

Child and Family Services Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephanie Gricius

Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill addresses child and family services, such as child placement, custody, and records.

Highlighted Provisions:

This bill:

- defines terms;
- addresses bedroom sharing by foster children;
- prohibits the Division of Child and Family Services (division) from:
 - withholding certain information from a child's parent, guardian, or custodian;
 - creating or changing division records in certain ways without written consent from the child's parent, guardian, or custodian;
 - initiating certain medical treatment or care on behalf of a child in the division's custody; and
 - placing a child with a foster parent or taking adverse action against a foster parent if the foster parent expresses discomfort with caring for a child;
- allows the division to share certain records concerning a child with an adoptive parent of the child or an individual who has been awarded permanent custody and guardianship of the child;
- provides that a parent's approval or disapproval of a child's sexual orientation, in itself, may not be the basis for:
 - removal of the child from the parent's custody; or
 - discrimination when a court is determining child custody as part of a divorce or other family law proceeding;
- provides that a juvenile court may not determine that reunification services should not be provided based solely on a parent's agreement or disagreement with the child's sexual

orientation or gender identity; and

- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26B-2-128, as last amended by Laws of Utah 2024, Chapter 240

53G-8-211, as last amended by Laws of Utah 2024, Chapters 240, 301

80-1-102, as last amended by Laws of Utah 2024, Chapter 256

80-2-102, as renumbered and amended by Laws of Utah 2022, Chapter 334

80-2-402, as last amended by Laws of Utah 2024, Chapter 506

80-2-1005, as last amended by Laws of Utah 2023, Chapter 330

80-2a-201, as last amended by Laws of Utah 2023, Chapter 320

80-2a-202, as last amended by Laws of Utah 2024, Chapter 281

80-3-111, as enacted by Laws of Utah 2023, Chapter 309

80-3-204, as last amended by Laws of Utah 2023, Chapter 330

80-3-301, as last amended by Laws of Utah 2023, Chapter 309

80-3-302, as last amended by Laws of Utah 2023, Chapters 309, 330

80-3-303, as last amended by Laws of Utah 2023, Chapter 309

80-3-405, as last amended by Laws of Utah 2023, Chapters 309, 320 and 330

80-3-406, as last amended by Laws of Utah 2023, Chapter 320

80-3-407, as last amended by Laws of Utah 2023, Chapters 309, 320

80-3-409, as last amended by Laws of Utah 2024, Chapter 240

81-9-101, as renumbered and amended by Laws of Utah 2024, Chapter 366

81-9-204, as renumbered and amended by Laws of Utah 2024, Chapter 366

ENACTS:

80-2-309, Utah Code Annotated 1953

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

Section 1. Section **26B-2-128** is amended to read:

**26B-2-128 . Numerical limit of foster children in a foster home -- Limits on
bedroom sharing.**

- (1)(a) No more than four foster children may reside in the foster home of a licensed foster parent.
- (b) No more than three foster children may reside in the foster home of a certified foster parent.
- (2) When placing a child into a foster home, the limits under Subsection (1) may be exceeded:
- (a) to place a child into a foster home where a sibling of the child currently resides; or
- (b) to place a child in a foster home where the child previously resided.
- (3) The limits under Subsection (1) may be exceeded for:
- (a) placement of a sibling group in a foster home with no more than one other foster child placement;
- (b) placement of a child or sibling group in a foster home where the child or sibling group previously resided; or
- (c) placement of a child in a foster home where a sibling currently resides.
- (4)(a) A foster child may not share a bedroom with a child of the opposite biological sex unless:
- (i) each child sharing the bedroom is under two years old;
- (ii)(A) the department's client record identifies gender-specific rationale for sharing the bedroom;
- (B) sharing the bedroom is in the best interests of each child sharing the bedroom;
- and
- (C) all children sharing the bedroom are relatives; or
- (iii)(A) there is written caseworker approval for the bedroom assignment;
- (B) sharing the bedroom is in the best interests of each child sharing the bedroom;
- and
- (C) all children sharing the bedroom are relatives.
- (b) The Division of Child and Family Services shall approve a bedroom assignment by which a child has their own bedroom if:
- (i) there is a gender-specific or sexual-orientation specific rationale for the bedroom assignment; and
- (ii) the bedroom assignment is necessary to promote the child's best interest.
- (5) A foster parent's bedroom may only be shared with a foster child who is under the age of two years old.
- (6) A foster parent may not share a bed with any foster child.

Section 2. Section **53G-8-211** is amended to read:

53G-8-211 . Responses to school-based behavior.

(1) As used in this section:

(a) "Evidence-based" means a program or practice that:

- (i) has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population;
- (ii) has been rated as effective by a standardized program evaluation tool; or
- (iii) is created and developed by a school or school district and has been approved by the state board.

(b) "Habitual truant" means a school-age child who:

- (i) is in grade 7 or above, unless the school-age child is under 12 years old;
- (ii) is subject to the requirements of Section 53G-6-202; and
- (iii)(A) is truant at least 20 days during one school year; or
(B) fails to cooperate with efforts on the part of school authorities to resolve the school-age child's attendance problem as required under Section 53G-6-206.

(c) "Minor" means the same as that term is defined in Section 80-1-102.

(i) "Mobile crisis outreach team" means the same as that term is defined in Section 26B-5-101.

(d) "Prosecuting attorney" means the same as that term is defined in Subsections [~~80-1-102(65)(b)~~] 80-1-102(66)(b) and (c).

(e) "Restorative justice program" means a school-based program or a program used or adopted by a local education agency that is designed:

- (i) to enhance school safety, reduce school suspensions, and limit referrals to law enforcement agencies and courts; and
- (ii) to help minors take responsibility for and repair harmful behavior that occurs in school.

(f) "School administrator" means a principal of a school.

(g) "School is in session" means a day during which the school conducts instruction for which student attendance is counted toward calculating average daily membership.

(h) "School resource officer" means a law enforcement officer, as defined in Section 53-13-103, who contracts with, is employed by, or whose law enforcement agency contracts with a local education agency to provide law enforcement services for the local education agency.

(i) "School-age child" means the same as that term is defined in Section 53G-6-201.

(j)(i) "School-sponsored activity" means an activity, fundraising event, club, camp, clinic, or other event or activity that is authorized by a specific local education agency or public school, according to LEA governing board policy, and satisfies at least one of the following conditions:

(A) the activity is managed or supervised by a local education agency or public school, or local education agency or public school employee;

(B) the activity uses the local education agency's or public school's facilities, equipment, or other school resources; or

(C) the activity is supported or subsidized, more than inconsequentially, by public funds, including the public school's activity funds or Minimum School Program dollars.

(ii) "School-sponsored activity" includes preparation for and involvement in a public performance, contest, athletic competition, demonstration, display, or club activity.

(k)(i) "Status offense" means an offense that would not be an offense but for the age of the offender.

(ii) "Status offense" does not mean an offense that by statute is a misdemeanor or felony.

(2) This section applies to:

(a) a minor who is alleged to be a habitual truant; and

(b) a minor enrolled in school who is alleged to have committed an offense on school property where the student is enrolled:

(i) when school is in session; or

(ii) during a school-sponsored activity.

(3) If a minor is alleged to have committed an offense on school property that is a class C misdemeanor, an infraction, or a status offense, or a minor is alleged to be a habitual truant, the school administrator, the school administrator's designee, or a school resource officer shall refer the minor:

(a) to an evidence-based alternative intervention, including:

(i) a mobile crisis outreach team;

(ii) a youth services center, as defined in Section 80-5-102;

(iii) a certified youth court, as defined in Section 80-6-901, or comparable restorative justice program;

(iv) an evidence-based alternative intervention created and developed by the school or school district;

- 164 (v) an evidence-based alternative intervention that is jointly created and developed by
165 a local education agency, the state board, the juvenile court, local counties and
166 municipalities, the Department of Health and Human Services;
- 167 (vi) a tobacco cessation or education program if the offense is a violation of Section
168 76-10-105; or
- 169 (vii) truancy mediation; or
- 170 (b) for prevention and early intervention youth services, as described in Section 80-5-201,
171 by the Division of Juvenile Justice and Youth Services if the minor refuses to
172 participate in an evidence-based alternative intervention described in Subsection
173 (3)(a).
- 174 (4) Except as provided in Subsection (6), if a minor is alleged to have committed an offense
175 on school property that is a class C misdemeanor, an infraction, or a status offense, a
176 school administrator, the school administrator's designee, or a school resource officer
177 may refer a minor to a law enforcement officer or agency or a court only if:
- 178 (a) the minor allegedly committed an offense on school property on a previous occasion;
179 and
- 180 (b) the minor was referred to an evidence-based alternative intervention, or to prevention
181 or early intervention youth services, as described in Subsection (3) for the previous
182 offense.
- 183 (5) If a minor is alleged to be a habitual truant, a school administrator, the school
184 administrator's designee, or a school resource officer may only refer the minor to a law
185 enforcement officer or agency or a court if:
- 186 (a) the minor was previously alleged of being a habitual truant at least twice during the
187 same school year; and
- 188 (b) the minor was referred to an evidence-based alternative intervention, or for
189 prevention and early intervention youth services, as described in Subsection (3) for at
190 least two of the previous habitual trancies.
- 191 (6) If a minor is alleged to have committed a traffic offense that is an infraction, a school
192 administrator, the school administrator's designee, or a school resource officer may refer
193 the minor to a law enforcement officer or agency, a prosecuting attorney, or a court for
194 the traffic offense.
- 195 (7) Notwithstanding Subsections (4) and (5), a school resource officer may:
- 196 (a) investigate possible criminal offenses and conduct, including conducting probable
197 cause searches;

- (b) consult with school administration about the conduct of a minor enrolled in a school;
- (c) transport a minor enrolled in a school to a location if the location is permitted by law;
- (d) take temporary custody of a minor in accordance with Section 80-6-201; or
- (e) protect the safety of students and the school community, including the use of reasonable and necessary physical force when appropriate based on the totality of the circumstances.

(8)(a) If a minor is referred to a court or a law enforcement officer or agency under

Subsection (4) or (5), the school or the school district shall appoint a school representative to continue to engage with the minor and the minor's family through the court process.

(b) A school representative appointed under Subsection (8)(a) may not be a school resource officer.

(c) A school district or school shall include the following in the school district's or school's referral to the court or the law enforcement officer or agency:

(i) attendance records for the minor;

(ii) a report of evidence-based alternative interventions used by the school before the referral, including outcomes;

(iii) the name and contact information of the school representative assigned to actively participate in the court process with the minor and the minor's family;

(iv) if the minor was referred to prevention or early intervention youth services under Subsection (3)(b), a report from the Division of Juvenile Justice and Youth Services that demonstrates the minor's failure to complete or participate in prevention and early intervention youth services under Subsection (3)(b); and

(v) any other information that the school district or school considers relevant.

(d) A minor referred to a court under Subsection (4) or (5) may not be ordered to or placed in secure detention, including for a contempt charge or violation of a valid court order under Section 78A-6-353:

(i) when the underlying offense is a status offense or infraction; or

(ii) for being a habitual truant.

(e) If a minor is referred to a court under Subsection (4) or (5), the court may use, when available, the resources of the Division of Juvenile Justice and Youth Services or the Office of Substance Use and Mental Health to address the minor.

(9) If a minor is alleged to have committed an offense on school property that is a class B misdemeanor or a class A misdemeanor, the school administrator, the school

administrator's designee, or a school resource officer may refer the minor directly to a court or to the evidence-based alternative interventions in Subsection (3)(a).

(10) A school administrator, a school administrator's designee, and a school resource officer retain the discretion described under this section in relation to Title 63G, Chapter 31, Distinctions on the Basis of Sex.

Section 3. Section **80-1-102** is amended to read:

80-1-102 . Juvenile Code definitions.

Except as provided in Section 80-6-1103, as used in this title:

(1)(a) "Abuse" means:

(i)(A) nonaccidental harm of a child;

(B) threatened harm of a child;

(C) sexual exploitation;

(D) sexual abuse; or

(E) human trafficking of a child in violation of Section 76-5-308.5; or

(ii) that a child's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

(b) "Abuse" does not include:

(i) reasonable discipline or management of a child, including withholding privileges;

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

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

(A) in self-defense;

(B) in defense of others;

(C) to protect the child; or

(D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (1)(b)(iii)(A) through (C).

(2) "Abused child" means a child who has been subjected to abuse.

(3)(a) "Adjudication" means, except as provided in Subsection (3)(b):

(i) for a delinquency petition or criminal information under Chapter 6, Juvenile

Justice:

(A) a finding by the juvenile court that the facts alleged in a delinquency petition or criminal information alleging that a minor committed an offense have been proved;

(B) an admission by a minor in the juvenile court as described in Section 80-6-306; or

(C) a plea of no contest by minor in the juvenile court; or

(ii) for all other proceedings under this title, a finding by the juvenile court that the facts alleged in the petition have been proved.

(b) "Adjudication" does not include:

(i) an admission by a minor described in Section 80-6-306 until the juvenile court enters the minor's admission; or

(ii) a finding of not competent to proceed in accordance with Section 80-6-402.

(4)(a) "Adult" means an individual who is 18 years old or older.

(b) "Adult" does not include an individual:

(i) who is 18 years old or older; and

(ii) who is a minor.

(5) "Attorney guardian ad litem" means the same as that term is defined in Section 78A-2-801.

(6) "Board" means the Board of Juvenile Court Judges.

(7) "Child" means, except as provided in Section 80-2-905, an individual who is under 18 years old.

(8) "Child and family plan" means a written agreement between a child's parents or guardian and the Division of Child and Family Services as described in Section 80-3-307.

(9) "Child placing" means the same as that term is defined in Section 26B-2-101.

(10) "Child-placing agency" means the same as that term is defined in Section 26B-2-101.

(11) "Child protection team" means a team consisting of:

(a) the child welfare caseworker assigned to the case;

(b) if applicable, the child welfare caseworker who made the decision to remove the child;

(c) a representative of the school or school district where the child attends school;

(d) if applicable, the law enforcement officer who removed the child from the home;

(e) a representative of the appropriate Children's Justice Center, if one is established within the county where the child resides;

- (f) if appropriate, and known to the division, a therapist or counselor who is familiar with the child's circumstances;
- (g) if appropriate, a representative of law enforcement selected by the chief of police or sheriff in the city or county where the child resides; and
- (h) any other individuals determined appropriate and necessary by the team coordinator and chair.

(12)(a) "Chronic abuse" means repeated or patterned abuse.

(b) "Chronic abuse" does not mean an isolated incident of abuse.

(13)(a) "Chronic neglect" means repeated or patterned neglect.

(b) "Chronic neglect" does not mean an isolated incident of neglect.

(14) "Clandestine laboratory operation" means the same as that term is defined in Section 58-37d-3.

(15) "Commit" or "committed" means, unless specified otherwise:

(a) with respect to a child, to transfer legal custody; and

(b) with respect to a minor who is at least 18 years old, to transfer custody.

(16) "Community-based program" means a nonsecure residential or nonresidential program, designated to supervise and rehabilitate juvenile offenders, that prioritizes the least restrictive setting, consistent with public safety, and operated by or under contract with the Division of Juvenile Justice and Youth Services.

(17) "Community placement" means placement of a minor in a community-based program described in Section 80-5-402.

(18) "Correctional facility" means:

(a) a county jail; or

(b) a secure correctional facility as defined in Section 64-13-1.

(19) "Criminogenic risk factors" means evidence-based factors that are associated with a minor's likelihood of reoffending.

(20) "Department" means the Department of Health and Human Services created in Section 26B-1-201.

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

(22) "Deprivation of custody" means transfer of legal custody by the juvenile court from a parent or a previous custodian to another person, agency, or institution.

(23) "Detention" means home detention or secure detention.

(24) "Detention facility" means a facility, established by the Division of Juvenile Justice

and Youth Services in accordance with Section 80-5-501, for minors held in detention.

(25) "Detention risk assessment tool" means an evidence-based tool established under Section 80-5-203 that:

(a) assesses a minor's risk of failing to appear in court or reoffending before adjudication; and

(b) is designed to assist in making a determination of whether a minor shall be held in detention.

(26) "Developmental immaturity" means incomplete development in one or more domains that manifests as a functional limitation in the minor's present ability to:

(a) consult with counsel with a reasonable degree of rational understanding; and

(b) have a rational as well as factual understanding of the proceedings.

(27) "Disposition" means an order by a juvenile court, after the adjudication of a minor, under Section 80-3-405 or 80-4-305 or Chapter 6, Part 7, Adjudication and Disposition.

(28) "Educational neglect" means that, after receiving a notice of compulsory education violation under Section 53G-6-202, the parent or guardian fails to make a good faith effort to ensure that the child receives an appropriate education.

(29) "Educational series" means an evidence-based instructional series:

(a) obtained at a substance abuse program that is approved by the Division of Integrated Healthcare in accordance with Section 26B-5-104; and

(b) designed to prevent substance use or the onset of a mental health disorder.

(30) "Emancipated" means the same as that term is defined in Section 80-7-102.

(31) "Evidence-based" means a program or practice that has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population or has been rated as effective by a standardized program evaluation tool.

(32) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.

(33) "Formal probation" means a minor is:

(a) supervised in the community by, and reports to, a juvenile probation officer or an agency designated by the juvenile court; and

(b) subject to return to the juvenile court in accordance with Section 80-6-607.

(34) "Gender identity" means the same as that term is defined in Section 34A-5-102.

(35) "Group rehabilitation therapy" means psychological and social counseling of one or more individuals in the group, depending upon the recommendation of the therapist.

[(35)] (36) "Guardian" means a person appointed by a court to make decisions regarding a

minor, including the authority to consent to:

- (a) marriage;
- (b) enlistment in the armed forces;
- (c) major medical, surgical, or psychiatric treatment; or
- (d) legal custody, if legal custody is not vested in another individual, agency, or institution.

~~[(36)]~~ (37) "Guardian ad litem" means the same as that term is defined in Section 78A-2-801.

