

Domestic Relations Recodification

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd Weiler

House Sponsor: Anthony E. Loubet

LONG TITLE

General Description:

This bill recodifies and amends statutes related to domestic relations.

Highlighted Provisions:

This bill:

- clarifies the jurisdiction of the juvenile and district courts with regard to adoptions;
- clarifies and coordinates definitions related to domestic relations;
- recodifies and amends Title 78B, Chapter 15, Utah Uniform Parentage Act, to Title 81, Chapter 5, Uniform Parentage Act, including changing the term, "support-enforcement agency" to "child support services agency";
- recodifies and amends Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act, to Title 81, Chapter 8, Uniform Interstate Family Support Act, including:
 - defining terms to coordinate with the definitions in Title 81, Chapter 5, Uniform Parentage Act; and
 - changing the term, "support-enforcement agency" to "child support services agency";
- recodifies Title 78B, Chapter 20, Uniform Deployed Parents Custody, Parent-time, and Visitation Act, to Title 81, Chapter 10, Uniform Deployed Parents Custody, Parent-time, and Visitation Act;
- recodifies Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act, to Title 81, Chapter 11, Uniform Child Custody Jurisdiction and Enforcement Act;
- recodifies Title 78B, Chapter 6, Part 1, Utah Adoption Act, to Title 81, Chapter 13, Adoption;
- clarifies provisions regarding adoption, including:
 - definitions related to adoption;

- access to adoption records by a potential birth father that is allowed to intervene in an adoption proceeding;
- that a petitioner's home includes a temporary place of abode in certain circumstances;
- clarifying the time periods associated with adoption; and
- requirements for adopting an adult;
- allows an adoption proceeding to be brought in a judicial district rather than a county;
- repeals a requirement requiring a petition for adoption of a minor child to be filed within 30 days of the minor child being placed in the home of the prospective adoptive parents;
- repeals a statute requiring a person filing a petition for the adoption of an alien child to include written evidence of lawful admission of the alien child;
- recodifies Title 78B, Chapter 24, Uniform Unregulated Child Custody Transfer Act, to Title 81, Chapter 14, Uniform Unregulated Child Custody Transfer Act;
- includes a coordination clause to address a technical conflict with a reference if this bill and H.B. 329, Homeless Services Amendments, both pass and become law;
- includes a coordination clause to coordinate changes to statutes related to adoption documents if this bill and H.B. 129, Adoption Records Access Amendments, both pass and become law;
- includes a coordination clause to modify a definition due to the repeal of a statute if this bill and H.B. 21, Criminal Code Recodification and Cross References, both pass and become law;
- includes a coordination clause to address inconsistent terminology if this bill and H.B. 141, Adoption Modifications, both pass and become law;
- includes a coordination clause to address inconsistent terminology if this bill and H.B. 283, Child and Family Services Amendments, both pass and become law; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides coordination clauses.

Utah Code Sections Affected:

AMENDS:

10-3-1103, as last amended by Laws of Utah 2022, Chapters 166, 177

17-33-5, as last amended by Laws of Utah 2022, Chapters 166, 177

62 **26B-1-202**, as last amended by Laws of Utah 2024, Chapter 506
63 **26B-2-104**, as last amended by Laws of Utah 2024, Chapters 240, 307
64 **26B-2-127**, as last amended by Laws of Utah 2023, Chapter 466 and renumbered and
65 amended by Laws of Utah 2023, Chapter 305
66 **26B-3-108**, as last amended by Laws of Utah 2024, Chapter 284
67 **26B-5-316**, as last amended by Laws of Utah 2024, Chapter 366
68 **26B-6-411**, as last amended by Laws of Utah 2024, Chapter 366
69 **26B-8-101**, as last amended by Laws of Utah 2024, Chapter 366
70 **26B-8-102**, as renumbered and amended by Laws of Utah 2023, Chapter 306
71 **26B-8-104**, as last amended by Laws of Utah 2024, Chapter 295
72 **26B-8-110**, as renumbered and amended by Laws of Utah 2023, Chapter 306
73 **26B-8-119**, as renumbered and amended by Laws of Utah 2023, Chapter 306
74 **26B-8-125**, as renumbered and amended by Laws of Utah 2023, Chapter 306
75 **26B-8-128**, as last amended by Laws of Utah 2023, Chapter 289 and renumbered and
76 amended by Laws of Utah 2023, Chapter 306
77 **26B-8-131**, as renumbered and amended by Laws of Utah 2023, Chapter 306
78 **26B-9-101**, as last amended by Laws of Utah 2024, Chapter 366
79 **26B-9-104**, as last amended by Laws of Utah 2024, Chapter 366
80 **26B-9-108**, as renumbered and amended by Laws of Utah 2023, Chapter 305
81 **26B-9-205**, as renumbered and amended by Laws of Utah 2023, Chapter 305
82 **26B-9-206**, as renumbered and amended by Laws of Utah 2023, Chapter 305
83 **26B-9-207**, as renumbered and amended by Laws of Utah 2023, Chapter 305
84 **26B-9-209**, as renumbered and amended by Laws of Utah 2023, Chapter 305
85 **26B-9-213**, as last amended by Laws of Utah 2024, Chapter 366
86 **26B-9-230**, as last amended by Laws of Utah 2024, Chapter 366
87 **35A-3-308**, as last amended by Laws of Utah 2023, Chapter 328
88 **53-10-108**, as last amended by Laws of Utah 2023, Chapter 328
89 **53B-1-119**, as enacted by Laws of Utah 2024, Chapter 378
90 **53G-11-209**, as enacted by Laws of Utah 2024, Chapter 48
91 **58-60-112**, as last amended by Laws of Utah 2024, Chapter 366
92 **63A-17-106**, as last amended by Laws of Utah 2024, Chapter 397
93 **63J-1-602.1**, as last amended by Laws of Utah 2024, Chapters 88, 501
94 **63J-1-602.2**, as last amended by Laws of Utah 2024, Chapters 241, 285, 425, and 467
95 **75-2-114**, as last amended by Laws of Utah 2014, Chapter 142

96 **75-5-209**, as last amended by Laws of Utah 2021, Chapter 262
97 **76-5-301.2**, as enacted by Laws of Utah 2023, Chapter 125
98 **76-7-102**, as last amended by Laws of Utah 2022, Chapter 217
99 **77-38b-102**, as last amended by Laws of Utah 2024, Chapter 330
100 **78A-5-102**, as last amended by Laws of Utah 2024, Chapter 158
101 **78A-5a-103**, as last amended by Laws of Utah 2024, Chapters 158, 366
102 **78A-6-103**, as last amended by Laws of Utah 2024, Chapter 366
103 **78A-6-104**, as last amended by Laws of Utah 2024, Chapter 366
104 **78A-6-356**, as last amended by Laws of Utah 2024, Chapter 366
105 **78A-6-358**, as last amended by Laws of Utah 2023, Chapter 115
106 **78A-6-359**, as last amended by Laws of Utah 2022, Chapter 442
107 **78B-3-205**, as renumbered and amended by Laws of Utah 2008, Chapter 3
108 **78B-3-416**, as last amended by Laws of Utah 2024, Chapter 366
109 **78B-22-201**, as last amended by Laws of Utah 2022, Chapter 281
110 **78B-22-901**, as last amended by Laws of Utah 2023, Chapter 229
111 **78B-22-903**, as last amended by Laws of Utah 2023, Chapter 229
112 **80-1-102**, as last amended by Laws of Utah 2024, Chapter 256
113 **80-2-503.5**, as last amended by Laws of Utah 2024, Chapter 276
114 **80-2-702**, as last amended by Laws of Utah 2022, Chapter 308 and renumbered and
115 amended by Laws of Utah 2022, Chapter 334 and last amended by Coordination Clause, Laws
116 of Utah 2022, Chapter 334
117 **80-2-802**, as last amended by Laws of Utah 2023, Chapter 330
118 **80-2-803**, as last amended by Laws of Utah 2023, Chapter 330
119 **80-2-906**, as last amended by Laws of Utah 2024, Chapter 366
120 **80-2-909**, as last amended by Laws of Utah 2024, Chapter 267
121 **80-2-1005**, as last amended by Laws of Utah 2023, Chapter 330
122 **80-2a-101**, as enacted by Laws of Utah 2022, Chapter 334 and last amended by
123 Coordination Clause, Laws of Utah 2022, Chapter 334
124 **80-2a-201**, as last amended by Laws of Utah 2023, Chapter 320
125 **80-2a-304**, as last amended by Laws of Utah 2022, Chapter 287 and renumbered and
126 amended by Laws of Utah 2022, Chapter 334
127 **80-3-102**, as last amended by Laws of Utah 2022, Chapters 287, 334
128 **80-3-107**, as last amended by Laws of Utah 2022, Chapter 335
129 **80-3-204**, as last amended by Laws of Utah 2023, Chapter 330

130 **80-3-301**, as last amended by Laws of Utah 2023, Chapter 309
131 **80-3-302**, as last amended by Laws of Utah 2023, Chapters 309, 330
132 **80-3-307**, as last amended by Laws of Utah 2023, Chapters 309, 320
133 **80-3-405**, as last amended by Laws of Utah 2023, Chapters 309, 320 and 330
134 **80-3-409**, as last amended by Laws of Utah 2024, Chapter 240
135 **80-3-502**, as renumbered and amended by Laws of Utah 2021, Chapter 261
136 **80-4-104**, as last amended by Laws of Utah 2024, Chapter 293
137 **80-4-106**, as last amended by Laws of Utah 2022, Chapter 334
138 **80-4-203**, as last amended by Laws of Utah 2022, Chapter 335
139 **80-4-302**, as last amended by Laws of Utah 2023, Chapter 330
140 **80-4-307**, as last amended by Laws of Utah 2024, Chapter 98
141 **80-4-502**, as last amended by Laws of Utah 2023, Chapter 139
142 **80-7-102**, as renumbered and amended by Laws of Utah 2021, Chapter 261
143 **81-1-101**, as enacted by Laws of Utah 2024, Chapter 366
144 **81-1-202**, as enacted by Laws of Utah 2024, Chapter 366
145 **81-4-404**, as renumbered and amended by Laws of Utah 2024, Chapter 366
146 **81-9-202**, as renumbered and amended by Laws of Utah 2024, Chapter 366
147 **81-9-203**, as renumbered and amended by Laws of Utah 2024, Chapter 366
148 **81-9-204**, as renumbered and amended by Laws of Utah 2024, Chapter 366
149 **81-9-208**, as renumbered and amended by Laws of Utah 2024, Chapter 366
150 **81-9-209**, as renumbered and amended by Laws of Utah 2024, Chapter 366
151 **81-9-303**, as renumbered and amended by Laws of Utah 2024, Chapter 366
152 **81-9-305**, as renumbered and amended by Laws of Utah 2024, Chapter 366
153 **81-9-402**, as renumbered and amended by Laws of Utah 2024, Chapter 366

ENACTS:

155 **81-5-105**, Utah Code Annotated 1953
156 **81-13-201**, Utah Code Annotated 1953
157 **81-13-204**, Utah Code Annotated 1953
158 **81-13-301**, Utah Code Annotated 1953
159 **81-13-304**, Utah Code Annotated 1953
160 **81-13-305**, Utah Code Annotated 1953
161 **81-13-306**, Utah Code Annotated 1953
162 **81-13-401**, Utah Code Annotated 1953
163 **81-13-501**, Utah Code Annotated 1953

164 RENUMBERS AND AMENDS:

165 **81-5-102**, (Renumbered from 78B-15-102, as last amended by Laws of Utah 2024,
166 Chapter 366)

167 **81-5-103**, (Renumbered from 78B-15-103, as renumbered and amended by Laws
168 of Utah 2008, Chapter 3)

169 **81-5-104**, (Renumbered from 78B-15-104, as last amended by Laws of Utah 2023,
170 Chapter 330)

171 **81-5-201**, (Renumbered from 78B-15-201, as last amended by Laws of Utah 2017,
172 Chapter 156)

173 **81-5-202**, (Renumbered from 78B-15-202, as renumbered and amended by Laws
174 of Utah 2008, Chapter 3)

175 **81-5-203**, (Renumbered from 78B-15-203, as renumbered and amended by Laws
176 of Utah 2008, Chapter 3)

177 **81-5-204**, (Renumbered from 78B-15-204, as renumbered and amended by Laws
178 of Utah 2008, Chapter 3)

179 **81-5-301**, (Renumbered from 78B-15-301, as renumbered and amended by Laws
180 of Utah 2008, Chapter 3)

181 **81-5-302**, (Renumbered from 78B-15-302, as renumbered and amended by Laws
182 of Utah 2008, Chapter 3)

183 **81-5-303**, (Renumbered from 78B-15-303, as renumbered and amended by Laws
184 of Utah 2008, Chapter 3)

185 **81-5-304**, (Renumbered from 78B-15-304, as renumbered and amended by Laws
186 of Utah 2008, Chapter 3)

187 **81-5-305**, (Renumbered from 78B-15-305, as renumbered and amended by Laws
188 of Utah 2008, Chapter 3)

189 **81-5-306**, (Renumbered from 78B-15-306, as renumbered and amended by Laws
190 of Utah 2008, Chapter 3)

191 **81-5-307**, (Renumbered from 78B-15-307, as renumbered and amended by Laws
192 of Utah 2008, Chapter 3)

193 **81-5-308**, (Renumbered from 78B-15-308, as renumbered and amended by Laws
194 of Utah 2008, Chapter 3)

195 **81-5-309**, (Renumbered from 78B-15-309, as renumbered and amended by Laws
196 of Utah 2008, Chapter 3)

197 **81-5-310**, (Renumbered from 78B-15-310, as renumbered and amended by Laws

198 of Utah 2008, Chapter 3)
199 **81-5-311**, (Renumbered from 78B-15-311, as renumbered and amended by Laws
200 of Utah 2008, Chapter 3)
201 **81-5-312**, (Renumbered from 78B-15-312, as renumbered and amended by Laws
202 of Utah 2008, Chapter 3)
203 **81-5-313**, (Renumbered from 78B-15-313, as renumbered and amended by Laws
204 of Utah 2008, Chapter 3)
205 **81-5-401**, (Renumbered from 78B-15-401, as renumbered and amended by Laws
206 of Utah 2008, Chapter 3)
207 **81-5-402**, (Renumbered from 78B-15-402, as renumbered and amended by Laws
208 of Utah 2008, Chapter 3)
209 **81-5-403**, (Renumbered from 78B-15-403, as renumbered and amended by Laws
210 of Utah 2008, Chapter 3)
211 **81-5-404**, (Renumbered from 78B-15-404, as renumbered and amended by Laws
212 of Utah 2008, Chapter 3)
213 **81-5-405**, (Renumbered from 78B-15-405, as renumbered and amended by Laws
214 of Utah 2008, Chapter 3)
215 **81-5-406**, (Renumbered from 78B-15-406, as renumbered and amended by Laws
216 of Utah 2008, Chapter 3)
217 **81-5-407**, (Renumbered from 78B-15-407, as renumbered and amended by Laws
218 of Utah 2008, Chapter 3)
219 **81-5-408**, (Renumbered from 78B-15-408, as renumbered and amended by Laws
220 of Utah 2008, Chapter 3)
221 **81-5-409**, (Renumbered from 78B-15-409, as renumbered and amended by Laws
222 of Utah 2008, Chapter 3)
223 **81-5-410**, (Renumbered from 78B-15-410, as renumbered and amended by Laws
224 of Utah 2008, Chapter 3)
225 **81-5-501**, (Renumbered from 78B-15-501, as renumbered and amended by Laws
226 of Utah 2008, Chapter 3)
227 **81-5-502**, (Renumbered from 78B-15-502, as renumbered and amended by Laws
228 of Utah 2008, Chapter 3)
229 **81-5-503**, (Renumbered from 78B-15-503, as renumbered and amended by Laws
230 of Utah 2008, Chapter 3)
231 **81-5-504**, (Renumbered from 78B-15-504, as renumbered and amended by Laws

232 of Utah 2008, Chapter 3)
233 **81-5-505**, (Renumbered from 78B-15-505, as renumbered and amended by Laws
234 of Utah 2008, Chapter 3)
235 **81-5-506**, (Renumbered from 78B-15-506, as renumbered and amended by Laws
236 of Utah 2008, Chapter 3)
237 **81-5-507**, (Renumbered from 78B-15-507, as renumbered and amended by Laws
238 of Utah 2008, Chapter 3)
239 **81-5-508**, (Renumbered from 78B-15-508, as renumbered and amended by Laws
240 of Utah 2008, Chapter 3)
241 **81-5-509**, (Renumbered from 78B-15-509, as renumbered and amended by Laws
242 of Utah 2008, Chapter 3)
243 **81-5-510**, (Renumbered from 78B-15-510, as renumbered and amended by Laws
244 of Utah 2008, Chapter 3)
245 **81-5-511**, (Renumbered from 78B-15-511, as renumbered and amended by Laws
246 of Utah 2008, Chapter 3)
247 **81-5-601**, (Renumbered from 78B-15-601, as renumbered and amended by Laws
248 of Utah 2008, Chapter 3)
249 **81-5-602**, (Renumbered from 78B-15-602, as renumbered and amended by Laws
250 of Utah 2008, Chapter 3)
251 **81-5-603**, (Renumbered from 78B-15-603, as last amended by Laws of Utah 2024,
252 Chapter 366)
253 **81-5-604**, (Renumbered from 78B-15-604, as renumbered and amended by Laws
254 of Utah 2008, Chapter 3)
255 **81-5-605**, (Renumbered from 78B-15-605, as renumbered and amended by Laws
256 of Utah 2008, Chapter 3)
257 **81-5-606**, (Renumbered from 78B-15-606, as renumbered and amended by Laws
258 of Utah 2008, Chapter 3)
259 **81-5-607**, (Renumbered from 78B-15-607, as last amended by Laws of Utah 2017,
260 Chapter 156)
261 **81-5-608**, (Renumbered from 78B-15-608, as renumbered and amended by Laws
262 of Utah 2008, Chapter 3)
263 **81-5-609**, (Renumbered from 78B-15-609, as renumbered and amended by Laws
264 of Utah 2008, Chapter 3)
265 **81-5-610**, (Renumbered from 78B-15-610, as last amended by Laws of Utah 2024,

266 Chapter 366)
267 **81-5-611**, (Renumbered from 78B-15-611, as renumbered and amended by Laws
268 of Utah 2008, Chapter 3)
269 **81-5-612**, (Renumbered from 78B-15-612, as last amended by Laws of Utah 2021,
270 Chapter 262)
271 **81-5-613**, (Renumbered from 78B-15-613, as renumbered and amended by Laws
272 of Utah 2008, Chapter 3)
273 **81-5-614**, (Renumbered from 78B-15-614, as renumbered and amended by Laws
274 of Utah 2008, Chapter 3)
275 **81-5-615**, (Renumbered from 78B-15-615, as renumbered and amended by Laws
276 of Utah 2008, Chapter 3)
277 **81-5-616**, (Renumbered from 78B-15-616, as renumbered and amended by Laws
278 of Utah 2008, Chapter 3)
279 **81-5-617**, (Renumbered from 78B-15-617, as renumbered and amended by Laws
280 of Utah 2008, Chapter 3)
281 **81-5-618**, (Renumbered from 78B-15-618, as renumbered and amended by Laws
282 of Utah 2008, Chapter 3)
283 **81-5-619**, (Renumbered from 78B-15-619, as renumbered and amended by Laws
284 of Utah 2008, Chapter 3)
285 **81-5-620**, (Renumbered from 78B-15-620, as renumbered and amended by Laws
286 of Utah 2008, Chapter 3)
287 **81-5-621**, (Renumbered from 78B-15-621, as renumbered and amended by Laws
288 of Utah 2008, Chapter 3)
289 **81-5-622**, (Renumbered from 78B-15-622, as renumbered and amended by Laws
290 of Utah 2008, Chapter 3)
291 **81-5-623**, (Renumbered from 78B-15-623, as last amended by Laws of Utah 2024,
292 Chapter 366)
293 **81-5-701**, (Renumbered from 78B-15-701, as renumbered and amended by Laws
294 of Utah 2008, Chapter 3)
295 **81-5-702**, (Renumbered from 78B-15-702, as renumbered and amended by Laws
296 of Utah 2008, Chapter 3)
297 **81-5-703**, (Renumbered from 78B-15-703, as renumbered and amended by Laws
298 of Utah 2008, Chapter 3)
299 **81-5-704**, (Renumbered from 78B-15-704, as renumbered and amended by Laws

300 of Utah 2008, Chapter 3)
301 **81-5-705**, (Renumbered from 78B-15-705, as renumbered and amended by Laws
302 of Utah 2008, Chapter 3)
303 **81-5-706**, (Renumbered from 78B-15-706, as renumbered and amended by Laws
304 of Utah 2008, Chapter 3)
305 **81-5-707**, (Renumbered from 78B-15-707, as renumbered and amended by Laws
306 of Utah 2008, Chapter 3)
307 **81-5-708**, (Renumbered from 78B-15-708, as enacted by Laws of Utah 2015,
308 Chapter 159)
309 **81-5-801**, (Renumbered from 78B-15-801, as last amended by Laws of Utah 2024,
310 Chapter 367)
311 **81-5-802**, (Renumbered from 78B-15-802, as last amended by Laws of Utah 2024,
312 Chapter 367)
313 **81-5-803**, (Renumbered from 78B-15-803, as last amended by Laws of Utah 2024,
314 Chapter 367)
315 **81-5-804**, (Renumbered from 78B-15-804, as renumbered and amended by Laws
316 of Utah 2008, Chapter 3)
317 **81-5-805**, (Renumbered from 78B-15-805, as renumbered and amended by Laws
318 of Utah 2008, Chapter 3)
319 **81-5-806**, (Renumbered from 78B-15-806, as last amended by Laws of Utah 2024,
320 Chapter 367)
321 **81-5-807**, (Renumbered from 78B-15-807, as renumbered and amended by Laws
322 of Utah 2008, Chapter 3)
323 **81-5-808**, (Renumbered from 78B-15-808, as last amended by Laws of Utah 2024,
324 Chapter 367)
325 **81-5-809**, (Renumbered from 78B-15-809, as renumbered and amended by Laws
326 of Utah 2008, Chapter 3)
327 **81-5-901**, (Renumbered from 78B-15-901, as renumbered and amended by Laws
328 of Utah 2008, Chapter 3)
329 **81-5-902**, (Renumbered from 78B-15-902, as renumbered and amended by Laws
330 of Utah 2008, Chapter 3)
331 **81-8-102**, (Renumbered from 78B-14-102, as last amended by Laws of Utah 2024,
332 Chapter 381)
333 **81-8-103**, (Renumbered from 78B-14-103, as last amended by Laws of Utah 2023,

334 Chapter 330)
335 **81-8-104**, (Renumbered from 78B-14-104, as and further amended by Revisor
336 Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011,
337 Chapter 412)
338 **81-8-105**, (Renumbered from 78B-14-105, as and further amended by Revisor
339 Instructions, Laws of Utah 2013, Chapter 245 and enacted by Laws of Utah 2011, Chapter 412)
340 **81-8-201**, (Renumbered from 78B-14-201, as last amended by Laws of Utah 2015,
341 Chapter 45)
342 **81-8-202**, (Renumbered from 78B-14-202, as renumbered and amended by Laws
343 of Utah 2008, Chapter 3)
344 **81-8-203**, (Renumbered from 78B-14-203, as and further amended by Revisor
345 Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011,
346 Chapter 412)
347 **81-8-204**, (Renumbered from 78B-14-204, as last amended by Laws of Utah 2015,
348 Chapter 45)
349 **81-8-205**, (Renumbered from 78B-14-205, as last amended by Laws of Utah 2015,
350 Chapter 45)
351 **81-8-206**, (Renumbered from 78B-14-206, as and further amended by Revisor
352 Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011,
353 Chapter 412)
354 **81-8-207**, (Renumbered from 78B-14-207, as and further amended by Revisor
355 Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011,
356 Chapter 412)
357 **81-8-208**, (Renumbered from 78B-14-208, as and further amended by Revisor
358 Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011,
359 Chapter 412)
360 **81-8-209**, (Renumbered from 78B-14-209, as and further amended by Revisor
361 Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011,
362 Chapter 412)
363 **81-8-210**, (Renumbered from 78B-14-210, as and further amended by Revisor
364 Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011,
365 Chapter 412)
366 **81-8-211**, (Renumbered from 78B-14-211, as and further amended by Revisor
367 Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011,

368 Chapter 412)
369 **81-8-301**, (Renumbered from 78B-14-301, as and further amended by Revisor
370 Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011,
371 Chapter 412)
372 **81-8-302**, (Renumbered from 78B-14-302, as renumbered and amended by Laws
373 of Utah 2008, Chapter 3)
374 **81-8-303**, (Renumbered from 78B-14-303, as renumbered and amended by Laws
375 of Utah 2008, Chapter 3)
376 **81-8-304**, (Renumbered from 78B-14-304, as and further amended by Revisor
377 Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011,
378 Chapter 412)
379 **81-8-305**, (Renumbered from 78B-14-305, as and further amended by Revisor
380 Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011,
381 Chapter 412)
382 **81-8-306**, (Renumbered from 78B-14-306, as renumbered and amended by Laws
383 of Utah 2008, Chapter 3)
384 **81-8-307**, (Renumbered from 78B-14-307, as last amended by Laws of Utah 2015,
385 Chapter 45)
386 **81-8-308**, (Renumbered from 78B-14-308, as and further amended by Revisor
387 Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011,
388 Chapter 412)
389 **81-8-309**, (Renumbered from 78B-14-309, as renumbered and amended by Laws
390 of Utah 2008, Chapter 3)
391 **81-8-310**, (Renumbered from 78B-14-310, as last amended by Laws of Utah 2015,
392 Chapter 45)
393 **81-8-311**, (Renumbered from 78B-14-311, as and further amended by Revisor
394 Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011,
395 Chapter 412)
396 **81-8-312**, (Renumbered from 78B-14-312, as renumbered and amended by Laws
397 of Utah 2008, Chapter 3)
398 **81-8-313**, (Renumbered from 78B-14-313, as and further amended by Revisor
399 Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011,
400 Chapter 412)
401 **81-8-314**, (Renumbered from 78B-14-314, as renumbered and amended by Laws

of Utah 2008, Chapter 3)

81-8-315, (Renumbered from 78B-14-315, as renumbered and amended by Laws of Utah 2008, Chapter 3)

81-8-316, (Renumbered from 78B-14-316, as last amended by Laws of Utah 2015, Chapter 45)

81-8-317, (Renumbered from 78B-14-317, as last amended by Laws of Utah 2015, Chapter 45)

81-8-318, (Renumbered from 78B-14-318, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011, Chapter 412)

81-8-319, (Renumbered from 78B-14-319, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011, Chapter 412)

81-8-401, (Renumbered from 78B-14-401, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011, Chapter 412)

81-8-402, (Renumbered from 78B-14-402, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245 and renumbered and amended by Laws of Utah 2011, Chapter 412)

81-8-501, (Renumbered from 78B-14-501, as last amended by Laws of Utah 2023, Chapter 330)

81-8-502, (Renumbered from 78B-14-502, as last amended by Laws of Utah 2015, Chapter 45)

81-8-503, (Renumbered from 78B-14-503, as last amended by Laws of Utah 2015, Chapter 45)

81-8-504, (Renumbered from 78B-14-504, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011, Chapter 412)

81-8-505, (Renumbered from 78B-14-505, as and further amended by Revisor Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011, Chapter 412)

81-8-506, (Renumbered from 78B-14-506, as renumbered and amended by Laws of Utah 2008, Chapter 3)

81-8-507, (Renumbered from 78B-14-507, as last amended by Laws of Utah 2015,

436 Chapter 45)
437 **81-8-601**, (Renumbered from 78B-14-601, as last amended by Laws of Utah 2015,
438 Chapter 45)
439 **81-8-602**, (Renumbered from 78B-14-602, as last amended by Laws of Utah 2015,
440 Chapter 45)
441 **81-8-603**, (Renumbered from 78B-14-603, as last amended by Laws of Utah 2015,
442 Chapter 45)
443 **81-8-604**, (Renumbered from 78B-14-604, as and further amended by Revisor
444 Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011,
445 Chapter 412)
446 **81-8-605**, (Renumbered from 78B-14-605, as last amended by Laws of Utah 2023,
447 Chapter 330)
448 **81-8-606**, (Renumbered from 78B-14-606, as last amended by Laws of Utah 2015,
449 Chapter 45)
450 **81-8-607**, (Renumbered from 78B-14-607, as and further amended by Revisor
451 Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011,
452 Chapter 412)
453 **81-8-608**, (Renumbered from 78B-14-608, as and further amended by Revisor
454 Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011,
455 Chapter 412)
456 **81-8-609**, (Renumbered from 78B-14-609, as and further amended by Revisor
457 Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011,
458 Chapter 412)
459 **81-8-610**, (Renumbered from 78B-14-610, as and further amended by Revisor
460 Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011,
461 Chapter 412)
462 **81-8-611**, (Renumbered from 78B-14-611, as and further amended by Revisor
463 Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011,
464 Chapter 412)
465 **81-8-612**, (Renumbered from 78B-14-612, as last amended by Laws of Utah 2015,
466 Chapter 45)
467 **81-8-613**, (Renumbered from 78B-14-613, as last amended by Laws of Utah 2016,
468 Chapter 348)
469 **81-8-614**, (Renumbered from 78B-14-614, as renumbered and amended by Laws

of Utah 2008, Chapter 3)

81-8-615, (Renumbered from 78B-14-615, as and further amended by Revisor
Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011,
Chapter 412)

81-8-616, (Renumbered from 78B-14-616, as and further amended by Revisor
Instructions, Laws of Utah 2013, Chapter 245 and enacted by Laws of Utah 2011, Chapter 412)

81-8-701, (Renumbered from 78B-14-701.5, as and further amended by Revisor
Instructions, Laws of Utah 2013, Chapter 245 and enacted by Laws of Utah 2011, Chapter 412)

81-8-702, (Renumbered from 78B-14-702, as and further amended by Revisor
Instructions, Laws of Utah 2013, Chapter 245 and enacted by Laws of Utah 2011, Chapter 412)

81-8-703, (Renumbered from 78B-14-703, as last amended by Laws of Utah 2023,
Chapter 330)

81-8-704, (Renumbered from 78B-14-704, as last amended by Laws of Utah 2023,
Chapter 330)

81-8-705, (Renumbered from 78B-14-705, as and further amended by Revisor
Instructions, Laws of Utah 2013, Chapter 245 and enacted by Laws of Utah 2011, Chapter 412)

81-8-706, (Renumbered from 78B-14-706, as and further amended by Revisor
Instructions, Laws of Utah 2013, Chapter 245 and enacted by Laws of Utah 2011, Chapter 412)

81-8-707, (Renumbered from 78B-14-707, as and further amended by Revisor
Instructions, Laws of Utah 2013, Chapter 245 and enacted by Laws of Utah 2011, Chapter 412)

81-8-708, (Renumbered from 78B-14-708, as last amended by Laws of Utah 2015,
Chapter 45)

81-8-709, (Renumbered from 78B-14-709, as and further amended by Revisor
Instructions, Laws of Utah 2013, Chapter 245 and enacted by Laws of Utah 2011, Chapter 412)

81-8-710, (Renumbered from 78B-14-710, as and further amended by Revisor
Instructions, Laws of Utah 2013, Chapter 245 and enacted by Laws of Utah 2011, Chapter 412)

81-8-711, (Renumbered from 78B-14-711, as and further amended by Revisor
Instructions, Laws of Utah 2013, Chapter 245 and enacted by Laws of Utah 2011, Chapter 412)

81-8-712, (Renumbered from 78B-14-712, as and further amended by Revisor

Instructions, Laws of Utah 2013, Chapter 245 and enacted by Laws of Utah 2011, Chapter 412)

81-8-713, (Renumbered from 78B-14-713, as and further amended by Revisor

Instructions, Laws of Utah 2013, Chapter 245 and enacted by Laws of Utah 2011, Chapter 412)

81-8-801, (Renumbered from 78B-14-801, as renumbered and amended by Laws
of Utah 2008, Chapter 3)

504 **81-8-802**, (Renumbered from 78B-14-802, as renumbered and amended by Laws
505 of Utah 2008, Chapter 3)
506 **81-8-901**, (Renumbered from 78B-14-901, as and further amended by Revisor
507 Instructions, Laws of Utah 2013, Chapter 245 and last amended by Laws of Utah 2011,
508 Chapter 412)
509 **81-8-902**, (Renumbered from 78B-14-902, as last amended by Laws of Utah 2015,
510 Chapter 45)
511 **81-10-101**, (Renumbered from 78B-20-102, as last amended by Laws of Utah 2023,
512 Chapter 44)
513 **81-10-102**, (Renumbered from 78B-20-103, as enacted by Laws of Utah 2016,
514 Chapter 292)
515 **81-10-103**, (Renumbered from 78B-20-104, as enacted by Laws of Utah 2016,
516 Chapter 292)
517 **81-10-104**, (Renumbered from 78B-20-105, as enacted by Laws of Utah 2016,
518 Chapter 292)
519 **81-10-105**, (Renumbered from 78B-20-106, as enacted by Laws of Utah 2016,
520 Chapter 292)
521 **81-10-106**, (Renumbered from 78B-20-107, as last amended by Laws of Utah 2023,
522 Chapter 44)
523 **81-10-201**, (Renumbered from 78B-20-201, as last amended by Laws of Utah 2017,
524 Chapter 224)
525 **81-10-202**, (Renumbered from 78B-20-202, as enacted by Laws of Utah 2016,
526 Chapter 292)
527 **81-10-203**, (Renumbered from 78B-20-203, as enacted by Laws of Utah 2016,
528 Chapter 292)
529 **81-10-204**, (Renumbered from 78B-20-204, as enacted by Laws of Utah 2016,
530 Chapter 292)
531 **81-10-205**, (Renumbered from 78B-20-205, as last amended by Laws of Utah 2017,
532 Chapter 224)
533 **81-10-301**, (Renumbered from 78B-20-301, as enacted by Laws of Utah 2016,
534 Chapter 292)
535 **81-10-302**, (Renumbered from 78B-20-302, as last amended by Laws of Utah 2022,
536 Chapter 373)
537 **81-10-303**, (Renumbered from 78B-20-303, as enacted by Laws of Utah 2016,

538 Chapter 292)
539 **81-10-304**, (Renumbered from 78B-20-304, as enacted by Laws of Utah 2016,
540 Chapter 292)
541 **81-10-305**, (Renumbered from 78B-20-305, as enacted by Laws of Utah 2016,
542 Chapter 292)
543 **81-10-306**, (Renumbered from 78B-20-306, as enacted by Laws of Utah 2016,
544 Chapter 292)
545 **81-10-307**, (Renumbered from 78B-20-307, as enacted by Laws of Utah 2016,
546 Chapter 292)
547 **81-10-308**, (Renumbered from 78B-20-308, as enacted by Laws of Utah 2016,
548 Chapter 292)
549 **81-10-309**, (Renumbered from 78B-20-309, as enacted by Laws of Utah 2016,
550 Chapter 292)
551 **81-10-310**, (Renumbered from 78B-20-310, as enacted by Laws of Utah 2016,
552 Chapter 292)
553 **81-10-311**, (Renumbered from 78B-20-311, as last amended by Laws of Utah 2022,
554 Chapter 373)
555 **81-10-401**, (Renumbered from 78B-20-401, as last amended by Laws of Utah 2017,
556 Chapter 224)
557 **81-10-402**, (Renumbered from 78B-20-402, as enacted by Laws of Utah 2016,
558 Chapter 292)
559 **81-10-403**, (Renumbered from 78B-20-403, as last amended by Laws of Utah 2024,
560 Chapter 366)
561 **81-10-404**, (Renumbered from 78B-20-404, as last amended by Laws of Utah 2024,
562 Chapter 366)
563 **81-10-501**, (Renumbered from 78B-20-501, as enacted by Laws of Utah 2016,
564 Chapter 292)
565 **81-10-502**, (Renumbered from 78B-20-502, as enacted by Laws of Utah 2016,
566 Chapter 292)
567 **81-10-503**, (Renumbered from 78B-20-503, as enacted by Laws of Utah 2016,
568 Chapter 292)
569 **81-11-101**, (Renumbered from 78B-13-102, as renumbered and amended by Laws
570 of Utah 2008, Chapter 3)
571 **81-11-102**, (Renumbered from 78B-13-103, as renumbered and amended by Laws

