

1 **CHILD WELFARE AMENDMENTS**

2 2007 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Merlynn T. Newbold**

5 Senate Sponsor: Allen M. Christensen

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6  
7 **LONG TITLE**

8 **General Description:**

9 This bill amends the Utah Human Services Code and the Judicial Code in order to  
10 comply with federal requirements, including those contained in The Adam Walsh Child  
11 Protection and Safety Act of 2006 and the Safe and Timely Interstate Placement of  
12 Foster Care Children Act of 2006, and to make corrections to certain child welfare  
13 provisions.

14 **Highlighted Provisions:**

15 This bill:

16 ▶ amends the background check procedures of the Office of Licensing, within the  
17 Department of Human Services, as they relate to background checks conducted for  
18 the purpose of licensing a prospective foster home or approving a prospective  
19 adoptive placement of a child in state custody;

20 ▶ requires that before a prospective foster home is licensed, and before a child in state  
21 custody is placed with a prospective foster parent or a prospective adoptive parent,  
22 the Department of Human Services shall check the child abuse and neglect registry  
23 of each state where the prospective foster parent, prospective adoptive parent, or an  
24 adult residing in the home of the prospective foster parent or prospective adoptive  
25 parent, resided during the five years immediately preceding placement of the child;

26 ▶ permits the information within the Management Information System, maintained by  
27 the Division of Child and Family Services, within the Department of Human



28 Services, to be disclosed for the purpose of:

29           • complying with an abuse and neglect registry check requested by another state;

30 and

31           • complying with the federal requirements for maintaining an electronic national  
32 registry of substantiated cases of child abuse and neglect;

33           ▶ provides for the recognition within Utah of home studies conducted outside of the  
34 state of Utah;

35           ▶ amends the background check procedures for direct service workers when a child in  
36 the legal custody of the Department of Human Services, or a division of the  
37 department, is placed with the direct service worker;

38           ▶ requires a court to consider appropriate in-state and out-of-state placements for a  
39 child who is removed from the custody of the child's parents;

40           ▶ describes the entitlement or right of a child and others to be given notice of, to be  
41 present at, and to be heard at, each hearing and proceeding in an abuse, neglect, or  
42 dependency case;

43           ▶ amends background check requirements for preplacement adoptive evaluations; and

44           ▶ makes technical changes.

45 **Monies Appropriated in this Bill:**

46           None

47 **Other Special Clauses:**

48           None

49 **Utah Code Sections Affected:**

50 AMENDS:

51           **62A-2-120**, as last amended by Chapters 57 and 77, Laws of Utah 2006

52           **62A-2-121**, as last amended by Chapter 77, Laws of Utah 2006

53           **62A-4a-1003**, as renumbered and amended by Chapter 77, Laws of Utah 2006

54           **62A-5-103.5**, as last amended by Chapter 77, Laws of Utah 2006

55           **78-3a-307.1**, as last amended by Chapter 329, Laws of Utah 1997

56           **78-3a-312**, as last amended by Chapter 286, Laws of Utah 2005

57           **78-3a-314**, as last amended by Chapter 120, Laws of Utah 2001

58           **78-30-3.5**, as last amended by Chapters 121 and 122, Laws of Utah 2004

59 78-30-3.6, as enacted by Chapter 101, Laws of Utah 2001

60 ENACTS:

61 62A-4a-710, Utah Code Annotated 1953



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

64 Section 1. Section 62A-2-120 is amended to read:

65 **62A-2-120. Criminal background checks -- Direct access to children or**  
66 **vulnerable adults.**

67 (1) (a) Except as provided in Subsection (7), an applicant for an initial license or a  
68 license renewal under this chapter shall submit to the office the names and other identifying  
69 information, which may include fingerprints, of all persons associated with the licensee, as  
70 defined in Section 62A-2-101, with direct access to children or vulnerable adults.

71 (b) The Criminal Investigations and Technical Services Division of the Department of  
72 Public Safety, or the office as authorized under Section 53-10-108, shall process the  
73 information described in Subsection (1)(a) to determine whether the individual has been  
74 convicted of any crime.

75 (c) Except as provided in Subsection (1)(d), if an individual has not continuously lived  
76 in Utah for the five years immediately preceding the day on which the information referred to  
77 in Subsection (1)(a) is submitted to the office, the individual shall submit fingerprints for a FBI  
78 national criminal history record check. The fingerprints shall be submitted to the FBI through  
79 the Criminal Investigations and Technical Services Division.

80 (d) An individual is not required to comply with Subsection (1)(c) if:

81 (i) the individual continuously lived in Utah for the five years immediately preceding  
82 the day on which the information described in Subsection (1)(a) is submitted to the office,  
83 except for time spent outside of the United States and its territories[-]; and

84 (ii) the background check of the individual is being conducted for a purpose other than  
85 a purpose described in Subsection (1)(f).

86 (e) If an applicant described in Subsection (1)(a) spent time outside of the United  
87 States and its territories [~~at any time~~] during the five years immediately preceding the day on  
88 which the information described in Subsection (1)(a) is submitted to the office, the office shall  
89 require the applicant to submit documentation establishing whether the applicant was convicted

90 of a crime during the time that the applicant spent outside of the United States and its  
91 territories.

92 (f) Notwithstanding any other provision of this Subsection (1), an applicant described  
93 in Subsection (1)(a) shall submit fingerprints for an FBI national criminal history records  
94 check, through the Criminal Investigations and Technical Services Division, if the background  
95 check of the applicant is being conducted for the purpose of:

96 (i) licensing a prospective foster home; or

97 (ii) approving a prospective adoptive placement of a child in state custody.

98 (g) In addition to the other requirements of this section, if the background check of an  
99 applicant described in Subsection (1)(a) is being conducted for the purpose of licensing a  
100 prospective foster home or approving a prospective adoptive placement of a child in state  
101 custody, the office shall:

102 (i) check the child abuse and neglect registry in each state where each prospective  
103 foster parent or prospective adoptive parent resided in the five years immediately preceding the  
104 day on which the prospective foster parent or prospective adoptive parent applied to be a foster  
105 parent or adoptive parent, to determine whether the prospective foster parent or prospective  
106 adoptive parent is listed in the registry as having a substantiated or supported finding of child  
107 abuse or neglect; and

108 (ii) check the child abuse and neglect registry in each state where each adult living in  
109 the home of the prospective foster parent or prospective adoptive parent described in  
110 Subsection (1)(g)(i) resided in the five years immediately preceding the day on which the  
111 prospective foster parent or prospective adoptive parent applied to be a foster parent or  
112 adoptive parent, to determine whether the adult is listed in the registry as having a substantiated  
113 or supported finding of child abuse or neglect.

