complete a family or other

2351 counseling program may be credited by the court for detention, confinement, or probation time.

2352 (q) The court may order the minor to be committed to the physical custody of a local  
2353 mental health authority, in accordance with the procedures and requirements of Title 62A,  
2354 Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and  
2355 Mental Health.

2356 (r) (i) The court may make an order committing a minor within [its] the court's  
2357 jurisdiction to the Utah State Developmental Center if the minor has mental retardation in  
2358 accordance with the provisions of Title 62A, Chapter 5, Part 3, Admission to Mental  
2359 Retardation Facility.

2360 (ii) The court shall follow the procedure applicable in the district courts with respect to  
2361 judicial commitments to the Utah State Developmental Center when ordering a commitment  
2362 under Subsection (2)(r)(i).

2363 (s) The court may terminate all parental rights upon a finding of compliance with the  
2364 provisions of Title 78, Chapter 3a, Part 4, Termination of Parental Rights Act.

2365 (t) The court may make any other reasonable orders for the best interest of the minor or  
2366 as required for the protection of the public, except that a person younger than 18 years of age  
2367 may not be committed to jail or prison.

2368 (u) The court may combine the dispositions listed in this section if they are compatible.

2369 (v) (i) Before depriving any parent of custody, the court shall give due consideration to  
2370 the rights of [~~parents~~] the parent concerning [~~their~~] the parent's minor.

2371 (ii) The court may transfer custody of a minor to another person, agency, or institution  
2372 in accordance with the requirements and procedures of Title 78, Chapter 3a, Part 3, Abuse,  
2373 Neglect, and Dependency Proceedings.

2374 (w) (i) Except as provided in Subsection (2)(y)(i), an order under this section for  
2375 probation or placement of a minor with an individual or an agency shall include a date certain  
2376 for a review of the case by the court.

2377 (ii) A new case review date shall be set [~~upon~~] at each review described in Subsection  
2378 (2)(w)(i).

2379 (x) In reviewing foster home placements, special attention shall be given to making  
2380 adoptable minors available for adoption without delay.

2381 (y) (i) The juvenile court may enter an order of permanent custody and guardianship

2382 with a relative or individual of a minor where the court [~~has~~] previously acquired jurisdiction  
2383 as a result of an adjudication of abuse, neglect, or dependency. The juvenile court may enter an  
2384 order for child support on behalf of the minor child against the natural or adoptive parents of  
2385 the child.

2386 (ii) Orders under Subsection (2)(y)(i):

2387 (A) shall remain in effect until the minor reaches majority;

2388 (B) are not subject to review under Section 78-3a-119; and

2389 (C) may be modified by petition or motion as provided in Section 78-3a-903.

2390 (iii) Orders permanently terminating the rights of a parent, guardian, or custodian and  
2391 permanent orders of custody and guardianship do not expire with a termination of jurisdiction  
2392 of the juvenile court.

2393 (3) In addition to the dispositions described in Subsection (2), when a minor comes  
2394 within the court's jurisdiction [~~he~~] the minor may be given a choice by the court to serve in the  
2395 National Guard in lieu of other sanctions, provided:

2396 (a) the minor meets the current entrance qualifications for service in the National  
2397 Guard as determined by a recruiter, whose determination is final;

2398 (b) the minor is not under the jurisdiction of the court for any act that:

2399 (i) would be a felony if committed by an adult;

2400 (ii) is a violation of Title 58, Chapter 37, Utah Controlled Substances Act; or

2401 (iii) was committed with a weapon; and

2402 (c) the court retains jurisdiction over the minor under conditions set by the court and  
2403 agreed upon by the recruiter or the unit commander to which the minor is eventually assigned.

2404 (4) (a) A DNA specimen shall be obtained from a minor who is under the jurisdiction  
2405 of the court as described in Subsection 53-10-403(3).

2406 (b) The specimen described in Subsection (4)(a) shall be:

2407 (i) obtained by designated employees of the court; or~~;~~

2408 (ii) if the minor is in the legal custody of the Division of Juvenile Justice Services,  
2409 [~~then~~] by designated employees of the division under Subsection 53-10-404(5)(b).

2410 [~~(b)~~] (c) The responsible agency shall ensure that:

2411 (i) employees designated to collect the saliva DNA specimens receive appropriate  
2412 training; and [~~that~~]

2413 (ii) the specimens are obtained in accordance with accepted protocol.

2414 [⊖] (d) Reimbursements paid under Subsection 53-10-404(2)(a) shall be placed in the  
2415 DNA Specimen Restricted Account created in Section 53-10-407.

2416 [⊕] (e) Payment of the reimbursement is second in priority to payments the minor is  
2417 ordered to make for restitution under this section and treatment under Section 78-3a-318.

2418 Section 34. Section **78-3a-301** is amended to read:

2419 **78-3a-301. Court-ordered protective custody of a minor following petition filing**  
2420 **-- Grounds.**

2421 (1) After a petition has been filed under Subsection 78-3a-305(1), if the minor who is  
2422 the subject of the petition is not in the protective custody of the division, a court may order that  
2423 the minor be removed from the minor's home or otherwise taken into protective custody if the  
2424 court finds, by a preponderance of the evidence, that any one or more of the following  
2425 circumstances exist:

2426 (a) there is [am] imminent danger to the physical health or safety of the minor and the  
2427 minor's physical health or safety may not be protected without removing the minor from the  
2428 custody of the minor's parent or guardian;

2429 (b) a parent or guardian engages in [~~or threatens the minor with unreasonable conduct~~  
2430 ~~that causes the minor to suffer emotional damage~~] mental cruelty of a minor and there are no  
2431 reasonable means available by which the minor's emotional health may be protected without  
2432 removing the minor from the custody of the minor's parent or guardian;

2433 (c) the minor or another minor residing in the same household has been physically or  
2434 sexually abused, or is considered to be at substantial risk of being physically or sexually  
2435 abused, by a:

2436 (i) parent [or];

2437 (ii) guardian[,-a];

2438 (iii) member of the parent's or guardian's household[-]; or [other]

2439 (iv) person known to the parent or guardian;

2440 (d) the parent or guardian is unwilling to have physical custody of the minor;

2441 (e) the minor has been abandoned or left without any provision for the minor's support;

2442 (f) a parent or guardian who has been incarcerated or institutionalized has not arranged  
2443 or cannot arrange for safe and appropriate care for the minor;