572 of Utah 2008, Chapter 3)
573 **81-11-103**, (Renumbered from 78B-13-104, as renumbered and amended by Laws
574 of Utah 2008, Chapter 3)
575 **81-11-104**, (Renumbered from 78B-13-105, as renumbered and amended by Laws
576 of Utah 2008, Chapter 3)
577 **81-11-105**, (Renumbered from 78B-13-106, as renumbered and amended by Laws
578 of Utah 2008, Chapter 3)
579 **81-11-106**, (Renumbered from 78B-13-107, as renumbered and amended by Laws
580 of Utah 2008, Chapter 3)
581 **81-11-107**, (Renumbered from 78B-13-108, as renumbered and amended by Laws
582 of Utah 2008, Chapter 3)
583 **81-11-108**, (Renumbered from 78B-13-109, as renumbered and amended by Laws
584 of Utah 2008, Chapter 3)
585 **81-11-109**, (Renumbered from 78B-13-110, as renumbered and amended by Laws
586 of Utah 2008, Chapter 3)
587 **81-11-110**, (Renumbered from 78B-13-111, as renumbered and amended by Laws
588 of Utah 2008, Chapter 3)
589 **81-11-111**, (Renumbered from 78B-13-112, as renumbered and amended by Laws
590 of Utah 2008, Chapter 3)
591 **81-11-201**, (Renumbered from 78B-13-201, as renumbered and amended by Laws
592 of Utah 2008, Chapter 3)
593 **81-11-202**, (Renumbered from 78B-13-202, as renumbered and amended by Laws
594 of Utah 2008, Chapter 3)
595 **81-11-203**, (Renumbered from 78B-13-203, as renumbered and amended by Laws
596 of Utah 2008, Chapter 3)
597 **81-11-204**, (Renumbered from 78B-13-204, as renumbered and amended by Laws
598 of Utah 2008, Chapter 3)
599 **81-11-205**, (Renumbered from 78B-13-205, as renumbered and amended by Laws
600 of Utah 2008, Chapter 3)
601 **81-11-206**, (Renumbered from 78B-13-206, as renumbered and amended by Laws
602 of Utah 2008, Chapter 3)
603 **81-11-207**, (Renumbered from 78B-13-207, as renumbered and amended by Laws
604 of Utah 2008, Chapter 3)
605 **81-11-208**, (Renumbered from 78B-13-208, as renumbered and amended by Laws

606 of Utah 2008, Chapter 3)
607 **81-11-209**, (Renumbered from 78B-13-209, as renumbered and amended by Laws
608 of Utah 2008, Chapter 3)
609 **81-11-210**, (Renumbered from 78B-13-210, as renumbered and amended by Laws
610 of Utah 2008, Chapter 3)
611 **81-11-301**, (Renumbered from 78B-13-301, as renumbered and amended by Laws
612 of Utah 2008, Chapter 3)
613 **81-11-302**, (Renumbered from 78B-13-302, as renumbered and amended by Laws
614 of Utah 2008, Chapter 3)
615 **81-11-303**, (Renumbered from 78B-13-303, as renumbered and amended by Laws
616 of Utah 2008, Chapter 3)
617 **81-11-304**, (Renumbered from 78B-13-304, as renumbered and amended by Laws
618 of Utah 2008, Chapter 3)
619 **81-11-305**, (Renumbered from 78B-13-305, as renumbered and amended by Laws
620 of Utah 2008, Chapter 3)
621 **81-11-306**, (Renumbered from 78B-13-306, as renumbered and amended by Laws
622 of Utah 2008, Chapter 3)
623 **81-11-307**, (Renumbered from 78B-13-307, as renumbered and amended by Laws
624 of Utah 2008, Chapter 3)
625 **81-11-308**, (Renumbered from 78B-13-308, as renumbered and amended by Laws
626 of Utah 2008, Chapter 3)
627 **81-11-309**, (Renumbered from 78B-13-309, as renumbered and amended by Laws
628 of Utah 2008, Chapter 3)
629 **81-11-310**, (Renumbered from 78B-13-310, as renumbered and amended by Laws
630 of Utah 2008, Chapter 3)
631 **81-11-311**, (Renumbered from 78B-13-311, as renumbered and amended by Laws
632 of Utah 2008, Chapter 3)
633 **81-11-312**, (Renumbered from 78B-13-312, as renumbered and amended by Laws
634 of Utah 2008, Chapter 3)
635 **81-11-313**, (Renumbered from 78B-13-313, as renumbered and amended by Laws
636 of Utah 2008, Chapter 3)
637 **81-11-314**, (Renumbered from 78B-13-314, as renumbered and amended by Laws
638 of Utah 2008, Chapter 3)
639 **81-11-315**, (Renumbered from 78B-13-315, as renumbered and amended by Laws

640 of Utah 2008, Chapter 3)
641 **81-11-316**, (Renumbered from 78B-13-316, as renumbered and amended by Laws
642 of Utah 2008, Chapter 3)
643 **81-11-317**, (Renumbered from 78B-13-317, as renumbered and amended by Laws
644 of Utah 2008, Chapter 3)
645 **81-11-318**, (Renumbered from 78B-13-318, as renumbered and amended by Laws
646 of Utah 2008, Chapter 3)
647 **81-12-101**, (Renumbered from 78B-16-102, as renumbered and amended by Laws
648 of Utah 2008, Chapter 3)
649 **81-12-102**, (Renumbered from 78B-16-103, as renumbered and amended by Laws
650 of Utah 2008, Chapter 3)
651 **81-12-103**, (Renumbered from 78B-16-104, as renumbered and amended by Laws
652 of Utah 2008, Chapter 3)
653 **81-12-104**, (Renumbered from 78B-16-105, as renumbered and amended by Laws
654 of Utah 2008, Chapter 3)
655 **81-12-105**, (Renumbered from 78B-16-106, as renumbered and amended by Laws
656 of Utah 2008, Chapter 3)
657 **81-12-106**, (Renumbered from 78B-16-107, as renumbered and amended by Laws
658 of Utah 2008, Chapter 3)
659 **81-12-107**, (Renumbered from 78B-16-108, as renumbered and amended by Laws
660 of Utah 2008, Chapter 3)
661 **81-12-108**, (Renumbered from 78B-16-109, as renumbered and amended by Laws
662 of Utah 2008, Chapter 3)
663 **81-12-109**, (Renumbered from 78B-16-110, as renumbered and amended by Laws
664 of Utah 2008, Chapter 3)
665 **81-12-110**, (Renumbered from 78B-16-111, as renumbered and amended by Laws
666 of Utah 2008, Chapter 3)
667 **81-12-111**, (Renumbered from 78B-16-112, as renumbered and amended by Laws
668 of Utah 2008, Chapter 3)
669 **81-13-101**, (Renumbered from 78B-6-103, as last amended by Laws of Utah 2024,
670 Chapter 261)
671 **81-13-102**, (Renumbered from 78B-6-105, as last amended by Laws of Utah 2024,
672 Chapter 158)
673 **81-13-103**, (Renumbered from 78B-6-141, as last amended by Laws of Utah 2021,

674 Chapter 262)
675 **81-13-104**, (Renumbered from 78B-6-106, as last amended by Laws of Utah 2017,
676 Chapter 148)
677 **81-13-105**, (Renumbered from 78B-6-142, as last amended by Laws of Utah 2023,
678 Chapter 330)
679 **81-13-106**, (Renumbered from 78B-6-121.5, as enacted by Laws of Utah 2015,
680 Chapter 183)
681 **81-13-202**, (Renumbered from 78B-6-102, as last amended by Laws of Utah 2019,
682 Chapter 335)
683 **81-13-203**, (Renumbered from 78B-6-117, as last amended by Laws of Utah 2022,
684 Chapters 185, 430)
685 **81-13-205**, (Renumbered from 78B-6-112, as last amended by Laws of Utah 2024,
686 Chapter 158)
687 **81-13-206**, (Renumbered from 78B-6-109, as last amended by Laws of Utah 2010,
688 Chapter 237)
689 **81-13-207**, (Renumbered from 78B-6-110, as last amended by Laws of Utah 2023,
690 Chapter 401)
691 **81-13-208**, (Renumbered from 78B-6-110.1, as last amended by Laws of Utah
692 2017, Chapter 148)
693 **81-13-209**, (Renumbered from 78B-6-110.5, as last amended by Laws of Utah
694 2019, Chapter 491)
695 **81-13-210**, (Renumbered from 78B-6-134, as last amended by Laws of Utah 2017,
696 Chapter 148)
697 **81-13-211**, (Renumbered from 78B-6-119, as last amended by Laws of Utah 2024,
698 Chapter 261)
699 **81-13-212**, (Renumbered from 78B-6-120, as last amended by Laws of Utah 2024,
700 Chapter 261)
701 **81-13-213**, (Renumbered from 78B-6-121, as last amended by Laws of Utah 2024,
702 Chapter 261)
703 **81-13-214**, (Renumbered from 78B-6-124, as last amended by Laws of Utah 2023,
704 Chapter 330)
705 **81-13-215**, (Renumbered from 78B-6-133, as last amended by Laws of Utah 2024,
706 Chapter 260)
707 **81-13-216**, (Renumbered from 78B-6-146, as enacted by Laws of Utah 2013,

708 Chapter 438)
709 **81-13-217**, (Renumbered from 78B-6-140, as last amended by Laws of Utah 2024,
710 Chapters 250, 261)
711 **81-13-218**, (Renumbered from 78B-6-136, as last amended by Laws of Utah 2012,
712 Chapter 340)
713 **81-13-219**, (Renumbered from 78B-6-136.5, as last amended by Laws of Utah
714 2024, Chapter 261)
715 **81-13-220**, (Renumbered from 78B-6-138, as last amended by Laws of Utah 2021,
716 Chapter 262)
717 **81-13-302**, (Renumbered from 78B-6-115, as last amended by Laws of Utah 2021,
718 Chapter 65)
719 **81-13-303**, (Renumbered from 78B-6-116, as last amended by Laws of Utah 2015,
720 Chapter 137)
721 **81-13-402**, (Renumbered from 78B-6-131, as last amended by Laws of Utah 2023,
722 Chapter 330)
723 **81-13-403**, (Renumbered from 78B-6-128, as last amended by Laws of Utah 2024,
724 Chapter 261)
725 **81-13-404**, (Renumbered from 78B-6-129, as last amended by Laws of Utah 2012,
726 Chapter 340)
727 **81-13-405**, (Renumbered from 78B-6-130, as last amended by Laws of Utah 2017,
728 Chapter 280)
729 **81-13-502**, (Renumbered from 78B-6-104, as last amended by Laws of Utah 2010,
730 Chapter 237)
731 **81-13-503**, (Renumbered from 78B-6-143, as last amended by Laws of Utah 2017,
732 Chapter 417)
733 **81-13-504**, (Renumbered from 78B-6-144, as last amended by Laws of Utah 2015,
734 Chapter 137)
735 **81-13-505**, (Renumbered from 78B-6-144.5, as enacted by Laws of Utah 2015,
736 Chapter 137)
737 **81-14-101**, (Renumbered from 78B-24-101, as enacted by Laws of Utah 2022,
738 Chapter 326)
739 **81-14-102**, (Renumbered from 78B-24-102, as enacted by Laws of Utah 2022,
740 Chapter 326)
741 **81-14-201**, (Renumbered from 78B-24-201, as enacted by Laws of Utah 2022,

742 Chapter 326)
743 **81-14-202**, (Renumbered from 78B-24-202, as enacted by Laws of Utah 2022,
744 Chapter 326)
745 **81-14-203**, (Renumbered from 78B-24-203, as last amended by Laws of Utah 2023,
746 Chapter 330)
747 **81-14-204**, (Renumbered from 78B-24-204, as enacted by Laws of Utah 2022,
748 Chapter 326)
749 **81-14-205**, (Renumbered from 78B-24-205, as enacted by Laws of Utah 2022,
750 Chapter 326)
751 **81-14-301**, (Renumbered from 78B-24-301, as enacted by Laws of Utah 2022,
752 Chapter 326)
753 **81-14-302**, (Renumbered from 78B-24-302, as enacted by Laws of Utah 2022,
754 Chapter 326)
755 **81-14-303**, (Renumbered from 78B-24-303, as enacted by Laws of Utah 2022,
756 Chapter 326)
757 **81-14-304**, (Renumbered from 78B-24-304, as enacted by Laws of Utah 2022,
758 Chapter 326)
759 **81-14-305**, (Renumbered from 78B-24-305, as enacted by Laws of Utah 2022,
760 Chapter 326)
761 **81-14-306**, (Renumbered from 78B-24-306, as enacted by Laws of Utah 2022,
762 Chapter 326)
763 **81-14-307**, (Renumbered from 78B-24-307, as last amended by Laws of Utah 2024,
764 Chapter 240)
765 **81-14-308**, (Renumbered from 78B-24-308, as last amended by Laws of Utah 2024,
766 Chapter 240)
767 **81-14-401**, (Renumbered from 78B-24-401, as enacted by Laws of Utah 2022,
768 Chapter 326)
769 **81-14-402**, (Renumbered from 78B-24-402, as enacted by Laws of Utah 2022,
770 Chapter 326)
771 **81-14-403**, (Renumbered from 78B-24-403, as enacted by Laws of Utah 2022,
772 Chapter 326)
773 **81-14-404**, (Renumbered from 78B-24-404, as enacted by Laws of Utah 2022,
774 Chapter 326)
775 REPEALS:

776 **78B-6-101**, as enacted by Laws of Utah 2008, Chapter 3
777 **78B-6-107**, as last amended by Laws of Utah 2022, Chapter 335
778 **78B-6-108**, as renumbered and amended by Laws of Utah 2008, Chapter 3
779 **78B-6-111**, as last amended by Laws of Utah 2015, Chapter 194
780 **78B-6-113**, as last amended by Laws of Utah 2023, Chapter 330
781 **78B-6-114**, as renumbered and amended by Laws of Utah 2008, Chapter 3
782 **78B-6-118**, as renumbered and amended by Laws of Utah 2008, Chapter 3
783 **78B-6-120.1**, as last amended by Laws of Utah 2021, Chapter 65
784 **78B-6-122**, as last amended by Laws of Utah 2024, Chapter 261
785 **78B-6-122.5**, as enacted by Laws of Utah 2010, Chapter 237
786 **78B-6-123**, as renumbered and amended by Laws of Utah 2008, Chapter 3
787 **78B-6-125**, as renumbered and amended by Laws of Utah 2008, Chapter 3
788 **78B-6-126**, as renumbered and amended by Laws of Utah 2008, Chapter 3
789 **78B-6-127**, as renumbered and amended by Laws of Utah 2008, Chapter 3
790 **78B-6-137**, as renumbered and amended by Laws of Utah 2008, Chapter 3
791 **78B-6-139**, as renumbered and amended by Laws of Utah 2008, Chapter 3
792 **78B-6-145**, as last amended by Laws of Utah 2012, Chapter 340
793 **78B-7-101**, as last amended by Laws of Utah 2020, Chapter 142
794 **78B-13-101**, as renumbered and amended by Laws of Utah 2008, Chapter 3
795 **78B-14-101**, as last amended by Laws of Utah 2015, Chapter 45
796 **78B-15-101**, as renumbered and amended by Laws of Utah 2008, Chapter 3
797 **78B-15-105**, as renumbered and amended by Laws of Utah 2008, Chapter 3
798 **78B-15-106**, as renumbered and amended by Laws of Utah 2008, Chapter 3
799 **78B-15-107**, as last amended by Laws of Utah 2023, Chapter 330
800 **78B-15-108**, as renumbered and amended by Laws of Utah 2008, Chapter 3
801 **78B-15-109**, as renumbered and amended by Laws of Utah 2008, Chapter 3
802 **78B-15-110**, as renumbered and amended by Laws of Utah 2008, Chapter 3
803 **78B-15-111**, as renumbered and amended by Laws of Utah 2008, Chapter 3
804 **78B-15-112**, as renumbered and amended by Laws of Utah 2008, Chapter 3
805 **78B-15-113**, as last amended by Laws of Utah 2024, Chapter 366
806 **78B-15-114**, as renumbered and amended by Laws of Utah 2008, Chapter 3
807 **78B-15-115**, as renumbered and amended by Laws of Utah 2008, Chapter 3
808 **78B-16-101**, as renumbered and amended by Laws of Utah 2008, Chapter 3
809 **78B-20-101**, as enacted by Laws of Utah 2016, Chapter 292

Utah Code Sections affected by Coordination Clause:**26B-2-104**, as last amended by Laws of Utah 2024, Chapters 240, 307**26B-8-125**, as renumbered and amended by Laws of Utah 2023, Chapter 306**78B-6-128**, (Renumbered from 78B-6-128, as last amended by Laws of Utah 2024, Chapter 261)**78B-6-141**, (Renumbered from 78B-6-141, as last amended by Laws of Utah 2021, Chapter 262)**80-2-1005**, as last amended by Laws of Utah 2023, Chapter 330**81-13-201**, Utah Code Annotated 1953**81-13-204**, Utah Code Annotated 1953*Be it enacted by the Legislature of the state of Utah:*Section 1. Section **10-3-1103** is amended to read:**10-3-1103 . Sickness, disability, and death benefits.**

- (1) As used in this section, "miscarriage" means the spontaneous or accidental loss of a fetus, regardless of the gestational age or the duration of the pregnancy.
- (2) The governing body of each municipality may maintain as to all elective or appointive officers and employees, including heads of departments, a system for the payment of health, dental, hospital, medical, disability and death benefits to be financed and administered in a manner and payable upon the terms and conditions as the governing body of the municipality may by ordinance or resolution prescribe.
- (3) The governing bodies of the municipalities may create and administer personnel benefit programs separately or jointly with other municipalities or other political subdivisions of the State of Utah or associations thereof.
- (4) The governing body of each municipality shall, by ordinance or resolution, provide for at least three work days of paid bereavement leave for an employee:
 - (a) following the end of the employee's pregnancy by way of miscarriage or stillbirth; or
 - (b) following the end of another individual's pregnancy by way of a miscarriage or stillbirth, if:
 - (i) the employee is the individual's spouse or partner;
 - (ii)(A) the employee is the individual's former spouse or partner; and
 - (B) the employee would have been a biological parent of a child born as a result of the pregnancy;
 - (iii) the employee provides documentation to show that the individual intended for

the employee to be an adoptive parent, as that term is defined in Section [78B-6-103] 81-13-101, of a child born as a result of the pregnancy; or (iv) under a valid gestational agreement in accordance with [~~Title 78B, Chapter 15, Part 8, Gestational Agreement~~] Title 81, Chapter 5, Part 8, Gestational Agreement, the employee would have been a parent of a child born as a result of the pregnancy.

Section 2. Section **17-33-5** is amended to read:

17-33-5 . Office of personnel management -- Director -- Appointment and responsibilities -- Personnel rules.

(1) As used in this section, "miscarriage" means the spontaneous or accidental loss of a fetus, regardless of gestational age or the duration of the pregnancy.

(2)(a)(i) Each county executive shall:

(A) create an office of personnel management, administered by a director of personnel management; and

(B) ensure that the director is a person with proven experience in personnel management.

(ii) Except as provided in Subsection (2)(b), the position of director of personnel management shall be:

(A) a merit position; and

(B) filled as provided in Subsection (2)(a)(iii).

(iii) Except as provided in Subsection (2)(b), the career service council shall:

(A) advertise and recruit for the director position in the same manner as for merit positions;

(B) select three names from a register; and

(C) submit those names as recommendations to the county legislative body.

(iv) Except as provided in Subsection (2)(b), the county legislative body shall select a person to serve as director of the office of personnel management from the names submitted to it by the career service council.

(b)(i) Effective for appointments made after May 1, 2006, and as an alternative to the procedure under Subsections (2)(a)(ii), (iii), and (iv) and at the county executive's discretion, the county executive may appoint a director of personnel management with the advice and consent of the county legislative body.

(ii) The position of each director of personnel management appointed under this Subsection (2)(b) shall be a merit exempt position.

(iii) A director of personnel management appointed under this Subsection (2)(b) may be terminated by the county executive with the consent of the county legislative body.

(3) The director of personnel management shall:

- (a) encourage and exercise leadership in the development of expertise in personnel administration within the several departments, offices, and agencies in the county service and make available the facilities of the office of personnel management to this end;
- (b) advise the county legislative and executive bodies on the use of human resources;
- (c) develop and implement programs for the improvement of employee effectiveness, such as training, safety, health, counseling, and welfare;
- (d) investigate periodically the operation and effect of this law and of the policies made under it and report findings and recommendations to the county legislative body;
- (e) establish and maintain records of all employees in the county service, setting forth as to each employee class, title, pay or status, and other relevant data;
- (f) make an annual report to the county legislative body and county executive regarding the work of the department; and
- (g) apply and carry out this law and the policies under it and perform any other lawful acts that are necessary to carry out the provisions of this law.

(4)(a)(i) The director shall recommend personnel rules for the county.

(ii) The county legislative body may:

- (A) recommend personnel rules for the county; and
- (B) approve, amend, or reject personnel rules before they are adopted.

(b) The rules shall provide for:

- (i) recruiting efforts to be planned and carried out in a manner that assures open competition, with special emphasis to be placed on recruiting efforts to attract minorities, women, persons with a disability as defined by and covered under the Americans with Disabilities Act of 1990, 42 U.S.C. 12102, or other groups that are substantially underrepresented in the county work force to help assure they will be among the candidates from whom appointments are made;
- (ii) the establishment of job related minimum requirements wherever practical, that all successful candidates shall be required to meet in order to be eligible for consideration for appointment or promotion;
- (iii) selection procedures that include consideration of the relative merit of each

- 912 applicant for employment, a job related method of determining the eligibility or
913 ineligibility of each applicant, and a valid, reliable, and objective system of
914 ranking eligible applicants according to their qualifications and merit;
- 915 (iv) certification procedures that insure equitable consideration of an appropriate
916 number of the most qualified eligible applicants based on the ranking system;
- 917 (v) appointments to positions in the career service by selection from the most
918 qualified eligible applicants certified on eligible lists established in accordance
919 with Subsections (4)(b)(iii) and (iv);
- 920 (vi) noncompetitive appointments in the occasional instance where there is evidence
921 that open or limited competition is not practical, such as for unskilled positions
922 that have no minimum job requirements;
- 923 (vii) limitation of competitions at the discretion of the director for appropriate
924 positions to facilitate employment of qualified applicants with a substantial
925 physical or mental impairment, or other groups protected by Title VII of the Civil
926 Rights Act;
- 927 (viii) permanent appointment for entry to the career service that shall be contingent
928 upon satisfactory performance by the employee during a period of six months,
929 with the probationary period extendable for a period not to exceed six months for
930 good cause, but with the condition that the probationary employee may appeal
931 directly to the council any undue prolongation of the period designed to thwart
932 merit principles;
- 933 (ix) temporary, provisional, or other noncareer service appointments, which may not
934 be used as a way of defeating the purpose of the career service and may not
935 exceed 270 days;
- 936 (x) lists of eligible applicants normally to be used, if available, for filling temporary
937 positions, and short term emergency appointments to be made without regard to
938 the other provisions of law to provide for maintenance of essential services in an
939 emergency situation where normal procedures are not practical, these emergency
940 appointments not to exceed 270 days;
- 941 (xi) promotion and career ladder advancement of employees to higher level positions
942 and assurance that all persons promoted are qualified for the position;
- 943 (xii) recognition of the equivalency of other merit processes by waiving, at the
944 discretion of the director, the open competitive examination for placement in the
945 career service positions of those who were originally selected through a

- 946 competitive examination process in another governmental entity, the individual in
947 those cases, to serve a probationary period;
- 948 (xiii) preparation, maintenance, and revision of a position classification plan for all
949 positions in the career service, based upon similarity of duties performed and
950 responsibilities assumed, so that the same qualifications may reasonably be
951 required for, and the same schedule of pay may be equitably applied to, all
952 positions in the same class, the compensation plan, in order to maintain a high
953 quality public work force, to take into account the responsibility and difficulty of
954 the work, the comparative pay and benefits needed to compete in the labor market
955 and to stay in proper alignment with other similar governmental units, and other
956 factors;
- 957 (xiv) keeping records of performance on all employees in the career service and
958 requiring consideration of performance records in determining salary increases,
959 any benefits for meritorious service, promotions, the order of layoffs and
960 reinstatements, demotions, discharges, and transfers;
- 961 (xv) establishment of a plan governing layoffs resulting from lack of funds or work,
962 abolition of positions, or material changes in duties or organization, and governing
963 reemployment of persons so laid off, taking into account with regard to layoffs
964 and reemployment the relative ability, seniority, and merit of each employee;
- 965 (xvi) establishment of a plan for resolving employee grievances and complaints with
966 final and binding decisions;
- 967 (xvii) establishment of disciplinary measures such as suspension, demotion in rank or
968 grade, or discharge, measures to provide for presentation of charges, hearing
969 rights, and appeals for all permanent employees in the career service to the career
970 service council;
- 971 (xviii) establishment of a procedure for employee development and improvement of
972 poor performance;
- 973 (xix) establishment of hours of work, holidays, and attendance requirements in
974 various classes of positions in the career service;
- 975 (xx) establishment and publicizing of fringe benefits such as insurance, retirement,
976 and leave programs; and
- 977 (xxi) any other requirements not inconsistent with this law that are proper for its
978 enforcement.
- 979 (5) Rules adopted pursuant to Subsection (4)(b)(xx) shall provide for at least three work

days of paid bereavement leave for an employee:

(a) following the end of the employee's pregnancy by way of miscarriage or stillbirth; or

(b) following the end of another individual's pregnancy by way of a miscarriage or stillbirth, if:

(i) the employee is the individual's spouse or partner;

(ii)(A) the employee is the individual's former spouse or partner; and

(B) the employee would have been a biological parent of a child born as a result of the pregnancy;

(iii) the employee provides documentation to show that the individual intended for the employee to be an adoptive parent, as that term is defined in Section [

~~78B-6-103~~ 81-13-101, of a child born as a result of the pregnancy; or

(iv) under a valid gestational agreement in accordance with [~~Title 78B, Chapter 15, Part 8, Gestational Agreement~~] Title 81, Chapter 5, Part 8, Gestational Agreement, the employee would have been a parent of a child born as a result of the pregnancy.

Section 3. Section **26B-1-202** is amended to read:

26B-1-202 . Department authority and duties.

The department may, subject to applicable restrictions in state law and in addition to all other authority and responsibility granted to the department by law:

(1) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and not inconsistent with law, as the department may consider necessary or

desirable for providing health and social services to the people of this state;

(2) establish and manage client trust accounts in the department's institutions and community programs, at the request of the client or the client's legal guardian or representative, or in accordance with federal law;

(3) purchase, as authorized or required by law, services that the department is responsible to provide for legally eligible persons;

(4) conduct adjudicative proceedings for clients and providers in accordance with the procedures of Title 63G, Chapter 4, Administrative Procedures Act;

(5) establish eligibility standards for the department's programs, not inconsistent with state or federal law or regulations;

(6) take necessary steps, including legal action, to recover money or the monetary value of services provided to a recipient who was not eligible;

(7) set and collect fees for the department's services;

- 1014 (8) license agencies, facilities, and programs, except as otherwise allowed, prohibited, or
1015 limited by law;
- 1016 (9) acquire, manage, and dispose of any real or personal property needed or owned by the
1017 department, not inconsistent with state law;
- 1018 (10) receive gifts, grants, devises, and donations; gifts, grants, devises, donations, or the
1019 proceeds thereof, may be credited to the program designated by the donor, and may be
1020 used for the purposes requested by the donor, as long as the request conforms to state
1021 and federal policy; all donated funds shall be considered private, nonlapsing funds and
1022 may be invested under guidelines established by the state treasurer;
- 1023 (11) accept and employ volunteer labor or services; the department is authorized to
1024 reimburse volunteers for necessary expenses, when the department considers that
1025 reimbursement to be appropriate;
- 1026 (12) carry out the responsibility assigned in the workforce services plan by the State
1027 Workforce Development Board;
- 1028 (13) carry out the responsibility assigned by Section 26B-1-430 with respect to
1029 coordination of services for students with a disability;
- 1030 (14) provide training and educational opportunities for the department's staff;
- 1031 (15) collect child support payments and any other money due to the department;
- 1032 (16) apply the provisions of Title 81, Chapter 6, Child Support, and Title 81, Chapter 7,
1033 Payment and Enforcement of Spousal and Child Support, to parents whose child lives
1034 out of the home in a department licensed or certified setting;
- 1035 (17) establish policy and procedures, within appropriations authorized by the Legislature, in
1036 cases where the Division of Child and Family Services or the Division of Juvenile
1037 Justice and Youth Services is given custody of a minor by the juvenile court under Title
1038 80, Utah Juvenile Code, or the department is ordered to prepare an attainment plan for a
1039 minor found not competent to proceed under Section 80-6-403, including:
- 1040 (a) designation of interagency teams for each juvenile court district in the state;
- 1041 (b) delineation of assessment criteria and procedures;
- 1042 (c) minimum requirements, and timeframes, for the development and implementation of
1043 a collaborative service plan for each minor placed in department custody; and
- 1044 (d) provisions for submittal of the plan and periodic progress reports to the court;
- 1045 (18) carry out the responsibilities assigned to the department by statute;
- 1046 (19) examine and audit the expenditures of any public funds provided to a local substance
1047 abuse authority, a local mental health authority, a local area agency on aging, and any

person, agency, or organization that contracts with or receives funds from those authorities or agencies. Those local authorities, area agencies, and any person or entity that contracts with or receives funds from those authorities or area agencies, shall provide the department with any information the department considers necessary. The department is further authorized to issue directives resulting from any examination or audit to a local authority, an area agency, and persons or entities that contract with or receive funds from those authorities with regard to any public funds. If the department determines that it is necessary to withhold funds from a local mental health authority or local substance abuse authority based on failure to comply with state or federal law, policy, or contract provisions, the department may take steps necessary to ensure continuity of services. For purposes of this Subsection (19) "public funds" means the same as that term is defined in Section 26B-5-101;

(20) in accordance with Subsection 26B-2-104(1)(d), accredit one or more agencies and persons to provide intercountry adoption services;

(21) within legislative appropriations, promote and develop a system of care and stabilization services:

(a) in compliance with Title 63G, Chapter 6a, Utah Procurement Code; and

(b) that encompasses the department, department contractors, and the divisions, offices, or institutions within the department, to:

(i) navigate services, funding resources, and relationships to the benefit of the children and families whom the department serves;

(ii) centralize department operations, including procurement and contracting;

(iii) develop policies that govern business operations and that facilitate a system of care approach to service delivery;

(iv) allocate resources that may be used for the children and families served by the department or the divisions, offices, or institutions within the department, subject to the restrictions in Section 63J-1-206;

(v) create performance-based measures for the provision of services; and

(vi) centralize other business operations, including data matching and sharing among the department's divisions, offices, and institutions;

(22) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

- 1082 (a) under this title;
- 1083 (b) by the department; or
- 1084 (c) by an agency or division within the department;
- 1085 (23) enter into cooperative agreements with the Department of Environmental Quality to
- 1086 delineate specific responsibilities to assure that assessment and management of risk to
- 1087 human health from the environment are properly administered;
- 1088 (24) consult with the Department of Environmental Quality and enter into cooperative
- 1089 agreements, as needed, to ensure efficient use of resources and effective response to
- 1090 potential health and safety threats from the environment, and to prevent gaps in
- 1091 protection from potential risks from the environment to specific individuals or
- 1092 population groups;
- 1093 (25) to the extent authorized under state law or required by federal law, promote and protect
- 1094 the health and wellness of the people within the state;
- 1095 (26) establish, maintain, and enforce rules authorized under state law or required by federal
- 1096 law to promote and protect the public health or to prevent disease and illness;
- 1097 (27) investigate the causes of epidemic, infectious, communicable, and other diseases
- 1098 affecting the public health;
- 1099 (28) provide for the detection and reporting of communicable, infectious, acute, chronic, or
- 1100 any other disease or health hazard which the department considers to be dangerous,
- 1101 important, or likely to affect the public health;
- 1102 (29) collect and report information on causes of injury, sickness, death, and disability and
- 1103 the risk factors that contribute to the causes of injury, sickness, death, and disability
- 1104 within the state;
- 1105 (30) collect, prepare, publish, and disseminate information to inform the public concerning
- 1106 the health and wellness of the population, specific hazards, and risks that may affect the
- 1107 health and wellness of the population and specific activities which may promote and
- 1108 protect the health and wellness of the population;
- 1109 (31) abate nuisances when necessary to eliminate sources of filth and infectious and
- 1110 communicable diseases affecting the public health;
- 1111 (32) make necessary sanitary and health investigations and inspections in cooperation with
- 1112 local health departments as to any matters affecting the public health;
- 1113 (33) establish laboratory services necessary to support public health programs and medical
- 1114 services in the state;
- 1115 (34) establish and enforce standards for laboratory services which are provided by any

- laboratory in the state when the purpose of the services is to protect the public health;
- (35) cooperate with the Labor Commission to conduct studies of occupational health hazards and occupational diseases arising in and out of employment in industry, and make recommendations for elimination or reduction of the hazards;
- (36) cooperate with the local health departments, the Department of Corrections, the Administrative Office of the Courts, the Division of Juvenile Justice and Youth Services, and the Utah Office for Victims of Crime to conduct testing for HIV infection of alleged sexual offenders, convicted sexual offenders, and any victims of a sexual offense;
- (37) investigate the causes of maternal and infant mortality;
- (38) establish, maintain, and enforce a procedure requiring the blood of adult pedestrians and drivers of motor vehicles killed in highway accidents be examined for the presence and concentration of alcohol, and provide the Commissioner of Public Safety with monthly statistics reflecting the results of these examinations, with necessary safeguards so that information derived from the examinations is not used for a purpose other than the compilation of these statistics;
- (39) establish qualifications for individuals permitted to draw blood under Subsection 41-6a-523(1)(a)(vi), 53-10-405(2)(a)(vi), 72-10-502(5)(a)(vi), or 77-23-213(3)(a)(vi), and to issue permits to individuals the department finds qualified, which permits may be terminated or revoked by the department;
- (40) establish a uniform public health program throughout the state which includes continuous service, employment of qualified employees, and a basic program of disease control, vital and health statistics, sanitation, public health nursing, and other preventive health programs necessary or desirable for the protection of public health;
- (41) conduct health planning for the state;
- (42) monitor the costs of health care in the state and foster price competition in the health care delivery system;
- (43) establish methods or measures for health care providers, public health entities, and health care insurers to coordinate among themselves to verify the identity of the individuals the providers serve;
- (44) designate Alzheimer's disease and related dementia as a public health issue and, within budgetary limitations, implement a state plan for Alzheimer's disease and related dementia by incorporating the plan into the department's strategic planning and budgetary process;

- 1150 (45) coordinate with other state agencies and other organizations to implement the state
1151 plan for Alzheimer's disease and related dementia;
- 1152 (46) ensure that any training or certification required of a public official or public
1153 employee, as those terms are defined in Section 63G-22-102, complies with Title 63G,
1154 Chapter 22, State Training and Certification Requirements, if the training or certification
1155 is required by the agency or under this Title 26B, Utah Health and Human Services Code;
- 1156 (47) oversee public education vision screening as described in Section 53G-9-404;
- 1157 (48) issue code blue alerts in accordance with Title 35A, Chapter 16, Part 7, Code Blue
1158 Alert; and
- 1159 (49) as allowed by state and federal law, share data with the Office of Families that is
1160 relevant to the duties described in Subsection 26B-1-243(4), which may include, to the
1161 extent available:
- 1162 (a) demographic data concerning family structures in the state; and
- 1163 (b) data regarding the family structure associated with:
- 1164 (i) suicide, depression, or anxiety; and
- 1165 (ii) various health outcomes.