~~[(37)]~~ (38) "Harm" means:

- (a) physical or developmental injury or damage;
- (b) emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;
- (c) sexual abuse; or
- (d) sexual exploitation.

~~[(38)]~~ (39) "Home detention" means placement of a minor:

- (a) if prior to a disposition, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice and Youth Services or the juvenile court; or
- (b) if after a disposition, and in accordance with Section 78A-6-353 or 80-6-704, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice and Youth Services or the juvenile court.

~~[(39)]~~ (40)(a) "Incest" means engaging in sexual intercourse with an individual whom the perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin.

(b) "Incest" includes:

- (i) blood relationships of the whole or half blood, regardless of whether the relationship is legally recognized;
- (ii) relationships of parent and child by adoption; and
- (iii) relationships of stepparent and stepchild while the marriage creating the relationship of a stepparent and stepchild exists.

~~[(40)]~~ (41) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

~~[(41)]~~ (42) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

~~[(42)]~~ (43) "Indigent defense service provider" means the same as that term is defined in Section 78B-22-102.

402 ~~[(43)]~~ (44) "Indigent defense services" means the same as that term is defined in Section
403 78B-22-102.

404 ~~[(44)]~~ (45) "Indigent individual" means the same as that term is defined in Section
405 78B-22-102.

406 ~~[(45)]~~ (46)(a) "Intake probation" means a minor is:

407 (i) monitored by a juvenile probation officer; and

408 (ii) subject to return to the juvenile court in accordance with Section 80-6-607.

409 (b) "Intake probation" does not include formal probation.

410 ~~[(46)]~~ (47) "Intellectual disability" means a significant subaverage general intellectual
411 functioning existing concurrently with deficits in adaptive behavior that constitutes a
412 substantial limitation to the individual's ability to function in society.

413 ~~[(47)]~~ (48) "Juvenile offender" means:

414 (a) a serious youth offender; or

415 (b) a youth offender.

416 ~~[(48)]~~ (49) "Juvenile probation officer" means a probation officer appointed under Section
417 78A-6-205.

418 ~~[(49)]~~ (50) "Juvenile receiving center" means a nonsecure, nonresidential program
419 established by the Division of Juvenile Justice and Youth Services, or under contract
420 with the Division of Juvenile Justice and Youth Services, that is responsible for minors
421 taken into temporary custody under Section 80-6-201.

422 ~~[(50)]~~ (51) "Legal custody" means a relationship embodying:

423 (a) the right to physical custody of the minor;

424 (b) the right and duty to protect, train, and discipline the minor;

425 (c) the duty to provide the minor with food, clothing, shelter, education, and ordinary
426 medical care;

427 (d) the right to determine where and with whom the minor shall live; and

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

429 ~~[(51)]~~ (52) "Licensing Information System" means the Licensing Information System
430 maintained by the Division of Child and Family Services under Section 80-2-1002.

431 ~~[(52)]~~ (53) "Management Information System" means the Management Information System
432 developed by the Division of Child and Family Services under Section 80-2-1001.

433 ~~[(53)]~~ (54) "Mental illness" means:

434 (a) a psychiatric disorder that substantially impairs an individual's mental, emotional,
435 behavioral, or related functioning; or

(b) the same as that term is defined in:

(i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or

(ii) the current edition of the International Statistical Classification of Diseases and Related Health Problems.

~~[(54)]~~ (55) "Minor" means, except as provided in Sections 80-6-501, 80-6-901, and 80-7-102:

(a) a child; or

(b) an individual:

(i)(A) who is at least 18 years old and younger than 21 years old; and

(B) for whom the Division of Child and Family Services has been specifically ordered by the juvenile court to provide services because the individual was an abused, neglected, or dependent child or because the individual was adjudicated for an offense;

(ii)(A) who is at least 18 years old and younger than 25 years old; and

(B) whose case is under the jurisdiction of the juvenile court in accordance with Subsection 78A-6-103(1)(b); or

(iii)(A) who is at least 18 years old and younger than 21 years old; and

(B) whose case is under the jurisdiction of the juvenile court in accordance with Subsection 78A-6-103(1)(c).

~~[(55)]~~ (56) "Mobile crisis outreach team" means the same as that term is defined in Section 26B-5-101.

~~[(56)]~~ (57) "Molestation" means that an individual, with the intent to arouse or gratify the sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child, or the breast of a female child, or takes indecent liberties with a child as defined in Section 76-5-401.1.

~~[(57)]~~ (58)(a) "Natural parent" means, except as provided in Section 80-3-302, a minor's biological or adoptive parent.

(b) "Natural parent" includes the minor's noncustodial parent.

~~[(58)]~~ (59)(a) "Neglect" means action or inaction causing:

(i) abandonment of a child, except as provided in Chapter 4, Part 5, Safe Relinquishment of a Newborn Child;

(ii) lack of proper parental care of a child by reason of the fault or habits of the parent, guardian, or custodian;

(iii) failure or refusal of a parent, guardian, or custodian to provide proper or

- 470 necessary subsistence or medical care, or any other care necessary for the child's
471 health, safety, morals, or well-being;
- 472 (iv) a child to be at risk of being neglected or abused because another child in the
473 same home is neglected or abused;
- 474 (v) abandonment of a child through an unregulated child custody transfer under
475 Section 78B-24-203; or
- 476 (vi) educational neglect.
- 477 (b) "Neglect" does not include:
- 478 (i) a parent or guardian legitimately practicing religious beliefs and who, for that
479 reason, does not provide specified medical treatment for a child;
- 480 (ii) a health care decision made for a child by the child's parent or guardian, unless
481 the state or other party to a proceeding shows, by clear and convincing evidence,
482 that the health care decision is not reasonable and informed;
- 483 (iii) a parent or guardian exercising the right described in Section 80-3-304; or
- 484 (iv) permitting a child, whose basic needs are met and who is of sufficient age and
485 maturity to avoid harm or unreasonable risk of harm, to engage in independent
486 activities, including:
- 487 (A) traveling to and from school, including by walking, running, or bicycling;
- 488 (B) traveling to and from nearby commercial or recreational facilities;
- 489 (C) engaging in outdoor play;
- 490 (D) remaining in a vehicle unattended, except under the conditions described in
491 Subsection 76-10-2202(2);
- 492 (E) remaining at home unattended; or
- 493 (F) engaging in a similar independent activity.
- 494 ~~[(59)]~~ (60) "Neglected child" means a child who has been subjected to neglect.
- 495 ~~[(60)]~~ (61) "Nonjudicial adjustment" means closure of the case by the assigned juvenile
496 probation officer, without an adjudication of the minor's case under Section 80-6-701,
497 upon the consent in writing of:
- 498 (a) the assigned juvenile probation officer; and
- 499 (b)(i) the minor; or
- 500 (ii) the minor and the minor's parent, guardian, or custodian.
- 501 ~~[(61)]~~ (62) "Not competent to proceed" means that a minor, due to a mental illness,
502 intellectual disability or related condition, or developmental immaturity, lacks the ability
503 to:

(a) understand the nature of the proceedings against the minor or of the potential disposition for the offense charged; or

(b) consult with counsel and participate in the proceedings against the minor with a reasonable degree of rational understanding.

~~[(62)]~~ (63) "Parole" means a conditional release of a juvenile offender from residency in secure care to live outside of secure care under the supervision of the Division of Juvenile Justice and Youth Services, or another person designated by the Division of Juvenile Justice and Youth Services.

~~[(63)]~~ (64) "Physical abuse" means abuse that results in physical injury or damage to a child.

~~[(64)]~~ (65)(a) "Probation" means a legal status created by court order, following an adjudication under Section 80-6-701, whereby the minor is permitted to remain in the minor's home under prescribed conditions.

(b) "Probation" includes intake probation or formal probation.

~~[(65)]~~ (66) "Prosecuting attorney" means:

(a) the attorney general and any assistant attorney general;

(b) any district attorney or deputy district attorney;

(c) any county attorney or assistant county attorney; and

(d) any other attorney authorized to commence an action on behalf of the state.

~~[(66)]~~ (67) "Protective custody" means the shelter of a child by the Division of Child and Family Services from the time the child is removed from the home until the earlier of:

(a) the day on which the shelter hearing is held under Section 80-3-301; or

(b) the day on which the child is returned home.

~~[(67)]~~ (68) "Protective services" means expedited services that are provided:

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

(b) to a cohabitant who is neglecting or abusing a child, in order to:

(i) help the cohabitant develop recognition of the cohabitant's duty of care and of the causes of neglect or abuse; and

(ii) strengthen the cohabitant's ability to provide safe and acceptable care; and

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

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

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

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

including, when appropriate:

(A) removal from the child's home;

(B) placement in substitute care; and

(C) petitioning the court for termination of parental rights.

~~[(68)]~~ (69) "Protective supervision" means a legal status created by court order, following an adjudication on the ground of abuse, neglect, or dependency, whereby:

(a) the minor is permitted to remain in the minor's home; and

(b) supervision and assistance to correct the abuse, neglect, or dependency is provided by an agency designated by the juvenile court.

~~[(69)]~~ (70)(a) "Related condition" means a condition that:

(i) is found to be closely related to intellectual disability;

(ii) results in impairment of general intellectual functioning or adaptive behavior similar to that of an intellectually disabled individual;

(iii) is likely to continue indefinitely; and

(iv) constitutes a substantial limitation to the individual's ability to function in society.

(b) "Related condition" does not include mental illness, psychiatric impairment, or serious emotional or behavioral disturbance.

~~[(70)]~~ (71)(a) "Residual parental rights and duties" means the rights and duties remaining with a parent after legal custody or guardianship, or both, have been vested in another person or agency, including:

(i) the responsibility for support;

(ii) the right to consent to adoption;

(iii) the right to determine the child's religious affiliation; and

(iv) the right to reasonable parent-time unless restricted by the court.

(b) If no guardian has been appointed, "residual parental rights and duties" includes the right to consent to:

(i) marriage;

(ii) enlistment; and

(iii) major medical, surgical, or psychiatric treatment.

~~[(71)]~~ (72) "Runaway" means a child, other than an emancipated child, who willfully leaves the home of the child's parent or guardian, or the lawfully prescribed residence of the child, without permission.

~~[(72)]~~ (73) "Secure care" means placement of a minor, who is committed to the Division of Juvenile Justice and Youth Services for rehabilitation, in a facility operated by, or under

contract with, the Division of Juvenile Justice and Youth Services, that provides 24-hour supervision and confinement of the minor.

~~[(73)]~~ (74) "Secure care facility" means a facility, established in accordance with Section 80-5-503, for juvenile offenders in secure care.

~~[(74)]~~ (75) "Secure detention" means temporary care of a minor who requires secure custody in a physically restricting facility operated by, or under contract with, the Division of Juvenile Justice and Youth Services:

(a) before disposition of an offense that is alleged to have been committed by the minor;

or

(b) under Section 80-6-704.

~~[(75)]~~ (76) "Serious youth offender" means an individual who:

(a) is at least 14 years old, but under 25 years old;

(b) committed a felony listed in Subsection 80-6-503(1) and the continuing jurisdiction of the juvenile court was extended over the individual's case until the individual was 25 years old in accordance with Section 80-6-605; and

(c) is committed by the juvenile court to the Division of Juvenile Justice and Youth Services for secure care under Sections 80-6-703 and 80-6-705.

~~[(76)]~~ (77) "Severe abuse" means abuse that causes or threatens to cause serious harm to a child.

~~[(77)]~~ (78) "Severe neglect" means neglect that causes or threatens to cause serious harm to a child.

~~[(78)]~~ (79)(a) "Severe type of child abuse or neglect" means, except as provided in Subsection ~~[(78)(b)]~~ (79)(b):

(i) if committed by an individual who is 18 years old or older:

(A) chronic abuse;

(B) severe abuse;

(C) sexual abuse;

(D) sexual exploitation;

(E) abandonment;

(F) chronic neglect; or

(G) severe neglect; or

(ii) if committed by an individual who is under 18 years old:

(A) causing serious physical injury, as defined in Subsection 76-5-109(1), to another child that indicates a significant risk to other children; or

- 606 (B) sexual behavior with or upon another child that indicates a significant risk to
607 other children.
- 608 (b) "Severe type of child abuse or neglect" does not include:
- 609 (i) the use of reasonable and necessary physical restraint by an educator in
610 accordance with Subsection 53G-8-302(2) or Section 76-2-401;
- 611 (ii) an individual's conduct that is justified under Section 76-2-401 or constitutes the
612 use of reasonable and necessary physical restraint or force in self-defense or
613 otherwise appropriate to the circumstances to obtain possession of a weapon or
614 other dangerous object in the possession or under the control of a child or to
615 protect the child or another individual from physical injury; or
- 616 (iii) a health care decision made for a child by a child's parent or guardian, unless,
617 subject to Subsection ~~[(78)(e)]~~ (79)(c), the state or other party to the proceeding
618 shows, by clear and convincing evidence, that the health care decision is not
619 reasonable and informed.
- 620 (c) Subsection ~~[(78)(b)(iii)]~~ (79)(b)(iii) does not prohibit a parent or guardian from
621 exercising the right to obtain a second health care opinion.
- 622 ~~[(79)]~~ (80) "Sexual abuse" means:
- 623 (a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an
624 adult directed towards a child;
- 625 (b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation
626 committed by a child towards another child if:
- 627 (i) there is an indication of force or coercion;
- 628 (ii) the children are related, as described in Subsection ~~[(39)]~~ (40), including siblings
629 by marriage while the marriage exists or by adoption;
- 630 (iii) there have been repeated incidents of sexual contact between the two children,
631 unless the children are 14 years old or older; or
- 632 (iv) there is a disparity in chronological age of four or more years between the two
633 children;
- 634 (c) engaging in any conduct with a child that would constitute an offense under any of
635 the following, regardless of whether the individual who engages in the conduct is
636 actually charged with, or convicted of, the offense:
- 637 (i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the
638 alleged perpetrator of an offense described in Section 76-5-401 is a minor;
- 639 (ii) child bigamy, Section 76-7-101.5;

(iii) incest, Section 76-7-102;

(iv) lewdness, Section 76-9-702;

(v) sexual battery, Section 76-9-702.1;

(vi) lewdness involving a child, Section 76-9-702.5; or

(vii) voyeurism, Section 76-9-702.7; or

(d) subjecting a child to participate in or threatening to subject a child to participate in a sexual relationship, regardless of whether that sexual relationship is part of a legal or cultural marriage.

[(80)] (81) "Sexual exploitation" means knowingly:

(a) employing, using, persuading, inducing, enticing, or coercing any child to:

(i) pose in the nude for the purpose of sexual arousal of any individual; or

(ii) engage in any sexual or simulated sexual conduct for the purpose of photographing, filming, recording, or displaying in any way the sexual or simulated sexual conduct;

(b) displaying, distributing, possessing for the purpose of distribution, or selling material depicting a child:

(i) in the nude, for the purpose of sexual arousal of any individual; or

(ii) engaging in sexual or simulated sexual conduct; or

(c) engaging in any conduct that would constitute an offense under Section 76-5b-201, sexual exploitation of a minor, or Section 76-5b-201.1, aggravated sexual exploitation of a minor, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense.

[(81)] (82) "Shelter" means the temporary care of a child in a physically unrestricted facility pending a disposition or transfer to another jurisdiction.

[(82)] (83) "Shelter facility" means a nonsecure facility that provides shelter for a minor.

[(83)] (84) "Significant risk" means a risk of harm that is determined to be significant in accordance with risk assessment tools and rules established by the Division of Child and Family Services in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that focus on:

(a) age;

(b) social factors;

(c) emotional factors;

(d) sexual factors;

(e) intellectual factors;

- (f) family risk factors; and
- (g) other related considerations.

~~[(84)]~~ (85) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

~~[(85)]~~ (86) "Status offense" means an offense that would not be an offense but for the age of the offender.

~~[(86)]~~ (87) "Substance abuse" means, except as provided in Section 80-2-603, the misuse or excessive use of alcohol or other drugs or substances.

~~[(87)]~~ (88) "Substantiated" or "substantiation" means a judicial finding based on a preponderance of the evidence, and separate consideration of each allegation made or identified in the case, that abuse, neglect, or dependency occurred .

~~[(88)]~~ (89) "Substitute care" means:

- (a) the placement of a minor in a family home, group care facility, or other placement outside the minor's own home, either at the request of a parent or other responsible relative, or upon court order, when it is determined that continuation of care in the minor's own home would be contrary to the minor's welfare;
- (b) services provided for a minor in the protective custody of the Division of Child and Family Services, or a minor in the temporary custody or custody of the Division of Child and Family Services, as those terms are defined in Section 80-2-102; or
- (c) the licensing and supervision of a substitute care facility.

~~[(89)]~~ (90) "Supported" means a finding by the Division of Child and Family Services based on the evidence available at the completion of an investigation, and separate consideration of each allegation made or identified during the investigation, that there is a reasonable basis to conclude that abuse, neglect, or dependency occurred.

~~[(90)]~~ (91) "Termination of parental rights" means the permanent elimination of all parental rights and duties, including residual parental rights and duties, by court order.

~~[(91)]~~ (92) "Therapist" means:

- (a) an individual employed by a state division or agency for the purpose of conducting psychological treatment and counseling of a minor in the division's or agency's custody; or
- (b) any other individual licensed or approved by the state for the purpose of conducting psychological treatment and counseling.

~~[(92)]~~ (93) "Threatened harm" means actions, inactions, or credible verbal threats, indicating that the child is at an unreasonable risk of harm or neglect.

708 ~~[(93)]~~ (94) "Ungovernable" means a child in conflict with a parent or guardian, and the
 709 conflict:

710 (a) results in behavior that is beyond the control or ability of the child, or the parent or
 711 guardian, to manage effectively;

712 (b) poses a threat to the safety or well-being of the child, the child's family, or others; or

713 (c) results in the situations described in Subsections ~~[(93)(a)]~~ (94)(a) and (b).