114 ~~(f)~~ (h) The office shall make rules, in accordance with Title 63, Chapter 46a, Utah  
115 Administrative Rulemaking Act, to implement the provisions of this Subsection (1).

116 (2) The office shall approve a person for whom identifying information is submitted  
117 under Subsection (1) to have direct access to children or vulnerable adults in the licensee  
118 program if:

119 (a) (i) the person is found to have no criminal history record; or

120 (ii) (A) the only convictions in the person's criminal history record are misdemeanors

121 or infractions not involving any of the offenses described in Subsection (3); and

122 (B) the date of the last conviction under Subsection (2)(a)(ii)(A) is more than five years  
123 before the date of the search;

124 (b) the person is not listed in the statewide database of the Division of Aging and Adult  
125 Services created by Section 62A-3-311.1;

126 (c) juvenile court records do not show that a court made a substantiated finding, under  
127 Section 78-3a-320, that the person committed a severe type of child abuse or neglect;

128 (d) the person is not listed in the Licensing Information System of the Division of  
129 Child and Family Services created by Section 62A-4a-1006; [~~and~~]

130 (e) the person has not pled guilty or no contest to a pending charge for any:

131 (i) felony;

132 (ii) misdemeanor listed in Subsection (3); or

133 (iii) infraction listed in Subsection (3)[-]; and

134 (f) for a person described in Subsection (1)(g), the registry check described in  
135 Subsection (1)(g) does not indicate that the person is listed in a child abuse and neglect registry  
136 of another state as having a substantiated or supported finding of child abuse or neglect.

137 (3) [~~Unless~~] Except as provided in Subsection (8), unless at least ten years have passed  
138 since the date of conviction, the office may not approve a person to have direct access to  
139 children or vulnerable adults in the licensee's human services program if that person has been  
140 convicted of an offense, whether a felony, misdemeanor, or infraction, that is:

141 (a) identified as a sexual offense, domestic violence, lewdness, assault, or battery;

142 (b) a violation of any pornography law, including sexual exploitation of a minor;

143 (c) prostitution;

144 (d) included in:

145 (i) Title 76, Chapter 5, Offenses Against the Person;

146 (ii) Title 76, Chapter 5a, Sexual Exploitation of Children; or

147 (iii) Title 76, Chapter 7, Offenses Against the Family; [~~or~~]

148 (e) a violation of Section 76-6-103, Aggravated arson;

149 (f) a violation of Section 76-6-203, Aggravated burglary;

150 (g) a violation of Section 76-6-302, Aggravated robbery; or

151 [~~(e)~~] (h) a conviction [in: (i) (A) another state, territory, or district of the United States;

152 or ~~(B) a federal court of the United States; and (ii)]~~ for an offense committed outside of  
153 the state that, if committed in the state, would constitute a violation of an offense described in  
154 ~~[Subsection]~~ Subsections (3)(d) through (g).

155 (4) (a) ~~[If]~~ Except as provided in Subsection (8), if a person for whom identifying  
156 information is submitted under Subsection (1) is not approved by the office under Subsection  
157 (2) or (3) to have direct access to children or vulnerable adults in the licensee program, the  
158 office shall conduct a comprehensive review of criminal and court records and related  
159 circumstances if the reason the approval is not granted is due solely to one or more of the  
160 following:

161 (i) a conviction for:

162 (A) any felony not listed in Subsection (3);

163 (B) any misdemeanor or infraction, not listed in Subsection (3), within five years of the  
164 date of the search;

165 (C) a protective order or ex parte protective order violation under Section 76-5-108 or  
166 a similar statute in another state; or

167 (D) any felony, misdemeanor, or infraction listed in Subsection (3) if at least ten years  
168 have passed since the date of conviction;

169 (ii) a plea of guilty or no contest to a pending:

170 (A) felony;

171 (B) misdemeanor ~~[not]~~ listed in Subsection (3); or

172 (C) infraction ~~[not]~~ listed in Subsection (3);

173 (iii) the person is listed in the statewide database of the Division of Aging and Adult  
174 Services created by Section 62A-3-311.1;

175 (iv) juvenile court records show that a court made a substantiated finding, under  
176 Section 78-3a-320, that the person committed a severe type of child abuse or neglect; ~~[or]~~

177 (v) the person is listed in the Licensing Information System of the Division of Child  
178 and Family Services created by Section 62A-4a-1006~~[-];~~ or

179 (vi) the person is listed in a child abuse or neglect registry of another state as having a  
180 substantiated or supported finding of child abuse or neglect.

181 (b) The comprehensive review under Subsection (4)(a) shall include an examination of:

182 (i) the date of the offense or incident;

183 (ii) the nature and seriousness of the offense or incident;  
184 (iii) the circumstances under which the offense or incident occurred;  
185 (iv) the age of the perpetrator when the offense or incident occurred;  
186 (v) whether the offense or incident was an isolated or repeated incident;  
187 (vi) whether the offense or incident directly relates to abuse of a child or vulnerable  
188 adult, including:

- 189 (A) actual or threatened, nonaccidental physical or mental harm;
- 190 (B) sexual abuse;
- 191 (C) sexual exploitation; and
- 192 (D) negligent treatment;
- 193 (vii) any evidence provided by the person of rehabilitation, counseling, or psychiatric  
194 treatment received, or additional academic or vocational schooling completed, by the person;  
195 and
- 196 (viii) any other pertinent information.

197 (c) At the conclusion of the comprehensive review under Subsection (4)(a), the office  
198 shall approve the person who is the subject of the review to have direct access to children or  
199 vulnerable adults, unless it finds that approval will likely create a risk of harm to a child or  
200 vulnerable adult.

201 (d) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
202 office may make rules, consistent with this chapter, defining procedures for the comprehensive  
203 review described in this Subsection (4).

204 (5) (a) For purposes of this Subsection (5), "directly supervised" means that the person  
205 being supervised is under the uninterrupted visual and auditory surveillance of the person doing  
206 the supervising.

207 (b) A licensee may not permit any person to have direct access to a child or a  
208 vulnerable adult unless, subject to Subsection (5)(c), that person is:

- 209 (i) associated with the licensee and:
  - 210 (A) approved by the office to have direct access to children or vulnerable adults under  
211 this section; or
  - 212 (B) (I) the office has not determined whether to approve that person to have direct  
213 access to children or vulnerable adults;

214 (II) the information described in Subsection (1)(a), relating to that person, is submitted  
215 to the department; and

216 (III) that person is directly supervised by a person associated with the licensee who is  
217 approved by the office to have direct access to children or vulnerable adults under this section;

218 (ii) (A) not associated with the licensee; and

219 (B) directly supervised by a person associated with the licensee who is approved by the  
220 office to have direct access to children or vulnerable adults under this section;

221 (iii) the parent or guardian of the child or vulnerable adult; or

222 (iv) a person approved by the parent or guardian of the child or vulnerable adult to  
223 have direct access to the child or vulnerable adult.