1166 *The following section is affected by a coordination clause at the end of this bill.*

1167 Section 4. Section **26B-2-104** is amended to read:

1168 **26B-2-104 . Division responsibilities.**

- 1169 (1) Subject to the requirements of federal and state law, the office shall:
- 1170 (a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
1171 Rulemaking Act, to establish:
- 1172 (i) except as provided in Subsection (1)(a)(ii), basic health and safety standards for
1173 licensees, that shall be limited to:
- 1174 (A) fire safety;
- 1175 (B) food safety;
- 1176 (C) sanitation;
- 1177 (D) infectious disease control;
- 1178 (E) safety of the:
- 1179 (I) physical facility and grounds; and
- 1180 (II) area and community surrounding the physical facility;
- 1181 (F) transportation safety;
- 1182 (G) emergency preparedness and response;
- 1183 (H) the administration of medical standards and procedures, consistent with the

1184 related provisions of this title;

1185 (I) staff and client safety and protection;

1186 (J) the administration and maintenance of client and service records;

1187 (K) staff qualifications and training, including standards for permitting experience
1188 to be substituted for education, unless prohibited by law;

1189 (L) staff to client ratios;

1190 (M) access to firearms; and

1191 (N) the prevention of abuse, neglect, exploitation, harm, mistreatment, or fraud;

1192 (ii) basic health and safety standards for therapeutic schools, that shall be limited to:

1193 (A) fire safety, except that the standards are limited to those required by law or
1194 rule under Title 53, Chapter 7, Part 2, Fire Prevention and Fireworks Act;

1195 (B) food safety;

1196 (C) sanitation;

1197 (D) infectious disease control, except that the standards are limited to:

1198 (I) those required by law or rule under this title, or Title 26A, Local Health
1199 Authorities; and

1200 (II) requiring a separate room for clients who are sick;

1201 (E) safety of the physical facility and grounds, except that the standards are
1202 limited to those required by law or rule under Title 53, Chapter 7, Part 2, Fire
1203 Prevention and Fireworks Act;

1204 (F) transportation safety;

1205 (G) emergency preparedness and response;

1206 (H) access to appropriate medical care, including:

1207 (I) subject to the requirements of law, designation of a person who is
1208 authorized to dispense medication; and

1209 (II) storing, tracking, and securing medication;

1210 (I) staff and client safety and protection that permits the school to provide for the
1211 direct supervision of clients at all times;

1212 (J) the administration and maintenance of client and service records;

1213 (K) staff qualifications and training, including standards for permitting experience
1214 to be substituted for education, unless prohibited by law;

1215 (L) staff to client ratios;

1216 (M) access to firearms; and

1217 (N) the prevention of abuse, neglect, exploitation, harm, mistreatment, or fraud;

- (iii) procedures and standards for permitting a licensee to:
- (A) provide in the same facility and under the same conditions as children, residential treatment services to a person 18 years old or older who:
 - (I) begins to reside at the licensee's residential treatment facility before the person's 18th birthday;
 - (II) has resided at the licensee's residential treatment facility continuously since the time described in Subsection (1)(a)(iii)(A)(I);
 - (III) has not completed the course of treatment for which the person began residing at the licensee's residential treatment facility; and
 - (IV) voluntarily consents to complete the course of treatment described in Subsection (1)(a)(iii)(A)(III); or
 - (B)(I) provide residential treatment services to a child who is:
 - (Aa) at least 12 years old or, as approved by the office, younger than 12 years old; and
 - (Bb) under the custody of the department, or one of its divisions; and
 - (II) provide, in the same facility as a child described in Subsection (1)(a)(iii)(B)(I), residential treatment services to a person who is:
 - (Aa) at least 18 years old, but younger than 21 years old; and
 - (Bb) under the custody of the department, or one of its divisions;
- (iv) minimum administration and financial requirements for licensees;
- (v) guidelines for variances from rules established under this Subsection (1);
- (vi) ethical standards, as described in [~~Subsection 78B-6-106(3)~~] Section 81-13-104, and minimum responsibilities of a child-placing agency that provides adoption services and that is licensed under this part;
- (vii) what constitutes an "outpatient treatment program" for purposes of this part;
- (viii) a procedure requiring a licensee to provide an insurer the licensee's records related to any services or supplies billed to the insurer, and a procedure allowing the licensee and the insurer to contact the Insurance Department to resolve any disputes;
- (ix) a protocol for the office to investigate and process complaints about licensees;
- (x) a procedure for a licensee to:
- (A) report the use of a restraint or seclusion within one business day after the day on which the use of the restraint or seclusion occurs; and
 - (B) report a critical incident within one business day after the day on which the

1252 incident occurs;

1253 (xi) guidelines for the policies and procedures described in Sections 26B-2-109 and
1254 26B-2-123;

1255 (xii) a procedure for the office to review and approve the policies and procedures
1256 described in Sections 26B-2-109 and 26B-2-123; and

1257 (xiii) a requirement that each human services program publicly post information that
1258 informs an individual how to submit a complaint about a human services program
1259 to the office;

1260 (b) enforce rules relating to the office;

1261 (c) issue licenses in accordance with this part;

1262 (d) if the United States Department of State executes an agreement with the office that
1263 designates the office to act as an accrediting entity in accordance with the
1264 Intercountry Adoption Act of 2000, Pub. L. No. 106-279, accredit one or more
1265 agencies and persons to provide intercountry adoption services pursuant to:

1266 (i) the Intercountry Adoption Act of 2000, Pub. L. No. 106-279; and

1267 (ii) the implementing regulations for the Intercountry Adoption Act of 2000, Pub. L.
1268 No. 106-279;

1269 (e) make rules to implement the provisions of Subsection (1)(d);

1270 (f) conduct surveys and inspections of licensees and facilities in accordance with Section
1271 26B-2-107;

1272 (g) collect licensure fees;

1273 (h) notify licensees of the name of a person within the department to contact when filing
1274 a complaint;

1275 (i) investigate complaints regarding any licensee or human services program;

1276 (j) have access to all records, correspondence, and financial data required to be
1277 maintained by a licensee;

1278 (k) have authority to interview any client, family member of a client, employee, or
1279 officer of a licensee;

1280 (l) have authority to deny, condition, revoke, suspend, or extend any license issued by
1281 the department under this part by following the procedures and requirements of Title
1282 63G, Chapter 4, Administrative Procedures Act;

1283 (m) cooperate with the Division of Child and Family Services to condition, revoke, or
1284 suspend the license of a foster home when a child welfare caseworker from the
1285 Division of Child and Family Services identifies a safety concern with the foster

home;

(n) electronically post notices of agency action issued to a human services program, with the exception of a foster home, on the office's website, in accordance with Title 63G, Chapter 2, Government Records Access and Management Act; and

(o) upon receiving a local government's request under Section 26B-2-118, notify the local government of new human services program license applications, except for foster homes, for human services programs located within the local government's jurisdiction.

(2) In establishing rules under Subsection (1)(a)(ii)(G), the office shall require a licensee to establish and comply with an emergency response plan that requires clients and staff to:

(a) immediately report to law enforcement any significant criminal activity, as defined by rule, committed:

(i) on the premises where the licensee operates its human services program;

(ii) by or against its clients; or

(iii) by or against a staff member while the staff member is on duty;

(b) immediately report to emergency medical services any medical emergency, as defined by rule:

(i) on the premises where the licensee operates its human services program;

(ii) involving its clients; or

(iii) involving a staff member while the staff member is on duty; and

(c) immediately report other emergencies that occur on the premises where the licensee operates its human services program to the appropriate emergency services agency.

Section 5. Section **26B-2-127** is amended to read:

26B-2-127 . Child placing licensure requirements -- Prohibited acts --

Consortium.

(1) As used in this section:

(a)(i) "Advertisement" means any written, oral, or graphic statement or representation made in connection with a solicitation of business.

(ii) "Advertisement" includes a statement or representation described in Subsection

(1)(a)(i) by a noncable television system, radio, printed brochure, newspaper,

leaflet, flyer, circular, billboard, banner, Internet website, social media, or sign.

(b) "Birth parent" means the same as that term is defined in Section [78B-6-103]

81-13-101.

(c) "Clearly and conspicuously disclose" means the same as that term is defined in

Section 13-11a-2.

(d)(i) "Matching advertisement" means any written, oral, or graphic statement or representation made in connection with a solicitation of business to provide the assistance described in Subsection (3)(a)(i), regardless of whether there is or will be an exchange described in Subsection (3)(a)(ii).

(ii) "Matching advertisement" includes a statement or representation described in Subsection (1)(d)(i) by a noncable television system, radio, printed brochure, newspaper, leaflet, flyer, circular, billboard, banner, Internet website, social media, or sign.

(2)(a) Subject to Section [~~78B-24-205~~] 81-14-205, a person may not engage in child placing, or solicit money or other assistance for child placing, without a valid license issued by the office in accordance with this part.

(b) If a child-placing agency's license is suspended or revoked in accordance with this part, the care, control, or custody of any child who is in the care, control, or custody of the child-placing agency shall be transferred to the Division of Child and Family Services.

(3)(a)(i) An attorney, physician, or other person may assist:

(A) a birth parent to identify or locate a prospective adoptive parent who is interested in adopting the birth parent's child; or

(B) a prospective adoptive parent to identify or locate a child to be adopted.

(ii) A payment, charge, fee, reimbursement of expense, or exchange of value of any kind, or promise or agreement to make the same, may not be made for the assistance described in Subsection (3)(a)(i).

(b) An attorney, physician, or other person may not:

(i) issue or cause to be issued to any person a card, sign, or device indicating that the attorney, physician, or other person is available to provide the assistance described in Subsection (3)(a)(i);

(ii) cause, permit, or allow any sign or marking indicating that the attorney, physician, or other person is available to provide the assistance described in Subsection (3)(a)(i), on or in any building or structure;

(iii) announce, cause, permit, or allow an announcement indicating that the attorney, physician, or other person is available to provide the assistance described in Subsection (3)(a)(i), to appear in any newspaper, magazine, directory, on radio or television, or an Internet website relating to a business;

(iv) announce, cause, permit, or allow a matching advertisement; or
(v) announce, cause, permit, or allow an advertisement that indicates or implies the attorney, physician, or other person is available to provide the assistance described in Subsection (3)(a)(i) as part of, or related to, other adoption-related services by using any of the following terms:

- (A) "comprehensive";
- (B) "complete";
- (C) "one-stop";
- (D) "all-inclusive"; or
- (E) any other term similar to the terms described in Subsections (3)(b)(v)(A) through (D).

(c) An attorney, physician, or other person who is not licensed by the office shall clearly and conspicuously disclose in any print media advertisement or written contract regarding adoption services or adoption-related services that the attorney, physician, or other person is not licensed to provide adoption services by the office.

(4) A person who intentionally or knowingly violates Subsection (2) or (3) is guilty of a third degree felony.

(5) This section does not preclude payment of fees for medical, legal, or other lawful services rendered in connection with the care of a mother, delivery and care of a child, or lawful adoption proceedings, except that a child-placing agency may not:

- (a) charge or accept payment for services that were not actually rendered; or
- (b) charge or accept payment from a prospective adoptive parent for medical or hospital expenses that were paid for by public funds.

(6) In accordance with federal law, only an agent or employee of the Division of Child and Family Services or of a licensed child-placing agency may certify to United States Citizenship and Immigration Services that a family meets the preadoption requirements of the Division of Child and Family Services.

(7) A licensed child-placing agency or an attorney practicing in this state may not place a child for adoption, either temporarily or permanently, with an individual who would not be qualified for adoptive placement under Sections ~~78B-6-102, 78B-6-117, and 78B-6-137~~ 81-13-202, 81-13-203, and 81-13-402.

(8)(a) A child-placing agency, as that term is defined in Section 63G-20-102, that serves a resident of the state who is a birth mother or a prospective adoptive parent must be a member of a statewide consortium of licensed child-placing agencies that, together,

serve all birth mothers lawfully seeking to place a child for adoption and all qualified prospective adoptive parents.

(b) The department shall receive and investigate any complaint against a consortium of licensed child-placing agencies.

Section 6. Section **26B-3-108** is amended to read:

26B-3-108 . Administration of Medicaid program by department -- Reporting to the Legislature -- Disciplinary measures and sanctions -- Funds collected -- Eligibility standards -- Optional dental services costs and delivery -- Internal audits -- Health opportunity accounts.

(1) The department shall be the single state agency responsible for the administration of the Medicaid program in connection with the United States Department of Health and Human Services pursuant to Title XIX of the Social Security Act.

(2)(a) The department shall implement the Medicaid program through administrative rules in conformity with this chapter, Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements of Title XIX, and applicable federal regulations.

(b) The rules adopted under Subsection (2)(a) shall include, in addition to other rules necessary to implement the program:

(i) the standards used by the department for determining eligibility for Medicaid services;

(ii) the services and benefits to be covered by the Medicaid program;

(iii) reimbursement methodologies for providers under the Medicaid program; and

(iv) a requirement that:

(A) a person receiving Medicaid services shall participate in the electronic exchange of clinical health records established in accordance with Section 26B-8-411 unless the individual opts out of participation;

(B) prior to enrollment in the electronic exchange of clinical health records the enrollee shall receive notice of enrollment in the electronic exchange of clinical health records and the right to opt out of participation at any time; and

(C) when the program sends enrollment or renewal information to the enrollee and when the enrollee logs onto the program's website, the enrollee shall receive notice of the right to opt out of the electronic exchange of clinical health records.

(3)(a) The department shall, in accordance with Subsection (3)(b), report to the Social Services Appropriations Subcommittee when the department:

- 1422 (i) implements a change in the Medicaid State Plan;
1423 (ii) initiates a new Medicaid waiver;
1424 (iii) initiates an amendment to an existing Medicaid waiver;
1425 (iv) applies for an extension of an application for a waiver or an existing Medicaid
1426 waiver;
1427 (v) applies for or receives approval for a change in any capitation rate within the
1428 Medicaid program; or
1429 (vi) initiates a rate change that requires public notice under state or federal law.
- 1430 (b) The report required by Subsection (3)(a) shall:
- 1431 (i) be submitted to the Social Services Appropriations Subcommittee prior to the
1432 department implementing the proposed change; and
1433 (ii) include:
- 1434 (A) a description of the department's current practice or policy that the department
1435 is proposing to change;
1436 (B) an explanation of why the department is proposing the change;
1437 (C) the proposed change in services or reimbursement, including a description of
1438 the effect of the change;
1439 (D) the effect of an increase or decrease in services or benefits on individuals and
1440 families;
1441 (E) the degree to which any proposed cut may result in cost-shifting to more
1442 expensive services in health or human service programs; and
1443 (F) the fiscal impact of the proposed change, including:
- 1444 (I) the effect of the proposed change on current or future appropriations from
1445 the Legislature to the department;
1446 (II) the effect the proposed change may have on federal matching dollars
1447 received by the state Medicaid program;
1448 (III) any cost shifting or cost savings within the department's budget that may
1449 result from the proposed change; and
1450 (IV) identification of the funds that will be used for the proposed change,
1451 including any transfer of funds within the department's budget.
- 1452 (4) Any rules adopted by the department under Subsection (2) are subject to review and
1453 reauthorization by the Legislature in accordance with Section 63G-3-502.
- 1454 (5) The department may, in its discretion, contract with other qualified agencies for services
1455 in connection with the administration of the Medicaid program, including:

- (a) the determination of the eligibility of individuals for the program;
- (b) recovery of overpayments; and
- (c) consistent with Section 26B-3-1113, and to the extent permitted by law and quality control services, enforcement of fraud and abuse laws.

(6) The department shall provide, by rule, disciplinary measures and sanctions for Medicaid providers who fail to comply with the rules and procedures of the program, provided that sanctions imposed administratively may not extend beyond:

- (a) termination from the program;
- (b) recovery of claim reimbursements incorrectly paid; and
- (c) those specified in Section 1919 of Title XIX of the federal Social Security Act.

(7)(a) Funds collected as a result of a sanction imposed under Section 1919 of Title XIX of the federal Social Security Act shall be deposited into the General Fund as dedicated credits to be used by the division in accordance with the requirements of Section 1919 of Title XIX of the federal Social Security Act.

- (b) In accordance with Section 63J-1-602.2, sanctions collected under this Subsection (7) are nonlapsing.

(8)(a) In determining whether an applicant or recipient is eligible for a service or benefit under this part or Part 9, Utah Children's Health Insurance Program, the department shall, if Subsection (8)(b) is satisfied, exclude from consideration one passenger vehicle designated by the applicant or recipient.

(b) Before Subsection (8)(a) may be applied:

(i) the federal government shall:

(A) determine that Subsection (8)(a) may be implemented within the state's existing public assistance-related waivers as of January 1, 1999;

(B) extend a waiver to the state permitting the implementation of Subsection (8)(a);
or

(C) determine that the state's waivers that permit dual eligibility determinations for cash assistance and Medicaid are no longer valid; and

(ii) the department shall determine that Subsection (8)(a) can be implemented within existing funding.

(9)(a) As used in this Subsection (9):

(i) "aged, blind, or has a disability" means an aged, blind, or disabled individual, as defined in 42 U.S.C. Sec. 1382c(a)(1); and

(ii) "spend down" means an amount of income in excess of the allowable income

- 1490 standard that shall be paid in cash to the department or incurred through the
1491 medical services not paid by Medicaid.
- 1492 (b) In determining whether an applicant or recipient who is aged, blind, or has a
1493 disability is eligible for a service or benefit under this chapter, the department shall
1494 use 100% of the federal poverty level as:
- 1495 (i) the allowable income standard for eligibility for services or benefits; and
1496 (ii) the allowable income standard for eligibility as a result of spend down.
- 1497 (10) The department shall conduct internal audits of the Medicaid program.
- 1498 (11)(a)(i) The department shall apply for, and if approved, implement an amendment
1499 to the state plan under this Subsection (11) for benefits for:
- 1500 (A) medically needy pregnant women;
1501 (B) medically needy children; and
1502 (C) medically needy parents and caretaker relatives.
- 1503 (ii) The department may implement the eligibility standards of Subsection (11)(b) for
1504 eligibility determinations made on or after the date of the approval of the
1505 amendment to the state plan.
- 1506 (b) In determining whether an applicant is eligible for benefits described in Subsection
1507 (11)(a)(i), the department shall:
- 1508 (i) disregard resources held in an account in a savings plan created under Title 53B,
1509 Chapter 8a, Utah Educational Savings Plan, if the beneficiary of the account is:
1510 (A) under the age of 26; and
1511 (B) living with the account owner, as that term is defined in Section 53B-8a-102,
1512 or temporarily absent from the residence of the account owner; and
- 1513 (ii) include withdrawals from an account in the Utah Educational Savings Plan as
1514 resources for a benefit determination, if the withdrawals were not used for
1515 qualified higher education costs as that term is defined in Section 53B-8a-102.5.
- 1516 (12)(a) The department may not deny or terminate eligibility for Medicaid solely
1517 because an individual is:
- 1518 (i) incarcerated; and
1519 (ii) not an inmate as defined in Section 64-13-1.
- 1520 (b) Subsection (12)(a) does not require the Medicaid program to provide coverage for
1521 any services for an individual while the individual is incarcerated.
- 1522 (13) The department is a party to, and may intervene at any time in, any judicial or
1523 administrative action:

(a) to which the Department of Workforce Services is a party; and

(b) that involves medical assistance under this chapter.

(14)(a) The department may not deny or terminate eligibility for Medicaid solely because a birth mother, as that term is defined in Section ~~[78B-6-103]~~ 81-13-101, considers an adoptive placement for the child or proceeds with an adoptive placement of the child.

(b) A health care provider, as that term is defined in Section 26B-3-126, may not decline payment by Medicaid for covered health and medical services provided to a birth mother, as that term is defined in Section ~~[78B-6-103]~~ 81-13-101, who is enrolled in Utah's Medicaid program and who considers an adoptive placement for the child or proceeds with an adoptive placement of the child.

Section 7. Section **26B-5-316** is amended to read:

26B-5-316 . Responsibility for cost of care.

(1) The division shall estimate and determine, as nearly as possible, the actual expense per annum of caring for and maintaining a patient in the state hospital, and that amount or portion of that amount shall be assessed to and paid by the applicant, patient, spouse, parents, child or children who are of sufficient financial ability to do so, or by the guardian of the patient who has funds of the patient that may be used for that purpose.

(2) In addition to the expenses described in Subsection (1), parents are responsible for the support of their child while the child is in the care of the state hospital in accordance with ~~[Title 26B,]Chapter 9, Recovery Services and Administration of Child Support, [and]Title 81, Chapter 6, Child Support, and Title 81, Chapter 7, Payment and Enforcement of Spousal and Child Support.~~

Section 8. Section **26B-6-411** is amended to read:

26B-6-411 . Parent liable for cost and support of minor -- Guardian liable for costs.

(1) Parents of a person who receives services or support from the division, who are financially responsible, are liable for the cost of the actual care and maintenance of that person and for the support of the child in accordance with ~~[Title 81, Chapter 6, Child Support, and]Chapter 9, Part 1, Office of Recovery Services, Title 81, Chapter 6, Child Support, and Title 81, Chapter 7, Payment and Enforcement of Spousal and Child Support,~~ until the person reaches 18 years old.

(2) A guardian of a person who receives services or support from the division is liable for the cost of actual care and maintenance of that person, regardless of his age, where funds

are available in the guardianship estate established on his behalf for that purpose. However, if the person who receives services is a beneficiary of a trust created in accordance with Section 26B-6-412, or if the guardianship estate meets the requirements of a trust described in that section, the trust income prior to distribution to the beneficiary, and the trust principal are not subject to payment for services or support for that person.

- (3) If, at the time a person who receives services or support from the division is discharged from a facility or program owned or operated by or under contract with the division, or after the death and burial of a resident of the developmental center, there remains in the custody of the division or the superintendent any money paid by a parent or guardian for the support or maintenance of that person, it shall be repaid upon demand.

Section 9. Section **26B-8-101** is amended to read:

26B-8-101 . Definitions.

As used in this part:

- (1) "Adoption document" means ~~[an adoption-related document filed with the office, a petition for adoption, a decree of adoption, an original birth certificate, or evidence submitted in support of a supplementary birth certificate]~~ the same as that term is defined in Section 81-13-101.
- (2) "Alien child" means an individual:
- (a) who is younger than 16 years old; and
 - (b) who is not considered a citizen or national of the United States by the United States Citizenship and Immigration Services.
- ~~[(2)]~~ (3) "Biological sex at birth" means an individual's sex, as being male or female, according to distinct reproductive roles as manifested by sex and reproductive organ anatomy, chromosomal makeup, and endogenous hormone profiles.
- ~~[(3)]~~ (4) "Certified nurse midwife" means an individual who:
- (a) is licensed to practice as a certified nurse midwife under Title 58, Chapter 44a, Nurse Midwife Practice Act; and
 - (b) has completed an education program regarding the completion of a certificate of death developed by the department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- ~~[(4)]~~ (5) "Custodial funeral service director" means a funeral service director who:
- (a) is employed by a licensed funeral establishment; and
 - (b) has custody of a dead body.

1592 ~~[(5)]~~ (6) "Dead body" means a human body or parts of a human body from the condition of
1593 which it reasonably may be concluded that death occurred.

1594 ~~[(6)]~~ (7) "Decedent" means the same as a dead body.

1595 ~~[(7)]~~ (8) "Dead fetus" means a product of human conception, other than those circumstances
1596 described in Subsection 76-7-301(1):

1597 (a) of 20 weeks' gestation or more, calculated from the date the last normal menstrual
1598 period began to the date of delivery; and

1599 (b) that was not born alive.

1600 ~~[(8) "Declarant father" means a male who claims to be the genetic father of a child, and,
1601 along with the biological mother, signs a voluntary declaration of paternity to establish
1602 the child's paternity.]~~

1603 (9) "Declarant father" means the same as that term is defined in Section 81-5-102.

1604 ~~[(9)]~~ (10) "Dispositioner" means:

1605 (a) a person designated in a written instrument, under Subsection 58-9-602(1), as having
1606 the right and duty to control the disposition of the decedent, if the person voluntarily
1607 acts as the dispositioner; or

1608 (b) the next of kin of the decedent, if:

1609 (i)(A) a person has not been designated as described in Subsection ~~[(9)(a)]~~ (10)(a);

1610 or

1611 (B) the person described in Subsection ~~[(9)(a)]~~ (10)(a) is unable or unwilling to
1612 exercise the right and duty described in Subsection ~~[(9)(a)]~~ (10)(a); and

1613 (ii) the next of kin voluntarily acts as the dispositioner.

1614 ~~[(10)]~~ (11) "Fetal remains" means:

1615 (a) an aborted fetus as that term is defined in Section 26B-2-232; or

1616 (b) a miscarried fetus as that term is defined in Section 26B-2-233.

1617 ~~[(11)]~~ (12) "File" means the submission of a completed certificate or other similar
1618 document, record, or report as provided under this part for registration by the state
1619 registrar or a local registrar.

1620 ~~[(12)]~~ (13) "Funeral service director" means the same as that term is defined in Section
1621 58-9-102.

1622 ~~[(13)]~~ (14) "Health care facility" means the same as that term is defined in Section
1623 26B-2-201.

1624 ~~[(14)]~~ (15) "Health care professional" means a physician, physician assistant, nurse
1625 practitioner, or certified nurse midwife.

1626 ~~[(15)]~~ (16) "Intersex individual" means an individual who:

- 1627 (a) is born with external biological sex characteristics that are irresolvably ambiguous;
- 1628 (b) is born with 46, XX chromosomes with virilization;
- 1629 (c) is born with 46, XY chromosomes with undervirilization;
- 1630 (d) has both ovarian and testicular tissue; or
- 1631 (e) has been diagnosed by a physician, based on genetic or biochemical testing, with
- 1632 abnormal:
- 1633 (i) sex chromosome structure;
- 1634 (ii) sex steroid hormone production; or
- 1635 (iii) sex steroid hormone action for a male or female.

1636 ~~[(16)]~~ (17) "Licensed funeral establishment" means:

- 1637 (a) if located in Utah, a funeral service establishment, as that term is defined in Section
- 1638 58-9-102, that is licensed under Title 58, Chapter 9, Funeral Services Licensing Act;
- 1639 or
- 1640 (b) if located in a state, district, or territory of the United States other than Utah, a
- 1641 funeral service establishment that complies with the licensing laws of the jurisdiction
- 1642 where the establishment is located.

1643 ~~[(17)]~~ (18) "Live birth" means the birth of a child who shows evidence of life after the child

1644 is entirely outside of the mother.

1645 ~~[(18)]~~ (19) "Local registrar" means a person appointed under Subsection 26B-8-102(3)(b).

1646 ~~[(19)]~~ (20) "Nurse practitioner" means an individual who:

- 1647 (a) is licensed to practice as an advanced practice registered nurse under Title 58,
- 1648 Chapter 31b, Nurse Practice Act; and
- 1649 (b) has completed an education program regarding the completion of a certificate of
- 1650 death developed by the department by administrative rule made in accordance with
- 1651 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1652 ~~[(20)]~~ (21) "Office" means the Office of Vital Records and Statistics within the department.

1653 ~~[(21)]~~ (22) "Physician" means a person licensed to practice as a physician or osteopath in

1654 this state under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68,

1655 Utah Osteopathic Medical Practice Act.

1656 ~~[(22)]~~ (23) "Physician assistant" means an individual who:

- 1657 (a) is licensed to practice as a physician assistant under Title 58, Chapter 70a, Utah
- 1658 Physician Assistant Act; and
- 1659 (b) has completed an education program regarding the completion of a certificate of

death developed by the department by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

~~[(23)]~~ (24) "Presumed father" means the same as that term is defined in Section ~~[78B-15-102]~~ 81-5-102.

~~[(24)]~~ (25) "Registration" or "register" means acceptance by the local or state registrar of a certificate and incorporation of the certificate into the permanent records of the state.

~~[(25)]~~ (26) "State registrar" means the state registrar of vital records appointed under Section 26B-8-102.

~~[(26)]~~ (27) "Vital records" means:

- (a) registered certificates or reports of birth, death, fetal death, marriage, divorce, dissolution of marriage, or annulment;
- (b) amendments to any of the registered certificates or reports described in Subsection ~~[(26)(a)]~~ (27)(a);
- (c) an adoption document; and
- (d) other similar documents.

~~[(27)]~~ (28) "Vital statistics" means the data derived from registered certificates and reports of birth, death, fetal death, induced termination of pregnancy, marriage, divorce, dissolution of marriage, or annulment.

Section 10. Section **26B-8-102** is amended to read:

26B-8-102 . Department duties and authority.

(1) As used in this section:

- (a) "Compact" means the Compact for Interstate Sharing of Putative Father Registry Information created in Section ~~[78B-6-121.5]~~ 81-13-106, effective on May 10, 2016.
- (b) "Putative father":
 - (i) means the same as that term is as defined in Section ~~[78B-6-121.5]~~ 81-13-106; and
 - (ii) includes an unmarried biological father.
- (c) "State registrar" means the state registrar of vital records appointed under Subsection ~~(2)(e)~~.
- (d) "Unmarried biological father" means the same as that term is defined in Section ~~[78B-6-103]~~ 81-13-101.

(2) The department shall:

- (a) provide offices properly equipped for the preservation of vital records made or received under this part;
- (b) establish a statewide vital records system for the registration, collection,

- 1694 preservation, amendment, and certification of vital records and other similar
1695 documents required by this part and activities related to them, including the
1696 tabulation, analysis, and publication of vital statistics;
- 1697 (c) prescribe forms for certificates, certification, reports, and other documents and
1698 records necessary to establish and maintain a statewide system of vital records;
- 1699 (d) prepare an annual compilation, analysis, and publication of statistics derived from
1700 vital records; and
- 1701 (e) appoint a state registrar to direct the statewide system of vital records.
- 1702 (3) The department may:
- 1703 (a) divide the state from time to time into registration districts; and
- 1704 (b) appoint local registrars for registration districts who under the direction and
1705 supervision of the state registrar shall perform all duties required of them by this part
1706 and department rules.
- 1707 (4) The state registrar appointed under Subsection (2)(e) shall, with the input of Utah
1708 stakeholders and the Uniform Law Commission, study the following items for the state's
1709 implementation of the compact:
- 1710 (a) the feasibility of using systems developed by the National Association for Public
1711 Health Statistics and Information Systems, including the State and Territorial
1712 Exchange of Vital Events (STEVE) system and the Electronic Verification of Vital
1713 Events (EVVE) system, or similar systems, to exchange putative father registry
1714 information with states that are parties to the compact;
- 1715 (b) procedures necessary to share putative father information, located in the confidential
1716 registry maintained by the state registrar, upon request from the state registrar of
1717 another state that is a party to the compact;
- 1718 (c) procedures necessary for the state registrar to access putative father information
1719 located in a state that is a party to the compact, and share that information with
1720 persons who request a certificate from the state registrar;
- 1721 (d) procedures necessary to ensure that the name of the mother of the child who is the
1722 subject of a putative father's notice of commencement, filed pursuant to Section [
1723 ~~78B-6-121~~] 81-13-213, is kept confidential when a state that is a party to the compact
1724 accesses this state's confidential registry through the state registrar; and
- 1725 (e) procedures necessary to ensure that a putative father's registration with a state that is
1726 a party to the compact is given the same effect as a putative father's notice of
1727 commencement filed pursuant to Section [~~78B-6-121~~] 81-13-213.

Section 11. Section **26B-8-104** is amended to read:

26B-8-104 . Birth registrations -- Execution and registration requirements.

(1) As used in this section:

(a) "Birthing facility" means a:

(i) general acute hospital as defined in Section 26B-2-201; or

(ii) birthing center as defined in Section 26B-2-201.

(b) "Designated administrator" means an individual who has been designated by a birthing facility to submit a birth registration on behalf of the birthing facility.

(2)(a) The office shall register a birth if a birth registration is completed and filed in accordance with this section.

(b) Once a birth is registered, the office shall provide a birth certificate upon request in accordance with all state laws.

(3)(a) For each live birth that occurs in a birthing facility, the designated administrator, attending physician, or nurse midwife shall:

(i) obtain and enter the information required under this part in the electronic birth registration system no later than 10 days from the day on which the birth occurred;

(ii) provide the parent the opportunity to review the information to ensure accuracy; and

(iii) submit the birth registration.

(b)(i) The date, time, place of birth, and required medical information shall be certified by the designated administrator.

(ii) The designated administrator shall enter the attending physician's, physician assistant's, or nurse midwife's name and transmit the birth registration to the local registrar for each birth that occurs in a birth facility.

(iii) The information contained in the birth registration about the parents shall be provided and certified by the mother or father or, in their incapacity or absence, by a person with knowledge of the facts.

(4)(a)(i) For a live birth that occurs outside a birthing facility, the birth registration shall be completed and filed by the physician, physician assistant, nurse, nurse practitioner, certified nurse midwife, or other person primarily responsible for providing assistance to the mother at the birth no later than 10 days from the day on which the birth occurred.

(ii) If the birth occurred without assistance from an individual described in Subsection (4)(a)(i), the presumed or declarant father or the mother of the child

shall complete and file the birth registration.

(b) The birth registration shall be completed as fully as possible and shall include the date, time, and place of birth, and the mother's name.

(5)(a) For each live birth to an unmarried mother that occurs in a birthing facility, the designated administrator shall:

(i) provide the birth mother and declarant father, if present, with:

(A) a voluntary declaration of paternity form published by the state registrar;

(B) oral and written notice to the birth mother and declarant father of the alternatives to, the legal consequences of, and the rights and responsibilities that arise from signing the declaration; and

(C) the opportunity to sign the declaration;

(ii) witness the signature of a birth mother or declarant father in accordance with Section ~~[78B-15-302]~~ 81-5-302 if the signature occurs at the facility;

(iii) enter the declarant father's information on the original birth certificate, but only if the mother and declarant father have signed a voluntary declaration of paternity or a court or administrative agency has issued an adjudication of paternity; and

(iv) file the completed declaration with the original birth certificate.

(b) If there is a presumed father, the voluntary declaration will only be valid if the presumed father also signs the voluntary declaration.

(c) The state registrar shall file the information provided on the voluntary declaration of paternity form with the original birth certificate and may provide certified copies of the declaration of paternity as otherwise provided under ~~[Title 78B, Chapter 15, Utah Uniform Parentage Act]~~ Title 81, Chapter 5, Uniform Parentage Act.

(6)(a) The state registrar shall publish a form for the voluntary declaration of paternity, a description of the process for filing a voluntary declaration of paternity, and of the rights and responsibilities established or effected by that filing, in accordance with ~~[Title 78B, Chapter 15, Utah Uniform Parentage Act]~~ Title 81, Chapter 5, Uniform Parentage Act.

(b) Information regarding the form and services related to voluntary paternity establishment shall be made available to birthing facilities and to any other entity or individual upon request.

(7) The name of a declarant father may only be included on the birth certificate of a child of unmarried parents if:

(a) the mother and declarant father have signed a voluntary declaration of paternity; or

(b) a court or administrative agency has issued an adjudication of paternity.

(8) Voluntary declarations of paternity, adjudications of paternity by judicial or administrative agencies, and voluntary rescissions of paternity shall be filed with and maintained by the state registrar for the purpose of comparing information with the state case registry maintained by the Office of Recovery Services pursuant to Section 26B-9-104.

(9) The department may notify the Division of Professional Licensing that an individual who is required to complete a birth registration under Subsection (4)(a)(i) has failed to register a birth if:

(a) the department has notified the individual that the individual is required by state law to complete the birth registration; and

(b) the individual is a physician, physician assistant, nurse, nurse practitioner, or certified nurse midwife.

Section 12. Section **26B-8-110** is amended to read:

26B-8-110 . Supplementary certificate of birth.

(1) An individual born in this state may request the state registrar to register a supplementary birth certificate for the individual if:

(a) the individual is legally recognized as a child of the individual's ~~[natural]~~ parents when the individual's ~~[natural]~~ parents are subsequently married;

(b) the individual's parentage has been determined by a state court of the United States or a Canadian provincial court with jurisdiction; or

(c) the individual has been legally adopted, as a child or as an adult, under the law of this state, any other state, or any province of Canada.

(2) The application for registration of a supplementary birth certificate may be made by:

(a) the individual requesting registration under Subsection (1) if the individual is of legal age;

(b) a legal representative; or

(c) any agency authorized to receive children for placement or adoption under the laws of this or any other state.

(3)(a) The state registrar shall require that an applicant submit identification and proof according to department rules.

(b) In the case of an adopted individual, that proof may be established by order of the court in which the adoption proceedings were held.

(4)(a) After the supplementary birth certificate is registered, any information disclosed

from the record shall be from the supplementary birth certificate.

(b) Access to the original birth certificate and to the evidence submitted in support of the supplementary birth certificate are not open to inspection except upon the order of a Utah district court or as described in Section ~~78B-6-141 or Section 78B-6-144~~ 81-13-103 or 81-13-504.

Section 13. Section **26B-8-119** is amended to read:

26B-8-119 . Petition for establishment of unregistered birth or death -- Court procedure.

(1) A person holding a direct, tangible, and legitimate interest as described in Subsection 26B-8-125(3)(a) or (b) may petition for a court order establishing the fact, time, and place of a birth or death that is not registered or for which a certified copy of the registered birth or death certificate is not obtainable. The person shall verify the petition and file the petition in the Utah court for the county where:

- (a) the birth or death is alleged to have occurred;
- (b) the person resides whose birth is to be established; or
- (c) the decedent named in the petition resided at the date of death.

(2) In order for the court to have jurisdiction, the petition shall:

- (a) allege the date, time, and place of the birth or death; and
- (b) state either that no certificate of birth or death has been registered or that a copy of the registered certificate cannot be obtained.

(3) The court shall set a hearing for five to 10 days after the day on which the petition is filed.