2444 (g) (i) a relative or other adult custodian with whom the minor ~~[has been]~~ is left by the  
2445 parent or guardian is unwilling or unable to provide care or support for the minor~~[-];~~;  
2446 (ii) the whereabouts of the parent or guardian are unknown~~[-];~~ and  
2447 (iii) reasonable efforts to locate the parent or guardian ~~[have been]~~ are unsuccessful;  
2448 (h) the minor is in immediate need of medical care;  
2449 (i) (i) a parent's or guardian's actions, omissions, or habitual action create an  
2450 environment that poses a substantial threat to the minor's health or safety; or  
2451 (ii) a parent's or guardian's action in leaving a minor unattended would reasonably pose  
2452 a substantial threat to the minor's health or safety;  
2453 (j) subject to Subsection (2)(c), the minor or another minor residing in the same  
2454 household ~~[has been]~~ is neglected;  
2455 (k) an infant ~~[has been]~~ is abandoned, as defined in Section 78-3a-313.5;  
2456 (l) (i) the parent or guardian, or an adult residing in the same household as the parent or  
2457 guardian, ~~[has been]~~ is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug  
2458 Lab Act~~[-];~~ and  
2459 (ii) any clandestine laboratory operation, as defined in Section 58-37d-3, was located in  
2460 the residence or on the property where the minor resided; or  
2461 (m) the minor's welfare is otherwise endangered.  
2462 (2) (a) For purposes of Subsection (1)(a), if a minor has previously been adjudicated as  
2463 abused, neglected, or dependent, and a subsequent incident of abuse, neglect, or dependency  
2464 has occurred involving the same substantiated abuser or under similar circumstance as the  
2465 previous abuse, that fact ~~[constitutes prima facie]~~ is evidence that the minor cannot safely  
2466 remain in the custody of the minor's parent.  
2467 (b) For purposes of Subsection (1)(c):  
2468 (i) another minor residing in the same household may not be removed from the home  
2469 unless that minor is considered to be at substantial risk of being physically or sexually abused  
2470 as described in Subsection (1)(c) or Subsection (2)(b)(ii); and  
2471 (ii) if a parent or guardian has received actual notice that physical or sexual abuse by a  
2472 person known to the parent has occurred, and there is evidence that the parent or guardian  
2473 failed to protect the minor, after having received the notice, by allowing the minor to be in the  
2474 physical presence of the alleged abuser, that fact constitutes prima facie evidence that the

2475 minor is at substantial risk of being physically or sexually abused.

2476 (c) For purposes of Subsection (1)(j), a minor residing in the same household as a  
2477 neglected minor may not be removed unless there is a substantial risk that the minor will also  
2478 be neglected.

2479 (3) In the absence of one of the factors described in Subsection (1), a court may not  
2480 remove a minor from the parent's or guardian's custody on the basis of:

2481 (a) educational neglect;

2482 (b) mental illness or poverty of the parent or guardian; or

2483 (c) disability of the parent or guardian, as defined in Subsection [~~57-21-3~~] 57-21-2(9).

2484 (4) A minor removed from the custody of the minor's parent or guardian under this  
2485 section may not be placed or kept in a secure detention facility pending further court  
2486 proceedings unless the minor is detainable based on guidelines promulgated by the Division of  
2487 Juvenile Justice Services.

2488 (5) This section does not preclude removal of a minor from the minor's home without a  
2489 warrant or court order under Section 62A-4a-202.1.

2490 Section 35. Section **78-3a-306** is amended to read:

2491 **78-3a-306. Shelter hearing.**

2492 (1) A shelter hearing shall be held within 72 hours excluding weekends and holidays  
2493 after any one or all of the following occur:

2494 (a) removal of the child from [~~his~~] the child's home by the [~~Division of Child and~~  
2495 ~~Family Services~~] division;

2496 (b) placement of the child in the protective custody of the [~~Division of Child and~~  
2497 ~~Family Services~~] division;

2498 (c) emergency kinship placement under Subsection 62A-4a-202.1(4); or

2499 (d) as an alternative to removal of the child, a parent [~~has entered~~] enters a domestic  
2500 violence shelter at the request of the [~~Division of Child and Family Services~~] division.

2501 (2) Upon the occurrence of any of the circumstances described in Subsections (1)(a)  
2502 through (1)(d), the division shall issue a notice that contains all of the following:

2503 (a) the name and address of the person to whom the notice is directed;

2504 (b) the date, time, and place of the shelter hearing;

2505 (c) the name of the [~~minor~~] child on whose behalf a petition is being brought;

- 2506 (d) a concise statement regarding:
- 2507 (i) the reasons for removal or other action of the division under Subsection (1); and
- 2508 (ii) the allegations and code sections under which the proceeding has been instituted;
- 2509 (e) a statement that the parent or guardian to whom notice is given, and the [minor]
- 2510 child, are entitled to have an attorney present at the shelter hearing, and that if the parent or
- 2511 guardian is indigent and cannot afford an attorney, and desires to be represented by an attorney,
- 2512 one will be provided; and
- 2513 (f) a statement that the parent or guardian is liable for the cost of support of the [minor]
- 2514 child in the protective custody, temporary custody, and custody of the division, and the cost for
- 2515 legal counsel appointed for the parent or guardian under Subsection (2)(e), according to [his]
- 2516 the financial ability of the parent or guardian.
- 2517 (3) [~~That notice~~] The notice described in Subsection (2) shall be personally served as
- 2518 soon as possible, but no later than one business day after removal of a child from [his] the
- 2519 child's home, on:
- 2520 (a) the appropriate guardian ad litem; and
- 2521 (b) both parents and any guardian of the [minor] child, unless they cannot be located.
- 2522 (4) The following persons shall be present at the shelter hearing:
- 2523 (a) the child, unless it would be detrimental for the child;
- 2524 (b) the child's parents or guardian, unless they cannot be located, or fail to appear in
- 2525 response to the notice;
- 2526 (c) counsel for the parents, if one [~~has been~~] is requested;
- 2527 (d) the child's guardian ad litem;
- 2528 (e) the caseworker from the [~~Division of Child and Family Services~~] division who [~~has~~
- 2529 ~~been~~] is assigned to the case; and
- 2530 (f) the attorney from the attorney general's office who is representing the division.
- 2531 (5) (a) At the shelter hearing, the court:
- 2532 (i) shall provide an opportunity [~~for~~] to provide relevant testimony to:
- 2533 (A) the [minor's] child's parent or guardian, if present[;]; and
- 2534 (B) any [~~other~~] person having relevant knowledge, [~~to provide relevant testimony. The~~
- 2535 ~~court~~] including any person requested by the parent or guardian; and
- 2536 (ii) may also provide an opportunity for the [minor] child to testify.