714 ~~[(94)]~~ (95) "Unsubstantiated" means a judicial finding that there is insufficient evidence to
 715 conclude that abuse, neglect, or dependency occurred.

716 ~~[(95)]~~ (96) "Unsupported" means a finding by the Division of Child and Family Services at
 717 the completion of an investigation, after the day on which the Division of Child and
 718 Family Services concludes the alleged abuse, neglect, or dependency is not without
 719 merit, that there is insufficient evidence to conclude that abuse, neglect, or dependency
 720 occurred.

721 ~~[(96)]~~ (97) "Validated risk and needs assessment" means an evidence-based tool that
 722 assesses a minor's risk of reoffending and a minor's criminogenic needs.

723 ~~[(97)]~~ (98) "Without merit" means a finding at the completion of an investigation by the
 724 Division of Child and Family Services, or a judicial finding, that the alleged abuse,
 725 neglect, or dependency did not occur, or that the alleged perpetrator was not responsible
 726 for the abuse, neglect, or dependency.

727 ~~[(98)]~~ (99) "Youth offender" means an individual who is:

728 (a) at least 12 years old, but under 21 years old; and

729 (b) committed by the juvenile court to the Division of Juvenile Justice and Youth
 730 Services for secure care under Sections 80-6-703 and 80-6-705.

731 Section 4. Section **80-2-102** is amended to read:

732 **80-2-102 . Definitions.**

733 As used in this chapter:

734 (1) "Consult" means an interaction between two persons in which the initiating person:

735 (a) provides information to another person;

736 (b) provides the other person an opportunity to respond; and

737 (c) takes the other person's response, if any, into consideration.

738 (2) "Consumer" means a person who receives services offered by the division in accordance
 739 with this chapter.

740 (3) "Council" means the Child Welfare Improvement Council created in Section 80-2-1101.

741 (4) "Custody," with regard to the division, means the custody of a minor in the division as

of the date of disposition.

(5) "Day-care services" means care of a child for a portion of the day which is less than 24 hours:

(a) in the child's own home by a responsible individual; or

(b) outside of the child's home in a:

(i) day-care center;

(ii) family group home; or

(iii) family child care home.

(6) "Director" means the director of the division appointed under Section 80-2-202.

(7) "Division" means the Division of Child and Family Services created in Section 80-2-201.

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

(9) "Domestic violence services" means:

(a) temporary shelter, treatment, and related services provided to:

(i) an individual who is a victim of abuse, as defined in Section 78B-7-102; and

(ii) the dependent children of an individual who is a victim of abuse, as defined in Section 78B-7-102; and

(b) treatment services for an individual who is alleged to have committed, has been convicted of, or has pled guilty to domestic violence.

(10) "Homemaking services" means the care of an individual in the individual's domicile, and help given to an individual caretaker relative to achieve improved household and family management through the services of a trained homemaker.

(11) "Hormonal transgender treatment" means the same as that term is defined in Section 58-1-603.

(12) "Mutual case" means a case that is:

(a) opened by the division under the division's discretion and procedures;

(b) opened by the law enforcement agency with jurisdiction over the case; and

(c) accepted for investigation by a child protection team, as applicable.

~~[(12)]~~ (13)(a) "Person responsible for the child's care" means the child's parent, guardian, or other person responsible for the child's care.

(b) "Person responsible for the child's care" includes a person responsible for the child's care in the same home as the child, a relative's home, a group, family, or day care facility, a foster care home, or a residential institution.

~~[(13)]~~ (14) "Primary sex characteristic surgical procedure" means the same as that term is defined in Section 58-67-102.

(15) "Secondary sex characteristic surgical procedure" means the same as that term is defined in Section 58-67-102.

(16) "Shelter care" means the temporary care of a minor in a nonsecure facility.

~~[(14)]~~ (17) "Sibling" means a child who shares or has shared at least one parent in common either by blood or adoption.

~~[(15)]~~ (18) "Sibling visitation" means services provided by the division to facilitate the interaction between a child in division custody with the child's sibling.

~~[(16)]~~ (19)(a) "Subject of the report" means a person reported under Part 6, Child Abuse and Neglect Reports.

(b) "Subject of the report" includes the child who is the alleged victim of the report and the person responsible for the child's care.

~~[(17)]~~ (20) "Temporary custody" means, with regard to the division, the custody of a child from the day on which the shelter hearing described in Section 80-3-301 is held until the day on which the juvenile court enters a disposition under Section 80-3-405.

~~[(18)]~~ (21) "Transportation services" means travel assistance given to an individual with escort service, if necessary, to and from community facilities and resources as part of a service plan.

Section 5. Section **80-2-309** is enacted to read:

80-2-309 . Orientation and identity.

(1) As used in this section:

(a)(i) "Custodian" means an individual who has legal custody of a child.

(ii) "Custodian" does not include the division.

(b)(i) "Guardian" means an individual who has qualified as a guardian of a child pursuant to testamentary or court appointment, or by written instrument as provided in Section 75-5-202.5.

(ii) "Guardian" does not include a guardian ad litem.

(2)(a) For a child in the protective custody, temporary custody, or custody of the division:

(i) subject to Subsection (2)(b), the division may not withhold or conceal information related to a child's asserted gender identity or sexual orientation from the child's parent, guardian, or custodian;

(ii) without consent from the child's parent, guardian, or custodian, the division may not refer to the child in division records in a way that is contrary to the child's biological sex;

- (iii) the division may not initiate hormonal transgender treatment, a primary sex characteristic surgical procedure, or a secondary sex characteristic surgical procedure for the child; and
- (iv) if a foster parent expresses discomfort with caring for a child based on the child's asserted gender identity or sexual orientation, the division may not place the child with that foster parent and may not discriminate or take other adverse action against the foster parent solely on that basis.
- (b) If a child discloses to the division information regarding the child's asserted gender identity or sexual orientation, and the child wants the information to remain private, the division shall develop a plan in cooperation with the child's therapist or counselor that:
- (i) allows the division to comply with the requirements described in Subsection (2)(a)(i);
- (ii) will not result in harm, as that term is defined in Section 80-1-102, to the child; and
- (iii) is in compliance with all applicable privacy laws.

Section 6. Section **80-2-402** is amended to read:

80-2-402 . Child welfare training coordinator -- Mandatory education and training of child welfare caseworkers -- Development of curriculum.

- (1) There is created within the division a full-time position of a child welfare training coordinator.
- (2) The child welfare training coordinator is not responsible for direct casework services or the supervision of casework services, but is required to:
- (a) develop child welfare curriculum that:
- (i) is current and effective, consistent with the division's mission and purpose for child welfare; and
- (ii) utilizes curriculum and resources from a variety of sources including those from:
- (A) the public sector;
- (B) the private sector; and
- (C) inside and outside of the state;
- (b) recruit, select, and supervise child welfare trainers;
- (c) develop a statewide training program, including a budget and identification of sources of funding to support that training;
- (d) evaluate the efficacy of training in improving job performance;

- (e) assist child protective services and foster care workers in developing and fulfilling their individual training plans;
- (f) monitor staff compliance with division training requirements and individual training plans; and
- (g) expand the collaboration between the division and schools of social work within institutions of higher education in developing child welfare services curriculum, and in providing and evaluating training.

(3) The director shall, with the assistance of the child welfare training coordinator, establish and ensure child welfare caseworker competency regarding a core curriculum for child welfare services that:

- (a) is driven by child safety and family well-being;
- (b) emphasizes child and family voice;
- (c) is based on a policy, procedure, program, or practice that demonstrates an ability to minimize retraumatization associated with the criminal and juvenile justice system; and
- (d) is consistent with national child welfare practice standards.

(4) A child welfare caseworker shall complete training in:

- (a) the legal duties of a child welfare caseworker;
- (b) the responsibility of a child welfare caseworker to protect the safety and legal rights of children, parents, and families at all stages of a case, including:
 - (i) initial contact;
 - (ii) safety and risk assessment, as described in Section 80-2-403; and
 - (iii) intervention;
- (c) recognizing situations involving:
 - (i) substance abuse;
 - (ii) domestic violence;
 - (iii) abuse; and
 - (iv) neglect; and
- (d) the relationship of the Fourth and Fourteenth Amendments of the Constitution of the United States to the child welfare caseworker's job, including:
 - (i) search and seizure of evidence;
 - (ii) the warrant requirement;
 - (iii) exceptions to the warrant requirement; and
 - (iv) removing a child from the custody of the child's parent or guardian.

- 878 (5) The division shall train the division's child welfare caseworkers to:
- 879 (a) apply the risk assessment tools and rules described in Subsection [80-1-102(83)]
- 880 80-1-102(84); and
- 881 (b) develop child and family plans that comply with:
- 882 (i) federal mandates; and
- 883 (ii) the specific needs of the child and the child's family.
- 884 (6) The division shall use the training of child welfare caseworkers to emphasize:
- 885 (a) the importance of maintaining the parent-child relationship;
- 886 (b) the preference for providing in-home services over taking a child into protective
- 887 custody, both for the emotional well-being of the child and the efficient allocation of
- 888 resources; and
- 889 (c) the importance and priority of:
- 890 (i) kinship placement in the event a child must be taken into protective custody; and
- 891 (ii) guardianship placement, in the event the parent-child relationship is legally
- 892 terminated and no appropriate adoptive placement is available.
- 893 (7) If a child welfare caseworker is hired, before assuming independent casework
- 894 responsibilities, the division shall ensure that the child welfare caseworker has:
- 895 (a) completed the training described in Subsections (4), (5), and (6); and
- 896 (b) participated in sufficient skills development for a child welfare caseworker.

897 Section 7. Section **80-2-1005** is amended to read:

898 **80-2-1005 . Classification of reports of alleged abuse or neglect -- Confidential**

899 **identity of a person who reports -- Access -- Admitting reports into evidence -- Unlawful**

900 **release and use -- Penalty.**

- 901 (1) Except as otherwise provided in this chapter or Chapter 2a, Removal and Protective
- 902 Custody of a Child, a report made under Part 6, Child Abuse and Neglect Reports, and
- 903 any other information in the possession of the division obtained as a result of the report
- 904 is a private, protected, or controlled record under Title 63G, Chapter 2, Government
- 905 Records Access and Management Act, and may only be made available to:
- 906 (a) a police or law enforcement agency investigating a report of known or suspected
- 907 abuse or neglect, including members of a child protection team;
- 908 (b) a physician who reasonably believes that a child may be the subject of abuse or
- 909 neglect;
- 910 (c) an agency that has responsibility or authority to care for, treat, or supervise a minor
- 911 who is the subject of a report;

- (d) a contract provider that has a written contract with the division to render services to a minor who is the subject of a report;
- (e) the subject of the report, the natural parents of the child, an adoptive parent of the child, an individual who has been awarded permanent custody and guardianship of the child, and the guardian ad litem;
- (f) a court, upon a finding that access to the records may be necessary for the determination of an issue before the court, provided that in a divorce, custody, or related proceeding between private parties, the record alone is:
- (i) limited to objective or undisputed facts that were verified at the time of the investigation; and
- (ii) devoid of conclusions drawn by the division or any of the division's workers on the ultimate issue of whether or not an individual's acts or omissions constituted any level of abuse or neglect of another individual;
- (g) an office of the public prosecutor or the public prosecutor's deputies in performing an official duty;
- (h) a person authorized by a Children's Justice Center, for the purposes described in Section 67-5b-102;
- (i) a person engaged in bona fide research, when approved by the director of the division, if the information does not include names and addresses;
- (j) the State Board of Education, acting on behalf of itself or on behalf of a local education agency, as defined in Section 63J-5-102, for the purpose of evaluating whether an individual should be permitted to obtain or retain a license as an educator or serve as an employee or volunteer in a school, limited to information with substantiated or supported findings involving an alleged sexual offense, an alleged felony or class A misdemeanor drug offense, or any alleged offense against the person under Title 76, Chapter 5, Offenses Against the Individual, and with the understanding that the office must provide the subject of a report received under Subsection (1)(k) with an opportunity to respond to the report before making a decision concerning licensure or employment;
- (k) any individual identified in the report as a perpetrator or possible perpetrator of abuse or neglect, after being advised of the screening prohibition in Subsection (2);
- (l) a person filing a petition for a child protective order on behalf of a child who is the subject of the report;
- (m) a licensed child-placing agency or person who is performing a preplacement

946 adoptive evaluation in accordance with the requirements of Sections 78B-6-128 and
947 78B-6-130;

948 (n) an Indian tribe to:

949 (i) certify or license a foster home;

950 (ii) render services to a subject of a report; or

951 (iii) investigate an allegation of abuse, neglect, or dependency; or

952 (o) the department or a local substance abuse authority, described in Section 17-43-201,
953 for the purpose of providing substance abuse treatment to a pregnant woman or a
954 parent of a newborn child, or the services described in Subsection [~~26B-5-211(2)(p)~~]
955 26B-5-102(2)(p).

956 (2) In accordance with Section 80-2-608 and except as provided in Section 80-2-611, the
957 division and a law enforcement agency shall ensure the anonymity of the person who
958 makes the initial report under Part 6, Child Abuse and Neglect Reports, and any other
959 person involved in the division's or law enforcement agency's subsequent investigation
960 of the report.

961 (3) Notwithstanding any other provision of law, excluding Section 80-3-107, but including
962 this chapter, Chapter 2a, Removal and Protective Custody of a Child, and Title 63G,
963 Chapter 2, Government Records Access and Management Act, if the division makes a
964 report or other information in the division's possession available under Subsection (1)(e)
965 to a subject of the report or a parent of a child, the division shall remove from the report
966 or other information only the names, addresses, and telephone numbers of individuals or
967 specific information that could:

968 (a) identify the referent;

969 (b) impede a criminal investigation; or

970 (c) endanger an individual's safety.

971 (4) A child-placing agency or person who receives a report from the division under
972 Subsection (1)(m) may provide the report to:

973 (a) the subject of the report;

974 (b) a person who is performing a preplacement adoptive evaluation in accordance with
975 Sections 78B-6-128 and 78B-6-130;

976 (c) to a licensed child-placing agency; or

977 (d) an attorney seeking to facilitate an adoption.

978 (5) A member of a child protection team may, before the day on which the child is
979 removed, share case-specific information obtained from the division under this section

with other members of the child protection team.

(6)(a) Except as provided in Subsection (6)(b), in a divorce, custody, or related proceeding between private parties, a court may not receive into evidence a report that:

(i) is provided to the court:

(A) under Subsection (1)(f); or

(B) by a parent of the child after the record is made available to the parent under Subsection (1)(e);

(ii) describes a parent of the child as the alleged perpetrator; and

(iii) is found to be unsubstantiated, unsupported, or without merit.

(b)(i) After a motion to admit the report described in Subsection (6)(a) is made, the court shall allow sufficient time for all subjects of the record to respond before making a finding on the motion.

(ii) After considering the motion described in Subsection (6)(b)(i), the court may receive the report into evidence upon a finding on the record of good cause.

(7)(a) A person may not:

(i) willfully permit, or aid and abet, the release of data or information in the possession of the division or contained in the Management Information System in violation of this part or Part 6, Child Abuse and Neglect Reports; or

(ii) if the person is not listed in Subsection (1), request another person to obtain or release a report or other information that the other person obtained under Subsection (1)(k) to screen for potential perpetrators of abuse or neglect.

(b) A person who violates Subsection (7)(a)(i), or violates Subsection (7)(a)(ii) knowing the person's actions are a violation of Subsection (7)(a)(ii), is guilty of a class C misdemeanor.

Section 8. Section **80-2a-201** is amended to read:

80-2a-201 . Rights of parents -- Children's rights -- Interest and responsibility of state.

(1)(a) Under both the United States Constitution and the constitution of this state, a parent possesses a fundamental liberty interest in the care, custody, and management of the parent's children. A fundamentally fair process must be provided to parents if the state moves to challenge or interfere with parental rights. A governmental entity must support any actions or allegations made in opposition to the rights and desires of a parent regarding the parent's child by sufficient evidence to satisfy a parent's

constitutional entitlement to heightened protection against government interference with the parent's fundamental rights and liberty interests and, concomitantly, the right of the child to be reared by the child's natural parent.

(b) The fundamental liberty interest of a parent concerning the care, custody, and management of the parent's child is recognized, protected, and does not cease to exist simply because a parent may fail to be a model parent or because the parent's child is placed in the temporary custody of the state. At all times, a parent retains a vital interest in preventing the irretrievable destruction of family life. Before an adjudication of unfitness, government action in relation to a parent and the parent's child may not exceed the least restrictive means or alternatives available to accomplish a compelling state interest. Until the state proves parental unfitness, and the child suffers, or is substantially likely to suffer, serious detriment as a result, the child and the child's parent share a vital interest in preventing erroneous termination of their natural relationship and the state cannot presume that a child and the child's parent are adversaries.

(c) It is in the best interest and welfare of a child to be raised under the care and supervision of the child's natural parents. A child's need for a normal family life in a permanent home, and for positive, nurturing family relationships is usually best met by the child's natural parents. Additionally, the integrity of the family unit and the right of a parent to conceive and raise the parent's child are constitutionally protected. The right of a fit, competent parent to raise the parent's child without undue government interference is a fundamental liberty interest that has long been protected by the laws and Constitution and is a fundamental public policy of this state.

(d) The state recognizes that:

(i) a parent has the right, obligation, responsibility, and authority to raise, manage, train, educate, provide and care for, and reasonably discipline the parent's child; and

(ii) the state's role is secondary and supportive to the primary role of a parent.

(e) It is the public policy of this state that:

(i) a parent retains the fundamental right and duty to exercise primary control over the care, supervision, upbringing, and education of the parent's child;

(ii) a parent retains the right to have contact with the parent's child when the child is placed outside of the parent's home, and parent-time should be ordered by a court so long as the contact is not contrary to the best interest of the child; and

(iii) a child has the right to have contact with the child's sibling when the child is placed outside of the home and apart from the child's sibling, and sibling visits should be ordered by a court unless the contact would be contrary to the safety or well-being of the child.