224 (c) Notwithstanding Subsection (5)(b), a person may not have direct access to a child  
225 or a vulnerable adult if that person is prohibited by court order from having that access.

226 (6) (a) Within 30 days after receiving the identifying information for a person under  
227 Subsection (1), the office shall give written notice to the person and to the licensee or applicant  
228 with whom the person is associated of:

229 (i) the office's decision regarding its background screening clearance and findings; and

230 (ii) a list of any convictions found in the search.

231 (b) With the notice described in Subsection (6)(a), the office shall also give to the  
232 person the details of any comprehensive review conducted under Subsection (4).

233 (c) If the notice under Subsection (6)(a) states that the person is not approved to have  
234 direct access to children or vulnerable adults, the notice shall further advise the persons to  
235 whom the notice is given that either the person or the licensee or applicant with whom the  
236 person is associated, or both, may, under Subsection 62A-2-111(2), request a hearing in the  
237 department's Office of Administrative Hearings, to challenge the office's decision.

238 (d) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
239 office shall make rules, consistent with this chapter:

240 (i) defining procedures for the challenge of its background screening decision  
241 described in this Subsection (6); and

242 (ii) expediting the process for renewal of a license under the requirements of this  
243 section and other applicable sections.

244 (7) Notwithstanding Subsection (1)(a), this section does not apply to an applicant for

245 an initial license, or license renewal, to operate a substance abuse [treatment] program that  
246 provides services to adults only.

247 (8) (a) Notwithstanding Subsections (2) through (4), the office may not approve or  
248 license a person as a prospective foster parent or a prospective adoptive parent if the person has  
249 been convicted of:

250 (i) a felony involving conduct that constitutes any of the following:

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

252 (B) commission of domestic violence in the presence of a child, as described in Section  
253 76-5-109.1;

254 (C) abuse or neglect of a disabled child, as described in Section 76-5-110;

255 (D) endangerment of a child, as described in Section 76-5-112.5;

256 (E) aggravated murder, as described in Section 76-5-202;

257 (F) murder, as described in Section 76-5-203;

258 (G) manslaughter, as described in Section 76-5-205;

259 (H) child abuse homicide, as described in Section 76-5-208;

260 (I) homicide by assault, as described in Section 76-5-209;

261 (J) kidnapping, as described in Section 76-5-301;

262 (K) child kidnapping, as described in Section 76-5-301.1;

263 (L) aggravated kidnapping, as described in Section 76-5-302;

264 (M) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;

265 (N) an offense described in Title 76, Chapter 5a, Sexual Exploitation of Children;

266 (O) aggravated arson, as described in Section 76-6-103;

267 (P) aggravated burglary, as described in Section 76-6-203;

268 (Q) aggravated robbery, as described in Section 76-6-302; or

269 (R) domestic violence, as described in Section 77-36-1; or

270 (ii) an offense committed outside the state that, if committed in the state, would  
271 constitute a violation of an offense described in Subsection (8)(a)(i).

272 (b) Notwithstanding Subsections (2) through (4), the office may not approve or license  
273 a person as a prospective foster parent or a prospective adoptive parent if, within the five years  
274 immediately preceding the day on which the person would otherwise be approved or licensed,  
275 the person has been convicted of a felony involving conduct that constitutes any of the

276 following:

- 277 (i) aggravated assault, as described in Section 76-5-103;
- 278 (ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;
- 279 (iii) mayhem, as described in Section 76-5-105;
- 280 (iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;
- 281 (v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- 282 (vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances
- 283 Act;
- 284 (vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance
- 285 Precursor Act; or
- 286 (viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.

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

288 **62A-2-121. Access to abuse and neglect information.**

289 (1) For purposes of this section:

- 290 (a) "Direct service worker" is as defined in Section 62A-5-101[~~;~~and].
- 291 (b) "Personal care attendant" is as defined in Section 62A-3-101.

292 (2) With respect to a licensee, a certified local inspector applicant, a direct service  
293 worker, or a personal care attendant, the department may access only the Licensing Information  
294 System of the Division of Child and Family Services created by Section 62A-4a-1006 and  
295 juvenile court records under Subsection 78-3a-320(6), for the purpose of:

296 (a) (i) determining whether a person associated with a licensee, with direct access to  
297 children:

- 298 (A) is listed in the Licensing Information System; or
- 299 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or  
300 neglect under Subsections 78-3a-320(1) and (2); and

301 (ii) informing a licensee that a person associated with the licensee:

- 302 (A) is listed in the Licensing Information System; or
- 303 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or  
304 neglect under Subsections 78-3a-320(1) and (2);

305 (b) (i) determining whether a certified local inspector applicant:

- 306 (A) is listed in the Licensing Information System; or

307 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or  
308 neglect under Subsections 78-3a-320(1) and (2); and  
309 (ii) informing a local government that a certified local inspector applicant:  
310 (A) is listed in the Licensing Information System; or  
311 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or  
312 neglect under Subsections 78-3a-320(1) and (2); ~~[or]~~  
313 (c) (i) determining whether a direct service worker:  
314 (A) is listed in the Licensing Information System; or  
315 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or  
316 neglect under Subsections 78-3a-320(1) and (2); and  
317 (ii) informing a direct service worker or the direct service worker's employer that the  
318 direct service worker:  
319 (A) is listed in the Licensing Information System; or  
320 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or  
321 neglect under Subsections 78-3a-320(1) and (2); or  
322 (d) (i) determining whether a personal care attendant:  
323 (A) is listed in the Licensing Information System; or  
324 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or  
325 neglect under Subsections 78-3a-320(1) and (2); and  
326 (ii) informing a person described in Subsections 62A-3-101(9)(a)(i) through (iv) that a  
327 personal care attendant:  
328 (A) is listed in the Licensing Information System; or  
329 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or  
330 neglect under Subsections 78-3a-320(1) and (2).  
331 (3) Notwithstanding Subsection (2), the department may access the Division of Child  
332 and Family Service's Management Information System under Section 62A-4a-1003;  
333 (a) for the purpose of licensing and monitoring foster parents[-]; and  
334 (b) for the purposes described in Subsection 62A-4a-1003(1)(d).  
335 (4) After receiving identifying information for a person under Subsection  
336 62A-2-120(1), the department shall process the information for the purposes described in  
337 Subsection (2).