2537 (b) The court;

2538 (i) may consider all relevant evidence, in accordance with the Utah Rules of Juvenile

2539 Procedure[~~-. The court~~];

2540 (ii) shall hear relevant evidence presented by the [~~minor, his~~] child, the child's parent or

2541 guardian, the requesting party, or their counsel[~~-, but~~]; and

2542 (iii) may in its discretion limit testimony and evidence to only that which goes to the

2543 issues of removal and the child's need for continued protection.

2544 (6) If the child is in the protective custody of the division, the division shall report to

2545 the court:

2546 (a) the [~~reasons~~] reason why the [~~minor~~] child was removed from the parent's or

2547 guardian's custody;

2548 (b) any services provided to the child and [~~his~~] the child's family in an effort to prevent

2549 removal;

2550 (c) the need, if any, for continued shelter;

2551 (d) the available services that could facilitate the return of the [~~minor~~] child to the

2552 custody of [~~his~~] the child's parent or guardian; and

2553 (e) whether the child has any relatives who may be able and willing to take temporary

2554 custody.

2555 (7) The court shall consider all relevant evidence provided by persons or entities

2556 authorized to present relevant evidence pursuant to this section.

2557 (8) (a) If necessary to protect the child, preserve the rights of a party, or for other good

2558 cause shown, the court may grant no more than one [~~time-limited~~] continuance, not to exceed

2559 five judicial days.

2560 (b) A court shall honor, as nearly as practicable, the request by a parent or guardian for

2561 a continuance under Subsection (8)(a).

2562 (9) (a) If the child is in the protective custody of the division, the court shall order that

2563 the minor be released from the protective custody of the division unless it finds, by a

2564 preponderance of the evidence, that any one of the following exist:

2565 [~~(a)~~] (i) subject to Subsection (9)(b)(i), there is a substantial danger to the physical

2566 health or safety of the [~~minor~~] child and the [~~minor's~~] child's physical health or safety may not

2567 be protected without removing [~~him~~] the child from [~~his parent's~~] the custody[~~-. If a minor has~~

2568 ~~previously been adjudicated as abused, neglected, or dependent and a subsequent incident of~~  
2569 ~~abuse, neglect, or dependency occurs, that fact constitutes prima facie evidence that the child~~  
2570 ~~cannot safely remain in the custody of his parent] of the child's parents or caretaker;~~

2571 ~~[(b)] (ii) the [minor] child is suffering emotional damage[; as may be indicated by, but~~  
2572 ~~is not limited to, extreme anxiety, depression, withdrawal, or negative aggressive behavior~~  
2573 ~~toward self or others;] and there are no reasonable means available by which the [minor's]~~  
2574 ~~child's emotional health may be protected without removing the [minor] child from the custody~~  
2575 ~~of [his parent] the child's parents or caretaker;~~

2576 ~~(iii) there is a substantial risk that the child will suffer abuse or neglect if the child is~~  
2577 ~~not removed from the custody of the child's parents or caretaker;~~

2578 ~~[(e)] (iv) subject to Subsection (9)(b)(ii), the [minor] child or another [minor] child~~  
2579 ~~residing in the same household [has been] is physically or sexually abused, or is considered to~~  
2580 ~~be at substantial risk of being physically or sexually abused, by a:~~

2581 ~~(A) parent[; a] or caretaker;~~

2582 ~~(B) member of the parent's or caretaker's household[;]; or [other]~~

2583 ~~(C) person known to the parent[; If a parent has received actual notice that physical or~~  
2584 ~~sexual abuse by a person known to the parent has occurred, and there is evidence that the~~  
2585 ~~parent has allowed the child to be in the physical presence of the alleged abuser, that fact~~  
2586 ~~constitutes prima facie evidence that the child is at substantial risk of being physically or~~  
2587 ~~sexually abused] or caretaker;~~

2588 ~~[(d)] (v) the parent is unwilling to have physical custody of the child;~~

2589 ~~[(e)] (vi) the [minor has been] child is left without any provision for [his] the child's~~  
2590 ~~support;~~

2591 ~~[(f)] (vii) a parent who [has been] is incarcerated or institutionalized has not or cannot~~  
2592 ~~arrange for safe and appropriate care for the [minor] child;~~

2593 ~~[(g)] (viii) (A) a relative or other adult custodian with whom the [minor has been] child~~  
2594 ~~is left by the parent is unwilling or unable to provide care or support for the [minor,] child;~~

2595 ~~(B) the whereabouts of the parent are unknown[;]; and~~

2596 ~~(C) reasonable efforts to locate [him have been] the parent are unsuccessful;~~

2597 ~~[(h) the minor is in immediate need of medical care;]~~

2598 ~~[(i)] (ix) the physical environment or the fact that the child is left unattended beyond a~~

2599 reasonable period of time poses a threat to the child's health or safety;

2600 ~~[(j) the minor or another minor residing in the same household has been neglected;]~~

2601 ~~[(k)]~~ (x) the parent, or an adult residing in the same household as the parent, ~~[has been]~~

2602 is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act, and any

2603 clandestine laboratory operation, as defined in Section 58-37d-3, was located in the residence

2604 or on the property where the child resided; or

2605 ~~[(h)]~~ (xi) the child's welfare is ~~[otherwise]~~ substantially endangered.

2606 (b) (i) For purposes of Subsection (9)(a)(i), evidence that a child cannot safely remain

2607 in the custody of a parent or caretaker of the child is established if:

2608 (A) a court previously adjudicated that the child suffered abuse, neglect, or dependency

2609 involving the parent or caretaker; and

2610 (B) a subsequent incident of abuse, neglect, or dependency involving the parent or

2611 caretaker occurs.

2612 (ii) For purposes of Subsection (9)(a)(iv), there is a substantial risk that a child will be

2613 physically or sexually abused if the court finds, by a preponderance of the evidence, that the

2614 parent or caretaker:

2615 (A) received actual notice that abuse by a person known to the parent or caretaker

2616 occurred; and

2617 (B) after receiving the notice described in Subsection (9)(b)(ii)(A), allowed the child to

2618 be in the physical presence of the abuser.

2619 (10) (a) The court shall also make a determination on the record as to whether:

2620 (i) reasonable efforts were made to prevent or eliminate the need for removal of the

2621 ~~[minor]~~ child from ~~[his]~~ the child's home; and ~~[whether]~~

2622 (ii) there are available services that would prevent the need for continued removal.

2623 (b) If the court finds that the ~~[minor]~~ child can be safely returned to the custody of ~~[his]~~

2624 the child's parent or guardian through the provision of ~~[those services, it shall]~~ the services

2625 described in Subsection (10)(a)(ii), the court shall:

2626 (i) place the [minor] child with [his] the child's parent or guardian; and

2627 (ii) order that those services be provided by the division.