(f) Subsections (2) through (7) shall be interpreted and applied consistent with this Subsection (1).

(2) It is also the public policy of this state that children have the right to protection from abuse and neglect, and that the state retains a compelling interest in investigating, prosecuting, and punishing abuse and neglect. Therefore, the state, as *parens patriae*, has an interest in and responsibility to protect a child whose parent abuses the child or does not adequately provide for the child's welfare. There may be circumstances where a parent's conduct or condition is a substantial departure from the norm and the parent is unable or unwilling to render safe and proper parental care and protection. Under those circumstances, the state may take action for the welfare and protection of the parent's child.

(3) When the division intervenes on behalf of an abused, neglected, or dependent child, the division shall take into account the child's need for protection from immediate harm and the extent to which the child's extended family may provide needed protection. Throughout the division's involvement, the division shall utilize the least intrusive and least restrictive means available to protect a child, in an effort to ensure that children are brought up in stable, permanent families, rather than in temporary foster placements under the supervision of the state.

(4) If circumstances within the family pose a threat to the child's immediate safety or welfare, the division may seek custody of the child for a planned, temporary period and place the child in a safe environment, subject to the requirements of this section and in accordance with Chapter 3, Abuse, Neglect, and Dependency Proceedings, and when safe and appropriate, return the child to the child's parent or as a last resort, pursue another permanency plan.

(5) In determining and making reasonable efforts with regard to a child, under Section 80-2a-302, both the division's and the juvenile court's paramount concern shall be the child's health, safety, and welfare. The desires of a parent for the parent's child, and the constitutionally protected rights of a parent, as described in this section, shall be given full and serious consideration by the division and the juvenile court.

(6) In accordance with Subsections 80-2a-302(4) and 80-3-301(12), in cases where sexual

abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved, the state has no duty to make reasonable efforts or to, in any other way, attempt to maintain a child in the child's home, provide reunification services, or rehabilitate the offending parent or parents. This Subsection (6) does not exempt the division from providing court-ordered services.

- (7)(a) In accordance with Subsection (1), the division shall strive to achieve appropriate permanency for children who are abused, neglected, or dependent. The division shall provide in-home services, if appropriate and safe, in an effort to help a parent to correct the behavior that resulted in abuse, neglect, or dependency of the parent's child. The division may pursue a foster placement only if in-home services fail or are otherwise insufficient or inappropriate, kinship placement is not safe or appropriate, or in-home services and kinship placement fail and cannot be corrected. The division shall also seek qualified extended family support or a kinship placement to maintain a sense of security and stability for the child.
- (b) If the use or continuation of reasonable efforts, as described in Subsections (5) and (6), is determined to be inconsistent with the permanency plan for a child, then measures shall be taken, in a timely manner, to place the child in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child.
- (c) Subject to the parental rights recognized and protected under this section, if, because of a parent's conduct or condition, the parent is determined to be unfit or incompetent based on the grounds for termination of parental rights described in Chapter 4, Termination and Restoration of Parental Rights, the continuing welfare and best interest of the child is of paramount importance, and shall be protected in determining whether that parent's rights should be terminated.
- (8) The state's right to direct or intervene in the provision of medical or mental health care for a child is subject to Subsections ~~[80-1-102(58)(b)(i)]~~ 80-1-102(59)(b)(i) through (iii) and Sections 80-3-109 and 80-3-304.

Section 9. Section **80-2a-202** is amended to read:

**80-2a-202 . Removal of a child by a peace officer or child welfare caseworker --
Search warrants -- Protective custody and temporary care of a child.**

- (1) A peace officer or child welfare caseworker may remove a child or take a child into protective custody, temporary custody, or custody in accordance with this section.
- (2)(a) Except as provided in Subsection (2)(b), a peace officer or a child welfare

caseworker may not enter the home of a child whose case is not under the jurisdiction of the juvenile court, remove a child from the child's home or school, or take a child into protective custody unless:

- (i) there exist exigent circumstances sufficient to relieve the peace officer or the child welfare caseworker of the requirement to obtain a search warrant under Subsection (3);
- (ii) the peace officer or child welfare caseworker obtains a search warrant under Subsection (3);
- (iii) the peace officer or child welfare caseworker obtains a court order after the child's parent or guardian is given notice and an opportunity to be heard; or
- (iv) the peace officer or child welfare caseworker obtains the consent of the child's parent or guardian.

(b) A peace officer or a child welfare caseworker may not take action under Subsection (2)(a) solely on the basis of:

- (i) educational neglect, truancy, or failure to comply with a court order to attend school;
- (ii) the possession or use, in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, as those terms are defined in Section 26B-4-201; or
- (iii) subject to Subsection (2)(c), a parent's agreement or disagreement with a minor child of the couple's:
 - (A) assertion that the child's gender identity is different from the child's biological sex;[-or]
 - (B) practice of having or expressing a different gender identity than the child's biological sex[-] ; or
 - (C) sexual orientation.

(c) Subsection (2)(b)(iii) does not preclude a peace officer or a child welfare caseworker from taking action under Subsection (2)(a) if the parent's agreement or disagreement with a minor child as described in Subsection (2)(b)(iii) results in or is related to harm, as that term is defined in Section 80-1-102, to the minor child.

(3)(a) The juvenile court may issue a warrant authorizing a peace officer or a child welfare caseworker to search for a child and take the child into protective custody if it appears to the juvenile court upon a verified petition, recorded sworn testimony or

an affidavit sworn to by a peace officer or another individual, and upon the examination of other witnesses if required by the juvenile court, that there is probable cause to believe that:

- (i) there is a threat of substantial harm to the child's health or safety;
- (ii) it is necessary to take the child into protective custody to avoid the harm described in Subsection (3)(a)(i); and
- (iii) it is likely that the child will suffer substantial harm if the child's parent or guardian is given notice and an opportunity to be heard before the child is taken into protective custody.

(b) In accordance with Section 77-23-210, a peace officer making the search under Subsection (3)(a) may enter a house or premises by force, if necessary, in order to remove the child.

(4)(a) A child welfare caseworker may take action under Subsection (2) accompanied by a peace officer or without a peace officer if a peace officer is not reasonably available.

(b)(i) Before taking a child into protective custody, and if possible and consistent with the child's safety and welfare, a child welfare caseworker shall determine whether there are services available that, if provided to a parent or guardian of the child, would eliminate the need to remove the child from the custody of the child's parent or guardian.

(ii) In determining whether the services described in Subsection (4)(b)(i) are reasonably available, the child welfare caseworker shall consider the child's health, safety, and welfare as the paramount concern.

(iii) If the child welfare caseworker determines the services described in Subsection (4)(b)(i) are reasonably available, the services shall be utilized.

(5)(a) If a peace officer or a child welfare caseworker takes a child into protective custody under Subsection (2), the peace officer or child welfare caseworker shall:

- (i) notify the child's parent or guardian in accordance with Section 80-2a-203; and
- (ii) release the child to the care of the child's parent or guardian or another responsible adult, unless:

(A) the child's immediate welfare requires the child remain in protective custody;

or

(B) the protection of the community requires the child's detention in accordance with Chapter 6, Part 2, Custody and Detention.

(b)(i) If a peace officer or child welfare caseworker is executing a warrant under

Subsection (3), the peace officer or child welfare caseworker shall take the child to:

(A) a shelter facility; or

(B) if the division makes an emergency placement under Section 80-2a-301, the emergency placement.

(ii) If a peace officer or a child welfare caseworker takes a child to a shelter facility under Subsection (5)(b)(i), the peace officer or the child welfare caseworker shall promptly file a written report that includes the child's information, on a form provided by the division, with the shelter facility.

(c) A child removed or taken into protective custody under this section may not be placed or kept in detention pending court proceedings, unless the child may be held in detention under Chapter 6, Part 2, Custody and Detention.

(6)(a) The juvenile court shall issue a warrant authorizing a peace officer or a child welfare worker to search for a child who is missing, has been abducted, or has run away, and take the child into physical custody if the juvenile court determines that the child is missing, has been abducted, or has run away from the protective custody, temporary custody, or custody of the division.

(b) If the juvenile court issues a warrant under Subsection (6)(a):

(i) the division shall notify the child's parent or guardian who has a right to parent-time with the child in accordance with Subsection 80-2a-203(5)(a);

(ii) the court shall order:

(A) the law enforcement agency that has jurisdiction over the location from which the child ran away to enter a record of the warrant into the National Crime Information Center database within 24 hours after the time in which the law enforcement agency receives a copy of the warrant; and

(B) the division to notify the law enforcement agency described in Subsection (6)(b)(ii)(A) of the order described in Subsection (6)(b)(ii)(A); and

(c) the court shall specify the location to which the peace officer or the child welfare caseworker shall transport the child.

Section 10. Section **80-3-111** is amended to read:

80-3-111 . Interstate compact -- Relative placement.

(1) If, for a relative placement, an interstate placement requested under the Interstate Compact on the Placement of Children has been initiated by the division or is ordered by or pending before the juvenile court, the court may not finalize a non-relative placement

unless the court gives due weight to:

- (a) the preferential consideration granted to a relative in Section 80-3-302;
- (b) the rebuttable presumption in Section 80-3-302; and
- (c) the division's placement authority under Subsections ~~[80-1-102(50)]~~ 80-1-102(51) and 80-3-303(1).

- (2) Nothing in this section affects the ability of a foster parent to petition the juvenile court under Subsection 80-3-502(3).

Section 11. Section **80-3-204** is amended to read:

80-3-204 . Protective custody of a child after a petition is filed -- Grounds.

- (1) When an abuse, neglect, or dependency petition is filed, the juvenile court shall apply, in addressing the petition, the least restrictive means and alternatives available to accomplish a compelling state interest and to prevent irretrievable destruction of family life as described in Subsections 80-2a-201(1) and (7)(a) and Section 80-4-104.
- (2) After an abuse, neglect, or dependency petition is filed, if the child who is the subject of the petition is not in protective custody, a juvenile court may order that the child be removed from the child's home or otherwise taken into protective custody if the juvenile court finds, by a preponderance of the evidence, that any one or more of the following circumstances exist:
 - (a)(i) there is an imminent danger to the physical health or safety of the child; and
 - (ii) the child's physical health or safety may not be protected without removing the child from the custody of the child's parent or guardian;
 - (b)(i) a parent or guardian engages in or threatens the child with unreasonable conduct that causes the child to suffer harm; and
 - (ii) there are no less restrictive means available by which the child's emotional health may be protected without removing the child from the custody of the child's parent or guardian;
 - (c) the child or another child residing in the same household has been, or is considered to be at substantial risk of being, physically abused, sexually abused, or sexually exploited, by a parent or guardian, a member of the parent's or guardian's household, or other individual known to the parent or guardian;
 - (d) the parent or guardian is unwilling to have physical custody of the child;
 - (e) the child is abandoned or left without any provision for the child's support;
 - (f) a parent or guardian who has been incarcerated or institutionalized has not arranged or cannot arrange for safe and appropriate care for the child;

- 1252 (g)(i) a relative or other adult custodian with whom the child is left by the parent or
1253 guardian is unwilling or unable to provide care or support for the child;
1254 (ii) the whereabouts of the parent or guardian are unknown; and
1255 (iii) reasonable efforts to locate the parent or guardian are unsuccessful;
- 1256 (h) subject to Subsection [~~80-1-102(58)(b)~~] 80-1-102(59)(b) and Sections 80-3-109 and
1257 80-3-304, the child is in immediate need of medical care;
- 1258 (i)(i) a parent's or guardian's actions, omissions, or habitual action create an
1259 environment that poses a serious risk to the child's health or safety for which
1260 immediate remedial or preventive action is necessary; or
1261 (ii) a parent's or guardian's action in leaving a child unattended would reasonably
1262 pose a threat to the child's health or safety;
- 1263 (j) the child or another child residing in the same household has been neglected;
- 1264 (k) the child's natural parent:
- 1265 (i) intentionally, knowingly, or recklessly causes the death of another parent of the
1266 child;
- 1267 (ii) is identified by a law enforcement agency as the primary suspect in an
1268 investigation for intentionally, knowingly, or recklessly causing the death of
1269 another parent of the child; or
- 1270 (iii) is being prosecuted for or has been convicted of intentionally, knowingly, or
1271 recklessly causing the death of another parent of the child;
- 1272 (l) an infant is an abandoned infant, as defined in Section 80-4-203;
- 1273 (m)(i) the parent or guardian, or an adult residing in the same household as the parent
1274 or guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine
1275 Drug Lab Act; and
- 1276 (ii) any clandestine laboratory operation was located in the residence or on the
1277 property where the child resided; or
- 1278 (n) the child's welfare is otherwise endangered.
- 1279 (3)(a) For purposes of Subsection (2)(a), if a child has previously been adjudicated as
1280 abused, neglected, or dependent, and a subsequent incident of abuse, neglect, or
1281 dependency occurs involving the same substantiated abuser or under similar
1282 circumstance as the previous abuse, that fact is prima facie evidence that the child
1283 cannot safely remain in the custody of the child's parent.
- 1284 (b) For purposes of Subsection (2)(c):
- 1285 (i) another child residing in the same household may not be removed from the home

unless that child is considered to be at substantial risk of being physically abused, sexually abused, or sexually exploited as described in Subsection (2)(c) or Subsection (3)(b)(ii); and

(ii) if a parent or guardian has received actual notice that physical abuse, sexual abuse, or sexual exploitation by an individual known to the parent has occurred, and there is evidence that the parent or guardian failed to protect the child, after having received the notice, by allowing the child to be in the physical presence of the alleged abuser, that fact is prima facie evidence that the child is at substantial risk of being physically abused, sexually abused, or sexually exploited.

(4)(a) For purposes of Subsection (2), if the division files an abuse, neglect, or dependency petition, the juvenile court shall consider the division's safety and risk assessments described in Section 80-2-403 to determine whether a child should be removed from the custody of the child's parent or guardian or should otherwise be taken into protective custody.

(b) The division shall make a diligent effort to provide the safety and risk assessments described in Section 80-2-403 to the juvenile court, guardian ad litem, and counsel for the parent or guardian, as soon as practicable before the shelter hearing described in Section 80-3-301.

(5) In the absence of one of the factors described in Subsection (2), a juvenile court may not remove a child from the parent's or guardian's custody on the basis of:

(a) educational neglect, truancy, or failure to comply with a court order to attend school;

(b) mental illness or poverty of the parent or guardian;

(c) disability of the parent or guardian, as defined in Section 57-21-2; or

(d) the possession or use, in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, as those terms are defined in Section 26B-4-201.

(6) A child removed from the custody of the child's parent or guardian under this section may not be placed or kept in detention, unless the child may be admitted to detention under Chapter 6, Part 2, Custody and Detention.

(7) This section does not preclude removal of a child from the child's home without a warrant or court order under Section 80-2a-202.

(8)(a) Except as provided in Subsection (8)(b), a juvenile court and the division may not remove a child from the custody of the child's parent or guardian on the sole or

primary basis that the parent or guardian refuses to consent to:

- (i) the administration of a psychotropic medication to a child;
- (ii) a psychiatric, psychological, or behavioral treatment for a child; or
- (iii) a psychiatric or behavioral health evaluation of a child.

(b) Notwithstanding Subsection (8)(a), a juvenile court or the division may remove a child under conditions that would otherwise be prohibited under Subsection (8)(a) if failure to take an action described under Subsection (8)(a) would present a serious, imminent risk to the child's physical safety or the physical safety of others.

Section 12. Section **80-3-301** is amended to read:

80-3-301 . Shelter hearing -- Court considerations.

(1) A juvenile court shall hold a shelter hearing to determine the temporary custody of a child within 72 hours, excluding weekends and holidays, after any one or all of the following occur:

- (a) removal of the child from the child's home by the division;
- (b) placement of the child in protective custody;
- (c) emergency placement under Subsection 80-2a-202(5);
- (d) as an alternative to removal of the child, a parent enters a domestic violence shelter at the request of the division; or
- (e) a motion for expedited placement in temporary custody is filed under Section 80-3-203.

(2) If one of the circumstances described in Subsections (1)(a) through (e) occurs, the division shall issue a notice that contains all of the following:

- (a) the name and address of the individual to whom the notice is directed;
- (b) the date, time, and place of the shelter hearing;
- (c) the name of the child on whose behalf an abuse, neglect, or dependency petition is brought;
- (d) a concise statement regarding:
 - (i) the reasons for removal or other action of the division under Subsection (1); and
 - (ii) the allegations and code sections under which the proceeding is instituted;
- (e) a statement that the parent or guardian to whom notice is given, and the child, are entitled to have an attorney present at the shelter hearing, and that if the parent or guardian is an indigent individual and cannot afford an attorney, and desires to be represented by an attorney, one will be provided in accordance with Title 78B, Chapter 22, Indigent Defense Act; and

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

(3) The notice described in Subsection (2) shall be personally served as soon as possible, but no later than one business day after the day on which the child is removed from the child's home, or the day on which a motion for expedited placement in temporary custody under Section 80-3-203 is filed, on:

(a) the appropriate guardian ad litem; and

(b) both parents and any guardian of the child, unless the parents or guardians cannot be located.

(4) Notwithstanding Section 80-3-104, the following individuals shall be present at the shelter hearing:

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

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

(c) counsel for the parents, if one is requested;

(d) the child's guardian ad litem;

(e) the child welfare caseworker from the division who is assigned to the case; and

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

(5)(a) At the shelter hearing, the juvenile court shall:

(i) provide an opportunity to provide relevant testimony to:

(A) the child's parent or guardian, if present; and

(B) any other individual with relevant knowledge;

(ii) subject to Section 80-3-108, provide an opportunity for the child to testify; and

(iii) in accordance with Subsections 80-3-302(7)(c) and (d), grant preferential consideration to a relative or friend for the temporary placement of the child.