338 (5) The department shall adopt rules under Title 63, Chapter 46a, Utah Administrative  
339 Rulemaking Act, consistent with this chapter, defining the circumstances under which a person  
340 may have direct access or provide services to children when:

341 (a) the person is listed in the Licensing Information System of the Division of Child  
342 and Family Services created by Section 62A-4a-1006; or

343 (b) juvenile court records show that a court made a substantiated finding under Section  
344 78-3a-320, that the person committed a severe type of child abuse or neglect.

345 Section 3. Section **62A-4a-710** is enacted to read:

346 **62A-4a-710. Interjurisdictional home study report.**

347 (1) The State of Utah may request a home study report from another state or an Indian  
348 Tribe for purposes of assessing the safety and suitability of placing a child in a home outside of  
349 the jurisdiction of the State of Utah.

350 (2) The State of Utah may not impose any restriction on the ability of a state agency  
351 administering, or supervising the administration of, a state program operated under a state plan  
352 approved under Section 42 U.S.C. 671 to contract with a private agency to conduct a home  
353 study report described in Subsection (1).

354 (3) When the State of Utah receives a home study report described in Subsection (1),  
355 the home study report shall be considered to meet all requirements imposed by the State of  
356 Utah for completion of a home study before a child is placed in a home, unless, within 14 days  
357 after the day on which the report is received, the State of Utah determines, based on grounds  
358 that are specific to the content of the report, that making a decision in reliance on the report  
359 would be contrary to the welfare of the child.

360 Section 4. Section **62A-4a-1003** is amended to read:

361 **62A-4a-1003. Management Information System -- Requirements -- Contents --**  
362 **Purpose -- Access.**

363 (1) (a) The division shall develop and implement a Management Information System  
364 that meets the requirements of this section and the requirements of federal law and regulation.

365 (b) The information and records contained in the Management Information System:

366 (i) are protected records under Title 63, Chapter 2, Government Records Access and  
367 Management Act; and

368 (ii) except as provided in ~~[Subsection]~~ Subsections (1)(c) and (d), are available only to

369 a person with statutory authorization under Title 63, Chapter 2, Government Records Access  
370 and Management Act, to review the information and records described in this Subsection  
371 (1)(b).

372 (c) Notwithstanding Subsection (1)(b)(ii), the information and records described in  
373 Subsection (1)(b)~~(ii)~~ are available to a person:

374 (i) as provided under Subsection (6) or Section 62A-4a-1006; or

375 (ii) who has specific statutory authorization to access the information or records for the  
376 purpose of assisting the state with state and federal requirements to maintain information solely  
377 for the purpose of protecting minors and providing services to families in need.

378 (d) Notwithstanding Subsection (1)(b)(ii), the information and records described in  
379 Subsection (1)(b) may, to the extent required by Title IV-B or IV-E of the Social Security Act,  
380 be provided by the division:

381 (i) to comply with child abuse and neglect registry checks requested by other states;  
382 and

383 (ii) to the United States Department of Health and Human Services for purposes of  
384 maintaining an electronic national registry of substantiated cases of child abuse and neglect.

385 (2) With regard to all child welfare cases, the Management Information System shall  
386 provide each caseworker and the department's office of licensing, exclusively for the purposes  
387 of foster parent licensure and monitoring, with a complete history of each child in that worker's  
388 caseload, including:

389 (a) a record of all past action taken by the division with regard to that child and the  
390 child's siblings;

391 (b) the complete case history and all reports and information in the control or keeping  
392 of the division regarding that child and the child's siblings;

393 (c) the number of times the child has been in the custody of the division;

394 (d) the cumulative period of time the child has been in the custody of the division;

395 (e) a record of all reports of abuse or neglect received by the division with regard to  
396 that child's parent, parents, or guardian including:

397 (i) for each report, documentation of the:

398 (A) latest status; or

399 (B) final outcome or determination; and

- 400 (ii) information that indicates whether each report was found to be:
- 401 (A) supported;
- 402 (B) unsupported;
- 403 (C) substantiated by a juvenile court;
- 404 (D) unsubstantiated by a juvenile court; or
- 405 (E) without merit;
- 406 (f) the number of times the child's parent or parents failed any child and family plan;
- 407 and
- 408 (g) the number of different caseworkers who have been assigned to that child in the
- 409 past.
- 410 (3) The division's Management Information System shall:
- 411 (a) contain all key elements of each family's current child and family plan, including:
- 412 (i) the dates and number of times the plan has been administratively or judicially
- 413 reviewed;
- 414 (ii) the number of times the parent or parents have failed that child and family plan;
- 415 and
- 416 (iii) the exact length of time the child and family plan has been in effect; and
- 417 (b) alert caseworkers regarding deadlines for completion of and compliance with
- 418 policy, including child and family plans.
- 419 (4) With regard to all child protective services cases, the Management Information
- 420 System shall:
- 421 (a) monitor the compliance of each case with:
- 422 (i) division rule and policy;
- 423 (ii) state law; and
- 424 (iii) federal law and regulation; and
- 425 (b) include the age and date of birth of the alleged perpetrator at the time the abuse or
- 426 neglect is alleged to have occurred, in order to ensure accuracy regarding the identification of
- 427 the alleged perpetrator.
- 428 (5) Except as provided in Subsection (6) regarding contract providers and Section
- 429 62A-4a-1006 regarding limited access to the Licensing Information System, all information
- 430 contained in the division's Management Information System is available to the department,

431 upon the approval of the executive director, on a need-to-know basis.

432 (6) (a) Subject to this Subsection (6), the division may allow its contract providers,  
433 court clerks designated by the Administrative Office of the Courts, and the Office of the  
434 Guardian Ad Litem to have limited access to the Management Information System.

435 (b) A division contract provider has access only to information about a person who is  
436 currently receiving services from that specific contract provider.

437 (c) (i) Designated court clerks may only have access to information necessary to  
438 comply with Subsection 78-3h-102(2).

439 (ii) The Office of the Guardian Ad Litem may access only the information that:

440 (A) relates to children and families where the Office of the Guardian Ad Litem is  
441 appointed by a court to represent the interests of the children; and

442 (B) except as provided in Subsection (6)(d), is entered into the Management  
443 Information System on or after July 1, 2004.

444 (d) Notwithstanding Subsection (6)(c)(ii)(B), the Office of the Guardian Ad Litem  
445 shall have access to all child abuse and neglect referrals about children and families where the  
446 office has been appointed by a court to represent the interests of the children, regardless of the  
447 date that the information is entered into the Management Information System.