2628 ~~[(b) In making that determination, and in ordering and providing services, the child's]~~

2629 (c) In complying with this Subsection (10), the child's health[;] and safety[;] and

2630 ~~welfare~~] shall be the paramount concern, in accordance with federal law.

2631 (11) Where the division's first contact with the family occurred during an emergency  
2632 situation in which the child could not safely remain at home, the court shall make a finding that  
2633 any lack of preplacement preventive efforts was appropriate.

2634 (12) In cases where actual sexual abuse [~~or~~], abandonment, [~~or~~] serious physical  
2635 [~~abuse~~] injury, or serious neglect are involved, neither the division nor the court has any duty to  
2636 make "reasonable efforts" or to, in any other way, attempt to:

2637 (a) maintain a child in [~~his~~] the child's home[:];

2638 (b) return a child to [~~his~~] the child's home[:];

2639 (c) provide reunification services[:]; or

2640 (d) attempt to rehabilitate [~~the~~] an offending parent [~~or parents~~].

2641 (13) The court may not order continued removal of a [~~minor~~] child solely on the basis  
2642 of educational neglect as described in Subsection [~~78-3a-103(1)(s)(ii)~~] 62A-4a-101(20)(a)(iv).

2643 (14) (a) Whenever a court orders continued removal of a [~~minor~~] child under this  
2644 section, it shall state the facts on which that decision is based.

2645 (b) If no continued removal is ordered and the [~~minor~~] child is returned home, the court  
2646 shall state the facts on which that decision is based.

2647 (15) If the court finds that continued removal and temporary custody are necessary for  
2648 the protection of a child because harm may result to the child if [~~he were~~] the child is returned  
2649 home, [~~it~~] the court shall order continued removal regardless of:

2650 (a) any error in the initial removal of the child[:]; or

2651 (b) the failure of a party to comply with:

2652 (i) notice provisions[:]; or

2653 (ii) any other procedural requirement of this chapter or Title 62A, Chapter 4a, Child  
2654 and Family Services.

2655 Section 36. Section **78-3a-311** is amended to read:

2656 **78-3a-311. Dispositional hearing -- Reunification services -- Exceptions.**

2657 (1) The court may:

2658 (a) make any of the dispositions described in Section 78-3a-118[:];

2659 (b) place the child in the custody or guardianship of any:

2660 (i) individual; or

2661           (ii) public or private entity or agency[;]; or  
 2662           (c) order;  
 2663           (i) protective supervision[;];  
 2664           (ii) family preservation[;];  
 2665           (iii) subject to Subsection 78-3a-118(2)(n)(iii), medical or mental health treatment[;];  
 2666 or  
 2667           (iv) other services.

2668           (2) (a) (i) Whenever the court orders continued removal at the dispositional hearing,  
 2669 and that the minor remain in the custody of the [~~Division of Child and Family Services, it~~  
 2670 division, the court shall first:  
 2671           (A) establish a primary permanency goal for the minor; and  
 2672           (B) determine whether, in view of the primary permanency goal, reunification services  
 2673 are appropriate for the child and the child's family, pursuant to Subsection (3).  
 2674           (ii) [~~When~~ Subject to Subsection (2)(b), if the court determines that reunification  
 2675 services are appropriate for the child and the child's family, the court shall provide for  
 2676 reasonable parent-time with the parent or parents from whose custody the child was removed,  
 2677 unless parent-time is not in the best interest of the child.  
 2678           (iii) In cases where obvious sexual abuse, abandonment, [~~or~~] serious physical [~~abuse~~  
 2679 injury, or serious neglect are involved, neither the division nor the court has any duty to make  
 2680 "reasonable efforts" or to, in any other way, attempt to provide reunification services[~~, or to~~  
 2681 attempt] to rehabilitate [~~the~~] an offending parent [~~or parents~~].  
 2682           (iv) In all cases, the child's health, safety, and welfare shall be the court's paramount  
 2683 concern in determining whether reasonable efforts to reunify should be made.

2684           (b) (i) For purposes of Subsection (2)(a)(ii), parent-time is in the best interests of a  
 2685 child unless the court makes a finding that it is necessary to deny parent-time in order to:  
 2686           (A) protect the physical safety of the child;  
 2687           (B) protect the life of the child; or  
 2688           (C) prevent the child from being traumatized by contact with the parent due to the  
 2689 child's fear of the parent in light of the nature of the alleged abuse or neglect.  
 2690           (ii) Notwithstanding Subsection (2)(a)(ii), a court may not deny parent-time based  
 2691 solely on a parent's failure to:

2692            (A) prove that the parent has not used legal or illegal substances; or  
2693            (B) comply with an aspect of the treatment plan that is ordered by the court.  
2694            ~~[(b)]~~ (c) (i) In addition to the primary permanency goal, the court shall establish a  
2695 concurrent permanency goal~~[- The concurrent permanency goal]~~ that shall include:  
2696            (A) a representative list of the conditions under which the primary permanency goal  
2697 will be abandoned in favor of the concurrent permanency goal; and  
2698            (B) an explanation of the effect of abandoning or modifying the primary permanency  
2699 goal.  
2700            (ii) A permanency hearing shall be conducted in accordance with Subsection  
2701 78-3a-312(1)(b) within 30 days if something other than reunification is initially established as a  
2702 child's primary permanency goal.  
2703            (iii) (A) The court may amend a child's primary permanency goal before the  
2704 establishment of a final permanency plan under Section 78-3a-312.  
2705            (B) The court is not limited to the terms of the concurrent permanency goal in the event  
2706 that the primary permanency goal is abandoned.  
2707            (C) If, at anytime, the court determines that reunification is no longer a child's primary  
2708 permanency goal, the court shall conduct a permanency hearing in accordance with Section  
2709 78-3a-312 within the earlier of:  
2710            (I) 30 days of the court's determination; or  
2711            (II) 12 months from the original removal of the child.  
2712            ~~[(c)]~~ (d) (i) If the court determines that reunification services are appropriate, it shall  
2713 order that the division make reasonable efforts to provide services to the child and the child's  
2714 parent for the purpose of facilitating reunification of the family, for a specified period of time.  
2715 In providing those services, the child's health, safety, and welfare shall be the division's  
2716 paramount concern, and the court shall so order.  
2717            (ii) The court shall:  
2718            (A) determine whether the services offered or provided by the division under the  
2719 treatment plan constitute "reasonable efforts" on the part of the division~~[- The court shall also]~~;  
2720            (B) determine and define the responsibilities of the parent under the treatment plan in  
2721 accordance with Section 62A-4a-205~~[- Those duties and responsibilities shall be identified]~~;  
2722 and

2723           (C) identify on the record the responsibilities described in Subsection (2)(d)(ii)(B), for  
2724 the purpose of assisting in any future determination regarding the provision of reasonable  
2725 efforts, in accordance with state and federal law.