(b) The juvenile court:

(i) may consider all relevant evidence, in accordance with the Utah Rules of Juvenile Procedure;

(ii) shall hear relevant evidence presented by the child, the child's parent or guardian, the requesting party, or the requesting party's counsel; and

(iii) may in the juvenile court's discretion limit testimony and evidence to only that which goes to the issues of removal and the child's need for continued protection.

- 1388 (6) If the child is in protective custody, the division shall report to the juvenile court:
- 1389 (a) the reason why the child was removed from the parent's or guardian's custody;
- 1390 (b) any services provided to the child and the child's family in an effort to prevent
- 1391 removal;
- 1392 (c) the need, if any, for continued shelter;
- 1393 (d) the available services that could facilitate the return of the child to the custody of the
- 1394 child's parent or guardian; and
- 1395 (e) subject to Subsections 80-3-302(7)(c) and (d), whether any relatives of the child or
- 1396 friends of the child's parents may be able and willing to accept temporary placement
- 1397 of the child.
- 1398 (7) The juvenile court shall consider all relevant evidence provided by an individual or
- 1399 entity authorized to present relevant evidence under this section.
- 1400 (8)(a) If necessary to protect the child, preserve the rights of a party, or for other good
- 1401 cause shown, the juvenile court may grant no more than one continuance, not to
- 1402 exceed five judicial days.
- 1403 (b) A juvenile court shall honor, as nearly as practicable, the request by a parent or
- 1404 guardian for a continuance under Subsection (8)(a).
- 1405 (c) Notwithstanding Subsection (8)(a), if the division fails to provide the notice
- 1406 described in Subsection (2) within the time described in Subsection (3), the juvenile
- 1407 court may grant the request of a parent or guardian for a continuance, not to exceed
- 1408 five judicial days.
- 1409 (9)(a) If the child is in protective custody, the juvenile court shall order that the child be
- 1410 returned to the custody of the parent or guardian unless the juvenile court finds, by a
- 1411 preponderance of the evidence, consistent with the protections and requirements
- 1412 provided in Subsection 80-2a-201(1), that any one of the following exists:
- 1413 (i) subject to Subsection (9)(b)(i), there is a serious danger to the physical health or
- 1414 safety of the child and the child's physical health or safety may not be protected
- 1415 without removing the child from the custody of the child's parent;
- 1416 (ii)(A) the child is suffering emotional damage that results in a serious impairment
- 1417 in the child's growth, development, behavior, or psychological functioning;
- 1418 (B) the parent or guardian is unwilling or unable to make reasonable changes that
- 1419 would sufficiently prevent future damage; and
- 1420 (C) there are no reasonable means available by which the child's emotional health
- 1421 may be protected without removing the child from the custody of the child's

parent or guardian;

(iii) there is a substantial risk that the child will suffer abuse or neglect if the child is not removed from the custody of the child's parent or guardian;

(iv) subject to Subsection (9)(b)(ii), the child or a minor residing in the same household has been, or is considered to be at substantial risk of being, physically abused, sexually abused, or sexually exploited by:

(A) a parent or guardian;

(B) a member of the parent's household or the guardian's household; or

(C) an individual known to the parent or guardian;

(v) the parent or guardian is unwilling to have physical custody of the child;

(vi) the parent or guardian is unable to have physical custody of the child;

(vii) the child is without any provision for the child's support;

(viii) a parent who is incarcerated or institutionalized has not or cannot arrange for safe and appropriate care for the child;

(ix)(A) a relative or other adult custodian with whom the child is left by the parent or guardian is unwilling or unable to provide care or support for the child;

(B) the whereabouts of the parent or guardian are unknown; and

(C) reasonable efforts to locate the parent or guardian are unsuccessful;

(x) subject to Subsection [80-1-102(58)(b)(i)] 80-1-102(59)(b)(i) and Sections 80-3-109 and 80-3-304, the child is in immediate need of medical care;

(xi)(A) the physical environment or the fact that the child is left unattended beyond a reasonable period of time poses a threat to the child's health or safety; and

(B) the parent or guardian is unwilling or unable to make reasonable changes that would remove the threat;

(xii)(A) the child or a minor residing in the same household has been neglected; and

(B) the parent or guardian is unwilling or unable to make reasonable changes that would prevent the neglect;

(xiii) the parent, guardian, or an adult residing in the same household as the parent or guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act, and any clandestine laboratory operation was located in the residence or on the property where the child resided;

(xiv)(A) the child's welfare is substantially endangered; and

- 1456 (B) the parent or guardian is unwilling or unable to make reasonable changes that
1457 would remove the danger; or
- 1458 (xv) the child's natural parent:
- 1459 (A) intentionally, knowingly, or recklessly causes the death of another parent of
1460 the child;
- 1461 (B) is identified by a law enforcement agency as the primary suspect in an
1462 investigation for intentionally, knowingly, or recklessly causing the death of
1463 another parent of the child; or
- 1464 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or
1465 recklessly causing the death of another parent of the child.
- 1466 (b)(i) Prima facie evidence of the finding described in Subsection (9)(a)(i) is
1467 established if:
- 1468 (A) a court previously adjudicated that the child suffered abuse, neglect, or
1469 dependency involving the parent; and
- 1470 (B) a subsequent incident of abuse, neglect, or dependency involving the parent
1471 occurs.
- 1472 (ii) For purposes of Subsection (9)(a)(iv), if the juvenile court finds that the parent
1473 knowingly allowed the child to be in the physical care of an individual after the
1474 parent received actual notice that the individual physically abused, sexually
1475 abused, or sexually exploited the child, that fact is prima facie evidence that there
1476 is a substantial risk that the child will be physically abused, sexually abused, or
1477 sexually exploited.
- 1478 (10)(a)(i) The juvenile court shall make a determination on the record as to whether
1479 reasonable efforts were made to prevent or eliminate the need for removal of the
1480 child from the child's home and whether there are available services that would
1481 prevent the need for continued removal.
- 1482 (ii) If the juvenile court finds that the child can be safely returned to the custody of
1483 the child's parent or guardian through the provision of the services described in
1484 Subsection (10)(a)(i), the juvenile court shall place the child with the child's
1485 parent or guardian and order that the services be provided by the division.
- 1486 (b) In accordance with federal law, the juvenile court shall consider the child's health,
1487 safety, and welfare as the paramount concern when making the determination
1488 described in Subsection (10)(a), and in ordering and providing the services described
1489 in Subsection (10)(a).

(11) If the division's first contact with the family occurred during an emergency situation in which the child could not safely remain at home, the juvenile court shall make a finding that any lack of preplacement preventive efforts, as described in Section 80-2a-302, was appropriate.

(12) In cases where sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved, the juvenile court and the division do not have any duty to make reasonable efforts or to, in any other way, attempt to maintain a child in the child's home, return a child to the child's home, provide reunification services, or attempt to rehabilitate the offending parent or parents.

(13) The juvenile court may not order continued removal of a child solely on the basis of educational neglect, truancy, or failure to comply with a court order to attend school.

(14)(a) If a juvenile court orders continued removal of a child under this section, the juvenile court shall state the facts on which the decision is based.

(b) If no continued removal is ordered and the child is returned home, the juvenile court shall state the facts on which the decision is based.

(15) If the juvenile court finds that continued removal and temporary custody are necessary for the protection of a child under Subsection (9)(a), the juvenile court shall order continued removal regardless of:

(a) any error in the initial removal of the child;

(b) the failure of a party to comply with notice provisions; or

(c) any other procedural requirement of this chapter, Chapter 2, Child Welfare Services, or Chapter 2a, Removal and Protective Custody of a Child.

Section 13. Section **80-3-302** is amended to read:

80-3-302 . Shelter hearing -- Placement of a child.

(1) As used in this section:

(a) "Asserted an interest" means to communicate, verbally or in writing, to the division or the court, that the relative or friend is interested in becoming a placement for the child.

(b)(i) "Natural parent," notwithstanding Section 80-1-102, means:

(A) a biological or adoptive mother of the child;

(B) an adoptive father of the child; or

(C) a biological father of the child who:

(I) was married to the child's biological mother at the time the child was conceived or born; or

- 1524 (II) has strictly complied with Sections 78B-6-120 through 78B-6-122, before
1525 removal of the child or voluntary surrender of the child by the custodial
1526 parent.
- 1527 (ii) "Natural parent" includes the individuals described in Subsection (1)(b)
1528 regardless of whether the child has been or will be placed with adoptive parents or
1529 whether adoption has been or will be considered as a long-term goal for the child.
- 1530 (2)(a) At the shelter hearing, if the juvenile court orders that a child be removed from the
1531 custody of the child's parent in accordance with Section 80-3-301, the juvenile court
1532 shall first determine whether there is another natural parent with whom the child was
1533 not residing at the time the events or conditions that brought the child within the
1534 juvenile court's jurisdiction occurred, who desires to assume custody of the child.
- 1535 (b) Subject to Subsection (7), if another natural parent requests custody under
1536 Subsection (2)(a), the juvenile court shall place the child with that parent unless the
1537 juvenile court finds that the placement would be unsafe or otherwise detrimental to
1538 the child.
- 1539 (c) The juvenile court:
- 1540 (i) shall make a specific finding regarding the fitness of the parent described in
1541 Subsection (2)(b) to assume custody, and the safety and appropriateness of the
1542 placement;
- 1543 (ii) shall, at a minimum, order the division to visit the parent's home, comply with the
1544 criminal background check provisions described in Section 80-3-305, and check
1545 the Management Information System for any previous reports of abuse or neglect
1546 received by the division regarding the parent at issue;
- 1547 (iii) may order the division to conduct any further investigation regarding the safety
1548 and appropriateness of the placement; and
- 1549 (iv) may place the child in the temporary custody of the division, pending the
1550 juvenile court's determination regarding the placement.
- 1551 (d) The division shall report the division's findings from an investigation under
1552 Subsection (2)(c), regarding the child in writing to the juvenile court.
- 1553 (3) If the juvenile court orders placement with a parent under Subsection (2):
- 1554 (a) the child and the parent are under the continuing jurisdiction of the juvenile court;
- 1555 (b) the juvenile court may order:
- 1556 (i) that the parent take custody subject to the supervision of the juvenile court; and
- 1557 (ii) that services be provided to the parent from whose custody the child was

1558 removed, the parent who has assumed custody, or both; and

1559 (c) the juvenile court shall order reasonable parent-time with the parent from whose
1560 custody the child was removed, unless parent-time is not in the best interest of the
1561 child.

1562 (4) The juvenile court shall periodically review an order described in Subsection (3) to
1563 determine whether:

1564 (a) placement with the parent continues to be in the child's best interest;

1565 (b) the child should be returned to the original custodial parent;

1566 (c) the child should be placed with a relative under Subsections (6) through (9); or

1567 (d) the child should be placed in the temporary custody of the division.

1568 (5)(a) Legal custody of the child is not affected by an order entered under Subsection (2)
1569 or (3).

1570 (b) To affect a previous court order regarding legal custody, the party shall petition the
1571 court for modification of legal custody.

1572 (6) Subject to Subsection (7), if, at the time of the shelter hearing, a child is removed from
1573 the custody of the child's parent and is not placed in the custody of the child's other
1574 parent, the juvenile court:

1575 (a) shall, at that time, determine whether there is a relative or a friend who is able and
1576 willing to care for the child, which may include asking a child, who is of sufficient
1577 maturity to articulate the child's wishes in relation to a placement, if there is a relative
1578 or friend with whom the child would prefer to reside;

1579 (b) may order the division to conduct a reasonable search to determine whether there are
1580 relatives or friends who are willing and appropriate, in accordance with the
1581 requirements of this chapter, Chapter 2, Child Welfare Services, and Chapter 2a,
1582 Removal and Protective Custody of a Child, for placement of the child;

1583 (c) shall order the parents to cooperate with the division, within five working days, to
1584 provide information regarding relatives or friends who may be able and willing to
1585 care for the child; and

1586 (d) may order that the child be placed in the temporary custody of the division pending
1587 the determination under Subsection (6)(a).

1588 (7)(a)(i) Subject to Subsection (7)(b), and if the provisions of this section are
1589 satisfied, the division and the juvenile court shall give preferential consideration to
1590 a relative's or a friend's request for placement of the child, if the placement is in
1591 the best interest of the child.

- 1592 (ii) If a relative or friend verbally communicates to the division or court that the
1593 relative or friend is interested in becoming a placement for the child, the division
1594 or court shall make a written record of the communication and include that written
1595 record in the report the division submits at the initial dispositional hearing, a
1596 report the division submits under Section 80-3-408, or the court's legal file.
- 1597 (b)(i)(A) The preferential consideration that the juvenile court or division initially
1598 grants a friend under Subsection (7)(a)(i) expires 120 days after the day on
1599 which the shelter hearing occurs.
- 1600 (B) After the day on which the time period described in Subsection (7)(b)(i)(A)
1601 expires, the division or the juvenile court may not grant preferential
1602 consideration to a friend, who has not obtained custody or asserted an interest
1603 in the child.
- 1604 (ii)(A) Until eight months after the day on which the shelter hearing occurs, the
1605 preferential consideration that the juvenile court or division grants a relative
1606 under Subsection (7)(a)(i) is a rebuttable presumption that placement of the
1607 child with a relative is in the best interest of the child.
- 1608 (B) After the rebuttable presumption described in Subsection (7)(b)(ii)(A) expires,
1609 the juvenile court or division shall give preferential consideration to a relative's
1610 request for placement of the child, if the placement is in the best interest of the
1611 child considering the totality of the circumstances.
- 1612 (C) If a relative asserts an interest in becoming a placement for the child more
1613 than one year after the day on which the shelter hearing occurs, the juvenile
1614 court may not give the relative the preferential consideration described in
1615 Subsection (7)(b)(ii)(B).
- 1616 (c) The following order of preference shall be applied when determining the individual
1617 with whom a child will be placed, provided that the individual is willing and able to
1618 care for the child:
- 1619 (i) a noncustodial parent of the child;
- 1620 (ii) a relative of the child;
- 1621 (iii) subject to Subsection (7)(d), a friend if the friend is a licensed foster parent; and
- 1622 (iv) other placements that are consistent with the requirements of law.
- 1623 (d) In determining whether a friend is a willing, able, and appropriate placement for a
1624 child, the juvenile court or the division:
- 1625 (i) subject to Subsections (7)(d)(ii) through (iv), shall consider the child's preferences

- 1626 or level of comfort with the friend;
- 1627 (ii) is required to consider no more than one friend designated by each parent of the
- 1628 child and one friend designated by the child if the child is of sufficient maturity to
- 1629 articulate the child's wishes in relation to a placement;
- 1630 (iii) may limit the number of designated friends to two, one of whom shall be a friend
- 1631 designated by the child if the child is of sufficient maturity to articulate the child's
- 1632 wishes in relation to a placement; and
- 1633 (iv) shall give preference to a friend designated by the child if:
- 1634 (A) the child is of sufficient maturity to articulate the child's wishes; and
- 1635 (B) the basis for removing the child under Section 80-3-301 is sexual abuse of the
- 1636 child.
- 1637 (e)(i) If a parent of the child or the child, if the child is of sufficient maturity to
- 1638 articulate the child's wishes in relation to a placement, is not able to designate a
- 1639 friend who is a licensed foster parent for placement of the child, but is able to
- 1640 identify a friend who is willing to become licensed as a foster parent, the
- 1641 department shall fully cooperate to expedite the licensing process for the friend.
- 1642 (ii) If the friend described in Subsection (7)(e)(i) becomes licensed as a foster parent
- 1643 within the time frame described in Subsection (7)(b)(i), the juvenile court shall
- 1644 determine whether it is in the best interest of the child to place the child with the
- 1645 friend.
- 1646 (8)(a) If a relative or friend who is willing to cooperate with the child's permanency goal
- 1647 is identified under Subsection (6)(a), the juvenile court:
- 1648 (i) shall make a specific finding regarding:
- 1649 (A) the fitness of that relative or friend as a placement for the child; and
- 1650 (B) the safety and appropriateness of placement with the relative or friend; and
- 1651 (ii) may not consider a request for guardianship or adoption of the child by an
- 1652 individual who is not a relative of the child, or prevent the division from placing
- 1653 the child in the custody of a relative of the child in accordance with this part, until
- 1654 after the day on which the juvenile court makes the findings under Subsection
- 1655 (8)(a)(i).
- 1656 (b) In making the finding described in Subsection (8)(a), the juvenile court shall, at a
- 1657 minimum, order the division to:
- 1658 (i) if the child may be placed with a relative, conduct a background check that
- 1659 includes:

(A) completion of a nonfingerprint-based, Utah Bureau of Criminal Identification background check of the relative;

(B) a completed search, relating to the relative, of the Management Information System; and

(C) a background check that complies with the criminal background check provisions described in Section 80-3-305, of each nonrelative of the child who resides in the household where the child may be placed;

(ii) if the child will be placed with a noncustodial parent, complete a background check that includes:

(A) the background check requirements applicable to an emergency placement with a noncustodial parent that are described in Subsections 80-2a-301(4) and (6);

(B) a completed search, relating to the noncustodial parent of the child, of the Management Information System; and

(C) a background check that complies with the criminal background check provisions described in Section 80-3-305, of each nonrelative of the child who resides in the household where the child may be placed;

(iii) if the child may be placed with an individual other than a noncustodial parent or a relative, conduct a criminal background check of the individual, and each adult that resides in the household where the child may be placed, that complies with the criminal background check provisions described in Section 80-3-305;

(iv) visit the relative's or friend's home;

(v) check the Management Information System for any previous reports of abuse or neglect regarding the relative or friend at issue;

(vi) report the division's findings in writing to the juvenile court; and

(vii) provide sufficient information so that the juvenile court may determine whether:

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

(B) the child is comfortable with the relative or friend;

(C) the relative or friend recognizes the parent's history of abuse and is committed to protect the child;

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

(E) the relative or friend is committed to caring for the child as long as necessary;

- 1694 and
- 1695 (F) the relative or friend can provide a secure and stable environment for the child.
- 1696 (c) The division may determine to conduct, or the juvenile court may order the division
- 1697 to conduct, any further investigation regarding the safety and appropriateness of the
- 1698 placement described in Subsection (8)(a).
- 1699 (d) The division shall complete and file the division's assessment regarding placement
- 1700 with a relative or friend under Subsections (8)(a) and (b) as soon as practicable, in an
- 1701 effort to facilitate placement of the child with a relative or friend.
- 1702 (9)(a) The juvenile court may place a child described in Subsection (2)(a) in the
- 1703 temporary custody of the division, pending the division's investigation under
- 1704 Subsection (8), and the juvenile court's determination regarding the appropriateness
- 1705 of the placement.
- 1706 (b) The juvenile court shall ultimately base the juvenile court's determination regarding
- 1707 the appropriateness of a placement with a relative or friend on the best interest of the
- 1708 child.
- 1709 (10) If a juvenile court places a child described in Subsection (6) with the child's relative or
- 1710 friend:
- 1711 (a) the juvenile court shall:
- 1712 (i) order the relative or friend take custody, subject to the continuing supervision of
- 1713 the juvenile court;
- 1714 (ii) provide for reasonable parent-time with the parent or parents from whose custody
- 1715 the child is removed, unless parent-time is not in the best interest of the child; and
- 1716 (iii) conduct a periodic review no less often than every six months, to determine
- 1717 whether:
- 1718 (A) placement with a relative or friend continues to be in the child's best interest;
- 1719 (B) the child should be returned home; or
- 1720 (C) the child should be placed in the custody of the division;
- 1721 (b) the juvenile court may enter an order:
- 1722 (i) requiring the division to provide necessary services to the child and the child's
- 1723 relative or friend, including the monitoring of the child's safety and well-being; or
- 1724 (ii) that the juvenile court considers necessary for the protection and best interest of
- 1725 the child; and
- 1726 (c) the child and the relative or friend in whose custody the child is placed are under the
- 1727 continuing jurisdiction of the juvenile court.