448 (e) Each contract provider and designated representative of the Office of the Guardian  
449 Ad Litem who requests access to information contained in the Management Information  
450 System shall:

451 (i) take all necessary precautions to safeguard the security of the information contained  
452 in the Management Information System;

453 (ii) train its employees regarding:

454 (A) requirements for protecting the information contained in the Management  
455 Information System as required by this chapter and under Title 63, Chapter 2, Government  
456 Records Access and Management Act; and

457 (B) the criminal penalties under Sections 62A-4a-412 and 63-2-801 for improper  
458 release of information; and

459 (iii) monitor its employees to ensure that they protect the information contained in the  
460 Management Information System as required by law.

461 (f) The division shall take reasonable precautions to ensure that its contract providers

462 comply with the requirements of this Subsection (6).

463 (7) The division shall take all necessary precautions, including password protection and  
464 other appropriate and available technological techniques, to prevent unauthorized access to or  
465 release of information contained in the Management Information System.

466 Section 5. Section **62A-5-103.5** is amended to read:

467 **62A-5-103.5. Disbursal of public funds -- Background check of a direct service**  
468 **worker.**

469 (1) For purposes of this section:

470 (a) "directly supervised" means that the person being supervised is under the  
471 uninterrupted visual and auditory surveillance of the person doing the supervising; and

472 (b) "office" is as defined in Section 62A-2-101.

473 (2) Subject to Subsection (4), public funds may not be disbursed to pay a direct service  
474 worker for personal services rendered to a person, unless:

475 (a) subject to Subsection (5), the direct service worker is approved by the office to have  
476 direct access and provide services to children or vulnerable adults pursuant to Section  
477 62A-2-120;

478 (b) except as provided in Subsection (5):

479 (i) during the time that the direct service worker renders the services described in this  
480 Subsection (2), the direct service worker who renders the services is directly supervised by a  
481 direct service worker who is approved by the office to have direct access and provide services  
482 to children or vulnerable adults pursuant to Section 62A-2-120;

483 (ii) the direct service worker who renders the services described in this Subsection (2)  
484 has submitted the information required for a background check pursuant to Section 62A-2-120;  
485 and

486 (iii) the office has not determined whether to approve the direct service worker  
487 described in Subsection (2)(b)(ii) to have direct access and provide services to children or  
488 vulnerable adults; or

489 (c) except as provided in Subsection (5), the direct service worker:

490 (i) (A) is a direct ancestor or descendent of the person to whom the services are  
491 rendered, but is not the person's parent;

492 (B) is the aunt, uncle, or sibling of the person to whom the services are rendered; or

493 (C) (I) has submitted the information required for a background check pursuant to  
494 Section 62A-2-120; and

495 (II) the office has not determined whether to approve the direct service worker to have  
496 direct access and provide services to children or vulnerable adults; and

497 (ii) is not listed in:

498 (A) the Licensing Information System of the Division of Child and Family Services  
499 created by Section 62A-4a-1006;

500 (B) the statewide database of the Division of Aging and Adult Services created by  
501 Section 62A-3-311.1 as having a substantiated finding of abuse, neglect, or exploitation; or

502 (C) juvenile court records as having a substantiated finding under Section 78-3a-320  
503 that the direct service worker committed a severe type of child abuse or neglect.

504 (3) For purposes of Subsection (2), the office shall conduct a background check of a  
505 direct service worker:

506 (a) except as provided in Subsection (2)(b) or (c), before public funds are disbursed to  
507 pay the direct service worker for the personal services described in Subsection (2); and

508 (b) using the same procedures established for a background check of an applicant for  
509 an initial license under Section 62A-2-120.

510 (4) The background check and the approval determination described in this section  
511 shall be conducted for a direct service worker on an annual basis.

512 (5) Notwithstanding any other provision of this section, a child who is in the legal  
513 custody of the department or any of the department's divisions may not be placed with a direct  
514 service worker unless, before the child is placed with the direct service worker, the direct  
515 service worker passes a background check, pursuant to the requirements of Section 62A-2-120,  
516 that includes:

517 (a) submitting the direct service worker's fingerprints for an FBI national criminal  
518 history records check, through the Criminal Investigations and Technical Services Division;

519 (b) checking the child abuse and neglect registry in each state where the direct service  
520 worker resided in the five years immediately preceding the day on which the direct service  
521 worker applied to be a direct service worker; and

522 (c) checking the child abuse and neglect registry in each state where each adult living  
523 in the home where the child will be placed resided in the five years immediately preceding the

524 day on which the direct service worker applied to be a direct service worker.

525 Section 6. Section **78-3a-307.1** is amended to read:

526 **78-3a-307.1. Criminal background checks necessary prior to out-of-home**  
527 **placement.**

528 (1) Upon ordering removal of a child from the custody of [his] the child's parent and  
529 placing that child in the custody of the Division of Child and Family Services, [~~and~~] prior to  
530 the division's placement of that child in out-of-home care, the court shall require the  
531 completion of a background check by the Utah Bureau of Criminal Identification regarding the  
532 proposed placement.

533 (2) (a) The Division of Child and Family Services and the Office of the Guardian ad  
534 Litem Director may request, or the court upon its own motion may order, the Department of  
535 Public Safety to conduct a complete Federal Bureau of Investigation criminal background  
536 check through the national criminal history system (NCIC).

537 (b) Upon request by the Division of Child and Family Services or the Office of the  
538 Guardian ad Litem Director, or upon the court's order, persons subject to the requirements of  
539 Subsection (1) shall submit fingerprints and shall be subject to an FBI fingerprint background  
540 check. The child may be temporarily placed, pending the outcome of that background check.

541 (c) The cost of those investigations shall be borne by whoever is to receive placement  
542 of the child, except that the Division of Child and Family Services may pay all or part of the  
543 cost of those investigations if the person with whom the child is to be placed is unable to pay.

544 (3) Notwithstanding any other provision of this section, except as otherwise permitted  
545 by federal law or rule, a child who is in the legal custody of the state may not be placed with a  
546 prospective foster parent or a prospective adoptive parent, unless, before the child is placed  
547 with the prospective foster parent or the prospective adoptive parent:

548 (a) a fingerprint based FBI national criminal history records check is conducted on the  
549 prospective foster parent or prospective adoptive parent and each adult living in the home of  
550 the prospective foster parent or prospective adoptive parent;

551 (b) the Department of Human Services conducts a check of the child abuse and neglect  
552 registry in each state where the prospective foster parent or prospective adoptive parent resided  
553 in the five years immediately preceding the day on which the prospective foster parent or  
554 prospective adoptive parent applied to be a foster parent or adoptive parent, to determine

555 whether the prospective foster parent or prospective adoptive parent is listed in the registry as  
556 having a substantiated or supported finding of child abuse or neglect;

557 (c) the Department of Human Services conducts a check of the child abuse and neglect  
558 registry of each state where each adult living in the home of the prospective foster parent or  
559 prospective adoptive parent described in Subsection (3)(b) resided in the five years  
560 immediately preceding the day on which the prospective foster parent or prospective adoptive  
561 parent applied to be a foster parent or adoptive parent, to determine whether the adult is listed  
562 in the registry as having a substantiated or supported finding of child abuse or neglect; and

563 (d) each person required to undergo a background check described in this Subsection  
564 (3) passes the background check, pursuant to the provisions of Section 62A-2-120.