(4)(a) If the time and place of birth or death are in question, the court shall hear available evidence and determine the time and place of the birth or death.

(b) If the time and place of birth or death are not in question, the court shall determine the time and place of birth or death to be those alleged in the petition.

(5) A court order under this section shall be made on a form prescribed and furnished by the department and is effective upon the filing of a certified copy of the order with the state registrar.

(6)(a) For purposes of this section, the birth certificate of an adopted alien child~~[, as defined in Section 78B-6-108,]~~ is considered to be unobtainable if the alien child was born in a country that is not recognized by department rule as having an established vital records registration system.

(b) If the adopted alien child was born in a country recognized by department rule, but a

person described in Subsection (1) is unable to obtain a certified copy of the birth certificate, the state registrar shall authorize the preparation of a birth certificate if the state registrar receives a written statement signed by the registrar of the alien child's birth country stating a certified copy of the birth certificate is not available.

The following section is affected by a coordination clause at the end of this bill.

Section 14. Section **26B-8-125** is amended to read:

26B-8-125 . Inspection of vital records.

(1) As used in this section:

- (a) "Designated legal representative" means an attorney, physician, funeral service director, genealogist, or other agent of the subject, or an immediate family member of the subject, who has been delegated the authority to access vital records.
- (b) "Drug use intervention or suicide prevention effort" means a program that studies or promotes the prevention of drug overdose deaths or suicides in the state.
- (c) "Immediate family member" means a spouse, child, parent, sibling, grandparent, or grandchild.
- (d) "Pre-existing parent" means the same as that term is defined in Section 81-13-101.

(2)(a) The vital records shall be open to inspection, but only in compliance with the provisions of this part, department rules, and Sections ~~[78B-6-141 and 78B-6-144]~~ 81-13-103 and 81-13-504.

(b) It is unlawful for any state or local officer or employee to disclose data contained in vital records contrary to this part, department rule, ~~[Section 78B-6-141, or Section 78B-6-144]~~ Section 81-13-103, or Section 81-13-504.

(c)~~[(i)]~~ An adoption document is open to inspection as provided in Section ~~[78B-6-141 or Section 78B-6-144]~~ 81-13-103 or 81-13-504.

~~[(ii) A birth parent may not access an adoption document under Subsection 78B-6-141(3).]~~

(d) A custodian of vital records may permit inspection of a vital record or issue a certified copy of a record or a part of a record when the custodian is satisfied that the applicant has demonstrated a direct, tangible, and legitimate interest.

(3) Except as provided in Subsection (4), a direct, tangible, and legitimate interest in a vital record is present only if:

- (a) the request is from:
 - (i) the subject;
 - (ii) an immediate family member of the subject;

- 1898 (iii) the guardian of the subject;
- 1899 (iv) a designated legal representative of the subject; or
- 1900 (v) a person, including a child-placing agency as defined in Section ~~[78B-6-103]~~
- 1901 81-13-101, with whom a child has been placed pending finalization of an adoption
- 1902 of the child;
- 1903 (b) the request involves a personal or property right of the subject of the record;
- 1904 (c) the request is for official purposes of a public health authority or a state, local, or
- 1905 federal governmental agency;
- 1906 (d) the request is for a drug use intervention or suicide prevention effort or a statistical or
- 1907 medical research program and prior consent has been obtained from the state
- 1908 registrar; or
- 1909 (e) the request is a certified copy of an order of a court of record specifying the record to
- 1910 be examined or copied.
- 1911 (4)(a) Except as provided in ~~[Title 78B, Chapter 6, Part 1, Utah Adoption Act]~~ Title 81,
- 1912 Chapter 13, Adoption, a parent, or an immediate family member of a parent~~[-, who]~~
- 1913 may not be considered as having a direct, tangible, and legitimate interest under this
- 1914 section in a vital record for which the subject is a child if the parent or family member
- 1915 does not have legal or physical custody of, or visitation or parent-time rights for~~[-a]~~ ,
- 1916 the child;
- 1917 (i) because of the termination of parental rights under Title 80, Chapter 4,
- 1918 Termination and Restoration of Parental Rights~~[-, or]~~ ; or
- 1919 (ii) by virtue of consenting to or relinquishing a child for adoption ~~[pursuant to Title~~
- 1920 ~~78B, Chapter 6, Part 1, Utah Adoption Act, may not be considered as having a~~
- 1921 ~~direct, tangible, and legitimate interest under this section]~~ as described in Title 81,
- 1922 Chapter 13, Adoption.
- 1923 (b) Except as provided in Subsection (2)(d), a commercial firm or agency requesting
- 1924 names, addresses, or similar information may not be considered as having a direct,
- 1925 tangible, and legitimate interest under this section.
- 1926 (5) Upon payment of a fee established in accordance with Section 63J-1-504, the office
- 1927 shall make the following records available to the public:
- 1928 (a) except as provided in Subsection 26B-8-110(4)(b), a birth record, excluding
- 1929 confidential information collected for medical and health use, if 100 years or more
- 1930 have passed since the date of birth;
- 1931 (b) a death record if 50 years or more have passed since the date of death; and

(c) a vital record not subject to Subsection (5)(a) or (b) if 75 years or more have passed since the date of the event upon which the record is based.

(6) Upon payment of a fee established in accordance with Section 63J-1-504, the office shall make an adoption document available as provided in Sections ~~[78B-6-141 and 78B-6-144]~~ 81-13-103 and 81-13-504.

(7) The office shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing procedures and the content of forms as follows:

(a) for the inspection of adoption documents under Subsection ~~[78B-6-141(4)]~~ 81-13-103(6);

(b) for a ~~[birth]~~ pre-existing parent's election to permit identifying information about the ~~[birth]~~ pre-existing parent to be made available~~[, under Section 78B-6-141]~~ as described in Section 81-13-103;

(c) for the release of information by the mutual-consent, voluntary adoption registry~~[, under Section 78B-6-144]~~ as described in Section 81-13-504;

(d) for collecting fees and donations under Section ~~[78B-6-144.5]~~ 81-13-505; and

(e) for the review and approval of a request described in Subsection (3)(d).

Section 15. Section **26B-8-128** is amended to read:

26B-8-128 . Divorce or adoption -- Duty of court clerk to file certificates or reports.

(1) For each adoption, annulment of adoption, divorce, and annulment of marriage ordered or decreed in this state, the clerk of the court shall prepare a divorce certificate or report of adoption on a form furnished by the state registrar or, for a report of adoption, the state of the child's birth.

(2) The petitioner shall provide the clerk of the court with the information necessary to prepare the certificate or report under Subsection (1), including the form furnished by the child's state of birth if the child was born in another state.

(3) The clerk shall:

(a) prepare the certificate or report under Subsection (1); and

(b) complete the remaining entries for the certificate or report immediately after the decree or order becomes final.

(4) On or before the 15th day of each month, the clerk shall forward the divorce certificates and reports of adoption under Subsection (1) completed by the clerk during the preceding month to the state registrar, except for reports of adoption provided to an

attorney or child-placing agency under Subsection (5)(b).

(5)(a) In addition to the report of adoption that the clerk forwards to the state registrar under Subsection (4), the clerk shall also provide an original report of adoption under Subsection (1), upon request, to the attorney who is providing representation of a party to the adoption, or the child-placing agency, as defined in Section [78B-6-103] 81-13-101, that is placing the child.

(b) If the child was born in another state, the clerk of court shall prepare and provide one original report of adoption, upon request, to the attorney who is providing representation of a party to the adoption, or the child-placing agency that is placing the child, and the attorney or child-placing agency shall be responsible for submitting the report to the state of the child's birth.

(c) If the attorney or child-placing agency does not request an original report of adoption under Subsection (5)(a) or (b), the clerk shall forward the report of adoption to the state registrar pursuant to Subsection (4).

(d) If, pursuant to Subsection (5)(a), an original report of adoption is provided to the attorney or the child-placing agency, as defined in Section [78B-6-103] 81-13-101, the attorney or the child-placing agency shall immediately provide the report of adoption to the state registrar.

Section 16. Section **26B-8-131** is amended to read:

26B-8-131 . Birth certificate for foreign adoptees.

Upon presentation of a court order of adoption and an order establishing the fact, time, and place of birth under Section 26B-8-119, the department shall prepare a birth certificate for an individual who:

- (1) was adopted under the laws of this state; and
- (2) was at the time of adoption, as a child or as an adult, considered an alien child or ~~[adult for whom the court received documentary evidence of lawful admission under Section 78B-6-108]~~ an adult born in another country.

Section 17. Section **26B-9-101** is amended to read:

26B-9-101 . Definitions.

As used in this part:

- (1) "Account" means a demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account, or money-market mutual fund account.
- (2) "Alleged father" means the same as that term is defined in Section 81-5-102.
- ~~[(2)]~~ (3) "Assistance" means public assistance.

- 2000 (4) "Birth mother" means the same as that term is defined in Section 81-5-102.
- 2001 [~~(3)~~] (5) "Child" means the same as that term is defined in Section 81-6-101.
- 2002 [~~(4)~~] (6)(a) "Child support" means a base child support award as defined in Section
- 2003 81-6-101, or a financial award for uninsured monthly medical expenses, ordered by a
- 2004 tribunal for the support of a child, including current periodic payments, all arrearages
- 2005 that accrue under an order for current periodic payments, and sum certain judgments
- 2006 awarded for arrearages, medical expenses, and child care costs.
- 2007 (b) "Child support" includes obligations ordered by a tribunal for the support of a spouse
- 2008 or former spouse with whom the child resides if the spousal support is collected with
- 2009 the child support.
- 2010 [~~(5)~~] (7) "Child support services" means services provided pursuant to Part D of Title IV of
- 2011 the Social Security Act, 42 U.S.C. Sec. 651, et seq.
- 2012 [~~(6)~~] (8) "Director" means the director of the Office of Recovery Services.
- 2013 [~~(7)~~] (9) "Financial institution" means:
- 2014 (a) a depository institution as defined in Section 7-1-103 or the Federal Deposit
- 2015 Insurance Act, 12 U.S.C. Sec. 1813(c);
- 2016 (b) an institution-affiliated party as defined in the Federal Deposit Insurance Act, 12
- 2017 U.S.C. Sec. 1813(u);
- 2018 (c) any federal credit union or state credit union as defined in the Federal Credit Union
- 2019 Act, 12 U.S.C. Sec. 1752, including an institution-affiliated party of such a credit
- 2020 union as defined in 12 U.S.C. Sec. 1786(r);
- 2021 (d) a broker-dealer as defined in Section 61-1-13; or
- 2022 (e) any benefit association, insurance company, safe deposit company, money-market
- 2023 mutual fund, or similar entity authorized to do business in the state.
- 2024 [~~(8)~~] (10) "Financial record" means the same as that term is defined in the Right to Financial
- 2025 Privacy Act of 1978, 12 U.S.C. Sec. 3401.
- 2026 [~~(9)~~] (11)(a) "Income" means earnings, compensation, or other payment due to an
- 2027 individual, regardless of source, whether denominated as wages, salary, commission,
- 2028 bonus, pay, or contract payment, or denominated as advances on future wages, salary,
- 2029 commission, bonus, pay, allowances, contract payment, or otherwise, including
- 2030 severance pay, sick pay, and incentive pay.
- 2031 (b) "Income" includes:
- 2032 (i) all gain derived from capital assets, labor, or both, including profit gained through
- 2033 sale or conversion of capital assets;

- 2034 (ii) interest and dividends;
- 2035 (iii) periodic payments made under pension or retirement programs or insurance
- 2036 policies of any type;
- 2037 (iv) unemployment compensation benefits;
- 2038 (v) workers' compensation benefits; and
- 2039 (vi) disability benefits.
- 2040 ~~[(10)]~~ (12) "IV-D" means Part D of Title IV of the Social Security Act, 42 U.S.C. Sec. 651
- 2041 et seq.
- 2042 ~~[(11)]~~ (13) "IV-D child support services" means child support services.
- 2043 ~~[(12)]~~ (14) "New hire registry" means the centralized new hire registry created in Section
- 2044 35A-7-103.
- 2045 ~~[(13)]~~ (15) "Obligee" means an individual, this state, another state, or other comparable
- 2046 jurisdiction to whom a debt is owed or who is entitled to reimbursement of child support
- 2047 or public assistance.
- 2048 ~~[(14)]~~ (16) "Obligor" means a person, firm, corporation, or the estate of a decedent owing
- 2049 money to this state, to an individual, to another state, or other comparable jurisdiction in
- 2050 whose behalf this state is acting.
- 2051 ~~[(15)]~~ (17) "Office" means the Office of Recovery Services.
- 2052 (18) "Parentage" means the same as that term is defined in Section 81-5-102.
- 2053 ~~[(16)]~~ (19) "Public assistance" means:
- 2054 (a) services or benefits provided under Title 35A, Chapter 3, Employment Support Act;
- 2055 (b) medical assistance provided under Chapter 3, Part 1, Health Care Assistance;
- 2056 (c) foster care maintenance payments under Part E of Title IV of the Social Security Act,
- 2057 42 U.S.C. Sec. 670, et seq.;
- 2058 (d) SNAP benefits as defined in Section 35A-1-102; or
- 2059 (e) any other public funds expended for the benefit of a person in need of financial,
- 2060 medical, food, housing, or related assistance.
- 2061 ~~[(17)]~~ (20) "State case registry" means the central, automated record system maintained by
- 2062 the office and the central, automated district court record system maintained by the
- 2063 Administrative Office of the Courts, that contains records which use standardized data
- 2064 elements, such as names, Social Security numbers and other uniform identification
- 2065 numbers, dates of birth, and case identification numbers, with respect to:
- 2066 (a) each case in which services are being provided by the office under the state IV-D
- 2067 child support services plan; and

(b) each support order established or modified in the state on or after October 1, 1998.

Section 18. Section **26B-9-104** is amended to read:

26B-9-104 . Duties of the Office of Recovery Services.

(1) The office has the following duties:

(a) except as provided in Subsection (2), to provide child support services if:

(i) the office has received an application for child support services;

(ii) the state has provided public assistance; or

(iii) a child lives out of the home in the protective custody, temporary custody, or custody or care of the state;

(b) for the purpose of collecting child support, to carry out the obligations of the department contained in:

(i) this chapter;

~~[(ii) Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act;]~~

~~[(iii) Title 78B, Chapter 15, Utah Uniform Parentage Act; and]~~

(ii) Title 81, Chapter 5, Uniform Parentage Act;

~~[(iv)]~~ (iii) Title 81, Chapter 6, Child Support;

(iv) Title 81, Chapter 7, Payment and Enforcement of Spousal and Child Support; and

(v) Title 81, Chapter 8, Uniform Interstate Family Support Act;

(c) to collect money due the department which could act to offset expenditures by the state;

(d) to cooperate with the federal government in programs designed to recover health and social service funds;

(e) to collect civil or criminal assessments, fines, fees, amounts awarded as restitution, and reimbursable expenses owed to the state or any of its political subdivisions, if the office has contracted to provide collection services;

(f) to implement income withholding for collection of child support in accordance with Part 3, Income Withholding in IV-D Cases;

(g) to enter into agreements with financial institutions doing business in the state to develop and operate, in coordination with such financial institutions, a data match system in the manner provided for in Section 26B-9-208;

(h) to establish and maintain the state case registry in the manner required by the Social Security Act, 42 U.S.C. Sec. 654a, which shall include a record in each case of:

(i) the amount of monthly or other periodic support owed under the order, and other amounts, including arrearages, interest, late payment penalties, or fees, due or

- 2102 overdue under the order;
- 2103 (ii) any amount described in Subsection (1)(h)(i) that has been collected;
- 2104 (iii) the distribution of collected amounts;
- 2105 (iv) the birth date of any child for whom the order requires the provision of support;
- 2106 and
- 2107 (v) the amount of any lien imposed with respect to the order pursuant to this part;
- 2108 (i) to contract with the Department of Workforce Services to establish and maintain the
- 2109 new hire registry created under Section 35A-7-103;
- 2110 (j) to determine whether an individual who has applied for or is receiving cash assistance
- 2111 or Medicaid is cooperating in good faith with the office as required by Section
- 2112 26B-9-213;
- 2113 (k) to finance any costs incurred from collections, fees, General Fund appropriation,
- 2114 contracts, and federal financial participation; and
- 2115 (l) to provide notice to a noncustodial parent in accordance with Section 26B-9-207 of
- 2116 the opportunity to contest the accuracy of allegations by a custodial parent of
- 2117 nonpayment of past-due child support, prior to taking action against a noncustodial
- 2118 parent to collect the alleged past-due support.
- 2119 (2) The office may not provide child support services to the Division of Child and Family
- 2120 Services for a calendar month when the child to whom the child support services relate
- 2121 is:
- 2122 (a) in the custody of the Division of Child and Family Services; and
- 2123 (b) lives in the home of a custodial parent of the child for more than seven consecutive
- 2124 days, regardless of whether:
- 2125 (i) the greater than seven consecutive day period starts during one month and ends in
- 2126 the next month; and
- 2127 (ii) the child is living in the home on a trial basis.
- 2128 (3) The Division of Child and Family Services is not entitled to child support, for a child to
- 2129 whom the child support relates, for a calendar month when child support services may
- 2130 not be provided under Subsection (2).
- 2131 Section 19. Section **26B-9-108** is amended to read:
- 2132 **26B-9-108 . Director -- Powers of office -- Representation by county attorney or**
- 2133 **attorney general -- Receipt of grants -- Rulemaking and enforcement.**
- 2134 (1) The director of the office shall be appointed by the executive director.
- 2135 (2) The office has power to administer oaths, certify to official acts, issue subpoenas, and to

compel witnesses and the production of books, accounts, documents, and evidence.

(3) The office has the power to seek administrative and judicial orders to require an obligor who owes past-due support and is obligated to support a child receiving public assistance to participate in appropriate work activities if the obligor is unemployed and is not otherwise incapacitated.

(4) The office has the power to enter into reciprocal child support enforcement agreements with foreign countries consistent with federal law and cooperative enforcement agreements with Indian Tribes.

(5) The office has the power to pursue through court action the withholding, suspension, and revocation of driver's licenses, professional and occupational licenses, and recreational licenses of individuals owing overdue support or failing, after receiving appropriate notice, to comply with subpoenas or orders relating to [paternity] parentage or child support proceedings pursuant to Section 78B-6-315.

(6)(a) It is the duty of the attorney general or the county attorney of any county in which a cause of action can be filed, to represent the office.

(b) Neither the attorney general nor the county attorney represents or has an attorney-client relationship with the obligee or the obligor in carrying out the duties arising under this chapter.

(7) The office, with department approval, is authorized to receive any grants or stipends from the federal government or other public or private source designed to aid the efficient and effective operation of the recovery program.

(8) The office may adopt, amend, and enforce rules as may be necessary to carry out the provisions of this chapter.

Section 20. Section **26B-9-205** is amended to read:

26B-9-205 . Expedited procedures for establishing parentage or establishing, modifying, or enforcing a support order.

(1) The office may, without the necessity of initiating an adjudicative proceeding or obtaining an order from any other judicial or administrative tribunal, take the following actions related to the establishment of [paternity] parentage or the establishment, modification, or enforcement of a support order, and to recognize and enforce the authority of state agencies of other states to take the following actions:

(a) require a child, a birth mother, and an alleged father to submit to genetic testing;

(b) subpoena financial or other information needed to establish, modify, or enforce a support order, including:

- 2170 (i) the name, address, and employer of a person who owes or is owed support that
2171 appears on the customer records of public utilities and cable television companies;
2172 and
- 2173 (ii) information held by financial institutions on such things as the assets and
2174 liabilities of a person who owes or is owed support;
- 2175 (c) require a public or private employer to promptly disclose information to the office on
2176 the name, address, date of birth, social security number, employment status,
2177 compensation, and benefits, including health insurance, of any person employed as
2178 an employee or contractor by the employer;
- 2179 (d) require an insurance organization subject to Title 31A, Insurance Code, or an
2180 insurance administrator of a self-insured employer to promptly disclose to the office
2181 health insurance information pertaining to an insured or an insured's dependents, if
2182 known;
- 2183 (e) obtain access to information in the records and automated databases of other state
2184 and local government agencies, including:
- 2185 (i) marriage, birth, and divorce records;
- 2186 (ii) state and local tax and revenue records providing information on such things as
2187 residential and mailing addresses, employers, income, and assets;
- 2188 (iii) real and titled personal property records;
- 2189 (iv) records concerning occupational and professional licenses and the ownership and
2190 control of corporations, partnerships, and other business entities;
- 2191 (v) employment security records;
- 2192 (vi) records of agencies administering public assistance programs;
- 2193 (vii) motor vehicle department records; and
- 2194 (viii) corrections records;
- 2195 (f) upon providing notice to the obligor and obligee, direct an obligor or other payor to
2196 change the payee to the office if support has been assigned to the office under Section
2197 35A-7-108 or if support is paid through the office pursuant to the Social Security Act,
2198 42 U.S.C. Sec. 654B;
- 2199 (g) order income withholding in accordance with Part 3, Income Withholding in IV-D
2200 Cases;
- 2201 (h) secure assets to satisfy past-due support by:
- 2202 (i) intercepting or seizing periodic or lump-sum payments from:
- 2203 (A) a state or local government agency, including unemployment compensation,

- workers' compensation, and other benefits; and
- (B) judgments, settlements, and lotteries;
- (ii) attaching and seizing assets of an obligor held in financial institutions;
- (iii) attaching public and private retirement funds, if the obligor presently:
- (A) receives periodic payments; or
- (B) has the authority to withdraw some or all of the funds; and
- (iv) imposing liens against real and personal property in accordance with this section and Section 26B-9-214; and
- (i) increase monthly payments in accordance with Section 26B-9-219.
- (2)(a) When taking action under Subsection (1), the office shall send notice under this Subsection (2)(a) to the person or entity who is required to comply with the action if not a party to a case receiving IV-D services.
- (b) The notice described in Subsection (2)(a) shall include:
- (i) the authority of the office to take the action;
- (ii) the response required by the recipient;
- (iii) the opportunity to provide clarifying information to the office under Subsection (2)(c);
- (iv) the name and telephone number of a person in the office who can respond to inquiries; and
- (v) the protection from criminal and civil liability extended under Subsection (7).
- (c) The recipient of a notice sent under this Subsection (2) shall promptly comply with the terms of the notice and may, if the recipient believes the office's request is in error, send clarifying information to the office setting forth the basis for the recipient's belief.
- (3) The office shall in any case in which it requires genetic testing under Subsection (1)(a):
- (a) consider clarifying information if submitted by the obligee and alleged father;
- (b) proceed with testing as the office considers appropriate;
- (c) pay the cost of the tests, subject to recoupment from the alleged father if paternity parentage is established;
- (d) order a second test if the original test result is challenged, and the challenger pays the cost of the second test in advance; and
- (e) require that the genetic test is:
- (i) of a type generally acknowledged as reliable by accreditation bodies designated by the Secretary of the United States Department of Health and Human Services; and

- 2238 (ii) performed by a laboratory approved by such an accreditation body.
- 2239 (4) The office may impose a penalty against an entity for failing to provide information
- 2240 requested in a subpoena issued under Subsection (1) as follows:
- 2241 (a) \$25 for each failure to provide requested information; or
- 2242 (b) \$500 if the failure to provide requested information is the result of a conspiracy
- 2243 between the entity and the obligor to not supply the requested information or to
- 2244 supply false or incomplete information.
- 2245 (5)(a) Unless a court or administrative agency has reduced past-due support to a sum
- 2246 certain judgment, the office shall provide concurrent notice to an obligor in
- 2247 accordance with Section 26B-9-207 of:
- 2248 (i) any action taken pursuant to Subsections (1)(h)(i)(B), (1)(h)(ii), (1)(h)(iii), or
- 2249 Subsection 26B-9-208(1)(b) if Subsection (5)(b)(iii) does not apply; and
- 2250 (ii) the opportunity of the obligor to contest the action and the amount claimed to be
- 2251 past-due by filing a written request for an adjudicative proceeding with the office
- 2252 within 15 days of notice being sent.
- 2253 (b)(i) Upon receipt of a notice of levy from the office for an action taken pursuant to
- 2254 Subsections (1)(h)(i)(B), (1)(h)(ii), (1)(h)(iii), or Subsection 26B-9-208(1)(b), a
- 2255 person in possession of personal property of the obligor shall:
- 2256 (A) secure the property from unauthorized transfer or disposition as required by
- 2257 Section 26B-9-215; and
- 2258 (B) surrender the property to the office after 21 days of receiving the notice unless
- 2259 the office has notified the person to release all or part of the property to the
- 2260 obligor.
- 2261 (ii) Unless released by the office, a notice of levy upon personal property shall be:
- 2262 (A) valid for 60 days; and
- 2263 (B) effective against any additional property which the obligor may deposit or
- 2264 transfer into the possession of the person up to the amount of the levy.
- 2265 (iii) If the property upon which the office imposes a levy is insufficient to satisfy the
- 2266 specified amount of past-due support and the obligor fails to contest that amount
- 2267 under Subsection (5)(a)(ii), the office may proceed under Subsections (1)(h)(i)(B),
- 2268 (1)(h)(ii), (1)(h)(iii), or Subsection 26B-9-208(1)(b) against additional property of
- 2269 the obligor until the amount specified and the reasonable costs of collection are
- 2270 fully paid.
- 2271 (c) Except as provided in Subsection (5)(b)(iii), the office may not disburse funds

2272 resulting from action requiring notice under Subsection (5)(a)(i) until:

2273 (i) 21 days after notice was sent to the obligor; and

2274 (ii) the obligor, if the obligor contests the action under Subsection (5)(a)(ii), has
2275 exhausted the obligor's administrative remedies and, if appealed to a district court,
2276 the district court has rendered a final decision.

2277 (d) Before intercepting or seizing any periodic or lump-sum payment under Subsection
2278 (1)(h)(i)(A), the office shall:

2279 (i) comply with Subsection 59-10-529(4)(a); and

2280 (ii) include in the notice required by Subsection 59-10-529(4)(a) reference to
2281 Subsection (1)(h)(i)(A).

2282 (e) If Subsection (5)(a) or (5)(d) does not apply, an action against the real or personal
2283 property of the obligor shall be in accordance with Section 26B-9-214.

2284 (6) All information received under this section is subject to Title 63G, Chapter 2,
2285 Government Records Access and Management Act.

2286 (7) No employer, financial institution, public utility, cable company, insurance
2287 organization, its agent or employee, or related entity may be civilly or criminally liable
2288 for providing information to the office or taking any other action requested by the office
2289 pursuant to this section.

2290 (8) The actions the office may take under Subsection (1) are in addition to the actions the
2291 office may take pursuant to Part 3, Income Withholding in IV-D Cases.

2292 Section 21. Section **26B-9-206** is amended to read:

2293 **26B-9-206 . Issuance or modification of administrative order -- Compliance with**
2294 **court order -- Authority of office -- Stipulated agreements -- Notification requirements.**

2295 (1) Through an adjudicative proceeding the office may issue or modify an administrative
2296 order that:

2297 (a) determines [~~paternity~~] parentage;

2298 (b) determines whether an obligor owes support;

2299 (c) determines temporary orders of child support upon clear and convincing evidence of [~~paternity~~]
2300 parentage in the form of genetic test results or other evidence;

2301 (d) requires an obligor to pay a specific or determinable amount of present and future
2302 support;

2303 (e) determines the amount of past-due support;

2304 (f) orders an obligor who owes past-due support and is obligated to support a child
2305 receiving public assistance to participate in appropriate work activities if the obligor

- 2306 is unemployed and is not otherwise incapacitated;
- 2307 (g) imposes a penalty authorized under this chapter;
- 2308 (h) determines an issue that may be specifically contested under this chapter by a party
- 2309 who timely files a written request for an adjudicative proceeding with the office; and
- 2310 (i) renews an administrative judgment.
- 2311 (2)(a) An abstract of a final administrative order issued under this section or a notice of
- 2312 judgment-lien under Section 26B-9-214 may be filed with the clerk of any district
- 2313 court.
- 2314 (b) Upon a filing under Subsection (2)(a), the clerk of the court shall:
- 2315 (i) docket the abstract or notice in the judgment docket of the court and note the time
- 2316 of receipt on the abstract or notice and in the judgment docket; and
- 2317 (ii) at the request of the office, place a copy of the abstract or notice in the file of a
- 2318 child support action involving the same parties.
- 2319 (3) If a judicial order has been issued, the office may not issue an order under Subsection (1)
- 2320 that is not based on the judicial order, except:
- 2321 (a) the office may establish a new obligation in those cases in which the juvenile court
- 2322 has ordered the parties to meet with the office to determine the support pursuant to
- 2323 Section 78A-6-356; or
- 2324 (b) the office may issue an order of current support in accordance with the child support
- 2325 guidelines if the conditions of Subsection [~~78B-14-207(2)(c)~~] 81-8-207(2)(c) are met.
- 2326 (4) The office may proceed under this section in the name of this state, another state under
- 2327 Section 26B-9-209, any department of this state, the office, or the obligee.
- 2328 (5) The office may accept voluntary acknowledgment of a support obligation and enter into
- 2329 stipulated agreements providing for the issuance of an administrative order under this
- 2330 part.
- 2331 (6) The office may act in the name of the obligee in endorsing and cashing any drafts,
- 2332 checks, money orders, or other negotiable instruments received by the office for support.
- 2333 (7) The obligor shall, after a notice of agency action has been served on the obligor in
- 2334 accordance with Section 63G-4-201, keep the office informed of:
- 2335 (a) the obligor's current address;
- 2336 (b) the name and address of current payors of income;
- 2337 (c) availability of or access to health insurance coverage; and
- 2338 (d) applicable health insurance policy information.
- 2339 Section 22. Section **26B-9-207** is amended to read:

26B-9-207 . Filing of location information -- Service of process.

- (1)(a) Upon the entry of an order in a proceeding to establish [~~paternity~~] parentage or to establish, modify, or enforce a support order, each party shall file identifying information and shall update that information as changes occur:
- (i) with the court or administrative agency that conducted the proceeding; and
 - (ii) after October 1, 1998, with the state case registry.
- (b) The identifying information required under Subsection (1)(a) shall include the person's Social Security number, driver's license number, residential and mailing addresses, telephone numbers, the name, address, and telephone number of employers, and any other data required by the Secretary of the United States Department of Health and Human Services.
- (c) In any subsequent child support action involving the office or between the parties, state due process requirements for notice and service of process shall be satisfied as to a party upon:
- (i) a sufficient showing that diligent effort has been made to ascertain the location of the party; and
 - (ii) delivery of notice to the most recent residential or employer address filed with the court, administrative agency, or state case registry under Subsection (1)(a).
- (2)(a) The office shall provide individuals who are applying for or receiving services under this chapter or who are parties to cases in which services are being provided under this chapter:
- (i) with notice of all proceedings in which support obligations might be established or modified; and
 - (ii) with a copy of any order establishing or modifying a child support obligation, or in the case of a petition for modification, a notice of determination that there should be no change in the amount of the child support award, within 14 days after issuance of such order or determination.
- (b) Notwithstanding Subsection (2)(a)(ii), notice in the case of an interstate order shall be provided in accordance with Section [~~78B-14-614~~] 81-8-614.
- (3) Service of all notices and orders under this part shall be made in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the Utah Rules of Civil Procedure, or this section.
- (4) Consistent with Title 63G, Chapter 2, Government Records Access and Management Act, the office shall adopt procedures to classify records to prohibit the unauthorized use

or disclosure of information relating to a proceeding to:

(a) establish [~~paternity~~] parentage; or

(b) establish or enforce support.

(5)(a) The office shall, upon written request, provide location information available in its files on a custodial or noncustodial parent to the other party or the other party's legal counsel provided that:

(i) the party seeking the information produces a copy of the parent-time order signed by the court;

(ii) the information has not been safeguarded in accordance with Section 454 of the Social Security Act;

(iii) the party whose location is being sought has been afforded notice in accordance with this section of the opportunity to contest release of the information;

(iv) the party whose location is being sought has not provided the office with a copy of a protective order, a current court order prohibiting disclosure, a current court order limiting or prohibiting the requesting person's contact with the party or child whose location is being sought, a criminal order, an administrative order pursuant to Section 80-2-707, or documentation of a pending proceeding for any of the above; and

(v) there is no other state or federal law that would prohibit disclosure.

(b) "Location information" shall consist of the current residential address of the custodial or noncustodial parent and, if different and known to the office, the current residence of any children who are the subject of the parent-time order. If there is no current residential address available, the person's place of employment and any other location information shall be disclosed.

(c) For the purposes of this section, "reason to believe" under Section 454 of the Social Security Act means that the person seeking to safeguard information has provided to the office a copy of a protective order, current court order prohibiting disclosure, current court order prohibiting or limiting the requesting person's contact with the party or child whose location is being sought, criminal order signed by a court of competent jurisdiction, an administrative order pursuant to Section 80-2-707, or documentation of a pending proceeding for any of the above.

(d) Neither the state, the department, the office nor its employees shall be liable for any information released in accordance with this section.

(6) Custodial or noncustodial parents or their legal representatives who are denied location

information in accordance with Subsection (5) may serve the Office of Recovery Services to initiate an action to obtain the information.

Section 23. Section **26B-9-209** is amended to read:

26B-9-209 . Support collection services requested by agency of another state.

- (1) In accordance with [~~Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act~~] Title 81, Chapter 8, Uniform Interstate Family Support Act, the office may proceed to issue or modify an order under Section 26B-9-206 to collect under this part from an obligor who is located in or is a resident of this state regardless of the presence or residence of the obligee if:
- (a) support collection services are requested by an agency of another state that is operating under Part IV-D of the Social Security Act; or
 - (b) an individual applies for services.
- (2) The office shall use high-volume automated administrative enforcement, to the same extent it is used for intrastate cases, in response to a request made by another state's IV-D child support agency to enforce support orders.
- (3) A request by another state shall constitute a certification by the requesting state:
- (a) of the amount of support under the order of payment of which is in arrears; and
 - (b) that the requesting state has complied with procedural due process requirements applicable to the case.
- (4) The office shall give automated administrative interstate enforcement requests the same priority as a two-state referral received from another state to enforce a support order.
- (5) The office shall promptly report the results of the enforcement procedures to the requesting state.
- (6) As required by the Social Security Act, 42 U.S.C. Sec. 666(a)(14), the office shall maintain records of:
- (a) the number of requests for enforcement assistance received by the office under this section;
 - (b) the number of cases for which the state collected support in response to those requests; and
 - (c) the amount of support collected.

Section 24. Section **26B-9-213** is amended to read:

26B-9-213 . Duties of obligee after assignment of support rights.

- (1) An obligee whose rights to support have been assigned under Section 35A-3-108 as a condition of eligibility for public assistance has the following duties:

- 2442 (a) Unless a good cause or other exception applies, the obligee shall, at the request of the
2443 office:
- 2444 (i) cooperate in good faith with the office by providing the name and other
2445 identifying information of the other parent of the obligee's child for the purpose of:
2446 (A) establishing [~~paternity~~] parentage; or
2447 (B) establishing, modifying, or enforcing a child support order;
- 2448 (ii) supply additional necessary information and appear at interviews, hearings, and
2449 legal proceedings; and
- 2450 (iii) submit the obligee's child and [~~himself~~] the obligee to judicially or
2451 administratively ordered genetic testing.
- 2452 (b) The obligee may not commence an action against an obligor or file a pleading to
2453 collect or modify support without the office's written consent.
- 2454 (c) The obligee may not do anything to prejudice the rights of the office to establish [
2455 ~~paternity~~] parentage, enforce provisions requiring health insurance, or to establish and
2456 collect support.
- 2457 (d) The obligee may not agree to allow the obligor to change the court or
2458 administratively ordered manner or amount of payment of past, present, or future
2459 support without the office's written consent.
- 2460 (2)(a) The office shall determine and redetermine, when appropriate, whether an obligee
2461 has cooperated with the office as required by Subsection (1)(a).
- 2462 (b) If the office determines that an obligee has not cooperated as required by Subsection
2463 (1)(a), the office shall:
- 2464 (i) forward the determination and the basis for it to the Department of Workforce
2465 Services, which shall inform the department of the determination, for a
2466 determination of whether compliance by the obligee should be excused on the
2467 basis of good cause or other exception; and
- 2468 (ii) send to the obligee:
- 2469 (A) a copy of the notice; and
2470 (B) information that the obligee may, within 15 days of notice being sent:
2471 (I) contest the office's determination of noncooperation by filing a written
2472 request for an adjudicative proceeding with the office; or
2473 (II) assert that compliance should be excused on the basis of good cause or
2474 other exception by filing a written request for a good cause exception with
2475 the Department of Workforce Services.