2726           (iii) (A) The time period for reunification services may not exceed 12 months from the  
2727 date that the child was initially removed from the child's home.

2728           (B) Nothing in this section may be construed to entitle any parent to an entire 12  
2729 months of reunification services.

2730           (iv) If reunification services [~~have been~~] are ordered, the court may terminate those  
2731 services at any time.

2732           (v) If, at any time, continuation of reasonable efforts to reunify a child is determined to  
2733 be inconsistent with the final permanency plan for the child established pursuant to Subsection  
2734 78-3a-312, then measures shall be taken, in a timely manner, to:

2735           (A) place the child in accordance with the permanency plan[-]; and [to]

2736           (B) complete whatever steps are necessary to finalize the permanent placement of the  
2737 child.

2738           [~~(d)~~] (e) Any physical custody of the minor by the parent or a relative during the period  
2739 described in Subsection (2)[~~(e)~~](d) does not interrupt the running of the period.

2740           [~~(e)~~] (f) (i) If reunification services [~~have been~~] are ordered, a permanency hearing  
2741 shall be conducted by the court in accordance with Section 78-3a-312 at the expiration of the  
2742 time period for reunification services.

2743           (ii) The permanency hearing described in Subsection (2)(f)(i) shall be held no later than  
2744 12 months after the original removal of the child.

2745           [~~(ii)~~] (iii) If reunification services [~~have not been~~] are not ordered, a permanency  
2746 hearing shall be conducted within 30 days, in accordance with Section 78-3a-312.

2747           [~~(f)~~] (g) With regard to a child who is 36 months of age or younger at the time the child  
2748 is initially removed from the home, the court shall:

2749           (i) hold a permanency hearing [~~eight~~] 12 months after the date of the initial removal,  
2750 pursuant to Section 78-3a-312; and

2751           (ii) order the discontinuance of those services after [~~eight~~] 12 months from the initial  
2752 removal of the child from the home if the parent or parents have not made substantial efforts to  
2753 comply with the treatment plan.

2754           ~~[(g)]~~ (h) With regard to a child in the custody of the division whose parent or parents  
2755 ~~[have been]~~ are ordered to receive reunification services but who have abandoned that child for  
2756 a period of six months since the date that reunification services were ordered[;];

2757           (i) the court shall terminate reunification services[;]; and

2758           (ii) the division shall petition the court for termination of parental rights.

2759           (3) (a) Because of the state's interest in and responsibility to protect and provide  
2760 permanency for children who are abused, neglected, or dependent, the Legislature finds that a  
2761 parent's interest in receiving reunification services is limited.

2762           (b) The court may determine that:

2763           (i) efforts to reunify a child with the child's family are not reasonable or appropriate,  
2764 based on the individual circumstances[;]; and ~~[that]~~

2765           (ii) reunification services should not be provided.

2766           (c) In determining "reasonable efforts" to be made with respect to a child, and in  
2767 making "reasonable efforts," the child's health, safety, and welfare shall be the paramount  
2768 concern.

2769           ~~[(b)]~~ (d) (i) There is a presumption that reunification services should not be provided to  
2770 a parent if the court finds, by clear and convincing evidence, that any of the following  
2771 circumstances exist:

2772           ~~[(i)]~~ (A) the whereabouts of the parents are unknown, based upon a verified affidavit  
2773 indicating that a reasonably diligent search has failed to locate the parent;

2774           ~~[(ii)]~~ (B) subject to Subsection (3)(d)(ii), the parent is suffering from a mental illness of  
2775 such magnitude that it renders ~~[him]~~ the parent incapable of utilizing reunification services;  
2776 ~~[that finding shall be based on competent evidence from mental health professionals~~  
2777 ~~establishing that, even with the provision of services, the parent is unlikely to be capable of~~  
2778 ~~adequately caring for the child within 12 months;]~~

2779           ~~[(iii)]~~ (C) the ~~[minor has been]~~ child was previously adjudicated as an abused child  
2780 due to physical or sexual abuse, ~~[that]~~ and following the adjudication the child:

2781           (I) was removed from the custody of ~~[his]~~ the child's parent[;];

2782           (II) subsequently returned to the custody of ~~[that]~~ the parent[;]; and ~~[the minor]~~

2783           (III) is being removed due to additional physical or sexual abuse;

2784           ~~[(iv)]~~ (D) the parent ~~[has]~~;

2785 (I) caused the death of another child through abuse or neglect; or [~~has~~]  
 2786 (II) committed, aided, abetted, attempted, conspired, or solicited to commit;  
 2787 (Aa) murder or manslaughter of a child; or  
 2788 (Bb) child abuse homicide;  
 2789 [~~(v)~~] (E) the [~~minor has~~] child suffered severe child abuse or neglect by the parent or  
 2790 by any person known by the parent, if the parent knew [~~or reasonably should have known~~] that  
 2791 the person was abusing or neglecting the [~~minor~~] child;  
 2792 [~~(vi)~~] (F) the [~~minor has been~~] child is adjudicated an abused child as a result of severe  
 2793 child abuse or neglect by the parent, and the court finds that it would not benefit the child to  
 2794 pursue reunification services with the offending parent;  
 2795 [~~(vii)~~] (G) the parent's rights [~~have been~~] are terminated with regard to any other child;  
 2796 [~~(viii)~~] (H) the child [~~has been~~] is removed from [~~his~~] the child's home on at least two  
 2797 previous occasions and reunification services were offered or provided to the family at those  
 2798 times; or  
 2799 [~~(ix)~~] (I) the parent has abandoned the child for a period of six months or longer[~~;~~~~or~~].  
 2800 [~~(x) any other circumstance that the court determines should preclude reunification~~  
 2801 ~~efforts or services.~~]  
 2802 [~~(4)(a) Failure~~]  
 2803 (ii) The finding under Subsection (3)(d)(i)(B) shall be based on competent evidence  
 2804 from at least two medical or mental health professionals, who are not associates, establishing  
 2805 that, even with the provision of services, the parent is not likely to be capable of adequately  
 2806 caring for the child within 12 months of the court's finding.  
 2807 (4) In determining whether reunification services are appropriate, the court shall take  
 2808 into consideration:  
 2809 (a) failure of the parent to [~~respond to previous services or~~] make a reasonable effort to  
 2810 comply with [~~any~~] a previous treatment plan[~~;~~];  
 2811 (b) the fact that the child was abused while the parent was under the influence of drugs  
 2812 or alcohol[~~, a past~~];  
 2813 (c) any history of violent behavior[~~;~~] directed at the child or an immediate family  
 2814 member;  
 2815 (d) whether a parent continues to live with an individual who abused the child[~~;~~];