- (11) No later than 12 months after the day on which the child is removed from the home, the juvenile court shall schedule a hearing for the purpose of entering a permanent order in accordance with the best interest of the child.
- (12) The time limitations described in Section 80-3-406, with regard to reunification efforts, apply to a child placed with a previously noncustodial parent under Subsection (2) or with a relative or friend under Subsection (6).
- (13)(a) If the juvenile court awards temporary custody of a child to the division, and the division places the child with a relative, the division shall:
- (i) conduct a criminal background check of the relative that complies with the criminal background check provisions described in Section 80-3-305; and
 - (ii) if the results of the criminal background check described in Subsection (13)(a)(i) would prohibit the relative from having direct access to the child under Section 26B-2-120, the division shall:
 - (A) take the child into physical custody; and
 - (B) within three days, excluding weekends and holidays, after the day on which the child is taken into physical custody under Subsection (13)(a)(ii)(A), give written notice to the juvenile court, and all parties to the proceedings, of the division's action.
- (b) Subsection (13)(a) does not prohibit the division from placing a child with a relative, pending the results of the background check described in Subsection (13)(a) on the relative.
- (14) If the juvenile court orders that a child be removed from the custody of the child's parent and does not award custody and guardianship to another parent, relative, or friend under this section, the juvenile court shall order that the child be placed in the temporary custody of the division, to proceed to adjudication and disposition and to be provided with care and services in accordance with this chapter, Chapter 2, Child Welfare Services, and Chapter 2a, Removal and Protective Custody of a Child.
- (15)(a) If a child reenters the temporary custody or the custody of the division and the child is not placed with an individual who is a parent, relative, or friend, the division shall:
- (i) notify the child's former foster parents; and
 - (ii) upon a determination of the former foster parents' willingness and ability to safely and appropriately care for the child, give the former foster parents preference for placement of the child.

(b) If, after the shelter hearing, the child is placed with an individual who is not a parent, a relative, a friend, or a former foster parent of the child, priority shall be given to a foster placement with a married couple, unless it is in the best interests of the child to place the child with a single foster parent.

(16) In determining the placement of a child, the juvenile court and the division may not take into account, or discriminate against, the religion of an individual with whom the child may be placed, unless the purpose of taking religion into account is to place the child with an individual or family of the same religion as the child.

(17) If the juvenile court's decision differs from a child's express wishes if the child is of sufficient maturity to articulate the wishes in relation to the child's placement, the juvenile court shall make findings explaining why the juvenile court's decision differs from the child's wishes.

(18) This section does not guarantee that an identified relative or friend will receive custody of the child.

(19)(a) If, for a relative placement, an interstate placement requested under the Interstate Compact on the Placement of Children has been initiated by the division or is ordered by or pending before the juvenile court, the court may not finalize a non-relative placement unless the court gives due weight to:

(i) the preferential consideration granted to a relative in Section 80-3-302;

(ii) the rebuttable presumption in Section 80-3-302; and

(iii) the division's placement authority under Subsections [~~80-1-102(50)~~] 80-1-102(51) and 80-3-303(1).

(b) Nothing in this section affects the ability of a foster parent to petition the juvenile court under Subsection 80-3-502(3).

Section 14. Section **80-3-303** is amended to read:

80-3-303 . Post-shelter hearing placement of a child in division's temporary custody.

(1) If the juvenile court awards temporary custody of a child to the division under Section 80-3-302, or as otherwise permitted by law, the division shall determine ongoing placement of the child.

(2) In placing a child under Subsection (1), the division:

(a) except as provided in Subsections (2)(b) and (e), shall comply with the applicable background check provisions described in Section 80-3-302;

(b) is not required to receive approval from the juvenile court before making the

- 1796 placement;
- 1797 (c) shall consider the preferential consideration and rebuttable presumption described in
- 1798 Subsection 80-3-302(7)(a);
- 1799 (d) shall, within three days, excluding weekends and holidays, after the day on which the
- 1800 placement is made, give written notice to the juvenile court, and the parties to the
- 1801 proceedings, that the placement has been made;
- 1802 (e) may place the child with a noncustodial parent, relative, or friend, using the same
- 1803 criteria established for an emergency placement under Section 80-2a-301, pending
- 1804 the results of:
- 1805 (i) the background check described in Subsection 80-3-302(13)(a); and
- 1806 (ii) evaluation with the noncustodial parent, relative, or friend to determine the
- 1807 individual's capacity to provide ongoing care to the child; and
- 1808 (f) shall take into consideration the will of the child, if the child is of sufficient maturity
- 1809 to articulate the child's wishes in relation to the child's placement.
- 1810 (3) If the division's placement decision differs from a child's express wishes and the child is
- 1811 of sufficient maturity to state the child's wishes in relation to the child's placement, the
- 1812 division shall:
- 1813 (a) make written findings explaining why the division's decision differs from the child's
- 1814 wishes; and
- 1815 (b) provide the written findings to the juvenile court and the child's attorney guardian ad
- 1816 litem.
- 1817 (4)(a) If, for a relative placement, an interstate placement requested under the Interstate
- 1818 Compact on the Placement of Children has been initiated by the division or is ordered
- 1819 by or pending before the juvenile court, the court may not finalize a non-relative
- 1820 placement unless the court gives due weight to:
- 1821 (i) the preferential consideration granted to a relative in Section 80-3-302;
- 1822 (ii) the rebuttable presumption in Section 80-3-302; and
- 1823 (iii) the division's placement authority under Subsections ~~[80-1-102(50)]~~ 80-1-102(51)
- 1824 and 80-3-303(1).
- 1825 (b) Nothing in this section affects the ability of a foster parent to petition the juvenile
- 1826 court under Subsection 80-3-502(3).
- 1827 Section 15. Section **80-3-405** is amended to read:
- 1828 **80-3-405 . Dispositions after adjudication.**
- 1829 (1) Upon adjudication under Subsection 80-3-402(1), the juvenile court may make the

dispositions described in Subsection (2) at the dispositional hearing.

(2)(a)(i) The juvenile court may vest custody of an abused, neglected, or dependent minor in the division or any other appropriate person, with or without court-specified child welfare services, in accordance with the requirements and procedures of this chapter.

(ii) When placing a minor in the custody of the division or any other appropriate person, the juvenile court:

(A) shall give primary consideration to the welfare of the minor;

(B) shall give due consideration to the rights of the parent or parents concerning the minor; and

(C) when practicable, may take into consideration the religious preferences of the minor and of the minor's parents or guardian.

(b)(i) The juvenile court may appoint a guardian for the minor if it appears necessary in the interest of the minor.

(ii) A guardian appointed under Subsection (2)(b)(i) may be a public or private institution or agency, but not a nonsecure residential placement provider, in which legal custody of the minor is vested.

(iii) When placing a minor under the guardianship of an individual or of a private agency or institution, the juvenile court:

(A) shall give primary consideration to the welfare of the minor; and

(B) when practicable, may take into consideration the religious preferences of the minor and of the minor's parents or guardian.

(c) The juvenile court may order:

(i) protective supervision;

(ii) family preservation;

(iii) sibling visitation; or

(iv) other services.

(d)(i) If a minor has been placed with an individual or relative as a result of an adjudication under this chapter, the juvenile court may enter an order of permanent legal custody and guardianship with the individual or relative of the minor.

(ii) If a juvenile court enters an order of permanent custody and guardianship with an individual or relative of a minor under Subsection (2)(d)(i), the juvenile court may, in accordance with Section 78A-6-356, enter an order for child support on

- 1864 behalf of the minor against the natural parents of the minor.
- 1865 (iii) An order under this Subsection (2)(d):
- 1866 (A) shall remain in effect until the minor is 18 years old;
- 1867 (B) is not subject to review under Section 78A-6-358; and
- 1868 (C) may be modified by petition or motion as provided in Section 78A-6-357.
- 1869 (e) The juvenile court may order a child be committed to the physical custody, as
- 1870 defined in Section 26B-5-401, of a local mental health authority, in accordance with
- 1871 the procedures and requirements of Title 26B, Chapter 5, Part 4, Commitment of
- 1872 Persons Under Age 18.
- 1873 (f)(i) If the child has an intellectual disability, the juvenile court may make an order
- 1874 committing a minor to the Utah State Developmental Center in accordance with
- 1875 Title 26B, Chapter 6, Part 6, Admission to an Intermediate Care Facility for
- 1876 People with an Intellectual Disability.
- 1877 (ii) The juvenile court shall follow the procedure applicable in the district court with
- 1878 respect to judicial commitments to the Utah State Developmental Center when
- 1879 ordering a commitment under Subsection (2)(f)(i).
- 1880 (g)(i) Subject to Subsection [~~80-1-102(58)(b)~~] 80-1-102(59)(b) and Section 80-3-304,
- 1881 the juvenile court may order that a minor:
- 1882 (A) be examined or treated by a mental health therapist, as described in Section
- 1883 80-3-109; or
- 1884 (B) receive other special care.
- 1885 (ii) For purposes of receiving the examination, treatment, or care described in
- 1886 Subsection (2)(g)(i), the juvenile court may place the minor in a hospital or other
- 1887 suitable facility that is not secure care or secure detention.
- 1888 (iii) In determining whether to order the examination, treatment, or care described in
- 1889 Subsection (2)(g)(i), the juvenile court shall consider:
- 1890 (A) the desires of the minor;
- 1891 (B) the desires of the parent or guardian of the minor if the minor is younger than
- 1892 18 years old; and
- 1893 (C) whether the potential benefits of the examination, treatment, or care outweigh
- 1894 the potential risks and side-effects, including behavioral disturbances, suicidal
- 1895 ideation, brain function impairment, or emotional or physical harm resulting
- 1896 from the compulsory nature of the examination, treatment, or care.
- 1897 (h) The juvenile court may make other reasonable orders for the best interest of the

- 1898 minor.
- 1899 (3)(a) At the dispositional hearing described in Subsection 80-3-402(3), if a child
- 1900 remains in an out-of-home placement, the juvenile court shall:
- 1901 (i) make specific findings regarding the conditions of parent-time that are in the
- 1902 child's best interest; and
- 1903 (ii) if parent-time is denied, state the facts that justify the denial.
- 1904 (b) Parent-time shall be under the least restrictive conditions necessary to:
- 1905 (i) protect the physical safety of the child; or
- 1906 (ii) prevent the child from being traumatized by contact with the parent due to the
- 1907 child's fear of the parent in light of the nature of the alleged abuse or neglect.
- 1908 (c)(i) The division or the person designated by the division or a court to supervise a
- 1909 parent-time session may deny parent-time for the session if the division or the
- 1910 supervising person determines that, based on the parent's condition, it is necessary
- 1911 to deny parent-time to:
- 1912 (A) protect the physical safety of the child;
- 1913 (B) protect the life of the child; or
- 1914 (C) consistent with Subsection (3)(c)(ii), prevent the child from being traumatized
- 1915 by contact with the parent.
- 1916 (ii) In determining whether the condition of the parent described in Subsection
- 1917 (3)(c)(i) will traumatize a child, the division or the person supervising the
- 1918 parent-time session shall consider the impact that the parent's condition will have
- 1919 on the child in light of:
- 1920 (A) the child's fear of the parent; and
- 1921 (B) the nature of the alleged abuse or neglect.
- 1922 (4) Upon an adjudication under this chapter, the juvenile court may not:
- 1923 (a) commit a minor solely on the ground of abuse, neglect, or dependency to the
- 1924 Division of Juvenile Justice and Youth Services;
- 1925 (b) assume the function of developing foster home services; or
- 1926 (c) vest legal custody of an abused, neglected, or dependent minor in the division to
- 1927 primarily address the minor's ungovernable or other behavior, mental health, or
- 1928 disability, unless the division:
- 1929 (i) engages other relevant divisions within the department that are conducting an
- 1930 assessment of the minor and the minor's family's needs;
- 1931 (ii) based on the assessment described in Subsection (4)(c)(i), determines that vesting

custody of the minor in the division is the least restrictive intervention for the minor that meets the minor's needs; and

(iii) consents to legal custody of the minor being vested in the division.

(5) The juvenile court may combine the dispositions listed in Subsection (2) if combining the dispositions is permissible and the dispositions are compatible.

(6)(a) If, for a relative placement, an interstate placement requested under the Interstate Compact on the Placement of Children has been initiated by the division or is ordered by or pending before the juvenile court, the court may not finalize a non-relative placement unless the court gives due weight to:

(i) the preferential consideration granted to a relative in Section 80-3-302;

(ii) the rebuttable presumption in Section 80-3-302; and

(iii) the division's placement authority under Subsections [80-1-102(50)] 80-1-102(51) and 80-3-303(1).

(b) Nothing in this section affects the ability of a foster parent to petition the juvenile court under Subsection 80-3-502(3).

Section 16. Section **80-3-406** is amended to read:

80-3-406 . Permanency plan -- Reunification services.

(1) If the juvenile court orders continued removal at the dispositional hearing under Section 80-3-402, and that the minor remain in the custody of the division, the juvenile court shall first:

(a) establish a primary permanency plan and a concurrent permanency plan for the minor in accordance with this section; and

(b) determine whether, in view of the primary permanency plan, reunification services are appropriate for the minor and the minor's family under Subsections (5) through (8).

(2)(a) The concurrent permanency plan shall include:

(i) a representative list of the conditions under which the primary permanency plan will be abandoned in favor of the concurrent permanency plan; and

(ii) an explanation of the effect of abandoning or modifying the primary permanency plan.

(b) In determining the primary permanency plan and concurrent permanency plan, the juvenile court shall consider:

(i) the preference for kinship placement over nonkinship placement, including the rebuttable presumption described in Subsection 80-3-302(7)(a);

(ii) the potential for a guardianship placement if parental rights are terminated and no

appropriate adoption placement is available; and

(iii) the use of an individualized permanency plan, only as a last resort.

(3)(a) The juvenile court may amend a minor's primary permanency plan before the establishment of a final permanency plan under Section 80-3-409.

(b) The juvenile court is not limited to the terms of the concurrent permanency plan in the event that the primary permanency plan is abandoned.

(c) If, at any time, the juvenile court determines that reunification is no longer a minor's primary permanency plan, the juvenile court shall conduct a permanency hearing in accordance with Section 80-3-409 on or before the earlier of:

(i) 30 days after the day on which the juvenile court makes the determination described in this Subsection (3)(c); or

(ii) the day on which the provision of reunification services, described in Section 80-3-409, ends.

(4)(a) Because of the state's interest in and responsibility to protect and provide permanency for minors who are abused, neglected, or dependent, the Legislature finds that a parent's interest in receiving reunification services is limited.

(b) The juvenile court may determine that:

(i) efforts to reunify a minor with the minor's family are not reasonable or appropriate, based on the individual circumstances; and

(ii) reunification services should not be provided.

(c) In determining reasonable efforts to be made with respect to a minor, and in making reasonable efforts, the juvenile court and the division shall consider the minor's health, safety, and welfare as the paramount concern.

(d) Subject to Subsection (4)(e), the juvenile court may not determine that reunification services should not be provided solely on the basis of a parent's agreement or disagreement with the minor's:

(i) assertion that the minor's gender identity is different from the minor's biological sex;

(ii) practice of having or expressing a different gender identity than the child's biological sex; or

(iii) sexual orientation.