- (3) The office's right to recover is not reduced or terminated if an obligee agrees to allow the obligor to change the court or administratively ordered manner or amount of payment of support regardless of whether that agreement is entered into before or after public assistance is furnished on behalf of a child.
- (4)(a) If an obligee receives direct payment of assigned support from an obligor, the obligee shall immediately deliver that payment to the office.
- (b)(i) If an obligee agrees with an obligor to receive payment of support other than in the court or administratively ordered manner and receives payment as agreed with the obligor, the obligee shall immediately deliver the cash equivalent of the payment to the office.
- (ii) If the amount delivered to the office by the obligee under Subsection (4)(b)(i) exceeds the amount of the court or administratively ordered support due, the office shall return the excess to the obligee.
- (5)(a) If public assistance furnished on behalf of a child is terminated, the office may continue to provide [~~paternity~~] parentage establishment and support collection services.
- (b) Unless the obligee notifies the office to discontinue these services, the obligee is considered to have accepted and is bound by the rights, duties, and liabilities of an obligee who has applied for those services.
- Section 25. Section **26B-9-230** is amended to read:
- 26B-9-230 . Right to judicial review.**
- (1)(a) Within 30 days of notice of any administrative action on the part of the office to establish [~~paternity~~] parentage or establish, modify or enforce a child support order, the obligor may file a petition for de novo review with the district court.
- (b) For purposes of Subsection (1)(a), notice includes:
- (i) notice actually received by the obligor in accordance with Section 26B-9-207;
- (ii) participation by the obligor in the proceedings related to the establishment of the [~~paternity~~] parentage or the modification or enforcement of child support; or
- (iii) receiving a paycheck in which a reduction has been made for child support.
- (2) The petition shall name the office and all other appropriate parties as respondents and meet the form requirements specified in Section 63G-4-402.
- (3) A copy of the petition shall be served upon the Child and Family Support Division of the Office of Attorney General.
- (4)(a) If the petition is regarding the amount of the child support obligation established

in accordance with Title 81, Chapter 6, Child Support, the court may issue a temporary order for child support until a final order is issued.

(b) The petitioner may file an affidavit stating the amount of child support reasonably believed to be due and the court may issue a temporary order for that amount. The temporary order shall be valid for 60 days, unless extended by the court while the action is being pursued.

(c) If the court upholds the amount of support established in Subsection (4)(a), the petitioner shall be ordered to make up the difference between the amount originally ordered in Subsection (4)(a) and the amount temporarily ordered under Subsection (4)(b).

(d) This Subsection (4) does not apply to an action for the court-ordered modification of a judicial child support order.

(5)(a) The court may, on its own initiative and based on the evidence before it, determine whether the petitioner violated Rule 11 of the Utah Rules of Civil Procedure by filing the action.

(b) If the court determines that Rule 11 of the Utah Rules of Civil Procedure was violated, it shall, at a minimum, award to the office attorney fees and costs for the action.

(6) Nothing in this section precludes the obligor from seeking administrative remedies as provided in this chapter.

Section 26. Section **35A-3-308** is amended to read:

35A-3-308 . Adoption services -- Printed information -- Supports provided.

(1) The department may provide assistance under this section to an applicant who is pregnant and is not receiving cash assistance at the beginning of the third trimester of pregnancy.

(2) For a pregnant applicant, the department shall:

(a) refer the applicant for appropriate prenatal medical care, including maternal health services provided under Title 26B, Chapter 7, Part 1, Health Promotion and Risk Reduction;

(b) inform the applicant of free counseling about adoption from licensed child placement agencies and licensed attorneys; and

(c) offer the applicant the adoption information packet described in Subsection (3).

(3) The department shall publish an adoption information packet that:

(a) is easy to understand;

(b) contains geographically indexed materials on the public and private organizations that provide adoption assistance;

(c) lists the names, addresses, and telephone numbers of licensed child placement agencies and licensed attorneys who place children for adoption;

(d) explains that private adoption is legal and that the law permits adoptive parents to reimburse the costs of prenatal care, childbirth, neonatal care, and other expenses related to pregnancy; and

(e) describes the services available to the applicant under this section.

(4)(a) A recipient remains eligible for assistance under this section, even though the recipient relinquishes a child for adoption, if the adoption is in accordance with Sections ~~[78B-6-120 through 78B-6-122]~~ 81-13-212 and 81-13-213.

(b) The assistance provided under this section may include:

(i) reimbursement for expenses associated with care and confinement during pregnancy as provided in Subsection (5); and

(ii) for a maximum of 12 months from the date of relinquishment, coordination of services to assist the recipient in:

(A) receiving appropriate educational and occupational assessment and planning;

(B) enrolling in appropriate education or training programs, including high school completion and adult education programs;

(C) enrolling in programs that provide assistance with job readiness, employment counseling, finding employment, and work skills;

(D) finding suitable housing;

(E) receiving medical assistance, under Title 26B, Chapter 3, Health Care - Administration and Assistance, if the recipient is otherwise eligible; and

(F) receiving counseling and other mental health services.

(5)(a) Except as provided in Subsection (5)(b), a recipient under this section is eligible to receive an amount equal to the maximum monthly amount of cash assistance paid under this part to one person for up to 12 consecutive months from the date of relinquishment.

(b) If a recipient is otherwise eligible to receive cash assistance under this part, the recipient is eligible to receive an amount equal to the increase in cash assistance the recipient would have received but for the relinquishment for up to 12 consecutive months from the date of relinquishment.

(6)(a) To remain eligible for assistance under this section, a recipient shall:

- (i) with the cooperation of the department, develop and implement an employment plan that includes goals for achieving self-sufficiency and that describes the action the recipient will take concerning education and training to achieve full-time employment;
- (ii) if the recipient does not have a high school diploma, enroll in high school or an alternative to high school and demonstrate progress toward graduation; and
- (iii) make a good faith effort to meet the goals of the employment plan as described in Section 35A-3-304.
- (b) Cash assistance provided to a recipient before the recipient relinquishes a child for adoption is part of the state plan.
- (c) Assistance provided under Subsection (5):
- (i) shall be provided for with state funds; and
- (ii) may not be counted when determining subsequent eligibility for cash assistance under this chapter.
- (d) The time limit provisions of Section 35A-3-306 apply to cash assistance provided under the state plan.
- (e) The department shall monitor a recipient's compliance with this section.
- (f) Except for Subsection (6)(b), Subsections (2) through (6) are excluded from the state plan.

Section 27. Section **53-10-108** is amended to read:

53-10-108 . Restrictions on access, use, and contents of division records --

Limited use of records for employment purposes -- Challenging accuracy of records --

Usage fees -- Missing children records -- Penalty for misuse of records.

- (1) As used in this section:
- (a) "Clone" means to copy a subscription or subscription data from a rap back system, including associated criminal history record information, from a qualified entity to another qualified entity.
- (b) "FBI Rap Back System" means the rap back system maintained by the Federal Bureau of Investigation.
- (c) "Rap back system" means a system that enables authorized entities to receive ongoing status notifications of any criminal history reported on individuals whose fingerprints are registered in the system.
- (d) "Volunteer Employee Criminal History System" or "VECHS" means a system that allows the bureau and the Federal Bureau of Investigation to provide criminal history

record information to a qualifying entity, including a non-governmental qualifying entity.

(e) "WIN Database" means the Western Identification Network Database that consists of eight western states sharing one electronic fingerprint database.

(2) Except as provided in Subsection (17), dissemination of information from a criminal history record, including information obtained from a fingerprint background check, name check, warrant of arrest information, or information from division files, is limited to:

(a) criminal justice agencies for purposes of administration of criminal justice and for employment screening by criminal justice agencies;

(b)(i) agencies or individuals pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice; and

(ii) the agreement shall specifically authorize access to data, limit the use of the data to purposes for which given, and ensure the security and confidentiality of the data;

(c) a qualifying entity for employment background checks for the qualifying entity's own employees or volunteers and individuals who have applied for employment with or to serve as a volunteer for the qualifying entity;

(d) noncriminal justice agencies or individuals for any purpose authorized by statute, executive order, court rule, court order, or local ordinance;

(e) agencies or individuals for the purpose of obtaining required clearances connected with foreign travel or obtaining citizenship;

(f) agencies or individuals for the purpose of a preplacement adoptive study, in accordance with the requirements of Sections ~~[78B-6-128 and 78B-6-130]~~ 81-13-403 and 81-13-405;

(g) private security agencies through guidelines established by the commissioner for employment background checks for their own employees and prospective employees;

(h) state agencies for the purpose of conducting a background check for the following individuals:

(i) employees;

(ii) applicants for employment;

(iii) volunteers; and

(iv) contract employees;

(i) governor's office for the purpose of conducting a background check on the following

- 2646 individuals:
- 2647 (i) cabinet members;
- 2648 (ii) judicial applicants; and
- 2649 (iii) members of boards, committees, and commissions appointed by the governor;
- 2650 (j) the office of the lieutenant governor for the purpose of conducting a background
- 2651 check on an individual applying to be a notary public under Section 46-1-3;
- 2652 (k) agencies and individuals as the commissioner authorizes for the express purpose of
- 2653 research, evaluative, or statistical activities pursuant to an agreement with a criminal
- 2654 justice agency; and
- 2655 (l) other agencies and individuals as the commissioner authorizes and finds necessary for
- 2656 protection of life and property and for offender identification, apprehension, and
- 2657 prosecution pursuant to an agreement.
- 2658 (3) An agreement under Subsection (2)(k) shall specifically authorize access to data, limit
- 2659 the use of data to research, evaluative, or statistical purposes, preserve the anonymity of
- 2660 individuals to whom the information relates, and ensure the confidentiality and security
- 2661 of the data.
- 2662 (4)(a) Before requesting information, a qualifying entity under Subsection (2)(c), state
- 2663 agency, or other agency or individual described in Subsections (2)(d) through (j) shall
- 2664 obtain a signed waiver from the person whose information is requested.
- 2665 (b) The waiver shall notify the signee:
- 2666 (i) that a criminal history background check will be conducted;
- 2667 (ii) who will see the information; and
- 2668 (iii) how the information will be used.
- 2669 (c) A qualifying entity under Subsection (2)(c), state agency, or other agency or
- 2670 individual described in Subsections (2)(d) through (g) that submits a request for a
- 2671 noncriminal justice name based background check of local databases to the bureau
- 2672 shall provide to the bureau:
- 2673 (i) personal identifying information for the subject of the background check; and
- 2674 (ii) the fee required by Subsection (15).
- 2675 (d) A qualifying entity under Subsection (2)(c), state agency, or other agency or
- 2676 individual described in Subsections (2)(d) through (g) that submits a request for a
- 2677 WIN database check and a nationwide background check shall provide to the bureau:
- 2678 (i) personal identifying information for the subject of the background check;
- 2679 (ii) a fingerprint card for the subject of the background check; and

- 2680 (iii) the fee required by Subsection (15).
- 2681 (e) Information received by a qualifying entity under Subsection (2)(c), state agency, or
2682 other agency or individual described in Subsections (2)(d) through (j) may only be:
- 2683 (i) available to individuals involved in the hiring or background investigation of the
2684 job applicant, employee, notary applicant, or as authorized under federal or state
2685 law;
- 2686 (ii) used for the purpose of assisting in making an employment appointment,
2687 selection, or promotion decision or for considering a notary applicant under
2688 Section 46-1-3; and
- 2689 (iii) used for the purposes disclosed in the waiver signed in accordance with
2690 Subsection (4)(b).
- 2691 (f) An individual who disseminates or uses information obtained from the division under
2692 Subsections (2)(c) through (j) for purposes other than those specified under
2693 Subsection (4)(e), in addition to any penalties provided under this section, is subject
2694 to civil liability.
- 2695 (g)(i) A qualifying entity under Subsection (2)(c), state agency, or other agency or
2696 individual described in Subsections (2)(d) through (j) that obtains background
2697 check information shall provide the subject of the background check an
2698 opportunity to:
- 2699 (A) request a copy of the information received; and
2700 (B) respond to and challenge the accuracy of any information received.
- 2701 (ii) An individual who is the subject of a background check and who receives a copy
2702 of the information described in Subsection (4)(g)(i) may use the information only
2703 for the purpose of reviewing, responding to, or challenging the accuracy of the
2704 information.
- 2705 (h) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
2706 division may make rules to implement this Subsection (4).
- 2707 (i) The division or the division's employees are not liable for defamation, invasion of
2708 privacy, negligence, or any other claim in connection with the contents of
2709 information disseminated under Subsections (2)(c) through (j).
- 2710 (5)(a) Except as provided in Subsection (5)(b), (c), (d), or (e), or as otherwise authorized
2711 under state law, criminal history record information obtained from division files may
2712 be used only for the purposes for which the information was provided.
- 2713 (b) A criminal history provided to an agency under Subsection (2)(f) may be provided

by the agency to the individual who is the subject of the history, another licensed child-placing agency, or the attorney for the adoptive parents for the purpose of facilitating an adoption.

(c) A criminal history of a defendant provided to a criminal justice agency under Subsection (2)(a) may also be provided by the prosecutor to a defendant's defense counsel, upon request during the discovery process, for the purpose of establishing a defense in a criminal case.

(d) A public transit district, as described in Title 17B, Chapter 2a, Part 8, Public Transit District Act, that is under contract with a state agency to provide services may, for the purposes of complying with Subsection 26B-6-410(5), provide a criminal history record to the state agency or the agency's designee.

(e) Criminal history record information obtained from a national source may be disseminated if the dissemination is authorized by a policy issued by the Criminal Justice Information Services Division or other federal law.

(6)(a) A qualifying entity under Subsection (2)(c) may submit fingerprints to the bureau and the Federal Bureau of Investigation for a local and national background check under the provisions of the National Child Protection Act of 1993, 42 U.S.C. Sec. 5119 et seq.

(b) A qualifying entity under Subsection (2)(c) that submits fingerprints under Subsection (6)(a):

(i) shall meet all VECHS requirements for using VECHS; and

(ii) may only submit fingerprints for an employee, volunteer, or applicant who has resided in Utah for the seven years before the day on which the qualifying entity submits the employee's, volunteer's, or applicant's fingerprints.

(7)(a) This section does not preclude the use of the division's central computing facilities for the storage and retrieval of criminal history record information.

(b) This information shall be stored so the information cannot be modified, destroyed, or accessed by unauthorized agencies or individuals.

(8) Direct access through remote computer terminals to criminal history record information in the division's files is limited to those agencies authorized by the commissioner under procedures designed to prevent unauthorized access to this information.

(9)(a) The commissioner shall establish procedures to allow an individual right of access to review and receive a copy of the individual's criminal history report.

(b) A processing fee for the right of access service, including obtaining a copy of the

2748 individual's criminal history report under Subsection (9)(a) shall be set in accordance
2749 with Section 63J-1-504.

2750 (c)(i) The commissioner shall establish procedures for an individual to challenge the
2751 completeness and accuracy of criminal history record information contained in the
2752 division's computerized criminal history files regarding that individual.

2753 (ii) These procedures shall include provisions for amending any information found to
2754 be inaccurate or incomplete.

2755 (10) The private security agencies as provided in Subsection (2)(g):

2756 (a) shall be charged for access; and

2757 (b) shall be registered with the division according to rules made by the division under
2758 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

2759 (11) Before providing information requested under this section, the division shall give
2760 priority to a criminal justice agency's needs.

2761 (12)(a) It is a class B misdemeanor for a person to knowingly or intentionally access,
2762 use, disclose, or disseminate a record created, maintained, or to which access is
2763 granted by the division or any information contained in a record created, maintained,
2764 or to which access is granted by the division for a purpose prohibited or not permitted
2765 by statute, rule, regulation, or policy of a governmental entity.

2766 (b) A person who discovers or becomes aware of any unauthorized use of records
2767 created or maintained, or to which access is granted by the division shall inform the
2768 commissioner and the director of the bureau of the unauthorized use.

2769 (13)(a) Subject to Subsection (13)(b), a qualifying entity or an entity described in
2770 Subsection (2) may request that the division register fingerprints taken for the
2771 purpose of conducting current and future criminal background checks under this
2772 section with:

2773 (i) the WIN Database rap back system, or any successor system;

2774 (ii) the FBI Rap Back System; or

2775 (iii) a system maintained by the division.

2776 (b) A qualifying entity or an entity described in Subsection (2) may only make a request
2777 under Subsection (13)(a) if the entity:

2778 (i) has the authority through state or federal statute or federal executive order;

2779 (ii) obtains a signed waiver from the individual whose fingerprints are being
2780 registered; and

2781 (iii) establishes a privacy risk mitigation strategy to ensure that the entity only

receives notifications for individuals with whom the entity maintains an authorizing relationship.

(14) The division is authorized to submit fingerprints to the FBI Rap Back System to be retained in the FBI Rap Back System for the purpose of being searched by future submissions to the FBI Rap Back System, including latent fingerprint searches.

(15)(a) The division shall impose fees set in accordance with Section 63J-1-504 for the applicant fingerprint card, name check, and to register fingerprints under Subsection (13)(a).

(b) Funds generated under this Subsection (15) shall be deposited into the General Fund as a dedicated credit by the department to cover the costs incurred in providing the information.

(c) The division may collect fees charged by an outside agency for services required under this section.

(16) For the purposes of conducting a criminal background check authorized under Subsection (2)(h), (i), or (j), the Division of Human Resource Management, in accordance with Title 63A, Chapter 17, Utah State Personnel Management Act, and the governor's office shall have direct access to criminal background information maintained under Chapter 10, Part 2, Bureau of Criminal Identification.

(17)(a) Except as provided in Subsection (18), if an individual has an active FBI Rap Back System subscription with a qualifying entity, the division may, upon request from another qualifying entity, clone the subscription to the requesting qualifying entity if:

(i) the requesting qualifying entity requests the clone:

(A) for the purpose of evaluating whether the individual should be permitted to obtain or retain a license for, or serve as an employee or volunteer in a position in which the individual is responsible for, the care, treatment, training, instruction, supervision, or recreation of children, the elderly, or individuals with disabilities; or

(B) for the same purpose as the purpose for which the original qualifying entity requested the criminal history record information;

(ii) the requesting qualifying entity is expressly authorized by statute to obtain criminal history record information for the individual who is the subject of the request;

(iii) before requesting the clone, the requesting qualifying entity obtains a signed

waiver, containing the information described in Subsection (4)(b), from the individual who is the subject of the request;

(iv) the requesting qualifying entity or the individual pays any applicable fees set by the division in accordance with Section 63J-1-504; and

(v) the requesting qualifying entity complies with the requirements described in Subsection (4)(g).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules regulating the process described in this Subsection (17).

(18)(a) Subsection (17) does not apply unless the Federal Bureau of Investigation approves the use of the FBI Rap Back System for the purpose described in Subsection (17)(a)(i) under the conditions described in Subsection (17).

(b) Subsection (17) does not apply to the extent that implementation of the provisions of Subsection (17) are contrary to the requirements of the Child Care and Development Block Grant, 42 U.S.C. Secs. 9857-9858r or any other federal grant.

(19)(a) Information received by a qualifying entity under Subsection (17) may only be disclosed and used as described in Subsection (4)(e).

(b) A person who disseminates or uses information received under Subsection (17) for a purpose other than those described in Subsection (4)(e) is subject to the penalties described in this section and is also subject to civil liability.

(c) A qualifying entity is not liable for defamation, invasion of privacy, negligence, or any other claim in connection with the contents of information disseminated under Subsection (17).

Section 28. Section **53B-1-119** is amended to read:

53B-1-119 . Bereavement leave for miscarriage and stillbirth.

(1) As used in this section "miscarriage" means the spontaneous or accidental loss of a fetus, regardless of gestational age or the duration of the pregnancy.

(2) An institution shall adopt policies providing at least three work days of paid bereavement leave for an employee following the end of the employee's pregnancy by way of miscarriage or stillbirth or following the end of another individual's pregnancy by way of a miscarriage or stillbirth, if:

(a) the employee is the individual's spouse or partner;

(b) the employee is the individual's former spouse or partner and the employee would have been a biological parent of a child born as a result of the pregnancy;

(c) the employee provides documentation to show that the individual intended for the

- 2850 employee to be an adoptive parent, as that term is defined in Section [78B-6-103]
2851 81-13-101, of a child born as a result of the pregnancy; or
2852 (d) under a valid gestational agreement in accordance with [~~Title 78B, Chapter 15, Part~~
2853 ~~8, Gestational Agreement~~] Title 81, Chapter 5, Part 8, Gestational Agreement, the
2854 employee would have been a parent of a child born as a result of the pregnancy.

2855 Section 29. Section **53G-11-209** is amended to read:

2856 **53G-11-209 . Paid leave -- Parental leave -- Postpartum recovery leave -- Leave**
2857 **sharing -- Rulemaking.**

2858 (1) As used in this section:

- 2859 (a)(i) Paid leave hours" means leave hours an LEA provides to an LEA employee
2860 who accrues paid leave benefits in accordance with the LEA's leave policies.
2861 (ii) "Paid leave hours" includes annual, vacation, sick, paid time off, or any other type
2862 of leave an employee may take while still receiving compensation.
2863 (iii) "Paid leave hours" is not limited parental leave or postpartum recovery leave.
2864 (b) "Parental leave" means leave hours an LEA provides to a parental leave eligible
2865 employee.
2866 (c) "Parental leave eligible employee" means an LEA employee who accrues paid leave
2867 benefits in accordance with the LEA's leave policies and is:
2868 (i) a birth parent as defined in Section [73B-6-103] 81-13-101;
2869 (ii) legally adopting a minor child, unless the individual is the spouse of the
2870 pre-existing parent;
2871 (iii) the intended parent of a child born under a validated gestational agreement in
2872 accordance with [~~Title 78B, Chapter 15, Part 8, Gestational Agreement~~] Title 81,
2873 Chapter 5, Part 8, Gestational Agreement; or
2874 (iv) appointed the legal guardian of a minor child or incapacitated adult.
2875 (d) "Postpartum recovery leave" means leave hours a state employer provides to a
2876 postpartum recovery leave eligible employee to recover from childbirth.
2877 (e) "Postpartum recovery leave eligible employee" means an employee:
2878 (i) who accrues paid leave benefits in accordance with the LEA's leave policies; and
2879 (ii) who gives birth to a child.
2880 (f) "Qualified employee" means:
2881 (i) a parental leave eligible employee; or
2882 (ii) a postpartum recovery leave eligible employee.
2883 (g) "Retaliatory action" means to do any of the following regarding an employee:

- 2884 (i) dismiss the employee;
- 2885 (ii) reduce the employee's compensation;
- 2886 (iii) fail to increase the employee's compensation by an amount to which the
- 2887 employee is otherwise entitled to or was promised;
- 2888 (iv) fail to promote the employee if the employee would have otherwise been
- 2889 promoted; or
- 2890 (v) threaten to take an action described in Subsections ~~[(1)(f)(i)]~~ (1)(g)(i) through (iv).
- 2891 (2) Beginning July 1, 2025, an LEA:
- 2892 (a) shall develop leave policies that provide for the use and administration of parental
- 2893 leave and postpartum recovery leave by a qualified employee under this section in a
- 2894 manner that is not more restrictive than the parental and postpartum recovery leave
- 2895 available to state employees under Section 63A-17-511; [and]
- 2896 (b) may develop leave policies that provide a mechanism for leave sharing between
- 2897 employees of the same LEA or school for all types of leave including, sick leave,
- 2898 annual leave, parental leave, and postpartum recovery leave;
- 2899 (c) shall allow a parental leave eligible employee and a postpartum recovery leave
- 2900 eligible employee who is part-time or who works in excess of a 40-hour work week
- 2901 or the equivalent of a 40-hour work week to use the amount of postpartum recovery
- 2902 leave available under this section on a pro rata basis; and
- 2903 (d) shall provide each employee written information regarding:
- 2904 (i) a qualified employee's right to use parental leave or postpartum recovery leave
- 2905 under this section; and
- 2906 (ii) the availability of and process for using or contributing to the leave sharing
- 2907 mechanism described in Subsection (2)(b).
- 2908 (3) An LEA may not take retaliatory action against a qualified employee for using parental
- 2909 leave or postpartum recovery leave in accordance with this section.
- 2910 (4) An LEA may not charge parental leave or postpartum recovery leave against paid leave
- 2911 hours to which a qualified employee is entitled as described in Subsection (6).
- 2912 (5) An LEA or school may use leave bank sharing and other efforts to mitigate incurred
- 2913 costs of compliance with this section including coordinating with other LEAs or schools
- 2914 to share approaches or policies designed to fulfill the requirements of this section in a
- 2915 cost effective manner.
- 2916 (6) An LEA may provide leave that exceeds the benefits of the state leave policies
- 2917 described in this section.

Section 30. Section **58-60-112** is amended to read:

58-60-112 . Reporting of unprofessional or unlawful conduct -- Immunity from liability -- Reporting conduct of court-appointed therapist.

(1) Upon learning of an act of unlawful or unprofessional conduct as defined in Section 58-60-102 by a person licensed under this chapter or an individual not licensed under this chapter and engaged in acts or practices regulated under this chapter, that results in disciplinary action by a licensed health care facility, professional practice group, or professional society, or that results in a significant adverse impact upon the public health, safety, or welfare, the following shall report the conduct in writing to the division within 10 days after learning of the disciplinary action or the conduct unless the individual or person knows it has been reported:

(a) a licensed health care facility or organization in which an individual licensed under this chapter engages in practice;

(b) an individual licensed under this chapter; and

(c) a professional society or organization whose membership is individuals licensed under this chapter and which has the authority to discipline or expel a member for acts of unprofessional or unlawful conduct.

(2) Any individual reporting acts of unprofessional or unlawful conduct by an individual licensed under this chapter is immune from liability arising out of the disclosure to the extent the individual furnishes the information in good faith and without malice.

(3)(a) As used in this Subsection (3):

(i) "Court-appointed therapist" means a mental health therapist ordered by a court to provide psychotherapeutic treatment to an individual, a couple, or a family in a domestic case.

(ii) "Domestic case" means a proceeding under:

(A) Title 78B, Chapter 7, Protective Orders and Stalking Injunctions;

~~[(B) Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act;]~~

~~[(C) Title 78B, Chapter 15, Utah Uniform Parentage Act;]~~

~~[(D)] (B) Title 81, Chapter 4, Dissolution of Marriage; [or]~~

(C) Title 81, Chapter 5, Uniform Parentage Act;

~~[(E)] (D) Title 81, Chapter 9, Custody, Parent-time, and Visitation[-] ; or~~

(E) Title 81, Chapter 11, Uniform Child Custody Jurisdiction and Enforcement Act.

(b) If a court appoints a court-appointed therapist in a domestic case, a party to the

domestic case may not file a report against the court-appointed therapist for unlawful or unprofessional conduct during the pendency of the domestic case, unless:

- (i) the party has requested that the court release the court-appointed therapist from the appointment; and
- (ii) the court finds good cause to release the court-appointed therapist from the appointment.

Section 31. Section **63A-17-106** is amended to read:

63A-17-106 . Responsibilities of the director.

- (1) As used in this section, "miscarriage" means the spontaneous or accidental loss of a fetus, regardless of gestational age or the duration of the pregnancy.
- (2) The director shall have full responsibility and accountability for the administration of the statewide human resource management system.
- (3) Except as provided in Section 63A-17-201, an agency may not perform human resource functions without the consent of the director.
- (4) Statewide human resource management rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall take precedence if there is a conflict with agency rules, policies, or practices.
- (5) The division may operate as an internal service fund agency in accordance with Section 63J-1-410 for the human resource functions the division provides.
- (6) The director shall:
 - (a) develop, implement, and administer a statewide program of human resource management that will:
 - (i) aid in the efficient execution of public policy;
 - (ii) foster careers in public service for qualified employees; and
 - (iii) render assistance to state agencies in performing their missions;
 - (b) design and administer the state pay plan;
 - (c) design and administer the state classification system and procedures for determining schedule assignments;
 - (d) design and administer the state recruitment and selection system;
 - (e) administer agency human resource practices and ensure compliance with federal law, state law, and state human resource rules, including equal employment opportunity;
 - (f) consult with agencies on decisions concerning employee corrective action and discipline;
 - (g) maintain central personnel records;

- 2986 (h) perform those functions necessary to implement this chapter unless otherwise
2987 assigned or prohibited;
- 2988 (i) perform duties assigned by the governor, executive director, or statute;
- 2989 (j) make rules for human resource management, in accordance with Title 63G, Chapter
2990 3, Utah Administrative Rulemaking Act;
- 2991 (k) establish and maintain a management information system that will furnish the
2992 governor, the Legislature, and agencies with current information on authorized
2993 positions, payroll, and related matters concerning state human resources;
- 2994 (l) conduct research and planning activities to:
- 2995 (i) determine and prepare for future state human resource needs;
- 2996 (ii) develop methods for improving public human resource management; and
- 2997 (iii) propose needed policy changes to the governor;
- 2998 (m) study the character, causes, and extent of discrimination in state employment and
2999 develop plans for its elimination through programs consistent with federal and state
3000 laws governing equal employment opportunity in employment;
- 3001 (n) establish compensation policies and procedures for early voluntary retirement;
- 3002 (o) confer with the heads of other agencies about human resource policies and
3003 procedures;
- 3004 (p) submit an annual report to the executive director, the governor, and the Legislature;
3005 and
- 3006 (q) assist with the development of a vacant position report required under Subsection
3007 63J-1-201(2)(b)(vi).
- 3008 (7)(a) After consultation with the executive director, the governor, and the heads of
3009 other agencies, the director shall establish and coordinate statewide training
3010 programs, including training described in Subsection (7)(e).
- 3011 (b) The programs developed under this Subsection (7) shall have application to more
3012 than one agency.
- 3013 (c) The division may not establish training programs that train employees to perform
3014 highly specialized or technical jobs and tasks.
- 3015 (d) The division shall ensure that any training program described in this Subsection (7)
3016 complies with Title 63G, Chapter 22, State Training and Certification Requirements.
- 3017 (e)(i) As used in this Subsection (7)(e):
- 3018 (A) "Employee" means the same as that term is defined in Section 63A-17-112.
- 3019 (B) "Supervisor" means an individual in a position at an agency, as defined in

3020 Section 63A-17-112, that requires the regular supervision and performance
3021 evaluation of an employee.

3022 (ii) A supervisor shall attend the training:

3023 (A) within six months of being promoted or hired to the position of supervisor; and

3024 (B) at least annually.

3025 (iii) A supervisor's completion of training and effective use of training information
3026 and principles shall be considered in an evaluation of the supervisor's job
3027 performance.

3028 (iv) The training shall include:

3029 (A) effective employee management and evaluation methods based on the pay for
3030 performance management system described in Section 63A-17-112;

3031 (B) instruction to improve supervisor and employee communications;

3032 (C) best practices for recognizing and retaining high-performing employees;

3033 (D) best practices for addressing poor-performing employees; and

3034 (E) any other information and principles identified by the division to improve
3035 management or organizational effectiveness.

3036 (8)(a)(i) The division may collect fees for training as authorized by this Subsection (8).

3037 (ii) Training funded from General Fund appropriations shall be treated as a separate
3038 program within the department budget.

3039 (iii) All money received from fees under this section will be accounted for by the
3040 department as a separate user driven training program.

3041 (iv) The user training program includes the costs of developing, procuring, and
3042 presenting training and development programs, and other associated costs for
3043 these programs.

3044 (b)(i) Funds remaining at the end of the fiscal year in the user training program are
3045 nonlapsing.

3046 (ii) Each year, as part of the appropriations process, the Legislature shall review the
3047 amount of nonlapsing funds remaining at the end of the fiscal year and may, by
3048 statute, require the department to lapse a portion of the funds.

3049 (9) Rules described in Subsection (6)(j) shall provide for at least three work days of paid
3050 bereavement leave for an employee:

3051 (a) following the end of the employee's pregnancy by way of miscarriage or stillbirth; or

3052 (b) following the end of another individual's pregnancy by way of a miscarriage or
3053 stillbirth, if:

- 3054 (i) the employee is the individual's spouse or partner;
3055 (ii)(A) the employee is the individual's former spouse or partner; and
3056 (B) the employee would have been a biological parent of a child born as a result of
3057 the pregnancy;
3058 (iii) the employee provides documentation to show that the individual intended for
3059 the employee to be an adoptive parent, as that term is defined in Section [
3060 ~~78B-6-103~~] 81-13-101, of a child born as a result of the pregnancy; or
3061 (iv) under a valid gestational agreement in accordance with [~~Title 78B, Chapter 15,~~
3062 ~~Part 8, Gestational Agreement~~] Title 81, Chapter 5, Part 8, Gestational Agreement,
3063 the employee would have been a parent of a child born as a result of the
3064 pregnancy.

3065 Section 32. Section **63J-1-602.1** is amended to read:

3066 **63J-1-602.1 . List of nonlapsing appropriations from accounts and funds.**

3067 Appropriations made from the following accounts or funds are nonlapsing:

- 3068 (1) The Native American Repatriation Restricted Account created in Section 9-9-407.
3069 (2) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as
3070 provided under Title 9, Chapter 23, Pete Suazo Utah Athletic Commission Act.
3071 (3) Funds collected for directing and administering the C-PACE district created in Section
3072 11-42a-106.
3073 (4) Money received by the Utah Inland Port Authority, as provided in Section 11-58-105.
3074 (5) The Commerce Electronic Payment Fee Restricted Account created in Section 13-1-17.
3075 (6) The Division of Air Quality Oil, Gas, and Mining Restricted Account created in Section
3076 19-2a-106.
3077 (7) The Division of Water Quality Oil, Gas, and Mining Restricted Account created in
3078 Section 19-5-126.
3079 (8) State funds for matching federal funds in the Children's Health Insurance Program as
3080 provided in Section 26B-3-906.
3081 (9) Funds collected from the program fund for local health department expenses incurred in
3082 responding to a local health emergency under Section 26B-7-111.
3083 (10) The Technology Development Restricted Account created in Section 31A-3-104.
3084 (11) The Criminal Background Check Restricted Account created in Section 31A-3-105.
3085 (12) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the
3086 extent that Section 31A-3-304 makes the money received under that section free revenue.
3087 (13) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

- 3088 (14) The Health Insurance Actuarial Review Restricted Account created in Section
 3089 31A-30-115.
- 3090 (15) The State Mandated Insurer Payments Restricted Account created in Section
 3091 31A-30-118.
- 3092 (16) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.
- 3093 (17) The Underage Drinking Prevention Media and Education Campaign Restricted
 3094 Account created in Section 32B-2-306.
- 3095 ~~[(18) The Drinking While Pregnant Prevention Media and Education Campaign Restricted~~
 3096 ~~Account created in Section 32B-2-308.]~~
- 3097 ~~[(19)]~~ (18) The School Readiness Restricted Account created in Section 35A-15-203.
- 3098 ~~[(20)]~~ (19) Money received by the Utah State Office of Rehabilitation for the sale of certain
 3099 products or services, as provided in Section 35A-13-202.
- 3100 ~~[(21)]~~ (20) The Homeless Shelter Cities Mitigation Restricted Account created in Section
 3101 35A-16-402.
- 3102 ~~[(22)]~~ (21) The Oil and Gas Administrative Penalties Account created in Section 40-6-11.
- 3103 ~~[(23)]~~ (22) The Oil and Gas Conservation Account created in Section 40-6-14.5.
- 3104 ~~[(24)]~~ (23) The Division of Oil, Gas, and Mining Restricted account created in Section
 3105 40-6-23.
- 3106 ~~[(25)]~~ (24) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to
 3107 the Motor Vehicle Division.
- 3108 ~~[(26)]~~ (25) The License Plate Restricted Account created by Section 41-1a-122.
- 3109 ~~[(27)]~~ (26) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account
 3110 created by Section 41-3-110 to the State Tax Commission.
- 3111 ~~[(28)]~~ (27) The State Disaster Recovery Restricted Account to the Division of Emergency
 3112 Management, as provided in Section 53-2a-603.
- 3113 ~~[(29)]~~ (28) The Response, Recovery, and Post-disaster Mitigation Restricted Account
 3114 created in Section 53-2a-1302.
- 3115 ~~[(30)]~~ (29) The Department of Public Safety Restricted Account to the Department of Public
 3116 Safety, as provided in Section 53-3-106.
- 3117 ~~[(31)]~~ (30) The Utah Highway Patrol Aero Bureau Restricted Account created in Section
 3118 53-8-303.
- 3119 ~~[(32)]~~ (31) The DNA Specimen Restricted Account created in Section 53-10-407.
- 3120 ~~[(33)]~~ (32) The Technical Colleges Capital Projects Fund created in Section 53B-2a-118.
- 3121 ~~[(34)]~~ (33) The Higher Education Capital Projects Fund created in Section 53B-22-202.