2816 (e) any patterns of the parent's behavior that have exposed the child to repeated abuse[;  
2817 ~~or testimony by a competent professional that the parent's behavior is unlikely to be successful;~~  
2818 ~~shall be considered in determining whether reunification services are appropriate.]; and~~

2819 ~~[(b) The court shall also consider]~~ (f) whether the parent has expressed an interest in  
2820 reunification with the child[~~; in determining whether reunification services are appropriate].~~

2821 (5) (a) If reunification services are not ordered pursuant to Subsection (3)(a), and the  
2822 whereabouts of a parent become known within six months of the out-of-home placement of the  
2823 ~~[minor]~~ child, the court may order the division to provide reunification services.

2824 (b) The time limits described in Subsection (2)[~~; however;~~] are not tolled by the  
2825 parent's absence.

2826 (6) (a) If a parent is incarcerated or institutionalized, the court shall order reasonable  
2827 services unless it determines that those services would be seriously detrimental to the ~~[minor]~~  
2828 health or safety of the child. ~~[In determining detriment]~~

2829 (b) In making the determination described in Subsection (6)(a), the court shall  
2830 consider:

2831 (i) the age of the child[;];

2832 (ii) the degree of parent-child bonding[;];

2833 (iii) the length of the sentence[;];

2834 (iv) the nature of the treatment[;];

2835 (v) the nature of the crime or mental illness[;];

2836 (vi) the degree of detriment to the ~~[child]~~ child's health and safety if services are not  
2837 offered ~~[and;];~~

2838 (vii) for ~~[minors]~~ a child ten years of age or older, the ~~[minor's]~~ child's attitude toward  
2839 the implementation of family reunification services[;]; and

2840 (viii) any other appropriate factors.

2841 (c) In making the determination described in Subsection (6)(a), the court shall give  
2842 particular weight to the consideration described in Subsection (6)(b)(vii).

2843 (d) Reunification services for an incarcerated parent are subject to the 12-month  
2844 limitation imposed in Subsection (2).

2845 (e) Reunification services for an institutionalized parent are subject to the 12-month  
2846 limitation imposed in Subsection (2), unless the court determines that continued reunification

2847 services would be in the child's best interest.

2848 (7) If, pursuant to Subsection (3)(b)[(ii), (iii), (iv), (v), (vi), (vii), (viii), (ix), or (x)], the  
2849 court does not order reunification services, a permanency hearing shall be conducted within 30  
2850 days, in accordance with Section 78-3a-312.

2851 Section 37. Section **78-3a-320** is amended to read:

2852 **78-3a-320. Additional finding at adjudication hearing -- Petition -- Court records.**

2853 (1) Upon the filing with the court of a petition under Section 78-3a-305 by the  
2854 [~~Division of Child and Family Services~~] division or any interested person informing the court,  
2855 among other things, that the division [~~has~~] made a supported finding [~~of one or more of the~~  
2856 ~~severe types of~~], pursuant to Section 62A-4a-116.1, that a person committed severe child abuse  
2857 or neglect [~~described in Subsection 62A-4a-116.1(2)~~], the court shall:

- 2858 (a) make a finding of substantiated, unsubstantiated, or without merit;  
2859 (b) include the finding described in Subsection (1)(a) in a written order; and  
2860 (c) deliver a certified copy of the order described in Subsection (1)(b) to the division.

2861 (2) The judicial finding under Subsection (1) shall be made:

- 2862 (a) as part of or at the conclusion of the adjudication hearing; or  
2863 (b) as part of a court order entered pursuant to a written stipulation of the parties.

2864 (3) (a) Any person described in Subsection 62A-4a-116.6(1) may at any time file with  
2865 the court a petition for removal of the person's name from the Licensing Information System.

2866 (b) At the conclusion of the hearing on the petition described in Subsection (3)(a), the  
2867 court shall:

- 2868 [~~(a)~~] (i) make a finding of substantiated, unsubstantiated, or without merit;  
2869 [~~(b)~~] (ii) include the finding described in Subsection (1)(a) in a written order; and  
2870 [~~(c)~~] (iii) deliver a certified copy of the order described in Subsection (1)(b) to the  
2871 division.

2872 (4) A proceeding for adjudication under this section of a supported finding of a  
2873 [~~nonsevere~~] type of abuse or neglect [~~under this section~~] that does not constitute severe child  
2874 abuse or neglect may be joined in the juvenile court with an adjudication of [a] severe [~~type of~~]  
2875 child abuse or neglect.

2876 (5) If a person whose name appears on the Licensing Information System [~~prior to~~]  
2877 before May 6, 2002 files a petition during the time that an alleged perpetrator's application for

2878 clearance to work with children or vulnerable adults is pending, the court shall hear the matter  
2879 and enter a final decision no later than 60 days after the filing of the petition.

2880 (6) For the purposes of licensing under Sections 26-21-9.5, 26-39-105.5, 62A-1-118,  
2881 and 62A-2-121:

2882 (a) the court shall make available records of its findings under Subsections (1) and (2)  
2883 for licensing purposes, only to those with statutory authority to access also the Licensing  
2884 Information System created under Section 62A-4a-116.2; and

2885 (b) any appellate court shall make available court records of appeals from juvenile  
2886 court decisions under Subsections (1), (2), (3), and (4) for licensing purposes, only to those  
2887 with statutory authority to access also the Licensing Information System.

2888 Section 38. Section **78-3a-402** is amended to read:

2889 **78-3a-402. Judicial process for termination -- Parent unfit or incompetent -- Best**  
2890 **interest of child.**

2891 (1) This part provides a judicial process for voluntary and involuntary severance of the  
2892 parent-child relationship, designed to safeguard the rights and interests of all parties concerned  
2893 and promote their welfare and that of the state.

2894 (2) Wherever possible family life should be strengthened and preserved, but if a parent  
2895 is found, by reason of [~~his~~] the parent's conduct or condition, to be unfit or incompetent based  
2896 upon any of the grounds for termination described in this part, the court shall then consider the  
2897 welfare and best interest of the child of paramount importance in determining whether  
2898 termination of parental rights shall be ordered.