(e) Subsection (4)(d) does not preclude the juvenile court from determining that reunification services should not be provided if the parent's agreement or disagreement with a minor as described in Subsection (4)(d) results in or is related to

- 2000 harm, as that term is defined in Section 80-1-102, to the minor.
- 2001 (5) There is a presumption that reunification services should not be provided to a parent if
- 2002 the juvenile court finds, by clear and convincing evidence, that any of the following
- 2003 circumstances exist:
- 2004 (a) the whereabouts of the parents are unknown, based on a verified affidavit indicating
- 2005 that a reasonably diligent search has failed to locate the parent;
- 2006 (b) subject to Subsection (6)(a), the parent is suffering from a mental illness of such
- 2007 magnitude that the mental illness renders the parent incapable of utilizing
- 2008 reunification services;
- 2009 (c) the minor was previously adjudicated as an abused child due to physical abuse,
- 2010 sexual abuse, or sexual exploitation, and following the adjudication the child:
- 2011 (i) was removed from the custody of the minor's parent;
- 2012 (ii) was subsequently returned to the custody of the parent; and
- 2013 (iii) is being removed due to additional physical abuse, sexual abuse, or sexual
- 2014 exploitation;
- 2015 (d) the parent:
- 2016 (i) caused the death of another minor through abuse or neglect;
- 2017 (ii) committed, aided, abetted, attempted, conspired, or solicited to commit:
- 2018 (A) murder or manslaughter of a minor; or
- 2019 (B) child abuse homicide;
- 2020 (iii) committed sexual abuse against the minor;
- 2021 (iv) is a registered sex offender or required to register as a sex offender; or
- 2022 (v)(A) intentionally, knowingly, or recklessly causes the death of another parent
- 2023 of the minor;
- 2024 (B) is identified by a law enforcement agency as the primary suspect in an
- 2025 investigation for intentionally, knowingly, or recklessly causing the death of
- 2026 another parent of the minor; or
- 2027 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or
- 2028 recklessly causing the death of another parent of the minor;
- 2029 (e) the minor suffered severe abuse by the parent or by any individual known by the
- 2030 parent if the parent knew or reasonably should have known that the individual was
- 2031 abusing the minor;
- 2032 (f) the minor is adjudicated as an abused minor as a result of severe abuse by the parent,
- 2033 and the juvenile court finds that it would not benefit the minor to pursue reunification

- 2034 services with the offending parent;
- 2035 (g) the parent's rights are terminated with regard to any other minor;
- 2036 (h) the minor was removed from the minor's home on at least two previous occasions
- 2037 and reunification services were offered or provided to the family at those times;
- 2038 (i) the parent has abandoned the minor for a period of six months or longer;
- 2039 (j) the parent permitted the minor to reside, on a permanent or temporary basis, at a
- 2040 location where the parent knew or should have known that a clandestine laboratory
- 2041 operation was located;
- 2042 (k) except as provided in Subsection (6)(b), with respect to a parent who is the minor's
- 2043 birth mother, the minor has fetal alcohol syndrome, fetal alcohol spectrum disorder,
- 2044 or was exposed to an illegal or prescription drug that was abused by the minor's
- 2045 mother while the minor was in utero, if the minor was taken into division custody for
- 2046 that reason, unless the mother agrees to enroll in, is currently enrolled in, or has
- 2047 recently and successfully completed a substance use disorder treatment program
- 2048 approved by the department; or
- 2049 (l) subject to Subsection (4)(d), any other circumstance that the juvenile court
- 2050 determines should preclude reunification efforts or services.
- 2051 (6)(a) The juvenile court shall base the finding under Subsection (5)(b) on competent
- 2052 evidence from at least two medical or mental health professionals, who are not
- 2053 associates, establishing that, even with the provision of services, the parent is not
- 2054 likely to be capable of adequately caring for the minor within 12 months after the day
- 2055 on which the juvenile court finding is made.
- 2056 (b) The juvenile court may disregard the provisions of Subsection (5)(k) if the juvenile
- 2057 court finds, under the circumstances of the case, that the substance use disorder
- 2058 treatment described in Subsection (5)(k) is not warranted.
- 2059 (7) In determining whether reunification services are appropriate, the juvenile court shall
- 2060 take into consideration:
- 2061 (a) failure of the parent to respond to previous services or comply with a previous child
- 2062 and family plan;
- 2063 (b) the fact that the minor was abused while the parent was under the influence of drugs
- 2064 or alcohol;
- 2065 (c) any history of violent behavior directed at the minor or an immediate family member;
- 2066 (d) whether a parent continues to live with an individual who abused the minor;
- 2067 (e) any patterns of the parent's behavior that have exposed the minor to repeated abuse;

(f) testimony by a competent professional that the parent's behavior is unlikely to be successful; and

(g) whether the parent has expressed an interest in reunification with the minor.

(8) If, under Subsections (5)(b) through (l), the juvenile court does not order reunification services, a permanency hearing shall be conducted within 30 days in accordance with Section 80-3-409.

(9)(a) Subject to Subsections (9)(b) through (e), if the juvenile court determines that reunification services are appropriate for the minor and the minor's family, the juvenile court shall provide for reasonable parent-time with the parent or parents from whose custody the minor was removed, unless parent-time is not in the best interest of the minor.

(b) Parent-time is in the best interests of a minor unless the juvenile court makes a finding that it is necessary to deny parent-time in order to:

(i) protect the physical safety of the minor;

(ii) protect the life of the minor; or

(iii) prevent the minor from being traumatized by contact with the parent due to the minor's fear of the parent in light of the nature of the alleged abuse or neglect.

(c) Notwithstanding Subsection (9)(a), a juvenile court may not deny parent-time based solely on a parent's failure to:

(i) prove that the parent has not used legal or illegal substances; or

(ii) comply with an aspect of the child and family plan that is ordered by the juvenile court.

(d) Parent-time shall be under the least restrictive conditions necessary to:

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

(ii) prevent the child from being traumatized by contact with the parent due to the minor's fear of the parent in light of the nature of the alleged abuse or neglect.

(e)(i) The division or the person designated by the division or a court to supervise a parent-time session may deny parent-time for the session if the division or the supervising person determines that, based on the parent's condition, it is necessary to deny parent-time to:

(A) protect the physical safety of the child;

(B) protect the life of the child; or

(C) consistent with Subsection (9)(e)(ii), prevent the child from being traumatized by contact with the parent.

- 2102 (ii) In determining whether the condition of the parent described in Subsection
2103 (9)(e)(i) will traumatize a child, the division or the person supervising the
2104 parent-time session shall consider the impact that the parent's condition will have
2105 on the child in light of:
2106 (A) the child's fear of the parent; and
2107 (B) the nature of the alleged abuse or neglect.
- 2108 (10)(a) If the juvenile court determines that reunification services are appropriate, the
2109 juvenile court shall order that the division make reasonable efforts to provide services
2110 to the minor and the minor's parent for the purpose of facilitating reunification of the
2111 family, for a specified period of time.
- 2112 (b) In providing the services described in Subsection (10)(a), the juvenile court and the
2113 division shall consider the minor's health, safety, and welfare as the paramount
2114 concern.
- 2115 (11) In cases where sexual abuse, sexual exploitation, abandonment, severe abuse, or severe
2116 neglect are involved:
2117 (a) the juvenile court does not have any duty to order reunification services; and
2118 (b) the division does not have a duty to make reasonable efforts to or in any other way
2119 attempt to provide reunification services or attempt to rehabilitate the offending
2120 parent or parents.
- 2121 (12)(a) The juvenile court shall:
2122 (i) determine whether the services offered or provided by the division under the child
2123 and family plan constitute reasonable efforts on the part of the division;
2124 (ii) determine and define the responsibilities of the parent under the child and family
2125 plan in accordance with Subsection 80-3-307(5)(g)(iii); and
2126 (iii) identify verbally on the record, or in a written document provided to the parties,
2127 the responsibilities described in Subsection (12)(a)(ii), for the purpose of assisting
2128 in any future determination regarding the provision of reasonable efforts, in
2129 accordance with state and federal law.
- 2130 (b) If the parent is in a substance use disorder treatment program, other than a certified
2131 drug court program, the juvenile court may order the parent:
2132 (i) to submit to supplementary drug or alcohol testing, in accordance with Subsection
2133 80-3-110(6), in addition to the testing recommended by the parent's substance use
2134 disorder program based on a finding of reasonable suspicion that the parent is
2135 abusing drugs or alcohol; and

- 2136 (ii) to provide the results of drug or alcohol testing recommended by the substance
2137 use disorder program to the juvenile court or division.
- 2138 (13)(a) The time period for reunification services may not exceed 12 months from the
2139 day on which the minor was initially removed from the minor's home, unless the time
2140 period is extended under Subsection 80-3-409(7).
- 2141 (b) This section does not entitle any parent to an entire 12 months of reunification
2142 services.
- 2143 (14)(a) If reunification services are ordered, the juvenile court may terminate those
2144 services at any time.
- 2145 (b) If, at any time, continuation of reasonable efforts to reunify a minor is determined to
2146 be inconsistent with the final permanency plan for the minor established under
2147 Section 80-3-409, then measures shall be taken, in a timely manner, to:
- 2148 (i) place the minor in accordance with the final permanency plan; and
2149 (ii) complete whatever steps are necessary to finalize the permanent placement of the
2150 minor.
- 2151 (15) Any physical custody of the minor by the parent or a relative during the period
2152 described in Subsections (10) through (14) does not interrupt the running of the period.
- 2153 (16)(a) If reunification services are ordered, the juvenile court shall conduct a
2154 permanency hearing in accordance with Section 80-3-409 before the day on which
2155 the time period for reunification services expires.
- 2156 (b) The permanency hearing shall be held no later than 12 months after the original
2157 removal of the minor.
- 2158 (c) If reunification services are not ordered, a permanency hearing shall be conducted
2159 within 30 days in accordance with Section 80-3-409.
- 2160 (17) With regard to a minor in the custody of the division whose parent or parents are
2161 ordered to receive reunification services but who have abandoned that minor for a period
2162 of six months from the day on which reunification services are ordered:
- 2163 (a) the juvenile court shall terminate reunification services; and
2164 (b) the division shall petition the juvenile court for termination of parental rights.
- 2165 (18) When a minor is under the custody of the division and has been separated from a
2166 sibling due to foster care or adoptive placement, a juvenile court may order sibling
2167 visitation, subject to the division obtaining consent from the sibling's guardian,
2168 according to the juvenile court's determination of the best interests of the minor for
2169 whom the hearing is held.

(19)(a) If reunification services are not ordered under this section, and the whereabouts of a parent becomes known within six months after the day on which the out-of-home placement of the minor is made, the juvenile court may order the division to provide reunification services.

(b) The time limits described in this section are not tolled by the parent's absence.

(20)(a) If a parent is incarcerated or institutionalized, the juvenile court shall order reasonable services unless the juvenile court determines that those services would be detrimental to the minor.

(b) In making the determination described in Subsection (20)(a), the juvenile court shall consider:

(i) the age of the minor;

(ii) the degree of parent-child bonding;

(iii) the length of the sentence;

(iv) the nature of the treatment;

(v) the nature of the crime or illness;

(vi) the degree of detriment to the minor if services are not offered;

(vii) for a minor who is 10 years old or older, the minor's attitude toward the implementation of family reunification services; and

(viii) any other appropriate factors.

(c) Reunification services for an incarcerated parent are subject to the time limitations imposed in this section.

(d) Reunification services for an institutionalized parent are subject to the time limitations imposed in this section, unless the juvenile court determines that continued reunification services would be in the minor's best interest.

Section 17. Section **80-3-407** is amended to read:

80-3-407 . Six-month review hearing -- Findings regarding reasonable efforts by division -- Findings regarding child and family plan compliance.

(1) If reunification efforts have been ordered by the juvenile court under Section 80-3-406, the juvenile court shall hold a hearing no more than six months after the day on which the minor is initially removed from the minor's home, in order for the juvenile court to determine whether:

(a) the division has provided and is providing reasonable efforts to reunify the family in accordance with the child and family plan;

(b) the parent has fulfilled or is fulfilling identified duties and responsibilities in order to

- 2204 comply with the requirements of the child and family plan; and
- 2205 (c) the division considered the preferential consideration and rebuttable presumption
- 2206 described in Subsections 80-3-302(7)(a) and 80-3-303(2)(c).
- 2207 (2)(a) At the hearing described in Subsection (1), if a child remains in an out-of-home
- 2208 placement, the juvenile court shall:
- 2209 (i) make specific findings regarding the conditions of parent-time that are in the
- 2210 child's best interest; and
- 2211 (ii) if parent-time is denied, state the facts that justify the denial.
- 2212 (b) Parent-time shall be under the least restrictive conditions necessary to:
- 2213 (i) protect the physical safety of the child; or
- 2214 (ii) prevent the child from being traumatized by contact with the parent due to the
- 2215 child's fear of the parent in light of the nature of the alleged abuse or neglect.
- 2216 (c)(i) The division or the person designated by the division or a court to supervise a
- 2217 parent-time session may deny parent-time for the session if the division or the
- 2218 supervising person determines that, based on the parent's condition, it is necessary
- 2219 to deny parent-time to:
- 2220 (A) protect the physical safety of the child;
- 2221 (B) protect the life of the child; or
- 2222 (C) consistent with Subsection (2)(c)(ii), prevent the child from being traumatized
- 2223 by contact with the parent.
- 2224 (ii) In determining whether the condition of the parent described in Subsection
- 2225 (2)(c)(i) will traumatize a child, the division or the person supervising the
- 2226 parent-time session shall consider the impact that the parent's condition will have
- 2227 on the child in light of:
- 2228 (A) the child's fear of the parent; and
- 2229 (B) the nature of the alleged abuse or neglect.
- 2230 (3)(a) If, for a relative placement, an interstate placement requested under the Interstate
- 2231 Compact on the Placement of Children has been initiated by the division or is ordered
- 2232 by or pending before the juvenile court, the court may not finalize a non-relative
- 2233 placement unless the court gives due weight to:
- 2234 (i) the preferential consideration granted to a relative in Section 80-3-302;
- 2235 (ii) the rebuttable presumption in Section 80-3-302; and
- 2236 (iii) the division's placement authority under Subsections [~~80-1-102(50)~~] 80-1-102(51)
- 2237 and 80-3-303(1).

(b) Nothing in this section affects the ability of a foster parent to petition the juvenile court under Subsection 80-3-502(3).

Section 18. Section **80-3-409** is amended to read:

80-3-409 . Permanency hearing -- Final plan -- Petition for termination of parental rights filed -- Hearing on termination of parental rights.

(1)(a) If reunification services are ordered under Section 80-3-406, with regard to a minor who is in the custody of the division, the juvenile court shall hold a permanency hearing no later than 12 months after the day on which the minor is initially removed from the minor's home.

(b) If reunification services are not ordered at the dispositional hearing, the juvenile court shall hold a permanency hearing within 30 days after the day on which the dispositional hearing ends.

(2)(a) If reunification services are ordered in accordance with Section 80-3-406, the juvenile court shall, at the permanency hearing, determine, consistent with Subsection (3), whether the minor may safely be returned to the custody of the minor's parent.

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

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

(i) the parent or guardian fails to:

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

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

(C) meet the goals of a court approved child and family plan; or

(ii) the minor's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the minor;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the minor; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the minor.

- 2272 (3) In making a determination under Subsection (2)(a), the juvenile court shall:
- 2273 (a) review and consider:
- 2274 (i) the report prepared by the division;
- 2275 (ii) in accordance with the Utah Rules of Evidence, any admissible evidence offered
- 2276 by the minor's attorney guardian ad litem;
- 2277 (iii) any report submitted by the division under Subsection 80-3-408(3)(a)(i);
- 2278 (iv) any evidence regarding the efforts or progress demonstrated by the parent; and
- 2279 (v) the extent to which the parent cooperated and used the services provided; and
- 2280 (b) attempt to keep the minor's sibling group together if keeping the sibling group
- 2281 together is:
- 2282 (i) practicable; and
- 2283 (ii) in accordance with the best interest of the minor.
- 2284 (4) With regard to a case where reunification services are ordered by the juvenile court, if a
- 2285 minor is not returned to the minor's parent or guardian at the permanency hearing, the
- 2286 juvenile court shall, unless the time for the provision of reunification services is
- 2287 extended under Subsection (7):
- 2288 (a) order termination of reunification services to the parent;
- 2289 (b) make a final determination regarding whether termination of parental rights,
- 2290 adoption, or permanent custody and guardianship is the most appropriate final plan
- 2291 for the minor, taking into account the minor's primary permanency plan established
- 2292 by the juvenile court under Section 80-3-406; and
- 2293 (c) in accordance with Subsection 80-3-406(2), establish a concurrent permanency plan
- 2294 that identifies the second most appropriate final plan for the minor, if appropriate.
- 2295 (5) The juvenile court may order another planned permanent living arrangement other than
- 2296 reunification for a minor who is 16 years old or older upon entering the following
- 2297 findings:
- 2298 (a) the division has documented intensive, ongoing, and unsuccessful efforts to reunify
- 2299 the minor with the minor's parent or parents, or to secure a placement for the minor
- 2300 with a guardian, an adoptive parent, or an individual described in Subsection 80-3-301
- 2301 (6)(e);
- 2302 (b) the division has demonstrated that the division has made efforts to normalize the life
- 2303 of the minor while in the division's custody, in accordance with Section 80-2-308;
- 2304 (c) the minor prefers another planned permanent living arrangement; and
- 2305 (d) there is a compelling reason why reunification or a placement described in

Subsection (5)(a) is not in the minor's best interest.

(6) Except as provided in Subsection (7), the juvenile court may not extend reunification services beyond 12 months after the day on which the minor is initially removed from the minor's home, in accordance with the provisions of Section 80-3-406.

(7)(a) Subject to Subsection (7)(b), the juvenile court may extend reunification services for no more than 90 days if the juvenile court finds, by a preponderance of the evidence, that:

(i) there has been substantial compliance with the child and family plan;

(ii) reunification is probable within that 90-day period; and

(iii) the extension is in the best interest of the minor.

(b)(i) Except as provided in Subsection (7)(c), the juvenile court may not extend any reunification services beyond 15 months after the day on which the minor is initially removed from the minor's home.

(ii) Delay or failure of a parent to establish paternity or seek custody does not provide a basis for the juvenile court to extend services for the parent beyond the 12-month period described in Subsection (6).

(c) In accordance with Subsection (7)(d), the juvenile court may extend reunification services for one additional 90-day period, beyond the 90-day period described in Subsection (7)(a), if:

(i) the juvenile court finds, by clear and convincing evidence, that:

(A) the parent has substantially complied with the child and family plan;

(B) it is likely that reunification will occur within the additional 90-day period; and

(C) the extension is in the best interest of the minor;

(ii) the juvenile court specifies the facts upon which the findings described in Subsection (7)(c)(i) are based; and

(iii) the juvenile court specifies the time period in which it is likely that reunification will occur.