565 Section 7. Section **78-3a-312** is amended to read:

566 **78-3a-312. Permanency hearing -- Final plan -- Petition for termination of**  
567 **parental rights filed -- Hearing on termination of parental rights.**

568 (1) (a) When reunification services have been ordered in accordance with Section  
569 78-3a-311, with regard to a minor who is in the custody of the Division of Child and Family  
570 Services, a permanency hearing shall be held by the court no later than 12 months after the  
571 original removal of the minor.

572 (b) If reunification services were not ordered at the dispositional hearing, a permanency  
573 hearing shall be held within 30 days from the date of the dispositional hearing.

574 (2) (a) If reunification services were ordered by the court in accordance with Section  
575 78-3a-311, the court shall, at the permanency hearing, determine, consistent with Subsection  
576 (3), whether the minor may safely be returned to the custody of the minor's parent.

577 (b) If the court finds, by a preponderance of the evidence, that return of the minor  
578 would create a substantial risk of detriment to the minor's physical or emotional well-being, the  
579 minor may not be returned to the custody of the minor's parent.

580 (c) Prima facie evidence that return of the minor to a parent or guardian would create a  
581 substantial risk of detriment to the minor is established if the parent or guardian fails to:

582 (i) participate in a court approved child and family plan;

583 (ii) comply with a court approved child and family plan in whole or in part; or

584 (iii) meet the goals of a court approved child and family plan.

585 (3) In making a determination under Subsection (2)(a), the court shall review and

586 consider:

- 587 (a) the report prepared by the Division of Child and Family Services;
- 588 (b) any admissible evidence offered by the minor's guardian ad litem;
- 589 (c) any report prepared by a foster care citizen review board pursuant to Section
- 590 78-3g-103;
- 591 (d) any evidence regarding the efforts or progress demonstrated by the parent; and
- 592 (e) the extent to which the parent cooperated and availed himself of the services
- 593 provided.

594 (4) (a) With regard to a case where reunification services were ordered by the court, if

595 a minor is not returned to the minor's parent or guardian at the permanency hearing, the court

596 shall:

- 597 (i) order termination of reunification services to the parent;
- 598 (ii) make a final determination regarding whether termination of parental rights,
- 599 adoption, or permanent custody and guardianship is the most appropriate final plan for the
- 600 minor, taking into account the minor's primary permanency goal established by the court
- 601 pursuant to Section 78-3a-311; and
- 602 (iii) establish a concurrent plan that identifies the second most appropriate final plan
- 603 for the minor.

604 (b) If the Division of Child and Family Services documents to the court that there is a

605 compelling reason that adoption, reunification, guardianship, and kinship placement are not in

606 the minor's best interest, the court may order another planned permanent living arrangement, in

607 accordance with federal law.

608 (c) If the minor clearly desires contact with the parent, the court shall take the minor's

609 desire into consideration in determining the final plan.

610 (d) Consistent with Subsection (4)(e), the court may not extend reunification services

611 beyond 12 months from the date the minor was initially removed from the minor's home, in

612 accordance with the provisions of Section 78-3a-311, except that the court may extend

613 reunification services for no more than 90 days if the court finds that:

- 614 (i) there has been substantial compliance with the child and family plan;
- 615 (ii) reunification is probable within that 90-day period; and
- 616 (iii) the extension is in the best interest of the minor.

617 (e) (i) In no event may any reunification services extend beyond 15 months from the  
618 date the minor was initially removed from the minor's home.

619 (ii) Delay or failure of a parent to establish paternity or seek custody does not provide a  
620 basis for the court to extend services for that parent beyond that 12-month period.

621 (f) The court may, in its discretion:

622 (i) enter any additional order that it determines to be in the best interest of the minor,  
623 so long as that order does not conflict with the requirements and provisions of Subsections  
624 (4)(a) through (e); or

625 (ii) order the division to provide protective supervision or other services to a minor and  
626 the minor's family after the division's custody of a minor has been terminated.

627 (5) If the final plan for the minor is to proceed toward termination of parental rights,  
628 the petition for termination of parental rights shall be filed, and a pretrial held, within 45  
629 calendar days after the permanency hearing.

630 (6) (a) Any party to an action may, at any time, petition the court for an expedited  
631 permanency hearing on the basis that continuation of reunification efforts are inconsistent with  
632 the permanency needs of the minor.

633 (b) If the court so determines, it shall order, in accordance with federal law, that:

634 (i) the minor be placed in accordance with the permanency plan; and

635 (ii) whatever steps are necessary to finalize the permanent placement of the minor be  
636 completed as quickly as possible.

637 (7) Nothing in this section may be construed to:

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

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

641 (c) limit or prohibit the filing of a petition for termination of parental rights by any  
642 party, or a hearing on termination of parental rights, at any time prior to a permanency hearing.

643 (8) (a) Subject to Subsection (8)(b), if a petition for termination of parental rights is  
644 filed prior to the date scheduled for a permanency hearing, the court may consolidate the  
645 hearing on termination of parental rights with the permanency hearing.

646 (b) For purposes of Subsection (8)(a), if the court consolidates the hearing on  
647 termination of parental rights with the permanency hearing:

648 (i) the court shall first make a finding regarding whether reasonable efforts have been  
649 made by the Division of Child and Family Services to finalize the permanency goal for the  
650 minor; and

651 (ii) any reunification services shall be terminated in accordance with the time lines  
652 described in Section 78-3a-311.

653 (c) A decision on a petition for termination of parental rights shall be made within 18  
654 months from the day on which the minor is removed from the minor's home.

655 (9) If a court determines that a child will not be returned to a parent of the child, the  
656 court shall consider appropriate placement options inside and outside of the state.

657 Section 8. Section **78-3a-314** is amended to read:

658 **78-3a-314. All proceedings -- Persons entitled to be present.**

659 (1) A child who is the subject of a juvenile court hearing, any person entitled to notice  
660 pursuant to Section 78-3a-306 or 78-3a-309, preadoptive parents, foster parents, and any  
661 relative providing care for the child, are:

662 (a) entitled to notice[;] of, and to be present at, each hearing and proceeding held under  
663 this part, including administrative and citizen reviews[;]; and [are entitled to an opportunity to  
664 be heard.]