2899 Section 39. Section **78-3a-406** is amended to read:

2900 **78-3a-406. Notice -- Nature of proceedings.**

2901 (1) After a petition for termination of parental rights [~~has been~~] is filed, notice of that  
2902 fact and of the time and place of the hearing shall be provided, in accordance with the Utah  
2903 Rules of Civil Procedure, to:

2904 (a) the parents[;];

2905 (b) the guardian[;];

2906 (c) the person or agency having legal custody of the child[;]; and [~~to~~]

2907 (d) any person acting in loco parentis to the child.

2908 (2) (a) A hearing shall be held specifically on the question of termination of parental

2909 rights no sooner than ten days after service of summons is complete.

2910 (b) A verbatim record of the proceedings of the hearing described in Subsection (2)(a)  
 2911 shall be taken and the parties shall be advised of their right to counsel.

2912 (c) The summons described in Subsection (2)(a) shall contain a statement to the effect  
 2913 that the rights of the parent or parents are proposed to be permanently terminated in the  
 2914 proceedings. [~~That~~]

2915 (d) The statement described in Subsection (2)(c) may be contained in:

2916 (i) the summons originally issued in the proceeding; or [~~in~~]

2917 (ii) a separate summons subsequently issued.

2918 (3) (a) The proceedings in this section are civil in nature and are governed by the Utah  
 2919 Rules of Civil Procedure.

2920 (b) The court shall in all cases:

2921 (i) require the petitioner to establish the facts by clear and convincing evidence[;]; and  
 2922 [~~shall~~]

2923 (ii) give full and careful consideration to all of the evidence presented with regard to  
 2924 the constitutional rights and claims of the parent [~~and, if~~].

2925 (c) If a parent is found, by reason of [his] the parent's conduct or condition, to be unfit  
 2926 or incompetent based upon any of the grounds for termination described in this part, the court  
 2927 shall then consider the welfare and best interest of the child of paramount importance in  
 2928 determining whether termination of parental rights shall be ordered.

2929 Section 40. Section **78-3a-407** is amended to read:

2930 **78-3a-407. Grounds for termination of parental rights -- Findings regarding**  
 2931 **reasonable efforts.**

2932 (1) The court may terminate all parental rights with respect to a parent if it finds [~~any~~]  
 2933 one or more of the following:

2934 (a) [~~that~~] the parent has abandoned the child;

2935 [~~(b) that the parent has neglected or abused the child;~~]

2936 [~~(c) that the parent is unfit or incompetent;~~]

2937 [~~(d) that the child is being cared for in an out-of-home placement under the supervision~~  
 2938 ~~of the court or the division and the parent has substantially neglected, wilfully refused, or has~~  
 2939 ~~been unable or unwilling to remedy the circumstances that cause the child to be in an~~

2940 ~~out-of-home placement, and there is a substantial likelihood that the parent will not be capable~~  
2941 ~~of exercising proper and effective parental care in the near future;]~~

2942 ~~[(e) failure of parental adjustment, as defined in this chapter;]~~

2943 ~~[(f) that only token efforts have been made by the parent;]~~

2944 ~~[(i) to support or communicate with the child;]~~

2945 ~~[(ii) to prevent neglect of the child;]~~

2946 ~~[(iii) to eliminate the risk of serious physical, mental, or emotional abuse of the child;~~

2947 ~~or]~~

2948 ~~[(iv) to avoid being an unfit parent;]~~

2949 ~~[(g) the parent has]~~

2950 (b) the parent:

2951 (i) is unfit or incompetent based on conduct or a condition that is seriously detrimental

2952 to the health and safety of the child; and

2953 (ii) is unable or unwilling to correct the unfitness or incompetence described in

2954 Subsection (1)(b)(i);

2955 (c) the parent commits:

2956 (i) severe child abuse or neglect;

2957 (ii) abuse that resulted in serious physical injury;

2958 (iii) serious neglect; or

2959 (iv) sexual abuse;

2960 (d) (i) the parent voluntarily relinquished the parent's parental rights to the child[-]; and

2961 (ii) the court finds that termination is in the child's best interest;

2962 ~~[(h) the parent, after a period of trial during which the child was returned to live in the~~

2963 ~~child's own home, substantially and continuously or repeatedly refused or failed to give the~~

2964 ~~child proper parental care and protection; or]~~

2965 (e) for at least one year the parent without just cause failed to:

2966 (i) communicate with the child by mail, telephone, or any other means; or

2967 (ii) show the normal interest of a natural parent in the child; or

2968 ~~[(h)]~~ (f) the terms and conditions of safe relinquishment of a newborn child have been

2969 complied with, pursuant to Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a Newborn

2970 Child.

2971 (2) For purposes of Subsection (1)(a), prima facie evidence of abandonment is  
 2972 established if it is shown that, while having legal custody of the child, a parent:  
 2973 (a) wilfully surrendered physical custody of the child; and  
 2974 (b) for a period of six months following the surrender described in Subsection (2)(a).  
 2975 does not manifest to the child or the person with physical custody of the child:  
 2976 (i) a firm intention to resume physical custody of the child; or  
 2977 (ii) to make arrangements for the care of the child.  
 2978 ~~[(2)]~~ (3) The court may not terminate the parental rights of a parent because the parent  
 2979 ~~[has failed]~~ fails to complete the requirements of a treatment plan.  
 2980 ~~[(3)]~~ (4) (a) ~~[In]~~ Subject to Subsection (4)(b), in any case in which the court has  
 2981 directed the division to provide reunification services to a parent, the court must find that the  
 2982 division made reasonable efforts to provide those services before the court may terminate the  
 2983 parent's rights under Subsection (1)(b), (c), ~~[(d)]~~, (e), or (f)~~[-or (h)]~~.  
 2984 (b) The court is not required to make the finding under Subsection ~~[(3)]~~ (4)(a) before  
 2985 terminating a parent's rights:  
 2986 (i) under Subsection (1)~~[(b)]~~(c) based upon abuse or neglect found by the court to have  
 2987 occurred subsequent to adjudication; or  
 2988 (ii) if reasonable efforts are not required under federal law.  
 2989 Section 41. Section **78-3a-408** is amended to read:  
 2990 **78-3a-408. Evidence of grounds for termination.**  
 2991 ~~[(1) In determining whether a parent or parents have abandoned a child, it is prima~~  
 2992 ~~facie evidence of abandonment that the parent or parents:]~~  
 2993 ~~[(a) although having legal custody of the child, have surrendered physical custody of~~  
 2994 ~~the child, and for a period of six months following the surrender have not manifested to the~~  
 2995 ~~child or to the person having the physical custody of the child a firm intention to resume~~  
 2996 ~~physical custody or to make arrangements for the care of the child;]~~  
 2997 ~~[(b) have failed to communicate with the child by mail, telephone, or otherwise for six~~  
 2998 ~~months;]~~  
 2999 ~~[(c) failed to have shown the normal interest of a natural parent, without just cause; or]~~  
 3000 ~~[(d) have abandoned an infant, as described in Section 78-3a-313.5.]~~  
 3001 ~~[(2) In determining whether a parent or parents are unfit or have neglected a child the~~