3122 ~~[(35)]~~ (34) A certain portion of money collected for administrative costs under the School
3123 Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

3124 ~~[(36)]~~ (35) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5,
3125 subject to Subsection 54-5-1.5(4)(d).

3126 ~~[(37)]~~ (36) Funds collected from a surcharge fee to provide certain licensees with access to
3127 an electronic reference library, as provided in Section 58-3a-105.

3128 ~~[(38)]~~ (37) Certain fines collected by the Division of Professional Licensing for violation of
3129 unlawful or unprofessional conduct that are used for education and enforcement
3130 purposes, as provided in Section 58-17b-505.

3131 ~~[(39)]~~ (38) Funds collected from a surcharge fee to provide certain licensees with access to
3132 an electronic reference library, as provided in Section 58-22-104.

3133 ~~[(40)]~~ (39) Funds collected from a surcharge fee to provide certain licensees with access to
3134 an electronic reference library, as provided in Section 58-55-106.

3135 ~~[(41)]~~ (40) Funds collected from a surcharge fee to provide certain licensees with access to
3136 an electronic reference library, as provided in Section 58-56-3.5.

3137 ~~[(42)]~~ (41) Certain fines collected by the Division of Professional Licensing for use in
3138 education and enforcement of the Security Personnel Licensing Act, as provided in
3139 Section 58-63-103.

3140 ~~[(43)]~~ (42) The Relative Value Study Restricted Account created in Section 59-9-105.

3141 ~~[(44)]~~ (43) The Cigarette Tax Restricted Account created in Section 59-14-204.

3142 ~~[(45)]~~ (44) Funds paid to the Division of Real Estate for the cost of a criminal background
3143 check for a mortgage loan license, as provided in Section 61-2c-202.

3144 ~~[(46)]~~ (45) Funds paid to the Division of Real Estate for the cost of a criminal background
3145 check for principal broker, associate broker, and sales agent licenses, as provided in
3146 Section 61-2f-204.

3147 ~~[(47)]~~ (46) Certain funds donated to the Department of Health and Human Services, as
3148 provided in Section 26B-1-202.

3149 ~~[(48)]~~ (47) Certain funds donated to the Division of Child and Family Services, as provided
3150 in Section 80-2-404.

3151 ~~[(49)]~~ (48) Funds collected by the Office of Administrative Rules for publishing, as
3152 provided in Section 63G-3-402.

3153 ~~[(50)]~~ (49) The Immigration Act Restricted Account created in Section 63G-12-103.

3154 ~~[(51)]~~ (50) Money received by the military installation development authority, as provided
3155 in Section 63H-1-504.

3156 ~~[(52)]~~ (51) The Unified Statewide 911 Emergency Service Account created in Section
 3157 63H-7a-304.
 3158 ~~[(53)]~~ (52) The Utah Statewide Radio System Restricted Account created in Section
 3159 63H-7a-403.
 3160 ~~[(54)]~~ (53) The Utah Capital Investment Restricted Account created in Section 63N-6-204.
 3161 ~~[(55)]~~ (54) The Motion Picture Incentive Account created in Section 63N-8-103.
 3162 ~~[(56)]~~ (55) Funds collected by the housing of state probationary inmates or state parole
 3163 inmates, as provided in Subsection 64-13e-104(2).
 3164 ~~[(57)]~~ (56) Certain forestry and fire control funds utilized by the Division of Forestry, Fire,
 3165 and State Lands, as provided in Section 65A-8-103.
 3166 ~~[(58)]~~ (57) The following funds or accounts created in Section 72-2-124:
 3167 (a) Transportation Investment Fund of 2005;
 3168 (b) Transit Transportation Investment Fund;
 3169 (c) Cottonwood Canyons Transportation Investment Fund;
 3170 (d) Active Transportation Investment Fund; and
 3171 (e) Commuter Rail Subaccount.
 3172 ~~[(59)]~~ (58) The Amusement Ride Safety Restricted Account, as provided in Section
 3173 72-16-204.
 3174 ~~[(60)]~~ (59) Certain funds received by the Office of the State Engineer for well drilling fines
 3175 or bonds, as provided in Section 73-3-25.
 3176 ~~[(61)]~~ (60) The Water Resources Conservation and Development Fund, as provided in
 3177 Section 73-23-2.
 3178 ~~[(62)]~~ (61) Award money under the State Asset Forfeiture Grant Program, as provided under
 3179 Section 77-11b-403.
 3180 ~~[(63)]~~ (62) Funds donated or paid to a juvenile court by private sources, as provided in
 3181 Subsection 78A-6-203(1)(c).
 3182 ~~[(64)]~~ (63) Fees for certificate of admission created under Section 78A-9-102.
 3183 ~~[(65)]~~ (64) Funds collected for adoption document access as provided in Sections [
 3184 ~~78B-6-141, 78B-6-144, and 78B-6-144.5~~] 81-13-103, 81-13-504, and 81-13-505.
 3185 ~~[(66)]~~ (65) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4,
 3186 Utah Indigent Defense Commission.
 3187 ~~[(67)]~~ (66) The Utah Geological Survey Restricted Account created in Section 79-3-403.
 3188 ~~[(68)]~~ (67) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State
 3189 Park, and Green River State Park, as provided under Section 79-4-403.

3190 ~~[(69)]~~ (68) Certain funds received by the Division of State Parks from the sale or disposal of
3191 buffalo, as provided under Section 79-4-1001.

3192 Section 33. Section **63J-1-602.2** is amended to read:

3193 **63J-1-602.2 . List of nonlapsing appropriations to programs.**

3194 Appropriations made to the following programs are nonlapsing:

3195 (1) The Legislature and the Legislature's committees.

3196 (2) The State Board of Education, including all appropriations to agencies, line items, and
3197 programs under the jurisdiction of the State Board of Education, in accordance with
3198 Section 53F-9-103.

3199 (3) The Rangeland Improvement Act created in Section 4-20-101.

3200 (4) The Percent-for-Art Program created in Section 9-6-404.

3201 (5) The LeRay McAllister Working Farm and Ranch Fund created in Section 4-46-301.

3202 (6) The Utah Lake Authority created in Section 11-65-201.

3203 (7) Dedicated credits accrued to the Utah Marriage Commission as provided under
3204 Subsection 17-16-21(2)(d)(ii).

3205 (8) The Wildlife Land and Water Acquisition Program created in Section 23A-6-205.

3206 (9) Sanctions collected as dedicated credits from Medicaid providers under Subsection
3207 26B-3-108(7).

3208 (10) The primary care grant program created in Section 26B-4-310.

3209 (11) The Opiate Overdose Outreach Pilot Program created in Section 26B-4-512.

3210 (12) The Utah Health Care Workforce Financial Assistance Program created in Section
3211 26B-4-702.

3212 (13) The Rural Physician Loan Repayment Program created in Section 26B-4-703.

3213 (14) The Utah Medical Education Council for the:

3214 (a) administration of the Utah Medical Education Program created in Section 26B-4-707;

3215 (b) provision of medical residency grants described in Section 26B-4-711; and

3216 (c) provision of the forensic psychiatric fellowship grant described in Section 26B-4-712.

3217 (15) The Division of Services for People with Disabilities, as provided in Section 26B-6-402.

3218 (16) The Communication Habits to reduce Adolescent Threats (CHAT) Pilot Program
3219 created in Section 26B-7-122.

3220 (17) Funds that the Department of Alcoholic Beverage Services retains in accordance with
3221 Subsection 32B-2-301(8)(a) or (b).

3222 (18) The General Assistance program administered by the Department of Workforce
3223 Services, as provided in Section 35A-3-401.

- 3224 (19) The Utah National Guard, created in Title 39A, National Guard and Militia Act.
3225 (20) The Search and Rescue Financial Assistance Program, as provided in Section
3226 53-2a-1102.
3227 (21) The Emergency Medical Services Grant Program in Section 53-2d-207.
3228 (22) The Motorcycle Rider Education Program, as provided in Section 53-3-905.
3229 (23) The Utah Board of Higher Education for teacher preparation programs, as provided in
3230 Section 53B-6-104.
3231 (24) Innovation grants under Section 53G-10-608, except as provided in Subsection [
3232 53G-10-608(6)] 53G-10-608(3).
3233 (25) The Division of Fleet Operations for the purpose of upgrading underground storage
3234 tanks under Section 63A-9-401.
3235 (26) The Division of Technology Services for technology innovation as provided under
3236 Section 63A-16-903.
3237 (27) The State Capitol Preservation Board created by Section 63O-2-201.
3238 (28) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.
3239 (29) The Colorado River Authority of Utah, created in Title 63M, Chapter 14, Colorado
3240 River Authority of Utah Act.
3241 (30) The Governor's Office of Economic Opportunity to fund the Enterprise Zone Act, as
3242 provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.
3243 (31) The Governor's Office of Economic Opportunity's Rural Employment Expansion
3244 Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion
3245 Program.
3246 (32) County correctional facility contracting program for state inmates as described in
3247 Section 64-13e-103.
3248 (33) County correctional facility reimbursement program for state probationary inmates and
3249 state parole inmates as described in Section 64-13e-104.
3250 (34) Programs for the Jordan River Recreation Area as described in Section 65A-2-8.
3251 (35) The Division of Human Resource Management user training program, as provided in
3252 Section 63A-17-106.
3253 (36) A public safety answering point's emergency telecommunications service fund, as
3254 provided in Section 69-2-301.
3255 (37) The Traffic Noise Abatement Program created in Section 72-6-112.
3256 (38) The money appropriated from the Navajo Water Rights Negotiation Account to the
3257 Division of Water Rights, created in Section 73-2-1.1, for purposes of participating in a

- 3258 settlement of federal reserved water right claims.
- 3259 (39) The Judicial Council for compensation for special prosecutors, as provided in Section
3260 77-10a-19.
- 3261 (40) A state rehabilitative employment program, as provided in Section 78A-6-210.
- 3262 (41) The Utah Geological Survey, as provided in Section 79-3-401.
- 3263 (42) The Bonneville Shoreline Trail Program created under Section 79-5-503.
- 3264 (43) Adoption document access as provided in Sections [~~78B-6-141, 78B-6-144, and~~
3265 ~~78B-6-144.5]~~ 81-13-103, 81-13-504, and 81-13-505.
- 3266 (44) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense
3267 Commission.
- 3268 (45) The program established by the Division of Facilities Construction and Management
3269 under Section 63A-5b-703 under which state agencies receive an appropriation and pay
3270 lease payments for the use and occupancy of buildings owned by the Division of
3271 Facilities Construction and Management.
- 3272 (46) The State Tax Commission for reimbursing counties for deferrals in accordance with
3273 Section 59-2-1802.5.
- 3274 (47) The Veterinarian Education Loan Repayment Program created in Section 4-2-902.
3275 Section 34. Section **75-2-114** is amended to read:
3276 **75-2-114 . Parent and child relationship.**
- 3277 (1)(a) Except as provided in Subsections (2) and (3), for purposes of intestate succession
3278 by, through, or from a person, an individual is the child of the individual's natural
3279 parents, regardless of their marital status.
- 3280 (b) The parent and child relationship may be established as provided in [~~Title 78B,~~
3281 ~~Chapter 15, Utah Uniform Parentage Act]~~ Title 81, Chapter 5, Uniform Parentage Act.
- 3282 (2) An adopted individual is the child of the adopting parent or parents and not of the
3283 natural parents, but adoption of a child by the spouse of either natural parent has no
3284 effect on the relationship between the child and that natural parent.
- 3285 (3) Inheritance from or through a child by either natural parent or the child's kindred is
3286 precluded unless that natural parent has openly treated the child as the natural parent's,
3287 and has not refused to support the child.
- 3288 Section 35. Section **75-5-209** is amended to read:
3289 **75-5-209 . Powers and duties of guardian of minor -- Residual parental rights**
3290 **and duties -- Adoption of a ward.**
- 3291 (1) For purposes of this section, "residual parental rights and duties" is as defined in Section

80-1-102.

- (2) Except as provided in Subsection (4)(a), a guardian of a minor has the powers and responsibilities of a parent who has not been deprived of custody of the parent's unemancipated minor, including the powers and responsibilities described in Subsection (3).
- (3) A guardian of a minor:
- (a) must take reasonable care of the personal effects of the guardian's ward;
 - (b) must commence protective proceedings if necessary to protect other property of the guardian's ward;
 - (c) subject to Subsection (4)(b), may receive money payable for the support of the ward to the ward's parent, guardian, or custodian under the terms of a:
 - (i) statutory benefit or insurance system;
 - (ii) private contract;
 - (iii) devise;
 - (iv) trust;
 - (v) conservatorship; or
 - (vi) custodianship;
 - (d) subject to Subsection (4)(b), may receive money or property of the ward paid or delivered by virtue of Section 75-5-102;
 - (e) except as provided in Subsection (4)(c), must exercise due care to conserve any excess money or property described in Subsection (3)(d) for the ward's future needs;
 - (f) unless otherwise provided by statute, may institute proceedings to compel the performance by any person of a duty to:
 - (i) support the ward; or
 - (ii) pay sums for the welfare of the ward;
 - (g) is empowered to:
 - (i) facilitate the ward's education, social, or other activities; and
 - (ii) subject to Subsection (4)(d), authorize medical or other professional care, treatment, or advice;
 - (h) may consent to the:
 - (i) marriage of the guardian's ward, if specifically authorized by a court to give this consent; or
 - (ii) adoption of the guardian's ward if the:
 - (A) guardian of the ward is specifically authorized by a court to give this consent;

3326 and

3327 (B) parental rights of the ward's parents have been terminated; and

3328 (i) must report the condition of the minor and of the minor's estate that has been subject
3329 to the guardian's possession or control:

3330 (i) as ordered by court on petition of any person interested in the minor's welfare; or

3331 (ii) as required by court rule.

3332 (4)(a) Notwithstanding Subsection (2), a guardian of a minor is not:

3333 (i) legally obligated to provide from the guardian's own funds for the ward; and

3334 (ii) liable to third persons by reason of the guardian's relationship for acts of the ward.

3335 (b) Sums received under Subsection (3)(c) or (d):

3336 (i) may not be used for compensation for the services of a guardian, except as:

3337 (A) approved by court order; or

3338 (B) determined by a duly appointed conservator other than the guardian; and

3339 (ii) shall be applied to the ward's current needs for support, care, and education.

3340 (c) Notwithstanding Subsection (3)(e), if a conservator is appointed for the estate of the
3341 ward, the excess shall be paid over at least annually to the conservator.

3342 (d) A guardian of a minor is not, by reason of giving the authorization described in
3343 Subsection (3)(g)(ii), liable for injury to the minor resulting from the negligence or
3344 acts of third persons, unless it would have been illegal for a parent to have given the
3345 authorization.

3346 (5) A parent of a minor for whom a guardian is appointed retains residual parental rights
3347 and duties.

3348 (6) If a parent of a minor for whom a guardian is appointed consents to the adoption of the
3349 minor, the guardian is entitled to:

3350 (a) receive notice of the adoption proceeding pursuant to Section ~~[78B-6-110]~~ 81-13-207;

3351 (b) intervene in the adoption; and

3352 (c) present evidence to the court relevant to the best interest of the ~~[child pursuant to~~
3353 ~~Subsection 78B-6-110(11)]~~ minor as described in Subsection 81-13-207(11).

3354 (7) If a minor for whom a guardian is appointed is adopted subsequent to the appointment,
3355 the guardianship shall terminate when the adoption is finalized.

3356 Section 36. Section **76-5-301.2** is amended to read:

3357 **76-5-301.2 . Parental kidnapping.**

3358 (1)(a) As used in this section:

3359 (i) "Child" means an individual under 18 years old.

- 3360 (ii) "Custody" means court-ordered physical custody of a child entered by a court.
3361 (iii) "Parent" means an individual:
3362 (A) recognized as a biological parent or adoptive parent; or
3363 (B) that has established a parent-child relationship under Section [78B-15-201]
3364 81-5-201.
3365 (iv) "Parent-time" means court-ordered parent-time or visitation entered by a court.
3366 (b) Terms defined in Section 76-1-101.5 apply to this section.
3367 (2) A parent commits parental kidnapping of the parent's child if the parent:
3368 (a) takes, entices, conceals, detains, or withholds the child from an individual entitled to
3369 custody of the child;
3370 (b) intends to interfere with the custody of the child; and
3371 (c)(i) has never had a right to physical custody of the child;
3372 (ii) has never been granted parent-time with the child;
3373 (iii) has had all rights to physical custody of the child terminated by a court; or
3374 (iv) at the time of the parent's action under Subsection (2)(a), had parent-time with
3375 the child terminated or suspended by a court.
3376 (3)(a) A violation of Subsection (2) is a third degree felony.
3377 (b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a second degree
3378 felony if, during the course of parental kidnapping, the parent removes, causes the
3379 removal, or directs the removal of the child from the state.
3380 (4) In addition to the affirmative defenses described in Section 76-5-305, it is an affirmative
3381 defense to the crime of parental kidnapping that:
3382 (a) the parent acted under a reasonable belief that the action described in Subsection
3383 (2)(a) was:
3384 (i) necessary to protect the child from imminent serious bodily injury, or death;
3385 (ii) authorized by law; or
3386 (iii) taken with the consent of:
3387 (A) the individual entitled to custody of the child; or
3388 (B) a custodian, guardian, caretaker, or other individual lawfully acting in place of
3389 the individual entitled to custody of the child; or
3390 (b)(i) the parent acted under a reasonable belief that the action described in
3391 Subsection (2)(a) was necessary to protect the child from abuse, including sexual
3392 abuse; and
3393 (ii) before taking the action described in Subsection (2)(a), the parent reports to law

enforcement the parent's intention to engage in the action and the basis for the parent's belief described in Subsection (4)(b)(i).

Section 37. Section **76-7-102** is amended to read:

76-7-102 . Incest -- Definitions -- Penalty.

(1) As used in this section:

(a) "Provider" means a person who provides or makes available his seminal fluid or her human egg.

(b) "Related person" means a person related to the provider or actor as an ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin, and includes:

(i) blood relationships of the whole or half blood, regardless of whether the relationship is legally recognized;

(ii) the relationship of parent and child by adoption; and

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

(2)(a) An actor is guilty of incest when, under circumstances not amounting to rape, rape of a child, or aggravated sexual assault, the actor knowingly and intentionally:

(i) engages in conduct under Subsection (2)(b)(i), (ii), (iii), or (iv); or

(ii) provides a human egg or seminal fluid under Subsection (2)(b)(v).

(b) Conduct referred to under Subsection (2)(a) is:

(i) sexual intercourse between the actor and a person the actor knows has kinship to the actor as a related person;

(ii) the insertion or placement of the provider's seminal fluid into the vagina, cervix, or uterus of a related person by means other than sexual intercourse;

(iii) providing or making available his seminal fluid for the purpose of insertion or placement of the fluid into the vagina, cervix, or uterus of a related person by means other than sexual intercourse;

(iv) a woman 18 years of age or older who:

(A) knowingly allows the insertion of the seminal fluid of a provider into her vagina, cervix, or uterus by means other than sexual intercourse; and

(B) knows that the seminal fluid is that of a person with whom she has kinship as a related person; or

(v) providing the actor's sperm or human egg that is used to conduct in vitro fertilization, or any other means of fertilization, with the human egg or sperm of a person who is a related person.

(c) This Subsection (2) does not prohibit providing a fertilized human egg if the provider of the fertilizing sperm is not a related person regarding the person providing the egg.

(3) Incest is a third degree felony.

(4) A provider under this section is not a donor under Section ~~[78B-15-702]~~ 81-5-702.

Section 38. Section **77-38b-102** is amended to read:

77-38b-102 . Definitions.

As used in this chapter:

(1) "Civil accounts receivable" means the same as that term is defined in Section 77-32b-102.

(2) "Civil judgment of restitution" means the same as that term is defined in Section 77-32b-102.

(3)(a) "Conviction" means:

(i) a plea of:

(A) guilty;

(B) guilty with a mental condition; or

(C) no contest; or

(ii) a judgment of:

(A) guilty; or

(B) guilty with a mental condition.

(b) "Conviction" does not include:

(i) a plea in abeyance until a conviction is entered for the plea in abeyance;

(ii) a diversion agreement; or

(iii) an adjudication of a minor for an offense under Section 80-6-701.

(4) "Criminal accounts receivable" means the same as that term is defined in Section 77-32b-102.

(5) "Criminal conduct" means:

(a) any misdemeanor or felony offense of which the defendant is convicted; or

(b) any other criminal behavior for which the defendant admits responsibility to the court with or without an admission of committing the criminal behavior.

(6) "Deceased victim" means an individual whose death is proximately caused by the criminal conduct of the defendant.

(7)(a) "Defendant" means an individual who has been convicted of, or entered into a plea disposition for, criminal conduct.

(b) "Defendant" does not include a minor, as defined in Section 80-1-102, who is

3462 adjudicated, or enters into a nonjudicial adjustment, for any offense under Title 80,
3463 Chapter 6, Juvenile Justice.

3464 (8) "Department" means the Department of Corrections.

3465 (9)(a) "Dependent" means an individual for whom a deceased victim, or a permanently
3466 impaired victim, had a legal obligation to provide dependent support at the time of
3467 the criminal conduct by the defendant.

3468 (b) "Dependent" includes:

3469 (i) a child:

3470 (A) who is younger than 18 years old; and

3471 (B) for whom a deceased victim, or a permanently impaired victim, is the [
3472 ~~adoptive or biological parent or legal~~] parent or legal guardian;

3473 (ii) an unborn child who has a parent-child relationship with a deceased victim, or a
3474 permanently impaired victim, in accordance with [~~Title 78B, Chapter 15, Utah~~
3475 ~~Uniform Parentage Act~~] Title 81, Chapter 5, Uniform Parentage Act; or

3476 (iii) an incapacitated individual for whom a deceased victim, or a permanently
3477 impaired victim, is the [~~adoptive or biological parent or the legal~~] parent or legal
3478 guardian.

3479 (10) "Dependent support" means the financial obligation of an individual to provide for the
3480 routine needs of a dependent, including food, clothing, health care, safety, or shelter.

3481 (11) "Diversion agreement" means an agreement entered into by the prosecuting attorney
3482 and the defendant that suspends criminal proceedings before conviction on the condition
3483 that a defendant agree to participate in a rehabilitation program, pay restitution to the
3484 victim, or fulfill some other condition.

3485 (12) "Incapacitated" or "incapacitation" means the individual is:

3486 (a) mentally or physically impaired to the extent that the individual is permanently
3487 unable to gain employment and provide basic necessities, including food, clothing,
3488 health care, safety, or shelter; and

3489 (b) reliant on a parent, legal guardian, or other relative or person to provide basic
3490 necessities for the individual.

3491 (13) "Incapacitated individual" means an individual who is incapacitated.

3492 (14) "Legal guardian" means an individual appointed by a court to make decisions
3493 regarding a child or an incapacitated individual.

3494 (15) "Life expectancy" means the number of months an individual is or was expected to
3495 live considering medical records and experiential data for the individual.

- (16) "Office" means the Office of State Debt Collection created in Section 63A-3-502.
- (17) "Payment schedule" means the same as that term is defined in Section 77-32b-102.
- (18)(a) "Pecuniary damages" means all demonstrable economic injury, losses, and expenses regardless of whether the economic injury, losses, and expenses have yet been incurred.
- (b) "Pecuniary damages" does not include punitive damages or pain and suffering damages.
- (19) "Permanently impaired victim" means an incapacitated individual whose incapacitation is proximately caused by the criminal conduct of the defendant.
- (20) "Plea agreement" means an agreement entered between the prosecuting attorney and the defendant setting forth the special terms and conditions and criminal charges upon which the defendant will enter a plea of guilty or no contest.
- (21) "Plea disposition" means an agreement entered into between the prosecuting attorney and the defendant including a diversion agreement, a plea agreement, a plea in abeyance agreement, or any agreement by which the defendant may enter a plea in any other jurisdiction or where charges are dismissed without a plea.
- (22) "Plea in abeyance" means an order by a court, upon motion of the prosecuting attorney and the defendant, accepting a plea of guilty or of no contest from the defendant but not, at that time, entering judgment of conviction against the defendant nor imposing sentence upon the defendant on condition that the defendant comply with specific conditions as set forth in a plea in abeyance agreement.
- (23) "Plea in abeyance agreement" means an agreement entered into between the prosecuting attorney and the defendant setting forth the specific terms and conditions upon which, following acceptance of the agreement by the court, a plea may be held in abeyance.
- (24) "Restitution" means the payment of pecuniary damages to a victim.
- (25) "Unborn child" means a human fetus or embryo in any stage of gestation from fertilization until birth.
- (26)(a) "Victim" means any person who has suffered pecuniary damages that are proximately caused by the criminal conduct of the defendant.
- (b) "Victim" includes:
- (i) the Utah Office for Victims of Crime if the Utah Office for Victims of Crime makes a payment to, or on behalf of, a victim under Section 63M-7-519;
 - (ii) the estate of a deceased victim;

- 3530 (iii) a dependent; or
3531 (iv) a parent, spouse, intimate partner as defined in 18 U.S.C. Sec. 921, child, or
3532 sibling of a victim.
- 3533 (c) "Victim" does not include a codefendant or accomplice.
- 3534 Section 39. Section **78A-5-102** is amended to read:
- 3535 **78A-5-102 . Jurisdiction of the district court -- Appeals.**
- 3536 (1) Except as otherwise provided by the Utah Constitution or by statute, the district court
3537 has original jurisdiction in all matters civil and criminal.
- 3538 (2) A district court judge may:
- 3539 (a) issue all extraordinary writs and other writs necessary to carry into effect the district
3540 court judge's orders, judgments, and decrees; and
- 3541 (b) preside over an action for which the Business and Chancery Court has jurisdiction if:
- 3542 (i) the district court judge is designated by the presiding officer of the Judicial
3543 Council to preside over an action in the Business and Chancery Court as described
3544 in Section 78A-1-103.5; and
- 3545 (ii) a Business and Chancery Court judge is unable to preside over the action due to
3546 recusal or disqualification.
- 3547 (3) The district court has jurisdiction:
- 3548 (a) [-]over matters of lawyer discipline consistent with the rules of the Supreme Court;
- 3549 (b) over all matters properly filed in the circuit court prior to July 1, 1996;
- 3550 (c) to enforce foreign protective orders as described in Subsection 78B-7-303(8);
- 3551 (d) to enjoin a violation of Title 58, Chapter 37, Utah Controlled Substances Act;
- 3552 (e) over a petition seeking to terminate parental rights as described in Section [~~78B-6-112~~]
3553 81-13-205;
- 3554 (f) except as provided in Subsection 78A-6-103(2)(a)(xiv) or (xv), an adoption
3555 proceeding; and
- 3556 (g) to issue a declaratory judgment as described in Title 78B, Chapter 6, Part 4,
3557 Declaratory Judgments.
- 3558 (4) The district court has appellate jurisdiction over judgments and orders of the justice
3559 court as outlined in Section 78A-7-118 and small claims appeals filed in accordance
3560 with Section 78A-8-106.
- 3561 (5) The district court has jurisdiction to review:
- 3562 (a) a municipal administrative proceeding as described in Section 10-3-703.7;
- 3563 (b) a decision resulting from a formal adjudicative proceeding by the State Tax

Commission as described in Section 59-1-601;

(c) except as provided in Section 63G-4-402, a final agency action resulting from an informal adjudicative proceeding as described in Title 63G, Chapter 4, Administrative Procedures Act; and

(d) by trial de novo, a final order of the Department of Transportation resulting from formal and informal adjudicative proceedings under Title 72, Chapter 7, Part 2, Junkyard Control Act.

(6) The district court has original and exclusive jurisdiction over an action brought under Title 63G, Chapter 7, Governmental Immunity Act of Utah.

(7) Notwithstanding Section 78A-7-106, the district court has original jurisdiction over a class B misdemeanor, a class C misdemeanor, an infraction, or a violation of an ordinance for which a justice court has original jurisdiction under Section 78A-7-106 if:

(a) there is no justice court with territorial jurisdiction;

(b) the offense occurred within the boundaries of the municipality in which the district courthouse is located and that municipality has not formed, or has formed and dissolved, a justice court; or

(c) the offense is included in an indictment or information covering a single criminal episode alleging the commission of a felony or a class A misdemeanor by an individual who is 18 years old or older.

(8) If a district court has jurisdiction in accordance with Subsection (4), (7)(a), or (7)(b), the district court has jurisdiction over an offense listed in Subsection 78A-7-106(2) even if the offense is committed by an individual who is 16 or 17 years old.

(9) The district court has subject matter jurisdiction over an action under Title 78B, Chapter 7, Part 2, Child Protective Orders, if the juvenile court transfers the action to the district court.

(10)(a) The district court has subject matter jurisdiction over a criminal action that the justice court transfers to the district court.

(b) Notwithstanding Subsection 78A-7-106(1), the district court has original jurisdiction over any refiled case of a criminal action transferred to the district court if the district court dismissed the transferred case without prejudice.

(11) If the juvenile court has concurrent jurisdiction under Subsection 78A-6-104(1)(a)(i) over a parentage action filed in the district court, the district court may transfer jurisdiction over the parentage action to the juvenile court.

[(H)] (12) The Supreme Court and Court of Appeals have jurisdiction over an appeal from

a final order, judgment, and decree of the district court as described in Sections 78A-3-102 and 78A-4-103.

Section 40. Section **78A-5a-103** is amended to read:

**78A-5a-103 . Concurrent jurisdiction of the Business and Chancery Court --
Exceptions.**

(1) The Business and Chancery Court has jurisdiction, concurrent with the district court, over an action:

(a) seeking monetary damages of at least \$300,000 or seeking solely equitable relief; and

(b)(i) with a claim arising from:

(A) a breach of a contract;

(B) a breach of a fiduciary duty;

(C) a dispute over the internal affairs or governance of a business organization;

(D) the sale, merger, or dissolution of a business organization;

(E) the sale of substantially all of the assets of a business organization;

(F) the receivership or liquidation of a business organization;

(G) a dispute over liability or indemnity between or among owners of the same business organization;

(H) a dispute over liability or indemnity of an officer or owner of a business organization;

(I) a tortious or unlawful act committed against a business organization, including an act of unfair competition, tortious interference, or misrepresentation or fraud;

(J) a dispute between a business organization and an insurer regarding a commercial insurance policy;

(K) a contract or transaction governed by Title 70A, Uniform Commercial Code;

(L) the misappropriation of trade secrets under Title 13, Chapter 24, Uniform Trade Secrets Act;

(M) the misappropriation of intellectual property;

(N) a noncompete agreement, a nonsolicitation agreement, or a nondisclosure or confidentiality agreement, regardless of whether the agreement is oral or written;

(O) a relationship between a franchisor and a franchisee;

(P) the purchase or sale of a security or an allegation of security fraud;

(Q) a dispute over a blockchain, blockchain technology, or a decentralized autonomous organization;

(R) a violation of Title 76, Chapter 10, Part 31, Utah Antitrust Act; or

(S) a contract with a forum selection clause for a chancery, business, or commercial court of this state or any other state;

(ii) with a malpractice claim concerning services that a professional provided to a business organization;

(iii) that is a shareholder derivative action; or

(iv) seeking a declaratory judgment as described in Title 78B, Chapter 6, Part 4, Declaratory Judgments.

(2) Except as provided in Subsection (3), the Business and Chancery Court may exercise supplemental jurisdiction over any claim in an action that is within the jurisdiction of the Business and Chancery Court under Subsection (1) if the claim arises from the same set of facts or circumstances as the action.

(3) The Business and Chancery Court may not exercise supplemental jurisdiction over:

(a) any claim arising from:

(i) a consumer contract;

(ii) a personal injury, including a personal injury relating to or arising out of health care rendered or which should have been rendered by the health care provider;

(iii) a violation of Title 13, Chapter 7, Civil Rights;

(iv) Title 20A, Election Code;

(v) Title 63G, Chapter 4, Administrative Procedures Act;

~~[(vi) Title 78B, Chapter 6, Part 1, Utah Adoption Act;]~~

~~[(vii)]~~ (vi) Title 78B, Chapter 6, Part 5, Eminent Domain;

~~[(viii)]~~ (vii) Title 78B, Chapter 6, Part 8, Forcible Entry and Detainer, unless the claim is brought against a commercial tenant;

~~[(ix)]~~ (viii) Title 78B, Chapter 7, Protective Orders and Stalking Injunctions; and

~~[(x) Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act;]~~

~~[(xi) Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act;]~~

~~[(xii) Title 78B, Chapter 15, Utah Uniform Parentage Act;]~~

~~[(xiii) Title 78B, Chapter 16, Utah Uniform Child Abduction Prevention Act;]~~

~~[(xiv) Title 78B, Chapter 20, Uniform Deployed Parents Custody, Parent-time, and Visitation Act;]~~

~~[(xv)]~~ (ix) Title 81, Utah Domestic Relations Code; ~~[or]~~

(b) any action in which a governmental entity is a party; or

(c) any criminal matter, unless the criminal matter is an act or omission of contempt that occurs in an action before the Business and Chancery Court.

(4) Notwithstanding Subsection (3), the Business and Chancery Court may exercise supplemental jurisdiction over a claim that is barred under Subsection (3):

(a) if the claim is a compulsory counterclaim;

(b) if there would be a material risk of inconsistent outcomes if the claim were tried in a separate action; or

(c) solely to resolve a request for a provisional remedy related to the claim before the Business and Chancery Court transfers the claim as described in Subsection (5).

(5) If an action contains a claim for which the Business and Chancery Court may not exercise supplemental jurisdiction under this section, the Business and Chancery Court shall bifurcate the action and transfer any claim for which the Business and Chancery Court does not have jurisdiction to a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.

(6) Before the Business and Chancery Court transfers a claim as described in Subsection (5), the Business and Chancery Court may resolve:

(a) all claims for which the Business and Chancery Court has jurisdiction; and

(b) any request for a provisional remedy related to a claim that is being transferred.

Section 41. Section **78A-6-103** is amended to read:

78A-6-103 . Original jurisdiction of the juvenile court -- Magistrate functions -- Findings -- Transfer of a case from another court.

(1) Except as provided in Subsection (3), the juvenile court has original jurisdiction over:

(a) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal, state, or federal law, that was committed by a child;

(b) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal, state, or federal law, that was committed by an individual:

(i) who is under 21 years old at the time of all court proceedings; and

(ii) who was under 18 years old at the time the offense was committed; and

(c) a misdemeanor, infraction, or violation of an ordinance, under municipal or state law, that was committed:

(i) by an individual:

(A) who was 18 years old and enrolled in high school at the time of the offense;

and

(B) who is under 21 years old at the time of all court proceedings; and

- 3700 (ii) on school property where the individual was enrolled:
3701 (A) when school was in session; or
3702 (B) during a school-sponsored activity, as defined in Section 53G-8-211.
- 3703 (2) The juvenile court has original jurisdiction over:
3704 (a) any proceeding concerning:
3705 (i) a child who is an abused child, neglected child, or dependent child;
3706 (ii) a protective order for a child in accordance with Title 78B, Chapter 7, Part 2,
3707 Child Protective Orders;
3708 (iii) the appointment of a guardian of the individual or other guardian of a minor who
3709 comes within the court's jurisdiction under other provisions of this section;
3710 (iv) the emancipation of a minor in accordance with Title 80, Chapter 7,
3711 Emancipation;
3712 (v) the termination of parental rights in accordance with Title 80, Chapter 4,
3713 Termination and Restoration of Parental Rights, including termination of residual
3714 parental rights and duties;
3715 (vi) the treatment or commitment of a minor who has an intellectual disability;
3716 (vii) the judicial consent to the marriage of a minor who is 16 or 17 years old in
3717 accordance with Section 81-2-304;
3718 (viii) an order for a parent or a guardian of a child under Subsection 80-6-705(3);
3719 (ix) a minor under Title 80, Chapter 6, Part 11, Interstate Compact for Juveniles;
3720 (x) the treatment or commitment of a child with a mental illness;
3721 (xi) the commitment of a child to a secure drug or alcohol facility in accordance with
3722 Section 26B-5-204;
3723 (xii) a minor found not competent to proceed in accordance with Title 80, Chapter 6,
3724 Part 4, Competency;
3725 (xiii) de novo review of final agency actions resulting from an informal adjudicative
3726 proceeding as provided in Section 63G-4-402;
3727 (xiv) ~~[adoptions conducted in accordance with the procedures described in Title 78B,~~
3728 ~~Chapter 6, Part 1, Utah Adoption Act,]~~ an adoption of a child under Title 81,
3729 Chapter 13, Adoption, if the juvenile court has previously entered an order
3730 terminating the rights of a parent and finds that adoption is in the best interest of
3731 the child;
3732 (xv) an adoption of an adult if the adoption arises from a case where the juvenile
3733 court has continuing jurisdiction over the adult;

- 3734 ~~[(xv)]~~ (xvi) an ungovernable or runaway child who is referred to the juvenile court by
3735 the Division of Juvenile Justice and Youth Services if, despite earnest and
3736 persistent efforts by the Division of Juvenile Justice and Youth Services, the child
3737 has demonstrated that the child:
- 3738 (A) is beyond the control of the child's parent, guardian, or custodian to the extent
3739 that the child's behavior or condition endangers the child's own welfare or the
3740 welfare of others; or
- 3741 (B) has run away from home; and
- 3742 ~~[(xvi)]~~ (xvii) a criminal information filed under Part 4a, Adult Criminal Proceedings,
3743 for an adult alleged to have committed an offense under Subsection 78A-6-352
3744 (4)(b) for failure to comply with a promise to appear and bring a child to the
3745 juvenile court;
- 3746 (b) a petition for expungement under Title 80, Chapter 6, Part 10, Juvenile Records and
3747 Expungement;
- 3748 (c) the extension of a nonjudicial adjustment under Section 80-6-304;
- 3749 (d) a petition for special findings under Section 80-3-305; and
- 3750 (e) a referral of a minor for being a habitual truant as defined in Section 53G-8-211.
- 3751 (3) The juvenile court does not have original jurisdiction over an offense committed by a
3752 minor as described in Subsection (1) if:
- 3753 (a) the district court has original jurisdiction over the offense under Section 78A-5-102.5;
- 3754 (b) the district court has original jurisdiction over the offense under Subsection
3755 78A-5-102(8), unless the juvenile court has exclusive jurisdiction over the offense
3756 under Section 78A-6-103.5; or
- 3757 (c) the justice court has original jurisdiction over the offense under Subsection
3758 78A-7-106(2), unless the juvenile court has exclusive jurisdiction over the offense
3759 under Section 78A-6-103.5.
- 3760 (4) It is not necessary for a minor to be adjudicated for an offense or violation of the law
3761 under Section 80-6-701 for the juvenile court to exercise jurisdiction under Subsection [
3762 ~~(2)(a)(xvi)]~~ (2)(a)(xvii), (b), or (c).
- 3763 (5) This section does not restrict the right of access to the juvenile court by private agencies
3764 or other persons.
- 3765 (6) The juvenile court has jurisdiction of all magistrate functions relative to cases arising
3766 under ~~[Title 80, Chapter 6, Part 5, Transfer to District Court]~~ Title 80, Chapter 6, Part 5,
3767 Minor Tried as an Adult.