665 ~~[(2) Because the child's foster parents have the right to notice, pursuant to Section~~  
666 ~~78-3a-309, they have the right to be present at each and every hearing held under this part~~  
667 ~~including administrative and citizen reviews, and are entitled to an opportunity to be heard.]~~

668 (b) have a right to be heard at each hearing and proceeding described in Subsection  
669 (1)(a).

670 ~~[(3)]~~ (2) A child shall be represented at each hearing by the guardian ad litem  
671 appointed to ~~[his]~~ the child's case by the court. The child has a right to be present at each  
672 hearing, subject to the discretion of the guardian ad litem or the court regarding any possible  
673 detriment to the child.

674 ~~[(4)]~~ (3) (a) The parent or guardian of a child who is the subject of a petition under this  
675 part has the right to be represented by counsel, and to present evidence, at each hearing.

676 (b) When it appears to the court that a parent or guardian of the child desires counsel  
677 but is financially unable to afford and cannot for that reason employ counsel, and the child has  
678 been placed in out-of-home care, or the petitioner is recommending that the child be placed in

679 out-of-home care, the court shall appoint counsel.

680           ~~[(5)]~~ (4) In every abuse, neglect, or dependency proceeding under this chapter, the  
681 court shall order that the child be represented by a guardian ad litem, in accordance with  
682 Section 78-3a-912. The guardian ad litem shall represent the best interest of the child, in  
683 accordance with the requirements of that section, at the shelter hearing and at all subsequent  
684 court and administrative proceedings, including any proceeding for termination of parental  
685 rights in accordance with Part 4, Termination of Parental Rights Act.

686           ~~[(6)]~~ (5) Notwithstanding any other provision of law, counsel for all parties to the  
687 action shall be given access to all records, maintained by the division or any other state or local  
688 public agency, that are relevant to the abuse, neglect, or dependency proceeding under this  
689 chapter. If the natural parent of a child is representing himself, ~~[he]~~ the natural parent shall  
690 have access to those records. The above disclosures are not required in the following  
691 circumstances:

692           (a) The division or other state or local public agency did not originally create the record  
693 being requested. In those circumstances, the person making the request under this section shall  
694 be informed of the following:

695           (i) the existence of all records in the possession of the division or any other state or  
696 local public agency;

697           (ii) the name and address of the person or agency that originally created the record; and

698           (iii) that ~~[he]~~ the person must seek access to the record from the person or agency that  
699 originally created the record.

700           (b) Disclosure of the record would jeopardize the life or physical safety of a child who  
701 has been a victim of child abuse or neglect, or any person who provided substitute care for the  
702 child.

703           (c) Disclosure of the record would jeopardize the anonymity of the person or persons  
704 making the initial report of abuse or neglect or any others involved in the subsequent  
705 investigation.

706           (d) Disclosure of the record would jeopardize the life or physical safety of a person  
707 who has been a victim of domestic violence.

708           ~~[(7)]~~ (6) (a) The appropriate foster care citizen review board shall be given access to all  
709 records, maintained by the division or any other state or local public agency, that are relevant to

710 an abuse, neglect, or dependency proceeding under this chapter.

711 (b) Representatives of the appropriate foster care citizen review board are entitled to be  
712 present at each hearing held under this part, but notice is not required to be provided.

713 Section 9. Section **78-30-3.5** is amended to read:

714 **78-30-3.5. Preplacement and postplacement adoptive evaluations -- Exceptions.**

715 (1) (a) Except as otherwise provided in this section, a child may not be placed in an  
716 adoptive home until a preplacement adoptive evaluation, assessing the prospective adoptive  
717 parent and the prospective adoptive home, has been conducted in accordance with the  
718 requirements of this section.

719 (b) ~~[The]~~ Except as provided in Subsection (8), the court may, at any time, authorize  
720 temporary placement of a child in a potential adoptive home pending completion of a  
721 preplacement adoptive evaluation described in this section.

722 (c) Subsection (1)(a) does not apply if a birth parent has legal custody of the child to be  
723 adopted and the prospective adoptive parent is related to that child as a step-parent, sibling by  
724 half or whole blood or by adoption, grandparent, aunt, uncle, or first cousin, unless the  
725 evaluation is otherwise requested by the court. The prospective adoptive parent described in  
726 this Subsection (1)(c) shall, however, obtain the information described in Subsections (2)(a)  
727 and (b), and file that documentation with the court prior to finalization of the adoption.

728 (d) The required preplacement adoptive evaluation must be completed or updated  
729 within the 12-month period immediately preceding the placement of a child with the  
730 prospective adoptive parent. If the prospective adoptive parent has previously received custody  
731 of a child for the purpose of adoption, the preplacement adoptive evaluation must be completed  
732 or updated within the 12-month period immediately preceding the placement of a child with the  
733 prospective adoptive parent and after the placement of the previous child with the prospective  
734 adoptive parent.

735 (2) The preplacement adoptive evaluation shall include:

736 (a) criminal history record information regarding each prospective adoptive parent and  
737 any other adult living in the prospective home, prepared by ~~[the Criminal Investigations and~~  
738 ~~Technical Services Division of the Department of Public Safety, in accordance with Section~~  
739 ~~53-10-108]~~ a law enforcement agency based on a fingerprint criminal history check, no earlier  
740 than 18 months immediately preceding placement of the child;

741 (b) a report prepared by the Department of Human Services containing all information  
742 regarding reports and investigation of child abuse, neglect, and dependency, with respect to  
743 each prospective adoptive parent and any other adult living in the prospective home, obtained  
744 no earlier than 18 months immediately preceding placement of the child, pursuant to waivers  
745 executed by those parties;

746 (c) an evaluation conducted by an expert in family relations approved by the court or a  
747 certified social worker, clinical social worker, marriage and family therapist, psychologist,  
748 professional counselor, or other court-determined expert in family relations, who is licensed to  
749 practice under the laws of this state or under the laws of the state where the prospective  
750 adoptive parent or other person living in the prospective adoptive home resides. The  
751 evaluation shall be in a form approved by the Department of Human Services. Neither the  
752 Department of Human Services nor any of its divisions may proscribe who qualifies as an  
753 expert in family relations or who may conduct evaluations pursuant to this Subsection (2); and

754 (d) if the child to be adopted is a child who is in the custody of any public child welfare  
755 agency, and is a child with special needs as defined in Subsection 62A-4a-902(2), the  
756 preplacement evaluation must be conducted by the Department of Human Services or a  
757 licensed child placing agency which has entered into a contract with the department to conduct  
758 the preplacement evaluations for children with special needs. Any fee assessed by the  
759 evaluating agency is the responsibility of the adopting parent or parents.