3002 court shall consider, but is not limited to, the following circumstances, conduct, or conditions:]

3003 ~~[(a) emotional illness, mental illness, or mental deficiency of the parent that renders~~  
3004 ~~him unable to care for the immediate and continuing physical or emotional needs of the child~~  
3005 ~~for extended periods of time;]~~

3006 (1) When considering evidence for grounds supporting the termination of parental  
3007 rights, the court shall consider:

3008 ~~[(b)]~~ (a) subject to Subsection (3), conduct toward a child of a physically, emotionally,  
3009 or sexually ~~[cruel or]~~ abusive nature;

3010 ~~[(c)]~~ (b) habitual or excessive use of intoxicating liquors, controlled substances, or  
3011 dangerous drugs that render the parent unable to care for the child;

3012 ~~[(d)]~~ (c) subject to Subsection (2), repeated or continuous failure to provide the child  
3013 with adequate food, clothing, shelter, ~~[education,]~~ or other care ~~[necessary for his]~~ that results  
3014 in substantial harm to the child's physical~~[, mental, and emotional]~~ and mental health ~~[and~~  
3015 ~~development by a parent or parents who are capable of providing that care. However, a parent~~  
3016 ~~who, legitimately practicing his religious beliefs, does not provide specified medical treatment~~  
3017 ~~for a child is not for that reason alone a negligent or unfit parent]~~ or safety;

3018 ~~[(e)]~~ (d) with regard to a child ~~[who is]~~ in the custody of the division, ~~[if]~~ whether:

3019 (i) the parent is incarcerated as a result of a felony conviction ~~[of a felony,];~~ and

3020 (ii) the sentence is of such length that the child will be deprived of a normal home for  
3021 more than one year; ~~[or]~~

3022 ~~[(f)]~~ (e) a history of violent behavior~~[-:];~~

3023 ~~[(3) If a child has been placed in the custody of the division and the parent or parents~~  
3024 ~~fail to comply substantially with the terms and conditions of a plan within six months after the~~  
3025 ~~date on which the child was placed or the plan was commenced, whichever occurs later, that~~  
3026 ~~failure to comply is evidence of failure of parental adjustment.]~~

3027 ~~[(4) The following circumstances constitute prima facie evidence of unfitness:]~~

3028 ~~[(a)]~~ (f) sexual abuse, injury, or death of ~~[a sibling of the child, or of]~~ any child, due to  
3029 known or substantiated abuse or neglect by ~~[the]~~ a parent ~~[or parents];~~

3030 ~~[(b)]~~ (g) conviction of a crime, if the facts surrounding the crime are of such a nature as  
3031 to indicate the unfitness of the parent to provide adequate care to the extent necessary for the  
3032 child's physical, mental, or emotional health and development;

3033           ~~[(e)]~~ (h) a single incident of life-threatening or gravely disabling injury to or  
3034   disfigurement of the child; or

3035           ~~[(d)]~~ (i) ~~whether~~ the parent has committed, aided, abetted, attempted, conspired, or  
3036   solicited to commit:

3037           (i) murder or manslaughter of a child; or

3038           (ii) child abuse homicide.

3039           (2) For purposes of Subsection (1)(c), failure by a parent, due to the legitimate practice  
3040   of religious beliefs, to provide specified medical treatment for a child, is not for that reason  
3041   alone, grounds for terminating parental rights.

3042           (3) (a) For purposes of Subsection (1)(a), discipline of a child by a parent is presumed  
3043   to not constitute abusive conduct.

3044           (b) The presumption described in Subsection (3)(a) may only be rebutted by clear and  
3045   convincing evidence that the discipline constitutes abuse.

3046           Section 42. Section **78-3a-414** is amended to read:

3047           **78-3a-414. Voluntary relinquishment -- Irrevocable.**

3048           (1) Voluntary relinquishment or consent for termination of parental rights shall be  
3049   signed or confirmed under oath ~~[either]~~ before:

3050           (a) ~~[before]~~ a judge of any court that has jurisdiction over proceedings for termination  
3051   of parental rights in this state or any other state~~[-or]~~;

3052           (b) a public officer appointed by [that] a court described in Subsection (1)(a) for the  
3053   purpose of taking consents or relinquishments; or

3054           ~~[(b)]~~ (c) except as provided in Subsection (2), any person authorized to take consents  
3055   or relinquishments under Subsections 78-30-4.18(1) and (2).

3056           (2) Only the juvenile court is authorized to take consents or relinquishments from a  
3057   parent who has:

3058           (a) any child ~~[who is]~~ in the custody of a state agency; or ~~[who has]~~

3059           (b) a child who is otherwise under the jurisdiction of the juvenile court.

3060           (3) The court, appointed officer, or other authorized person shall certify to the best of  
3061   that person's information and belief that the person executing the consent or relinquishment  
3062   has:

3063           (a) read and understands the consent or relinquishment; and ~~[has signed it]~~

3064           **(b) signed the consent or relinquishment** freely and voluntarily.

3065           (4) A voluntary relinquishment or consent for termination of parental rights is effective  
3066 when it is signed and may not be revoked.

3067           (5) The requirements and processes described in Sections 78-3a-402 through 78-3a-410  
3068 do not apply to a voluntary relinquishment or consent for termination of parental rights. The  
3069 court need only find that the relinquishment or termination is in the child's best interest.

3070           (6) **(a)** There is a presumption that voluntary relinquishment or consent for termination  
3071 of parental rights is not in the child's best interest where it appears to the court that the primary  
3072 purpose is to avoid a financial support obligation.

3073           **(b)** The presumption described in Subsection (6)(a) may be rebutted~~[, however,]~~ if the  
3074 court finds the relinquishment or consent to termination of parental rights will facilitate the  
3075 establishment of stability and permanency for the child.

3076           (7) Upon granting a voluntary relinquishment the court may make orders relating to the  
3077 child's care, health, and ~~[welfare]~~ safety that the court considers to be in the child's best interest.

3078           Section 43. **Repealer.**

3079           This bill repeals:

3080           Section **62A-4a-202.7, Pilot program for differentiated responses to child abuse**  
3081 **and neglect reports.**

3082           Section **78-3a-403, Definitions.**

3083           Section 44. **Effective date.**

3084           This bill takes effect on January 1, 2006.