(d) A juvenile court may not extend the time period for reunification services without complying with the requirements of this Subsection (7) before the extension.

(e) In determining whether to extend reunification services for a minor, a juvenile court shall take into consideration the status of the minor siblings of the minor.

(8)(a) At the permanency hearing, if a child remains in an out-of-home placement, the juvenile court shall:

(i) make specific findings regarding the conditions of parent-time that are in the

- 2340 child's best interest; and
- 2341 (ii) if parent-time is denied, state the facts that justify the denial.
- 2342 (b) Parent-time shall be under the least restrictive conditions necessary to:
- 2343 (i) protect the physical safety of the child; or
- 2344 (ii) prevent the child from being traumatized by contact with the parent due to the
- 2345 child's fear of the parent in light of the nature of the alleged abuse or neglect.
- 2346 (c)(i) The division or the person designated by the division or a court to supervise a
- 2347 parent-time session may deny parent-time for the session if the division or the
- 2348 supervising person determines that, based on the parent's condition, it is necessary
- 2349 to deny parent-time to:
- 2350 (A) protect the physical safety of the child;
- 2351 (B) protect the life of the child; or
- 2352 (C) consistent with Subsection (8)(c)(ii), prevent the child from being traumatized
- 2353 by contact with the parent.
- 2354 (ii) In determining whether the condition of the parent described in Subsection
- 2355 (8)(c)(i) will traumatize a child, the division or the person supervising the
- 2356 parent-time session shall consider the impact that the parent's condition will have
- 2357 on the child in light of:
- 2358 (A) the child's fear of the parent; and
- 2359 (B) the nature of the alleged abuse or neglect.
- 2360 (9) The juvenile court may, in the juvenile court's discretion:
- 2361 (a) enter any additional order that the juvenile court determines to be in the best interest
- 2362 of the minor, so long as that order does not conflict with the requirements and
- 2363 provisions of Subsections (4) through (8); or
- 2364 (b) order the division to provide protective supervision or other services to a minor and
- 2365 the minor's family after the division's custody of a minor is terminated.
- 2366 (10)(a) If the final plan for the minor is to proceed toward termination of parental rights,
- 2367 the petition for termination of parental rights shall be filed, and a pretrial held, within
- 2368 45 calendar days after the day on which the permanency hearing is held.
- 2369 (b) If the division opposes the plan to terminate parental rights, the juvenile court may
- 2370 not require the division to file a petition for the termination of parental rights, except
- 2371 as required under Subsection 80-4-203(2).
- 2372 (11)(a) Any party to an action may, at any time, petition the juvenile court for an
- 2373 expedited permanency hearing on the basis that continuation of reunification efforts

are inconsistent with the permanency needs of the minor.

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

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

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

(12) Nothing in this section may be construed to:

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

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

(c) limit or prohibit the filing of a petition for termination of parental rights by any party, or a hearing on termination of parental rights, at any time before a permanency hearing provided that relative placement and custody options have been fairly considered in accordance with Sections 80-2a-201 and 80-4-104.

(13)(a) Subject to Subsection (13)(b), if a petition for termination of parental rights is filed before the date scheduled for a permanency hearing, the juvenile court may consolidate the hearing on termination of parental rights with the permanency hearing.

(b) For purposes of Subsection (13)(a), if the juvenile court consolidates the hearing on termination of parental rights with the permanency hearing:

(i) the juvenile court shall first make a finding regarding whether reasonable efforts have been made by the division to finalize the permanency plan for the minor; and

(ii) any reunification services shall be terminated in accordance with the time lines described in Section 80-3-406.

(c) The juvenile court shall make a decision on a petition for termination of parental rights within 18 months after the day on which the minor is initially removed from the minor's home.

(14)(a) If a juvenile court determines that a minor will not be returned to a parent of the minor, the juvenile court shall consider appropriate placement options inside and outside of the state.

(b) In considering appropriate placement options under Subsection (14)(a), the juvenile court shall provide preferential consideration to a relative's request for placement of the minor.

(15)(a) In accordance with Section 80-3-108, if a minor 14 years old or older desires an opportunity to address the juvenile court or testify regarding permanency or

placement, the juvenile court shall give the minor's wishes added weight, but may not treat the minor's wishes as the single controlling factor under this section.

(b) If the juvenile court's decision under this section differs from a minor's express wishes if the minor is of sufficient maturity to articulate the wishes in relation to permanency or the minor's placement, the juvenile court shall make findings explaining why the juvenile court's decision differs from the minor's wishes.

(16)(a) If, for a relative placement, an interstate placement requested under the Interstate Compact on the Placement of Children has been initiated by the division or is ordered by or pending before the juvenile court, the court may not finalize a non-relative placement unless the court gives due weight to:

- (i) the preferential consideration granted to a relative in Section 80-3-302;
- (ii) the rebuttable presumption in Section 80-3-302; and
- (iii) the division's placement authority under Subsections ~~[80-1-102(50)]~~ 80-1-102(51) and 80-3-303(1).

(b) Nothing in this section affects the ability of a foster parent to petition the juvenile court under Subsection 80-3-502(3).

Section 19. Section **81-9-101** is amended to read:

81-9-101 . Definitions for chapter.

As used in this chapter:

- (1) "Abuse" means the same as that term is defined in Section 80-1-102.
- (2)(a) "Custodial responsibility" means all powers and duties relating to caretaking authority and decision-making authority for a minor child.
- (b) "Custodial responsibility" includes physical custody, legal custody, parenting time, right to access, parent-time, and authority to grant limited contact with a minor child.
- (3) "Domestic violence" means the same as that term is defined in Section 77-36-1.
- (4) "Gender identity" means the same as that term is defined in Section 34A-5-102.
- ~~[(4)]~~ (5) "Joint legal custody" means the sharing of the rights, privileges, duties, and powers of a parent by both parents, where specified.
- ~~[(5)]~~ (6) "Joint physical custody" means the minor child stays with each parent overnight for more than 30% of the year and both parents contribute to the expenses of the minor child in addition to paying child support.
- ~~[(6)]~~ (7)(a) "Parenting functions" means those aspects of the parent-child relationship in which the parent makes decisions and performs functions necessary for the care and growth of the minor child.

(b) "Parenting functions" include:

- (i) maintaining a loving, stable, consistent, and nurturing relationship with the minor child;
- (ii) attending to the daily needs of the minor child, such as feeding, clothing, physical care, grooming, supervision, health care, day care, and engaging in other activities which are appropriate to the developmental level of the minor child and that are within the social and economic circumstances of the particular family;
- (iii) attending to adequate education for the minor child, including remedial or other education essential to the best interest of the minor child;
- (iv) assisting the minor child in developing and maintaining appropriate interpersonal relationships;
- (v) exercising appropriate judgment regarding the minor child's welfare, consistent with the minor child's developmental level and family social and economic circumstances; and
- (vi) providing for the financial support of the minor child.

~~[(7)]~~ (8)(a) "Parenting plan" means a plan for parenting a minor child.

- (b) "Parenting plan" includes the allocation of parenting functions that are incorporated in any final decree or decree of modification including an action for dissolution of marriage, annulment, legal separation, or paternity.

~~[(8)]~~ (9) "Protective order" means:

- (a) a civil protective order, as that term is defined in Section 78B-7-102;
- (b) an ex parte civil protective order, as that term is defined in Section 78B-7-102; or
- (c) a foreign protection order, as that term is defined in Section 78B-7-302.

~~[(9)]~~ (10) "Psychological maltreatment" means a repeated pattern or extreme incident of caretaker behavior that:

- (a) intentionally thwarts a minor child's basic psychological needs, including physical and psychological safety, cognitive stimulation, and respect;
- (b) conveys that a minor child is worthless, defective, or expendable; and
- (c) may terrorize a minor child.

~~[(10)]~~ (11) "Service member" means a member of a uniformed service.

~~[(11)]~~ (12) "Sexual abuse" means the same as that term is defined in Section 80-1-102.

~~[(12)]~~ (13) "Supervised parent-time" means parent-time that requires the noncustodial parent to be accompanied during parent-time by an individual approved by the court.

~~[(13)]~~ (14) "Surrogate care" means care by any individual other than the parent of the minor

2476 child.

2477 [(14)] (15) "Uniformed service" means:

- 2478 (a) active and reserve components of the United States Armed Forces;
2479 (b) the United States Merchant Marine;
2480 (c) the commissioned corps of the United States Public Health Service;
2481 (d) the commissioned corps of the National Oceanic and Atmospheric Administration of
2482 the United States; or
2483 (e) the National Guard of a state.

2484 [(15)] (16) "Uninterrupted time" means parent-time exercised by one parent without
2485 interruption at any time by the presence of the other parent.

2486 [(16)] (17) "Virtual parent-time" means parent-time facilitated by tools such as telephone,
2487 email, instant messaging, video conferencing, and other wired or wireless technologies
2488 over the Internet or other communication media, to supplement in-person visits between
2489 a noncustodial parent and a minor child or between a minor child and the custodial
2490 parent when the minor child is staying with the noncustodial parent.

2491 Section 20. Section **81-9-204** is amended to read:

2492 **81-9-204 . Custody and parent-time of a minor child -- Custody factors --**
2493 **Preferences.**

- 2494 (1) In a proceeding between parents in which the custody and parent-time of a minor child
2495 is at issue, the court shall consider the best interests of the minor child in determining
2496 any form of custody and parent-time.
- 2497 (2) The court shall determine whether an order for custody or parent-time is in the best
2498 interests of the minor child by a preponderance of the evidence.
- 2499 (3) In determining any form of custody and parent-time under Subsection (1), the court
2500 shall consider:
- 2501 (a) for each parent, and in accordance with Section 81-9-104, evidence of domestic
2502 violence, physical abuse, or sexual abuse involving the minor child, the parent, or a
2503 household member of the parent;
- 2504 (b) whether the parent has intentionally exposed the minor child to pornography or
2505 material harmful to minors, as "material" and "harmful to minors" are defined in
2506 Section 76-10-1201; and
- 2507 (c) whether custody and parent-time would endanger the minor child's health or physical
2508 or psychological safety.
- 2509 (4) In determining the form of custody and parent-time that is in the best interests of the

- 2510 minor child, the court may consider, among other factors the court finds relevant, the
2511 following for each parent:
- 2512 (a) evidence of psychological maltreatment;
- 2513 (b) the parent's demonstrated understanding of, responsiveness to, and ability to meet the
2514 developmental needs of the minor child, including the minor child's:
- 2515 (i) physical needs;
- 2516 (ii) emotional needs;
- 2517 (iii) educational needs;
- 2518 (iv) medical needs; and
- 2519 (v) any special needs;
- 2520 (c) the parent's capacity and willingness to function as a parent, including:
- 2521 (i) parenting skills;
- 2522 (ii) co-parenting skills, including:
- 2523 (A) ability to appropriately communicate with the other parent;
- 2524 (B) ability to encourage the sharing of love and affection; and
- 2525 (C) willingness to allow frequent and continuous contact between the minor child
2526 and the other parent, except that, if the court determines that the parent is
2527 acting to protect the minor child from domestic violence, neglect, or abuse, the
2528 parent's protective actions may be taken into consideration; and
- 2529 (iii) ability to provide personal care rather than surrogate care;
- 2530 (d) the past conduct and demonstrated moral character of the parent as described in
2531 Subsection (9);
- 2532 (e) the emotional stability of the parent;
- 2533 (f) the parent's inability to function as a parent because of drug abuse, excessive
2534 drinking, or other causes;
- 2535 (g) the parent's reason for having relinquished custody or parent-time in the past;
- 2536 (h) duration and depth of desire for custody or parent-time;
- 2537 (i) the parent's religious compatibility with the minor child;
- 2538 (j) the parent's financial responsibility;
- 2539 (k) the child's interaction and relationship with step-parents, extended family members
2540 of other individuals who may significantly affect the minor child's best interests;
- 2541 (l) who has been the primary caretaker of the minor child;
- 2542 (m) previous parenting arrangements in which the minor child has been happy and
2543 well-adjusted in the home, school, and community;

- (n) the relative benefit of keeping siblings together;
- (o) the stated wishes and concerns of the minor child, taking into consideration the minor child's cognitive ability and emotional maturity;
- (p) the relative strength of the minor child's bond with the parent, meaning the depth, quality, and nature of the relationship between the parent and the minor child; and
- (q) any other factor the court finds relevant.
- (5)(a) A minor child may not be required by either party to testify unless the trier of fact determines that extenuating circumstances exist that would necessitate the testimony of the minor child be heard and there is no other reasonable method to present the minor child's testimony.
- (b)(i) The court may inquire and take into consideration the minor child's desires regarding future custody or parent-time schedules, but the expressed desires are not controlling and the court may determine the minor child's custody or parent-time otherwise.
- (ii) The desires of a minor child who is 14 years old or older shall be given added weight, but is not the single controlling factor.
- (c)(i) If an interview with a minor child is conducted by the court in accordance with Subsection (5)(b), the interview shall be conducted by the court in camera.
- (ii) The prior consent of the parties may be obtained but is not necessary if the court finds that an interview with a minor child is the only method to ascertain the minor child's desires regarding custody.
- (6)(a) Except as provided in Subsection (6)(b), a court may not discriminate against a parent due to a disability, as defined in Section 57-21-2, in awarding custody or determining whether a substantial change has occurred for the purpose of modifying an award of custody.
- (b) The court may not consider the disability of a parent as a factor in awarding custody or modifying an award of custody based on a determination of a substantial change in circumstances, unless the court makes specific findings that:
- (i) the disability significantly or substantially inhibits the parent's ability to provide for the physical and emotional needs of the minor child at issue; and
- (ii) the parent with a disability lacks sufficient human, monetary, or other resources available to supplement the parent's ability to provide for the physical and emotional needs of the minor child at issue.
- (c) Nothing in this section may be construed to apply to adoption proceedings under

- 2578 Title 78B, Chapter 6, Part 1, Utah Adoption Act.
- 2579 (7) This section does not establish:
- 2580 (a) a preference for either parent solely because of the gender of the parent; or
- 2581 (b) a preference for or against joint physical custody or sole physical custody, but allows
- 2582 the court and the family the widest discretion to choose a parenting plan that is in the
- 2583 best interest of the minor child.
- 2584 (8) When an issue before the court involves custodial responsibility in the event of a
- 2585 deployment of a parent who is a service member and the service member has not yet
- 2586 been notified of deployment, the court shall resolve the issue based on the standards in
- 2587 Sections 78B-20-306 through 78B-20-309.
- 2588 (9) In considering the past conduct and demonstrated moral standards of each party under
- 2589 Subsection (4)(d) or any other factor a court finds relevant, the court may not:
- 2590 (a)(i) consider or treat a parent's lawful possession or use of cannabis in a medicinal
- 2591 dosage form, a cannabis product in a medicinal dosage form, or a medical
- 2592 cannabis device, in accordance with Title 4, Chapter 41a, Cannabis Production
- 2593 Establishments and Pharmacies, Title 26B, Chapter 4, Part 2, Cannabinoid
- 2594 Research and Medical Cannabis, or Subsection 58-37-3.7(2) or (3) any differently
- 2595 than the court would consider or treat the lawful possession or use of any
- 2596 prescribed controlled substance; or
- 2597 (ii) discriminate against a parent because of the parent's status as a:
- 2598 (A) cannabis production establishment agent, as that term is defined in Section
- 2599 4-41a-102;
- 2600 (B) medical cannabis pharmacy agent, as that term is defined in Section 26B-4-201;
- 2601 (C) medical cannabis courier agent, as that term is defined in Section 26B-4-201;
- 2602 or
- 2603 (D) medical cannabis cardholder in accordance with Title 26B, Chapter 4, Part 2,
- 2604 Cannabinoid Research and Medical Cannabis; or
- 2605 (b) discriminate against a parent based upon the parent's agreement or disagreement with
- 2606 a minor child of the couple's:
- 2607 (i) assertion that the minor child's gender identity is different from the minor child's
- 2608 biological sex;~~[-or]~~
- 2609 (ii) practice of having or expressing a different gender identity than the minor child's
- 2610 biological sex~~[-]~~ ; or
- 2611 (iii) sexual orientation.

- (10)(a) The court shall consider evidence of domestic violence if evidence of domestic violence is presented.
- (b) The court shall consider as primary, the safety and well-being of the minor child and the parent who experiences domestic violence.
- (c) A court shall consider an order issued by a court in accordance with Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders, as evidence of real harm or substantiated potential harm to the minor child.
- (d) If a parent relocates because of an act of domestic violence or family violence by the other parent, the court shall make specific findings and orders with regards to the application of Section 81-9-209.
- (11) Absent a showing by a preponderance of evidence of real harm or substantiated potential harm to the minor child:
- (a) it is in the best interest of the minor child to have frequent, meaningful, and continuing access to each parent following separation or divorce;
- (b) each parent is entitled to and responsible for frequent, meaningful, and continuing access with the parent's minor child consistent with the minor child's best interests; and
- (c) it is in the best interest of the minor child to have both parents actively involved in parenting the minor child.
- (12) Notwithstanding any other provision of this chapter, the court may not grant custody or parent-time of a minor child to a parent convicted of a sexual offense, as defined in Section 77-37-2, that resulted in the conception of the minor child unless:
- (a) the nonconvicted biological parent, or the legal guardian of the minor child, consents to custody or parent-time and the court determines it is in the best interest of the minor child to award custody or parent-time to the convicted parent; or
- (b) after the date of the conviction, the convicted parent and the nonconvicted parent cohabit and establish a mutual custodial environment for the minor child.
- (13) A denial of custody or parent-time under Subsection (12) does not:
- (a) terminate the parental rights of the parent denied parent-time or custody; or
- (b) affect the obligation of the convicted parent to financially support the minor child.
- Section 21. **Effective Date.**
- This bill takes effect on May 7, 2025.