760 (3) The person or agency conducting the preplacement adoptive evaluation shall, in  
761 connection with the evaluation, provide the prospective adoptive parent or parents with  
762 literature approved by the Division of Child and Family Services relating to adoption, and  
763 including information relating to the adoption process, developmental issues that may require  
764 early intervention, and community resources that are available to the adoptive parent or parents.

765 (4) A copy of the preplacement adoptive evaluation shall be filed with the court.

766 (5) (a) Except as provided in Subsections (5)(b) and (c), a postplacement evaluation  
767 shall be conducted and submitted to the court prior to the final hearing in an adoption  
768 proceeding. The postplacement evaluation shall include:

- 769 (i) verification of the allegations of fact contained in the petition for adoption;  
770 (ii) an evaluation of the progress of the child's placement in the adoptive home; and  
771 (iii) a recommendation regarding whether the adoption is in the best interest of the

772 child.

773 (b) The exemptions from and requirements for evaluations, described in Subsections  
774 (1)(c), (2)(c), and (3), also apply to postplacement adoptive evaluations.

775 (c) Upon the request of the petitioner, the court may waive the postplacement adoptive  
776 evaluation, unless it determines that it is in the best interest of the child to require the  
777 postplacement evaluation. Except where the child to be adopted and the prospective parent are  
778 related as set forth in Subsection (1)(c), the court may waive the postplacement adoptive  
779 evaluation for a child with special needs as defined in Section 62A-4a-902.

780 (6) If the person or agency conducting the evaluation disapproves the adoptive  
781 placement, either in the preplacement or postplacement adoptive evaluation, the court may  
782 dismiss the petition. However, upon request of a prospective adoptive parent, the court shall  
783 order that an additional preplacement or postplacement adoptive evaluation be conducted, and  
784 hold a hearing on the suitability of the adoption, including testimony of interested parties.

785 (7) Prior to finalization of a petition for adoption the court shall review and consider  
786 the information and recommendations contained in the preplacement and postplacement  
787 adoptive studies required by this section.

788 (8) Notwithstanding any other provision of this section, except as otherwise permitted  
789 by federal law or rule, a child who is in the legal custody of the state may not be placed with a  
790 prospective foster parent or a prospective adoptive parent, unless, before the child is placed  
791 with the prospective foster parent or the prospective adoptive parent:

792 (a) a fingerprint based FBI national criminal history records check is conducted on the  
793 prospective foster parent or prospective adoptive parent and each adult living in the home of  
794 the prospective foster parent or prospective adoptive parent;

795 (b) the Department of Human Services conducts a check of the child abuse and neglect  
796 registry in each state where the prospective foster parent or prospective adoptive parent resided  
797 in the five years immediately preceding the day on which the prospective foster parent or  
798 prospective adoptive parent applied to be a foster parent or adoptive parent, to determine  
799 whether the prospective foster parent or prospective adoptive parent is listed in the registry as  
800 having a substantiated or supported finding of child abuse or neglect;

801 (c) the Department of Human Services conducts a check of the child abuse and neglect  
802 registry of each state where each adult living in the home of the prospective foster parent or

803 prospective adoptive parent described in Subsection (8)(b) resided in the five years  
804 immediately preceding the day on which the prospective foster parent or prospective adoptive  
805 parent applied to be a foster parent or adoptive parent, to determine whether the adult is listed  
806 in the registry as having a substantiated or supported finding of child abuse or neglect; and  
807 (d) each person required to undergo a background check described in this Subsection  
808 (8) passes the background check, pursuant to the provisions of Section 62A-2-120.

809 Section 10. Section **78-30-3.6** is amended to read:

810 **78-30-3.6. Prospective parent not a resident -- Preplacement requirements.**

811 (1) When an adoption petition is to be finalized in this state with regard to any  
812 prospective adoptive parent who is not a resident of this state at the time a child is placed in  
813 that person's home, the potential adoptive parent shall:

814 (a) comply with the provisions of Section 78-30-3.5; and

815 (b) submit fingerprints for a Federal Bureau of Investigation national criminal history  
816 record check.

817 (2) The fingerprints referenced in Subsection (1)(b) shall be submitted to the Federal  
818 Bureau of Investigation either:

819 (a) through the Criminal Investigations and Technical Services Division of the  
820 Department of Public Safety in accordance with the provisions of Section 62A-2-120; or

821 (b) if the prospective adoptive parent is pursuing the adoption with a private attorney,  
822 the request shall be submitted to the Federal Bureau of Investigation as a personal records  
823 check, in accordance with procedures established by the Criminal Investigations and Technical  
824 Services Division of the Department of Public Safety.

825 (3) In addition to the other requirements of this section, before a child in state custody  
826 is placed with a prospective foster parent or a prospective adoptive parent, the Department of  
827 Human Services shall comply with Subsections 78-30-3.5(8)(a) through (d).

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**Legislative Review Note**  
as of 12-22-06 11:13 AM

**Office of Legislative Research and General Counsel**

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**H.B. 245 - Child Welfare Amendments**

**Revised  
Fiscal Note**

2007 General Session  
State of Utah

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**State Impact**

Enactment of this bill will require an ongoing appropriation from the General Fund of \$161,000 beginning in FY 2008 and a one-time appropriation from the General Fund of \$83,600 in FY 2008. It will also generate federal Title IV-E revenue of \$88,100 for FY 2008 and \$55,600 for FY 2009. This funding will provide staff, cover the additional costs of FBI checks and checks of child abuse registries in other states, and will provide funds for one-time equipment purchases needed to expedite FBI checks.

	<u>FY 2007 Approp.</u>	<u>FY 2008 Approp.</u>	<u>FY 2009 Approp.</u>	<u>FY 2007 Revenue</u>	<u>FY 2008 Revenue</u>	<u>FY 2009 Revenue</u>
General Fund	\$0	\$161,000	\$161,000	\$0	\$0	\$0
General Fund, One-Time	\$0	\$83,600	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$88,100	\$55,600	\$0	\$88,100	\$55,600
<b>Total</b>	<b>\$0</b>	<b>\$332,700</b>	<b>\$216,600</b>	<b>\$0</b>	<b>\$88,100</b>	<b>\$55,600</b>

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, or local governments. The private providers with contracts with the Divisions of Child and Family Services and Juvenile Justice Services could see some increased costs from requirements of this legislation.