(7) The juvenile court has jurisdiction to make a finding of substantiated, unsubstantiated, or without merit, in accordance with Section 80-3-404.

(8) The juvenile court has jurisdiction over matters transferred to the juvenile court by another trial court in accordance with Subsection 78A-7-106(6) and Section 80-6-303.

(9) The juvenile court has jurisdiction to enforce foreign protection orders as described in Subsection 78B-7-303(8).

Section 42. Section **78A-6-104** is amended to read:

78A-6-104 . Concurrent jurisdiction of the juvenile court -- Transfer of a protective order.

(1)(a) The juvenile court has jurisdiction, concurrent with the district court:

(i) to establish [~~paternity~~] parentage, or to order testing for purposes of establishing [~~paternity~~] parentage, for a child in accordance with [~~Title 78B, Chapter 15, Utah Uniform Parentage Act~~] Title 81, Chapter 5, Uniform Parentage Act, when a proceeding is initiated under Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, or Title 80, Chapter 4, Termination and Restoration of Parental Rights, that involves the child;

(ii) over a petition to modify a minor's birth certificate if the juvenile court has jurisdiction over the minor's case under Section 78A-6-103; and

(iii) over questions of custody, support, and parent-time of a minor if the juvenile court has jurisdiction over the minor's case under Section 78A-6-103.

(b) If the juvenile court obtains jurisdiction over a [~~paternity~~] parentage action under Subsection (1)(a)(i), the juvenile court may:

(i) retain jurisdiction over the [~~paternity~~] parentage action until [~~paternity~~] parentage of the child is adjudicated; or

(ii) transfer jurisdiction over the [~~paternity~~] parentage action to the district court.

(2)(a) The juvenile court has jurisdiction, concurrent with the district court or the justice court otherwise having jurisdiction, over a criminal information filed under Part 4a, Adult Criminal Proceedings, for an adult alleged to have committed:

(i) an offense under Section 32B-4-403, unlawful sale, offer for sale, or furnishing to a minor;

(ii) an offense under Section 53G-6-202, failure to comply with compulsory education requirements;

(iii) an offense under Section 80-2-609, failure to report;

(iv) a misdemeanor offense under Section 76-5-303, custodial interference;

- 3802 (v) an offense under Section 76-4-206, contributing to the delinquency of a minor; or
3803 (vi) an offense under Section 80-5-601, harboring a runaway.
- 3804 (b) It is not necessary for a minor to be adjudicated for an offense or violation of the law
3805 under Section 80-6-701 for the juvenile court to exercise jurisdiction under
3806 Subsection (2)(a).
- 3807 (3)(a) When a support, custody, or parent-time award has been made by a district court
3808 in a divorce action or other proceeding, and the jurisdiction of the district court in the
3809 case is continuing, the juvenile court may acquire jurisdiction in a case involving the
3810 same child if the child comes within the jurisdiction of the juvenile court under
3811 Section 78A-6-103.
- 3812 (b)(i) The juvenile court may, by order, change the custody subject to Subsection [
3813 81-9-204(5)] 81-9-204(4), support, parent-time, and visitation rights previously
3814 ordered in the district court as necessary to implement the order of the juvenile
3815 court for the safety and welfare of the child.
- 3816 (ii) An order by the juvenile court under Subsection (3)(b)(i) remains in effect so
3817 long as the juvenile court continues to exercise jurisdiction.
- 3818 (c) If a copy of the findings and order of the juvenile court under this Subsection (3) are
3819 filed with the district court, the findings and order of the juvenile court are binding on
3820 the parties to the divorce action as though entered in the district court.
- 3821 (4) This section does not deprive the district court of jurisdiction to:
- 3822 (a) appoint a guardian for a child;
- 3823 (b) determine the support, custody, and parent-time of a child upon writ of habeas
3824 corpus; or
- 3825 (c) determine a question of support, custody, and parent-time that is incidental to the
3826 determination of an action in the district court.
- 3827 (5) A juvenile court may transfer a petition for a protective order for a child to the district
3828 court if the juvenile court has entered an ex parte protective order and finds that:
- 3829 (a) the petitioner and the respondent are the natural parent, adoptive parent, or step
3830 parent of the child who is the object of the petition;
- 3831 (b) the district court has a petition pending or an order related to custody or parent-time
3832 entered under Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders, [
3833 ~~Title 78B, Chapter 15, Utah Uniform Parentage Act, or~~] Title 81, Chapter 4, Part 4,
3834 ~~Divorce, or Title 81, Chapter 5, Uniform Parentage Act~~, in which the petitioner and
3835 the respondent are parties; and

(c) the best interests of the child will be better served in the district court.

Section 43. Section **78A-6-356** is amended to read:

78A-6-356 . Child support obligation when custody of a child is vested in an individual or institution.

(1) As used in this section:

(a) "Office" means the Office of Recovery Services.

(b) "State custody" means that a child is in the custody of a state department, division, or agency, including secure care.

(2) Under this section, a juvenile court may not issue a child support order against an individual unless:

(a) the individual is served with notice that specifies the date and time of a hearing to determine the financial support of a specified child;

(b) the individual makes a voluntary appearance; or

(c) the individual submits a waiver of service.

(3) Except as provided in Subsection (11), when a juvenile court places a child in state custody or if the guardianship of the child has been granted to another party and an agreement for a guardianship subsidy has been signed by the guardian, the juvenile court:

(a) shall order the child's parent, guardian, or other obligated individual to pay child support for each month the child is in state custody or cared for under a grant of guardianship;

(b) shall inform the child's parent, guardian, or other obligated individual, verbally and in writing, of the requirement to pay child support in accordance with Title 81, Chapter 6, Child Support, and Title 81, Chapter 7, Payment and Enforcement of Spousal and Child Support; and

(c) may refer the establishment of a child support order to the office.

(4) When a juvenile court chooses to refer a case to the office to determine support obligation amounts in accordance with Title 81, Chapter 6, Child Support, the juvenile court shall:

(a) make the referral within three working days after the day on which the juvenile court holds the hearing described in Subsection (2)(a); and

(b) inform the child's parent, guardian, or other obligated individual of:

(i) the requirement to contact the office within 30 days after the day on which the juvenile court holds the hearing described in Subsection (2)(a); and

(ii) the penalty described in Subsection (6) for failure to contact the office.

- 3870 (5) Liability for child support ordered under Subsection (3) shall accrue:
- 3871 (a) except as provided in Subsection (5)(b), beginning on day 61 after the day on which
- 3872 the juvenile court holds the hearing described in Subsection (2)(a) if there is no
- 3873 existing child support order for the child; or
- 3874 (b) beginning on the day the child is removed from the child's home, including time
- 3875 spent in detention or sheltered care, if the child is removed after having been returned
- 3876 to the child's home from state custody.
- 3877 (6)(a) If the child's parent, guardian, or other obligated individual contacts the office
- 3878 within 30 days after the day on which the court holds the hearing described in
- 3879 Subsection (2)(a), the child support order may not include a judgment for past due
- 3880 support for more than two months.
- 3881 (b) Notwithstanding Subsections (5) and (6)(a), the juvenile court may order the liability
- 3882 of support to begin to accrue from the date of the proceeding referenced in
- 3883 Subsection (3) if:
- 3884 (i) the court informs the child's parent, guardian, or other obligated individual, as
- 3885 described in Subsection (4)(b), and the parent, guardian, or other obligated
- 3886 individual fails to contact the office within 30 days after the day on which the
- 3887 court holds the hearing described in Subsection (2)(a); and
- 3888 (ii) the office took reasonable steps under the circumstances to contact the child's
- 3889 parent, guardian, or other obligated individual within 30 days after the last day on
- 3890 which the parent, guardian, or other obligated individual was required to contact
- 3891 the office to facilitate the establishment of a child support order.
- 3892 (c) For purposes of Subsection (6)(b)(ii), the office is presumed to have taken reasonable
- 3893 steps if the office:
- 3894 (i) has a signed, returned receipt for a certified letter mailed to the address of the
- 3895 child's parent, guardian, or other obligated individual regarding the requirement
- 3896 that a child support order be established; or
- 3897 (ii) has had a documented conversation, whether by telephone or in person, with the
- 3898 child's parent, guardian, or other obligated individual regarding the requirement
- 3899 that a child support order be established.
- 3900 (7) In collecting arrears, the office shall comply with Section 26B-9-219 in setting a
- 3901 payment schedule or demanding payment in full.
- 3902 (8)(a) Unless a court orders otherwise, the child's parent, guardian, or other obligated
- 3903 individual shall pay the child support to the office.

(b) The clerk of the juvenile court, the office, or the department and the department's divisions shall have authority to receive periodic payments for the care and maintenance of the child, such as social security payments or railroad retirement payments made in the name of or for the benefit of the child.

(9) An existing child support order payable to a parent or other individual shall be assigned to the department as provided in Section 26B-9-111.

(10)(a) Subsections (4) through (9) do not apply if legal custody of a child is vested by the juvenile court in an individual.

(b)(i) If legal custody of a child is vested by the juvenile court in an individual, the court may order the child's parent, guardian, or other obligated individual to pay child support to the individual in whom custody is vested.

(ii) In the same proceeding, the juvenile court shall inform the child's parent, guardian, or other obligated individual, verbally and in writing, of the requirement to pay child support in accordance with Title 81, Chapter 6, Child Support, and Title 81, Chapter 7, Payment and Enforcement of Spousal and Child Support.

(11) The juvenile court may not order an individual to pay child support for a child in state custody if:

(a) the individual's only form of income is a government-issued disability benefit;

(b) the benefit described in Subsection (11)(a) is issued because of the individual's disability, and not the child's disability; and

(c) the individual provides the juvenile court and the office evidence that the individual meets the requirements of Subsections (11)(a) and (b).

(12)(a) The child's parent or another obligated individual is not responsible for child support for the period of time that the child is removed from the child's home by the Division of Child and Family Services if:

(i) the juvenile court finds that there were insufficient grounds for the removal of the child; and

(ii) the child is returned to the home of the child's parent or guardian based on the finding described in Subsection (12)(a)(i).

(b) If the juvenile court finds insufficient grounds for the removal of the child under Subsection (12)(a), but that the child is to remain in state custody, the juvenile court shall order that the child's parent or another obligated individual is responsible for child support beginning on the day on which it became improper to return the child to the home of the child's parent or guardian.

(13) After the juvenile court or the office establishes an individual's child support obligation ordered under Subsection (3), the office shall waive the obligation without further order of the juvenile court if:

(a) the individual's child support obligation is established in accordance with a low income table described in Title 81, Chapter 6, Part 3, Child Support Tables; or

(b) the individual's only source of income is a means-tested, income replacement payment of aid, including:

(i) cash assistance provided under Title 35A, Chapter 3, Part 3, Family Employment Program; or

(ii) cash benefits received under General Assistance, social security income, or social security disability income.

Section 44. Section **78A-6-358** is amended to read:

78A-6-358 . Period of effect for a judgment, decree, or order by a juvenile court.

(1) A judgment, order, or decree of the juvenile court is no longer in effect after a minor is 21 years old, except:

(a) for an order of commitment to the Utah State Developmental Center or to the custody of the Division of Substance Abuse and Mental Health;

(b) for an adoption under Subsection 78A-6-103(2)(a)(xiv) or (xv);

(c) for an order permanently terminating the rights of a parent, guardian, or custodian under Title 80, Chapter 4, Termination and Restoration of Parental Rights;

(d) for a permanent order of custody and guardianship under Subsection 80-3-405(2)(d);

(e) an order establishing [~~paternity~~] parentage under Subsection 78A-6-104(1)(a)(i); and

(f) as provided in Subsection (2).

(2) If the juvenile court enters a judgment or order for a minor for whom the juvenile court has extended continuing jurisdiction over the minor's case until the minor is 25 years old under Section 80-6-605, the juvenile court's judgment or order is no longer in effect after the minor is 25 years old.

Section 45. Section **78A-6-359** is amended to read:

78A-6-359 . Appeals.

(1) An appeal to the Court of Appeals may be taken from any order, decree, or judgment of the juvenile court.

(2)(a) An appeal of right from an order, decree, or judgment by a juvenile court related to a proceeding under [~~Title 78B, Chapter 6, Part 1, Utah Adoption Act,~~] Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, [~~and~~] Title 80, Chapter 4,

Termination and Restoration of Parental Rights, and Title 81, Chapter 13, Adoption, shall be filed within 15 days after the day on which the juvenile court enters the order, decree, or judgment.

(b) A notice of appeal must be signed by appellant's counsel, if any, and by appellant, unless the appellant is a child or state agency.

(c) If an appellant fails to timely sign a notice of appeal, the appeal shall be dismissed.

(3) An order for a disposition from the juvenile court shall include the following information:

(a) notice that the right to appeal described in Subsection (2)(a) is time sensitive and must be taken within 15 days after the day on which the juvenile court enters the order, decree, or judgment appealed from;

(b) the right to appeal within the specified time limits;

(c) the need for the signature of the parties on a notice of appeal in an appeal described in Subsection (2)(a); and

(d) the need for each party to maintain regular contact with the [the-]party's counsel and to keep the party's counsel informed of the party's whereabouts.

(4) If a party is not present in the courtroom, the juvenile court shall provide a statement containing the information provided in Subsection (3) to the party at the party's last known address.

(5) The juvenile court shall inform each party's counsel at the conclusion of the proceedings that, if an appeal is filed, appellate counsel must represent the party throughout the appellate process unless appellate counsel is not appointed under the Utah Rules of Appellate Procedure, Rule 55.

(6) During the pendency of an appeal under Subsection (2)(a), a party shall maintain regular contact with the party's appellate counsel, if any, and keep the party's appellate counsel informed of the party's whereabouts.

(7)(a) In all other appeals of right, the appeal shall be taken within 30 days after the day on which the juvenile court enters the order, decree, or judgment.

(b) A notice of appeal under Subsection (7)(a) must be signed by appellant's counsel, if any, or by appellant.

(8) The attorney general shall represent the state in all appeals under this chapter and Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, Title 80, Chapter 4, Termination and Restoration of Parental Rights, and Title 80, Chapter 6, Juvenile Justice.

(9) Unless the juvenile court stays the juvenile court's order, the pendency of an appeal does

not stay the order or decree appealed from in a minor's case, unless otherwise ordered by the Court of Appeals, if suitable provision for the care and custody of the minor involved is made pending the appeal.

(10) Access to the record on appeal is governed by Title 63G, Chapter 2, Government Records Access and Management Act.

Section 46. Section **78B-3-205** is amended to read:

78B-3-205 . Acts submitting person to jurisdiction.

Notwithstanding Section 16-10a-1501, any person or personal representative of the person, whether or not a citizen or resident of this state, who, in person or through an agent, does any of the following enumerated acts is subject to the jurisdiction of the courts of this state as to any claim arising out of or related to:

- (1) the transaction of any business within this state;
- (2) contracting to supply services or goods in this state;
- (3) the causing of any injury within this state whether tortious or by breach of warranty;
- (4) the ownership, use, or possession of any real estate situated in this state;
- (5) contracting to insure any person, property, or risk located within this state at the time of contracting;
- (6) with respect to actions of divorce, separate maintenance, or child support, having resided, in the marital relationship, within this state notwithstanding subsequent departure from the state; or the commission in this state of the act giving rise to the claim, so long as that act is not a mere omission, failure to act, or occurrence over which the defendant had no control; or
- (7) the commission of sexual intercourse within this state which gives rise to a [paternity suit under Title 78B, Chapter 15, Utah Uniform Parentage Act] parentage action under Title 81, Chapter 5, Uniform Parentage Act, to determine [paternity] parentage for the purpose of establishing responsibility for child support.

Section 47. Section **78B-3-416** is amended to read:

78B-3-416 . Division to provide panel -- Exemption -- Procedures -- Statute of limitations tolled -- Composition of panel -- Expenses -- Division authorized to set license fees.

(1)(a) The division shall provide a hearing panel in alleged medical liability cases against health care providers as defined in Section 78B-3-403, except dentists or dental care providers.

(b)(i) The division shall establish procedures for prelitigation consideration of

medical liability claims for damages arising out of the provision of or alleged failure to provide health care.

(ii) The division may establish rules necessary to administer the process and procedures related to prelitigation hearings and the conduct of prelitigation hearings in accordance with Sections 78B-3-416 through 78B-3-420.

(c) The proceedings are informal, nonbinding, and are not subject to Title 63G, Chapter 4, Administrative Procedures Act, but are compulsory as a condition precedent to commencing litigation.

(d) Proceedings conducted under authority of this section are confidential, privileged, and immune from civil process.

(e) The division may not provide more than one hearing panel for each alleged medical liability case against a health care provider.

(2)(a) The party initiating a medical liability action shall file a request for prelitigation panel review with the division within 60 days after the service of a statutory notice of intent to commence action under Section 78B-3-412.

(b) The request shall include a copy of the notice of intent to commence action. The request shall be mailed to all health care providers named in the notice and request.

(3)(a) As used in this Subsection (3):

(i) "Court-appointed therapist" means a mental health therapist ordered by a court to provide psychotherapeutic treatment to an individual, a couple, or a family in a domestic case.

(ii) "Domestic case" means a proceeding under:

(A) Title 78B, Chapter 7, Protective Orders and Stalking Injunctions;

~~[(B) Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act;]~~

~~[(C) Title 78B, Chapter 15, Utah Uniform Parentage Act;]~~

~~[(D)] (B) Title 81, Chapter 4, Dissolution of Marriage; [or]~~

(C) Title 81, Chapter 5, Uniform Parentage Act;

~~[(E)] (D) Title 81, Chapter 9, Custody, Parent-time, and Visitation[-] ; or~~

(E) Title 81, Chapter 11, Uniform Child Custody Jurisdiction and Enforcement Act.

(iii) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(b) If a court appoints a court-appointed therapist in a domestic case, a party to the domestic case may not file a request for a prelitigation panel review for a malpractice

- 4074 action against the court-appointed therapist during the pendency of the domestic case,
4075 unless:
- 4076 (i) the party has requested that the court release the court-appointed therapist from
4077 appointment; and
- 4078 (ii) the court finds good cause to release the court-appointed therapist from the
4079 appointment.
- 4080 (c) If a party is prohibited from filing a request for a prelitigation panel review under
4081 Subsection (3)(b), the applicable statute of limitations tolls until the earlier of:
- 4082 (i) the court releasing the court-appointed therapist from appointment as described in
4083 Subsection (3)(b); or
- 4084 (ii) the court entering a final order in the domestic case.
- 4085 (4)(a) The filing of a request for prelitigation panel review under this section tolls the
4086 applicable statute of limitations until the later of:
- 4087 (i) 60 days following the division's issuance of:
- 4088 (A) an opinion by the prelitigation panel; or
- 4089 (B) a certificate of compliance under Section 78B-3-418; or
- 4090 (ii) the expiration of the time for holding a hearing under Subsection (4)(b)(ii).
- 4091 (b) The division shall:
- 4092 (i) send any opinion issued by the panel to all parties by regular mail; and
- 4093 (ii) complete a prelitigation hearing under this section within:
- 4094 (A) 180 days after the filing of the request for prelitigation panel review; or
- 4095 (B) any longer period as agreed upon in writing by all parties to the review.
- 4096 (c) If the prelitigation hearing has not been completed within the time limits established
4097 in Subsection (4)(b)(ii), the claimant shall:
- 4098 (i) file an affidavit of merit under the provisions of Section 78B-3-423; or
- 4099 (ii) file an affidavit with the division within 180 days of the request for pre-litigation
4100 review, in accordance with Subsection (4)(d), alleging that the respondent has
4101 failed to reasonably cooperate in scheduling the hearing.
- 4102 (d) If the claimant files an affidavit under Subsection (4)(c)(ii):
- 4103 (i) within 15 days of the filing of the affidavit under Subsection (4)(c)(ii), the division
4104 shall determine whether either the respondent or the claimant failed to reasonably
4105 cooperate in the scheduling of a pre-litigation hearing; and
- 4106 (ii)(A) if the determination is that the respondent failed to reasonably cooperate in
4107 the scheduling of a hearing, and the claimant did not fail to reasonably

cooperate, the division shall, issue a certificate of compliance for the claimant in accordance with Section 78B-3-418; or

(B) if the division makes a determination other than the determination in Subsection (4)(d)(ii)(A), the claimant shall file an affidavit of merit in accordance with Section 78B-3-423, within 30 days of the determination of the division under this Subsection (4).

(e)(i) The claimant and any respondent may agree by written stipulation that no useful purpose would be served by convening a prelitigation panel under this section.

(ii) When the stipulation is filed with the division, the division shall within 10 days after receipt issue a certificate of compliance under Section 78B-3-418, as it concerns the stipulating respondent, and stating that the claimant has complied with all conditions precedent to the commencement of litigation regarding the claim.

(5) The division shall provide for and appoint an appropriate panel or panels to hear complaints of medical liability and damages, made by or on behalf of any patient who is an alleged victim of medical liability. The panels are composed of:

(a) one member who is a resident lawyer currently licensed and in good standing to practice law in this state and who shall serve as chairman of the panel, who is appointed by the division from among qualified individuals who have registered with the division indicating a willingness to serve as panel members, and a willingness to comply with the rules of professional conduct governing lawyers in the state, and who has completed division training regarding conduct of panel hearings;

(b)(i) one or more members who are licensed health care providers listed under Section 78B-3-403, who are practicing and knowledgeable in the same specialty as the proposed defendant, and who are appointed by the division in accordance with Subsection (6); or

(ii) in claims against only a health care facility or the facility's employees, one member who is an individual currently serving in a health care facility administration position directly related to health care facility operations or conduct that includes responsibility for the area of practice that is the subject of the liability claim, and who is appointed by the division; and

(c) a lay panelist who is not a lawyer, doctor, hospital employee, or other health care provider, and who is a responsible citizen of the state, selected and appointed by the

4142 division from among individuals who have completed division training with respect
4143 to panel hearings.

- 4144 (6)(a) Each person listed as a health care provider in Section 78B-3-403 and practicing
4145 under a license issued by the state, is obligated as a condition of holding that license
4146 to participate as a member of a medical liability prelitigation panel at reasonable
4147 times, places, and intervals, upon issuance, with advance notice given in a reasonable
4148 time frame, by the division of an Order to Participate as a Medical Liability
4149 Prelitigation Panel Member.
- 4150 (b) A licensee may be excused from appearance and participation as a panel member
4151 upon the division finding participation by the licensee will create an unreasonable
4152 burden or hardship upon the licensee.
- 4153 (c) A licensee whom the division finds failed to appear and participate as a panel
4154 member when so ordered, without adequate explanation or justification and without
4155 being excused for cause by the division, may be assessed an administrative fine not to
4156 exceed \$5,000.
- 4157 (d) A licensee whom the division finds intentionally or repeatedly failed to appear and
4158 participate as a panel member when so ordered, without adequate explanation or
4159 justification and without being excused for cause by the division, may be assessed an
4160 administrative fine not to exceed \$5,000, and is guilty of unprofessional conduct.
- 4161 (e) All fines collected under Subsections (6)(c) and (d) shall be deposited into the
4162 Physicians Education Fund created in Section 58-67a-1.
- 4163 (f) The director of the division may collect a fine that is not paid by:
4164 (i) referring the matter to a collection agency; or
4165 (ii) bringing an action in the district court of the county where the person against
4166 whom the penalty is imposed resides or in the county where the office of the
4167 director is located.
- 4168 (g) A county attorney or the attorney general of the state shall provide legal assistance
4169 and advice to the director in an action to collect a fine.
- 4170 (h) A court shall award reasonable attorney fees and costs to the prevailing party in an
4171 action brought by the division to collect a fine.
- 4172 (7) Each person selected as a panel member shall certify, under oath, that [he] the member
4173 has no bias or conflict of interest with respect to any matter under consideration.
- 4174 (8) A member of the prelitigation hearing panel may not receive compensation or benefits
4175 for the member's service, but may receive per diem and travel expenses in accordance

with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(9)(a) In addition to the actual cost of administering the licensure of health care providers, the division may set license fees of health care providers within the limits established by law equal to their proportionate costs of administering prelitigation panels.

(b) The claimant bears none of the costs of administering the prelitigation panel except under Section 78B-3-420.

Section 48. Section **78B-22-201** is amended to read:

78B-22-201 . Right to counsel.

(1) A court shall advise the following of the individual's right to counsel no later than the individual's first court appearance:

(a) an adult charged with a criminal offense the penalty for which includes the possibility of incarceration regardless of whether actually imposed;

(b) a parent or legal guardian facing an action initiated by the state under:

(i) Title 78A, Chapter 6, Part 4a, Adult Criminal Proceedings;

(ii) Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings; or

(iii) Title 80, Chapter 4, Termination and Restoration of Parental Rights;

(c) a parent or legal guardian facing an action initiated by any party under:

(i) Section [~~78B-6-112~~] 81-13-205; or

(ii) Title 80, Chapter 4, Termination and Restoration of Parental Rights; or

(d) an individual described in this Subsection (1), who is appealing a conviction or other final court action.

(2) If an individual described in Subsection (1) does not knowingly and voluntarily waive the right to counsel, the court shall determine whether the individual is indigent under Section 78B-22-202.

Section 49. Section **78B-22-901** is amended to read:

78B-22-901 . Definitions.

As used in this part:

(1)(a) "Appellate defense services" means the representation of an indigent individual:

(i) described in Subsection 78B-22-201(1)(d) or who is party to an appeal under

Section 77-18a-1;

(ii) in an action or on appeal for postconviction relief under Chapter 9, Postconviction Remedies Act; or

(iii) in an appeal of right from an action for the termination or restoration of parental rights under [~~Chapter 6, Part 1, Utah Adoption Act,~~] Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, [~~or~~] Title 80, Chapter 4, Termination and Restoration of Parental Rights, or Title 81, Chapter 13, Adoption.

(b) "Appellate defense services" does not include the representation of an indigent individual:

(i) facing an appeal in a case where the indigent individual was prosecuted for aggravated murder; or

(ii) in an action or appeal for postconviction relief under Chapter 9, Postconviction Remedies Act, if the indigent individual has been sentenced to death.

(2) "Division" means the Indigent Appellate Defense Division created in Section 78B-22-902.

Section 50. Section **78B-22-903** is amended to read:

78B-22-903 . Powers and duties of the division.

(1) The division shall:

(a) provide appellate defense services:

(i) for an appeal under Section 77-18a-1, in counties of the third, fourth, fifth, and sixth class;

(ii) for an action or an appeal for postconviction relief under Chapter 9, Postconviction Remedies Act, if the court appoints the division to represent the indigent individual; and

(iii) for an appeal of right from an action for the termination or restoration of parental rights under [~~Chapter 6, Part 1, Utah Adoption Act,~~] Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, [~~or~~] Title 80, Chapter 4, Termination and Restoration of Parental Rights, or Title 81, Chapter 13, Adoption; and

(b) provide appellate defense services in accordance with the core principles adopted by the commission under Section 78B-22-404 and any other state and federal standards for appellate defense services.

(2) Upon consultation with the executive director and the commission, the division shall:

(a) adopt a budget for the division;

(b) adopt and publish on the commission's website:

- 4244 (i) appellate performance standards;
- 4245 (ii) case weighting standards; and
- 4246 (iii) any other relevant measures or information to assist with appellate defense
- 4247 services; and
- 4248 (c) if requested by the commission, provide a report to the commission on:
- 4249 (i) the provision of appellate defense services by the division;
- 4250 (ii) the caseloads of appellate attorneys; and
- 4251 (iii) any other information relevant to appellate defense services in the state.
- 4252 (3) If the division provides appellate defense services to an indigent individual in an
- 4253 indigent defense system, the division shall provide notice to the district court and the
- 4254 indigent defense system that the division intends to be appointed as counsel for the
- 4255 indigent individual.
- 4256 (4) The office shall assist with providing training and continual legal education on appellate
- 4257 defense to indigent defense service providers in counties of the third, fourth, fifth, and
- 4258 sixth class.
- 4259 Section 51. Section **80-1-102** is amended to read:
- 4260 **80-1-102 . Juvenile Code definitions.**
- 4261 Except as provided in Section 80-6-1103, as used in this title:
- 4262 (1)(a) "Abuse" means:
- 4263 (i)(A) nonaccidental harm of a child;
- 4264 (B) threatened harm of a child;
- 4265 (C) sexual exploitation;
- 4266 (D) sexual abuse; or
- 4267 (E) human trafficking of a child in violation of Section 76-5-308.5; or
- 4268 (ii) that a child's ~~natural~~-parent:
- 4269 (A) intentionally, knowingly, or recklessly causes the death of another parent of
- 4270 the child;
- 4271 (B) is identified by a law enforcement agency as the primary suspect in an
- 4272 investigation for intentionally, knowingly, or recklessly causing the death of
- 4273 another parent of the child; or
- 4274 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or
- 4275 recklessly causing the death of another parent of the child.
- 4276 (b) "Abuse" does not include:
- 4277 (i) reasonable discipline or management of a child, including withholding privileges;

- 4278 (ii) conduct described in Section 76-2-401; or
- 4279 (iii) the use of reasonable and necessary physical restraint or force on a child:
- 4280 (A) in self-defense;
- 4281 (B) in defense of others;
- 4282 (C) to protect the child; or
- 4283 (D) to remove a weapon in the possession of a child for any of the reasons
- 4284 described in Subsections (1)(b)(iii)(A) through (C).
- 4285 (2) "Abused child" means a child who has been subjected to abuse.
- 4286 (3)(a) "Adjudication" means, except as provided in Subsection (3)(b):
- 4287 (i) for a delinquency petition or criminal information under Chapter 6, Juvenile
- 4288 Justice:
- 4289 (A) a finding by the juvenile court that the facts alleged in a delinquency petition
- 4290 or criminal information alleging that a minor committed an offense have been
- 4291 proved;
- 4292 (B) an admission by a minor in the juvenile court as described in Section 80-6-306;
- 4293 or
- 4294 (C) a plea of no contest by minor in the juvenile court; or
- 4295 (ii) for all other proceedings under this title, a finding by the juvenile court that the
- 4296 facts alleged in the petition have been proved.
- 4297 (b) "Adjudication" does not include:
- 4298 (i) an admission by a minor described in Section 80-6-306 until the juvenile court
- 4299 enters the minor's admission; or
- 4300 (ii) a finding of not competent to proceed in accordance with Section 80-6-402.
- 4301 (4)(a) "Adult" means an individual who is 18 years old or older.
- 4302 (b) "Adult" does not include an individual:
- 4303 (i) who is 18 years old or older; and
- 4304 (ii) who is a minor.
- 4305 (5) "Attorney guardian ad litem" means the same as that term is defined in Section
- 4306 78A-2-801.
- 4307 (6) "Board" means the Board of Juvenile Court Judges.
- 4308 (7) "Child" means, except as provided in Section 80-2-905, an individual who is under 18
- 4309 years old.
- 4310 (8) "Child and family plan" means a written agreement between a child's parents or
- 4311 guardian and the Division of Child and Family Services as described in Section 80-3-307.

- 4312 (9) "Child placing" means the same as that term is defined in Section 26B-2-101.
- 4313 (10) "Child-placing agency" means the same as that term is defined in Section 26B-2-101.
- 4314 (11) "Child protection team" means a team consisting of:
- 4315 (a) the child welfare caseworker assigned to the case;
- 4316 (b) if applicable, the child welfare caseworker who made the decision to remove the
- 4317 child;
- 4318 (c) a representative of the school or school district where the child attends school;
- 4319 (d) if applicable, the law enforcement officer who removed the child from the home;
- 4320 (e) a representative of the appropriate Children's Justice Center, if one is established
- 4321 within the county where the child resides;
- 4322 (f) if appropriate, and known to the division, a therapist or counselor who is familiar
- 4323 with the child's circumstances;
- 4324 (g) if appropriate, a representative of law enforcement selected by the chief of police or
- 4325 sheriff in the city or county where the child resides; and
- 4326 (h) any other individuals determined appropriate and necessary by the team coordinator
- 4327 and chair.
- 4328 (12)(a) "Chronic abuse" means repeated or patterned abuse.
- 4329 (b) "Chronic abuse" does not mean an isolated incident of abuse.
- 4330 (13)(a) "Chronic neglect" means repeated or patterned neglect.
- 4331 (b) "Chronic neglect" does not mean an isolated incident of neglect.
- 4332 (14) "Clandestine laboratory operation" means the same as that term is defined in Section
- 4333 58-37d-3.
- 4334 (15) "Commit" or "committed" means, unless specified otherwise:
- 4335 (a) with respect to a child, to transfer legal custody; and
- 4336 (b) with respect to a minor who is at least 18 years old, to transfer custody.
- 4337 (16) "Community-based program" means a nonsecure residential or nonresidential program,
- 4338 designated to supervise and rehabilitate juvenile offenders, that prioritizes the least
- 4339 restrictive setting, consistent with public safety, and operated by or under contract with
- 4340 the Division of Juvenile Justice and Youth Services.
- 4341 (17) "Community placement" means placement of a minor in a community-based program
- 4342 described in Section 80-5-402.
- 4343 (18) "Correctional facility" means:
- 4344 (a) a county jail; or
- 4345 (b) a secure correctional facility as defined in Section 64-13-1.

- 4346 (19) "Criminogenic risk factors" means evidence-based factors that are associated with a
4347 minor's likelihood of reoffending.
- 4348 (20) "Department" means the Department of Health and Human Services created in Section
4349 26B-1-201.
- 4350 (21) "Dependent child" or "dependency" means a child who is without proper care through
4351 no fault of the child's parent, guardian, or custodian.
- 4352 (22) "Deprivation of custody" means transfer of legal custody by the juvenile court from a
4353 parent or a previous custodian to another person, agency, or institution.
- 4354 (23) "Detention" means home detention or secure detention.
- 4355 (24) "Detention facility" means a facility, established by the Division of Juvenile Justice
4356 and Youth Services in accordance with Section 80-5-501, for minors held in detention.
- 4357 (25) "Detention risk assessment tool" means an evidence-based tool established under
4358 Section 80-5-203 that:
- 4359 (a) assesses a minor's risk of failing to appear in court or reoffending before
4360 adjudication; and
- 4361 (b) is designed to assist in making a determination of whether a minor shall be held in
4362 detention.
- 4363 (26) "Developmental immaturity" means incomplete development in one or more domains
4364 that manifests as a functional limitation in the minor's present ability to:
- 4365 (a) consult with counsel with a reasonable degree of rational understanding; and
4366 (b) have a rational as well as factual understanding of the proceedings.
- 4367 (27) "Disposition" means an order by a juvenile court, after the adjudication of a minor,
4368 under Section 80-3-405 or 80-4-305 or Chapter 6, Part 7, Adjudication and Disposition.
- 4369 (28) "Educational neglect" means that, after receiving a notice of compulsory education
4370 violation under Section 53G-6-202, the parent or guardian fails to make a good faith
4371 effort to ensure that the child receives an appropriate education.
- 4372 (29) "Educational series" means an evidence-based instructional series:
- 4373 (a) obtained at a substance abuse program that is approved by the Division of Integrated
4374 Healthcare in accordance with Section 26B-5-104; and
- 4375 (b) designed to prevent substance use or the onset of a mental health disorder.
- 4376 (30) "Emancipated" means the same as that term is defined in Section 80-7-102.
- 4377 (31) "Evidence-based" means a program or practice that has had multiple randomized
4378 control studies or a meta-analysis demonstrating that the program or practice is effective
4379 for a specific population or has been rated as effective by a standardized program

4380 evaluation tool.

4381 (32) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.

4382 (33) "Formal probation" means a minor is:

4383 (a) supervised in the community by, and reports to, a juvenile probation officer or an
4384 agency designated by the juvenile court; and

4385 (b) subject to return to the juvenile court in accordance with Section 80-6-607.

4386 (34) "Group rehabilitation therapy" means psychological and social counseling of one or
4387 more individuals in the group, depending upon the recommendation of the therapist.

4388 (35) "Guardian" means a person appointed by a court to make decisions regarding a minor,
4389 including the authority to consent to:

4390 (a) marriage;

4391 (b) enlistment in the armed forces;

4392 (c) major medical, surgical, or psychiatric treatment; or

4393 (d) legal custody, if legal custody is not vested in another individual, agency, or
4394 institution.

4395 (36) "Guardian ad litem" means the same as that term is defined in Section 78A-2-801.

4396 (37) "Harm" means:

4397 (a) physical or developmental injury or damage;

4398 (b) emotional damage that results in a serious impairment in the child's growth,
4399 development, behavior, or psychological functioning;

4400 (c) sexual abuse; or

4401 (d) sexual exploitation.

4402 (38) "Home detention" means placement of a minor:

4403 (a) if prior to a disposition, in the minor's home, or in a surrogate home with the consent
4404 of the minor's parent, guardian, or custodian, under terms and conditions established
4405 by the Division of Juvenile Justice and Youth Services or the juvenile court; or

4406 (b) if after a disposition, and in accordance with Section 78A-6-353 or 80-6-704, in the
4407 minor's home, or in a surrogate home with the consent of the minor's parent,
4408 guardian, or custodian, under terms and conditions established by the Division of
4409 Juvenile Justice and Youth Services or the juvenile court.

4410 (39)(a) "Incest" means engaging in sexual intercourse with an individual whom the
4411 perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle,
4412 aunt, nephew, niece, or first cousin.

4413 (b) "Incest" includes:

- 4414 (i) blood relationships of the whole or half blood, regardless of whether the
4415 relationship is legally recognized;
- 4416 (ii) relationships of parent and child by adoption; and
- 4417 (iii) relationships of stepparent and stepchild while the marriage creating the
4418 relationship of a stepparent and stepchild exists.
- 4419 (40) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.
- 4420 (41) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.
- 4421 (42) "Indigent defense service provider" means the same as that term is defined in Section
4422 78B-22-102.
- 4423 (43) "Indigent defense services" means the same as that term is defined in Section
4424 78B-22-102.
- 4425 (44) "Indigent individual" means the same as that term is defined in Section 78B-22-102.
- 4426 (45)(a) "Intake probation" means a minor is:
- 4427 (i) monitored by a juvenile probation officer; and
- 4428 (ii) subject to return to the juvenile court in accordance with Section 80-6-607.
- 4429 (b) "Intake probation" does not include formal probation.
- 4430 (46) "Intellectual disability" means a significant subaverage general intellectual functioning
4431 existing concurrently with deficits in adaptive behavior that constitutes a substantial
4432 limitation to the individual's ability to function in society.
- 4433 (47) "Juvenile offender" means:
- 4434 (a) a serious youth offender; or
- 4435 (b) a youth offender.
- 4436 (48) "Juvenile probation officer" means a probation officer appointed under Section
4437 78A-6-205.
- 4438 (49) "Juvenile receiving center" means a nonsecure, nonresidential program established by
4439 the Division of Juvenile Justice and Youth Services, or under contract with the Division
4440 of Juvenile Justice and Youth Services, that is responsible for minors taken into
4441 temporary custody under Section 80-6-201.
- 4442 (50) "Legal custody" means a relationship embodying:
- 4443 (a) the right to physical custody of the minor;
- 4444 (b) the right and duty to protect, train, and discipline the minor;
- 4445 (c) the duty to provide the minor with food, clothing, shelter, education, and ordinary
4446 medical care;
- 4447 (d) the right to determine where and with whom the minor shall live; and

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

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

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

(53) "Mental illness" means:

(a) a psychiatric disorder that substantially impairs an individual's mental, emotional, 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) "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) "Mobile crisis outreach team" means the same as that term is defined in Section 26B-5-101.

(56) "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)(a) "Natural parent" means, except as provided in Section 80-3-302, a minor's~~

- 4482 biological or adoptive parent.]
- 4483 [(b) "Natural parent" includes the minor's noncustodial parent.]
- 4484 [(58)] (57)(a) "Neglect" means action or inaction causing:
- 4485 (i) abandonment of a child, except as provided in Chapter 4, Part 5, Safe
- 4486 Relinquishment of a Newborn Child;
- 4487 (ii) lack of proper parental care of a child by reason of the fault or habits of the
- 4488 parent, guardian, or custodian;
- 4489 (iii) failure or refusal of a parent, guardian, or custodian to provide proper or
- 4490 necessary subsistence or medical care, or any other care necessary for the child's
- 4491 health, safety, morals, or well-being;
- 4492 (iv) a child to be at risk of being neglected or abused because another child in the
- 4493 same home is neglected or abused;
- 4494 (v) abandonment of a child through an unregulated child custody transfer under
- 4495 Section [78B-24-203] 81-14-203; or
- 4496 (vi) educational neglect.
- 4497 (b) "Neglect" does not include:
- 4498 (i) a parent or guardian legitimately practicing religious beliefs and who, for that
- 4499 reason, does not provide specified medical treatment for a child;
- 4500 (ii) a health care decision made for a child by the child's parent or guardian, unless
- 4501 the state or other party to a proceeding shows, by clear and convincing evidence,
- 4502 that the health care decision is not reasonable and informed;
- 4503 (iii) a parent or guardian exercising the right described in Section 80-3-304; or
- 4504 (iv) permitting a child, whose basic needs are met and who is of sufficient age and
- 4505 maturity to avoid harm or unreasonable risk of harm, to engage in independent
- 4506 activities, including:
- 4507 (A) traveling to and from school, including by walking, running, or bicycling;
- 4508 (B) traveling to and from nearby commercial or recreational facilities;
- 4509 (C) engaging in outdoor play;
- 4510 (D) remaining in a vehicle unattended, except under the conditions described in
- 4511 Subsection 76-10-2202(2);
- 4512 (E) remaining at home unattended; or
- 4513 (F) engaging in a similar independent activity.
- 4514 [(59)] (58) "Neglected child" means a child who has been subjected to neglect.
- 4515 [(60)] (59) "Nonjudicial adjustment" means closure of the case by the assigned juvenile

probation officer, without an adjudication of the minor's case under Section 80-6-701, upon the consent in writing of:

(a) the assigned juvenile probation officer; and

(b)(i) the minor; or

(ii) the minor and the minor's parent, guardian, or custodian.

[(61)] (60) "Not competent to proceed" means that a minor, due to a mental illness, intellectual disability or related condition, or developmental immaturity, lacks the ability 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.

(61)(a) "Parent" means, except as provided in Section 80-3-302, an individual with a parent-child relationship to a minor under Section 81-5-201.

(b) "Parent" includes the minor's noncustodial parent as defined in Section 81-1-101.

(62) "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) "Physical abuse" means abuse that results in physical injury or damage to a child.

(64)(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) "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) "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) "Protective services" means expedited services that are provided:

- 4550 (a) in response to evidence of neglect, abuse, or dependency of a child;
- 4551 (b) to a cohabitant who is neglecting or abusing a child, in order to:
- 4552 (i) help the cohabitant develop recognition of the cohabitant's duty of care and of the
- 4553 causes of neglect or abuse; and
- 4554 (ii) strengthen the cohabitant's ability to provide safe and acceptable care; and
- 4555 (c) in cases where the child's welfare is endangered:
- 4556 (i) to bring the situation to the attention of the appropriate juvenile court and law
- 4557 enforcement agency;
- 4558 (ii) to cause a protective order to be issued for the protection of the child, when
- 4559 appropriate; and
- 4560 (iii) to protect the child from the circumstances that endanger the child's welfare
- 4561 including, when appropriate:
- 4562 (A) removal from the child's home;
- 4563 (B) placement in substitute care; and
- 4564 (C) petitioning the court for termination of parental rights.
- 4565 (68) "Protective supervision" means a legal status created by court order, following an
- 4566 adjudication on the ground of abuse, neglect, or dependency, whereby:
- 4567 (a) the minor is permitted to remain in the minor's home; and
- 4568 (b) supervision and assistance to correct the abuse, neglect, or dependency is provided
- 4569 by an agency designated by the juvenile court.
- 4570 (69)(a) "Related condition" means a condition that:
- 4571 (i) is found to be closely related to intellectual disability;
- 4572 (ii) results in impairment of general intellectual functioning or adaptive behavior
- 4573 similar to that of an intellectually disabled individual;
- 4574 (iii) is likely to continue indefinitely; and
- 4575 (iv) constitutes a substantial limitation to the individual's ability to function in society.
- 4576 (b) "Related condition" does not include mental illness, psychiatric impairment, or
- 4577 serious emotional or behavioral disturbance.
- 4578 (70)(a) "Residual parental rights and duties" means the rights and duties remaining with
- 4579 a parent after legal custody or guardianship, or both, have been vested in another
- 4580 person or agency, including:
- 4581 (i) the responsibility for support;
- 4582 (ii) the right to consent to adoption;
- 4583 (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) "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) "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) "Secure care facility" means a facility, established in accordance with Section 80-5-503, for juvenile offenders in secure care.

(74) "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) "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) "Severe abuse" means abuse that causes or threatens to cause serious harm to a child.

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

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

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

- 4618 (A) chronic abuse;
4619 (B) severe abuse;
4620 (C) sexual abuse;
4621 (D) sexual exploitation;
4622 (E) abandonment;
4623 (F) chronic neglect; or
4624 (G) severe neglect; or
4625 (ii) if committed by an individual who is under 18 years old:
4626 (A) causing serious physical injury, as defined in Subsection 76-5-109(1), to
4627 another child that indicates a significant risk to other children; or
4628 (B) sexual behavior with or upon another child that indicates a significant risk to
4629 other children.
4630 (b) "Severe type of child abuse or neglect" does not include:
4631 (i) the use of reasonable and necessary physical restraint by an educator in
4632 accordance with Subsection 53G-8-302(2) or Section 76-2-401;
4633 (ii) an individual's conduct that is justified under Section 76-2-401 or constitutes the
4634 use of reasonable and necessary physical restraint or force in self-defense or
4635 otherwise appropriate to the circumstances to obtain possession of a weapon or
4636 other dangerous object in the possession or under the control of a child or to
4637 protect the child or another individual from physical injury; or
4638 (iii) a health care decision made for a child by a child's parent or guardian, unless,
4639 subject to Subsection (78)(c), the state or other party to the proceeding shows, by
4640 clear and convincing evidence, that the health care decision is not reasonable and
4641 informed.
4642 (c) Subsection (78)(b)(iii) does not prohibit a parent or guardian from exercising the
4643 right to obtain a second health care opinion.
4644 (79) "Sexual abuse" means:
4645 (a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an
4646 adult directed towards a child;
4647 (b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation
4648 committed by a child towards another child if:
4649 (i) there is an indication of force or coercion;
4650 (ii) the children are related, as described in Subsection (39), including siblings by
4651 marriage while the marriage exists or by adoption;

- 4652 (iii) there have been repeated incidents of sexual contact between the two children,
4653 unless the children are 14 years old or older; or
- 4654 (iv) there is a disparity in chronological age of four or more years between the two
4655 children;
- 4656 (c) engaging in any conduct with a child that would constitute an offense under any of
4657 the following, regardless of whether the individual who engages in the conduct is
4658 actually charged with, or convicted of, the offense:
- 4659 (i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the
4660 alleged perpetrator of an offense described in Section 76-5-401 is a minor;
- 4661 (ii) child bigamy, Section 76-7-101.5;
- 4662 (iii) incest, Section 76-7-102;
- 4663 (iv) lewdness, Section 76-9-702;
- 4664 (v) sexual battery, Section 76-9-702.1;
- 4665 (vi) lewdness involving a child, Section 76-9-702.5; or
- 4666 (vii) voyeurism, Section 76-9-702.7; or
- 4667 (d) subjecting a child to participate in or threatening to subject a child to participate in a
4668 sexual relationship, regardless of whether that sexual relationship is part of a legal or
4669 cultural marriage.
- 4670 (80) "Sexual exploitation" means knowingly:
- 4671 (a) employing, using, persuading, inducing, enticing, or coercing any child to:
- 4672 (i) pose in the nude for the purpose of sexual arousal of any individual; or
- 4673 (ii) engage in any sexual or simulated sexual conduct for the purpose of
4674 photographing, filming, recording, or displaying in any way the sexual or
4675 simulated sexual conduct;
- 4676 (b) displaying, distributing, possessing for the purpose of distribution, or selling material
4677 depicting a child:
- 4678 (i) in the nude, for the purpose of sexual arousal of any individual; or
- 4679 (ii) engaging in sexual or simulated sexual conduct; or
- 4680 (c) engaging in any conduct that would constitute an offense under Section 76-5b-201,
4681 sexual exploitation of a minor, or Section 76-5b-201.1, aggravated sexual
4682 exploitation of a minor, regardless of whether the individual who engages in the
4683 conduct is actually charged with, or convicted of, the offense.
- 4684 (81) "Shelter" means the temporary care of a child in a physically unrestricted facility
4685 pending a disposition or transfer to another jurisdiction.

- (82) "Shelter facility" means a nonsecure facility that provides shelter for a minor.
- (83) "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) "Single criminal episode" means the same as that term is defined in Section 76-1-401.
- (85) "Status offense" means an offense that would not be an offense but for the age of the offender.
- (86) "Substance abuse" means, except as provided in Section 80-2-603, the misuse or excessive use of alcohol or other drugs or substances.
- (87) "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) "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) "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) "Termination of parental rights" means the permanent elimination of all parental rights

and duties, including residual parental rights and duties, by court order.

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

(93) "Ungovernable" means a child in conflict with a parent or guardian, and the conflict:

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

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

(c) results in the situations described in Subsections (93)(a) and (b).

(94) "Unsubstantiated" means a judicial finding that there is insufficient evidence to conclude that abuse, neglect, or dependency occurred.

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

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

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

(98) "Youth offender" means an individual who is:

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

(b) 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.

Section 52. Section **80-2-503.5** is amended to read:

80-2-503.5 . Psychotropic medication oversight program -- Behavioral health service rates.

(1) As used in this section:

- 4754 (a) "Advanced practice registered nurse" means an individual licensed to practice as an
4755 advanced practice registered nurse in this state under Title 58, Chapter 31b, Nurse
4756 Practice Act.
- 4757 (b) "Division" means the Division of Integrated Healthcare created in Section 26B-1-204.
- 4758 (c) "HIPAA" means 45 C.F.R. Parts 160, 162, and 164, Health Insurance Portability and
4759 Accountability Act of 1996, as amended.
- 4760 (d) "Physician assistant" means an individual licensed to practice as a physician assistant
4761 in this state under Title 58, Chapter 70a, Utah Physician Assistant Act.
- 4762 (e) "Psychotropic medication" means medication prescribed to affect or alter thought
4763 processes, mood, or behavior, including antipsychotic, antidepressant, anxiolytic, or
4764 behavior medication.
- 4765 (f) "Qualifying minor" means a minor committed to the Division of Juvenile Justice and
4766 Youth Services under Section 80-6-703.
- 4767 (2) The division shall, through contract with the University of Utah or another qualified
4768 third party, operate a psychotropic medication oversight program for children in foster
4769 care and qualifying minors to ensure that each foster child and qualifying minor is
4770 prescribed psychotropic medication consistent with the foster child's or qualifying
4771 minor's needs and consistent with clinical best practices.
- 4772 (3) The division shall operate an oversight team to manage the psychotropic medication
4773 oversight program, composed of at least the following individuals:
- 4774 (a) a physician assistant with pediatric mental health experience, or an advanced practice
4775 registered nurse with pediatric mental health experience, contracted with the division;
- 4776 (b) a child psychiatrist contracted with the division;
- 4777 (c) a data analyst contracted with the division; and
- 4778 (d) an individual with care coordination experience.
- 4779 (4) The oversight team shall monitor foster children and qualifying minors:
- 4780 (a) six years old or younger who are being prescribed one or more psychotropic
4781 medications;
- 4782 (b) seven years old or older who are being prescribed two or more psychotropic
4783 medications; and
- 4784 (c) who are prescribed one or more antipsychotic medications.
- 4785 (5) The division shall establish a business associate agreement with the oversight team by
4786 which the oversight team shall, upon request, be given information or records related to
4787 the foster child's or qualifying minor's health care history, including psychotropic

4788 medication history and mental and behavioral health history, from:

4789 (a) the division's Medicaid pharmacy program;

4790 (b) the department's written and electronic records and databases;

4791 (c) the foster child's current or past caseworker, or the qualifying minor's current or past
4792 case manager;

4793 (d) the foster child or qualifying minor; or

4794 (e) the foster child's or qualifying minor's:

4795 (i) current or past health care provider;

4796 (ii) ~~natural~~ parents; or

4797 (iii) foster parents.

4798 (6) The oversight team may review and monitor the following information about a foster
4799 child or qualifying minor:

4800 (a) the foster child's or qualifying minor's history;

4801 (b) the foster child's or qualifying minor's health care, including psychotropic
4802 medication history and mental or behavioral health history;

4803 (c) whether there are less invasive treatment options available to meet the foster child's
4804 or qualifying minor's needs;

4805 (d) the dosage or dosage range and appropriateness of the foster child's or qualifying
4806 minor's psychotropic medication;

4807 (e) the short-term or long-term risks associated with the use of the foster child's or
4808 qualifying minor's psychotropic medication; or

4809 (f) the reported benefits of the foster child's or qualifying minor's psychotropic
4810 medication.

4811 (7)(a) On at least a quarterly basis, the oversight team shall:

4812 (i) review the medical and mental or behavioral health history for each foster child
4813 and qualifying minor overseen by the program;

4814 (ii) based on the review under Subsection (7)(a)(i), document the oversight team's
4815 findings and recommendations; and

4816 (iii) make written recommendations concerning the foster child's or qualifying
4817 minor's psychotropic medication and the foster child's or qualifying minor's
4818 mental or behavioral health, including any recommendation for psychotherapy
4819 treatment.

4820 (b) The oversight team's recommendations described in Subsection (7)(a) shall be
4821 provided to the foster child's current caseworker or the qualifying minor's current

case manager, the foster child's or qualifying minor's parent or guardian, and the foster child's or qualifying minor's current health care providers, in accordance with rules adopted pursuant to Subsection (8) and in compliance with HIPAA and other relevant state and federal privacy laws.

(c) The member of the oversight team described in Subsection (3)(d) shall:

(i) provide the recommendations described in Subsection (7)(a) in writing and verbally, or as otherwise provided in rules adopted pursuant to Subsection (8), to the foster child's or qualifying minor's current health care providers; and

(ii) on at least a semiannual basis, follow up with the foster child's or qualifying minor's current health care providers to document whether recommendations made by the oversight team have been implemented.

(d) A foster child's caseworker or qualifying minor's case manager shall maintain a confidential record of recommendations provided under Subsection (7)(b).

(8) The division may adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to administer this section, including the rules described in Subsection (7)(b).

(9) The division shall report regarding the psychotropic medication oversight program:

(a) to the Child Welfare Legislative Oversight Panel by October 1 of each even numbered year; and

(b) orally to the Health and Human Services Interim Committee, at least once every two years at or before the October interim meeting.

(10) The oversight team shall report:

(a) quarterly to the division regarding the number of foster children and qualifying minors reviewed and the number of recommendations made; and

(b) annually to the division regarding outcomes for foster children and qualifying minors overseen by the program.

(11) Beginning on July 1, 2024, the department shall pay for outpatient behavioral health services for children in foster care and qualifying minors at a rate no lower than the standard Medicaid fee schedule.

Section 53. Section **80-2-702** is amended to read:

80-2-702 . Division post-removal investigation -- Supported or unsupported reports -- Convening of child protection team -- Cooperation with law enforcement -- Close of investigation.

(1) If a child is taken into protective custody in accordance with Section 80-2a-202 or

80-3-204 or the division takes any other action that requires a shelter hearing under Subsection 80-3-301(1), the division shall immediately initiate an investigation of:

- (a) the circumstances of the child; and
- (b) the grounds upon which the decision to place the child into protective custody was made.

(2) The division's investigation under Subsection (1) shall conform to reasonable professional standards and include:

(a) a search for and review of any records of past reports of abuse or neglect involving:

- (i) the same child;
- (ii) any sibling or other child residing in the same household as the child; and
- (iii) the alleged perpetrator;

(b) with regard to a child who is five years old or older, a personal interview with the child:

- (i) outside of the presence of the alleged perpetrator; and
- (ii) conducted in accordance with the requirements of Section 80-2-704;

(c) if a parent or guardian is located, an interview with at least one of the child's parents or guardian;

(d) an interview with the person who reported the abuse, unless the report was made anonymously;

(e) if possible and appropriate, interviews with other third parties who have had direct contact with the child, including:

- (i) school personnel; and
- (ii) the child's health care provider;

(f) an unscheduled visit to the child's home, unless:

(i) there is a reasonable basis to believe that the reported abuse was committed by a person who:

- (A) is not the child's parent; and
- (B) does not live in the child's home or otherwise have access to the child in the child's home; or

(ii) an unscheduled visit is not necessary to obtain evidence for the investigation; and

(g) if appropriate and indicated in any case alleging physical injury, sexual abuse, or failure to meet the child's medical needs, a medical examination, obtained no later than 24 hours after the child is placed in protective custody.

(3) The division may rely on a written report of a prior interview rather than conducting an

4890 additional interview under Subsection (2), if:

4891 (a) law enforcement:

4892 (i) previously conducted a timely and thorough investigation regarding the alleged
4893 abuse, neglect, or dependency; and

4894 (ii) produced a written report;

4895 (b) the investigation described in Subsection (3)(a)(i) included one or more of the
4896 interviews described in Subsection (2); and

4897 (c) the division finds that an additional interview is not in the best interest of the child.

4898 (4)(a)(i) The division shall:

4899 (A) make a determination after the division's investigation under Subsection (1)
4900 regarding whether the report is supported, unsupported, or without merit; and

4901 (B) base the determination on the facts of the case at the time the report is made.

4902 (ii) The division's determination of whether a report is supported or unsupported may
4903 be based on the child's statements alone.

4904 (b) The division may not:

4905 (i) use the inability to identify or locate the perpetrator as a basis for:

4906 (A) determining that a report is unsupported; or

4907 (B) closing the case; or

4908 (ii) determine a case is unsupported or identify a case as unsupported solely because
4909 the perpetrator is an out-of-home perpetrator.

4910 (5) The division shall maintain protective custody of the child if the division finds that one
4911 or more of the following conditions exist:

4912 (a) the child does not have a ~~natural~~ parent, guardian, or responsible relative who is
4913 able and willing to provide safe and appropriate care for the child;

4914 (b)(i) shelter of the child is a matter of necessity for the protection of the child; and

4915 (ii) there are no reasonable means by which the child can be protected in:

4916 (A) the child's home; or

4917 (B) the home of a responsible relative;

4918 (c) there is substantial evidence that the parent or guardian is likely to flee the
4919 jurisdiction of the juvenile court; or

4920 (d) the child has left a previously court ordered placement.

4921 (6) Within 24 hours after receipt of a child into protective custody, excluding weekends and
4922 holidays, the division shall:

4923 (a) convene a child protection team in accordance with Section 80-2-706; and

(b) prepare the testimony and evidence that will be required of the division at the shelter hearing, in accordance with Section 80-3-301.

(7) The division shall cooperate with a law enforcement investigation and with the members of a child protection team, if applicable, regarding the alleged perpetrator.

(8) The division may not close an investigation solely on the grounds that the division is unable to locate the child until all reasonable efforts have been made to locate the child and family members including:

- (a) visiting the home at times other than normal work hours;
- (b) contacting local schools;
- (c) contacting local, county, and state law enforcement agencies; and
- (d) checking public assistance records.

Section 54. Section **80-2-802** is amended to read:

80-2-802 . Division child placing and adoption services -- Restrictions on placement of a child.

(1) Except as provided in Subsection (3), the division may provide adoption services and, as a licensed child-placing agency under Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities, engage in child placing in accordance with this chapter, Chapter 2a, Removal and Protective Custody of a Child, Chapter 3, Abuse, Neglect, and Dependency Proceedings, and Chapter 4, Termination and Restoration of Parental Rights.

(2) The division shall base the division's decision for placement of an adoptable child for adoption on the best interest of the adoptable child.

(3) The division may not:

- (a) in accordance with Subsection 26B-2-127(6), place a child for adoption, either temporarily or permanently, with an individual who does not qualify for adoptive placement under Sections [~~78B-6-102, 78B-6-117, and 78B-6-137~~] 81-13-202, 81-13-203, and 81-13-402;
- (b) consider a potential adoptive parent's willingness or unwillingness to enter a postadoption contact agreement under Section [~~78B-6-146~~] 81-13-216 as a condition of placing a child with a potential adoptive parent; or
- (c) except as required under the Indian Child Welfare Act, 25 U.S.C. Secs. 1901 through 1963, base the division's decision for placement of an adoptable child on the race, color, ethnicity, or national origin of either the child or the potential adoptive parent.

(4) The division shall establish a rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, providing that, subject to Subsection (3) and Section [

78B-6-117] 81-13-402, priority of placement shall be provided to a family in which a couple is legally married under the laws of the state.

- (5) Subsections (3) and (4) do not limit the placement of a child with the child's [biological or adoptive parent, a relative,] parent or relative or in accordance with the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et seq.

Section 55. Section **80-2-803** is amended to read:

80-2-803 . Division promotion of adoption -- Adoption research and informational pamphlet.

The division shall:

- (1) actively promote the adoption of all children in the division's custody who have a final plan for termination of parental rights under Section 80-3-409 or a primary permanency plan of adoption;
- (2) develop plans for the effective use of cross-jurisdictional resources to facilitate timely adoptive or permanent placements for waiting children;
- (3) obtain information or conduct research regarding prior adoptive families to determine what families may do to be successful with an adoptive child;
- (4) make the information or research described in Subsection (3) available to potential adoptive parents;
- (5) prepare a pamphlet that explains the information that a child-placing agency is required to provide a potential adoptive parent under Section [78B-24-303] 81-14-303;
- (6) regularly distribute copies of the pamphlet described in Subsection (5) to child-placing agencies; and
- (7) respond to an inquiry made as a result of the notice provided by a child-placing agency under Section [78B-24-303] 81-14-303.

Section 56. Section **80-2-906** is amended to read:

80-2-906 . Financial responsibility for child placed under Interstate Compact.

- (1) Financial responsibility for a child placed under the provisions of the Interstate Compact on the Placement of Children shall, in the first instance, be determined in accordance with the provisions of Article V of the compact.
- (2) In the event of partial or complete default of performance under the compact, the provisions of Title 81, Chapter 6, Child Support, and Title 81, Chapter 7, Payment and Enforcement of Spousal and Child Support, may also be invoked.

Section 57. Section **80-2-909** is amended to read:

80-2-909 . Existing authority for child placement continues.

Any person who, under any law of this state other than this part or the Interstate Compact on the Placement of Children established under Section 80-2-905, has authority to make or assist in making the placement of a child, shall continue to have the ability lawfully to make or assist in making that placement, and the provisions of Sections 26B-2-127, 26B-2-131, 26B-2-132, and 26B-2-708, Subsections 80-2-802(3)(a) and (4) and 80-2-803(1), (2), and (5) through (7), and [~~Title 78B, Chapter 6, Part 1, Utah Adoption Act~~] Title 81, Chapter 13, Adoption, continue to apply.

The following section is affected by a coordination clause at the end of this bill.

Section 58. Section **80-2-1005** is amended to read:

80-2-1005 . Classification of reports of alleged abuse or neglect -- Confidential identity of a person who reports -- Access -- Admitting reports into evidence -- Unlawful release and use -- Penalty.

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

- 5026 (g) an office of the public prosecutor or the public prosecutor's deputies in performing an
5027 official duty;
- 5028 (h) a person authorized by a Children's Justice Center, for the purposes described in
5029 Section 67-5b-102;
- 5030 (i) a person engaged in bona fide research, when approved by the director of the
5031 division, if the information does not include names and addresses;
- 5032 (j) the State Board of Education, acting on behalf of itself or on behalf of a local
5033 education agency, as defined in Section 63J-5-102, for the purpose of evaluating
5034 whether an individual should be permitted to obtain or retain a license as an educator
5035 or serve as an employee or volunteer in a school, limited to information with
5036 substantiated or supported findings involving an alleged sexual offense, an alleged
5037 felony or class A misdemeanor drug offense, or any alleged offense against the
5038 person under Title 76, Chapter 5, Offenses Against the Individual, and with the
5039 understanding that the office must provide the subject of a report received under
5040 Subsection (1)(k) with an opportunity to respond to the report before making a
5041 decision concerning licensure or employment;
- 5042 (k) any individual identified in the report as a perpetrator or possible perpetrator of
5043 abuse or neglect, after being advised of the screening prohibition in Subsection (2);
- 5044 (l) a person filing a petition for a child protective order on behalf of a child who is the
5045 subject of the report;
- 5046 (m) a licensed child-placing agency or person who is performing a preplacement
5047 adoptive evaluation in accordance with the requirements of Sections ~~[78B-6-128 and~~
5048 ~~78B-6-130]~~ 81-13-403 and 81-13-405;
- 5049 (n) an Indian tribe to:
- 5050 (i) certify or license a foster home;
- 5051 (ii) render services to a subject of a report; or
- 5052 (iii) investigate an allegation of abuse, neglect, or dependency; or
- 5053 (o) the department or a local substance abuse authority, described in Section 17-43-201,
5054 for the purpose of providing substance abuse treatment to a pregnant woman or a
5055 parent of a newborn child, or the services described in Subsection ~~[26B-5-211(2)(p)]~~
5056 26B-5-102(2)(p).
- 5057 (2) In accordance with Section 80-2-608 and except as provided in Section 80-2-611, the
5058 division and a law enforcement agency shall ensure the anonymity of the person who
5059 makes the initial report under Part 6, Child Abuse and Neglect Reports, and any other

person involved in the division's or law enforcement agency's subsequent investigation of the report.

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

- (a) identify the referent;
- (b) impede a criminal investigation; or
- (c) endanger an individual's safety.

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

- (a) the subject of the report;
- (b) a person who is performing a preplacement adoptive evaluation in accordance with Sections ~~[78B-6-128 and 78B-6-130]~~ 81-13-403 and 81-13-405;
- (c) to a licensed child-placing agency; or
- (d) an attorney seeking to facilitate an adoption.

(5) A member of a child protection team may, before the day on which the child is 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.

- 5094 (ii) After considering the motion described in Subsection (6)(b)(i), the court may
5095 receive the report into evidence upon a finding on the record of good cause.
- 5096 (7)(a) A person may not:
- 5097 (i) willfully permit, or aid and abet, the release of data or information in the
5098 possession of the division or contained in the Management Information System in
5099 violation of this part or Part 6, Child Abuse and Neglect Reports; or
- 5100 (ii) if the person is not listed in Subsection (1), request another person to obtain or
5101 release a report or other information that the other person obtained under
5102 Subsection (1)(k) to screen for potential perpetrators of abuse or neglect.
- 5103 (b) A person who violates Subsection (7)(a)(i), or violates Subsection (7)(a)(ii) knowing
5104 the person's actions are a violation of Subsection (7)(a)(ii), is guilty of a class C
5105 misdemeanor.

5106 Section 59. Section **80-2a-101** is amended to read:

5107 **80-2a-101 . Definitions.**

- 5108 (1) "Custody" means the same as that term is defined in Section 80-2-102.
- 5109 (2) "Division" means the Division of Child and Family Services created in Section 80-2-201.
- 5110 (3) "Friend" means an adult who:
- 5111 (a) has an established relationship with the child or a family member of the child; and
- 5112 (b) is not the ~~[natural-]~~parent of the child.
- 5113 (4) "Nonrelative" means an individual who is not a noncustodial parent or relative.
- 5114 (5) "Relative" means an adult who:
- 5115 (a) is the child's grandparent, great grandparent, aunt, great aunt, uncle, great uncle,
- 5116 brother-in-law, sister-in-law, stepparent, first cousin, stepsibling, or sibling;
- 5117 (b) is the first cousin of the child's parent;
- 5118 (c) is a permanent guardian or ~~[natural-]~~parent of the child's sibling; or
- 5119 (d) in the case of a child who is an Indian child, is an extended family member as
- 5120 defined in the Indian Child Welfare Act, 25 U.S.C. Sec. 1903.
- 5121 (6) "Sibling" means the same as that term is defined in Section 80-2-102.
- 5122 (7) "Temporary custody" means the same as that term is defined in Section 80-2-102.

5123 Section 60. Section **80-2a-201** is amended to read:

5124 **80-2a-201 . Rights of parents -- Children's rights -- Interest and responsibility of**
5125 **state.**

- 5126 (1)(a) Under both the United States Constitution and the constitution of this state, a
5127 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(57)(b)(i) through (iii) and Sections 80-3-109 and 80-3-304.

Section 61. Section **80-2a-304** is amended to read:

80-2a-304 . Removal of a child from foster family placement -- Procedural due

process.

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

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

(c) For the reasons described in Subsections (1)(a) and (b), the division shall provide procedural due process for a foster family before removal of a foster child from the foster family's home, regardless of the length of time the child has been in the foster family's home, unless removal is for the purpose of:

- (i) returning the child to the child's ~~natural~~ parent or guardian;
- (ii) immediately placing the child in an approved adoptive home;
- (iii) placing the child with a relative who obtained custody or asserted an interest in the child within the preference period described in Subsection 80-3-302(7); or
- (iv) placing an Indian child in accordance with placement preferences and other requirements described in the Indian Child Welfare Act, 25 U.S.C. Sec. 1915.

(2)(a) The division shall maintain and utilize due process procedures for removal of a foster child from a foster home, in accordance with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.

(b) The procedures described in Subsection (2)(a) shall include requirements for:

- (i) personal communication with, and a written explanation of the reasons for the removal to, the foster parents before removal of the child; and
- (ii) an opportunity for foster parents to:
 - (A) present the foster parents' information and concerns to the division; and
 - (B) request a review, to be held before removal of the child, by a third party neutral fact finder or if the child is placed with the foster parents for a period of at least two years, request a review, to be held before removal of the child, by the juvenile court judge currently assigned to the child's case or, if the juvenile court judge currently assigned to the child's case is not available, another

juvenile court judge.

(c) If the division determines that there is a reasonable basis to believe that the child is in danger or that there is a substantial threat of danger to the health or welfare of the child, the division shall place the child in emergency foster care during the pendency of the procedures described in this Subsection (2), instead of making another foster care placement.

(3)(a) If the division removes a child from a foster home based on the child's statement alone, the division shall initiate and expedite the processes described in Subsection (2).

(b) The division may not take formal action with regard to the foster parent's license until after the processes described in Subsection (2), in addition to any other procedure or hearing required by law, are completed.

(4) If a complaint is made to the division by a foster child against a foster parent, the division shall, within 30 business days after the day on which the complaint is received, provide the foster parent with information regarding the specific nature of the complaint, the time and place of the alleged incident, and who was alleged to have been involved.

(5) If the division places a child in a foster home, the division shall provide the foster parents with:

(a) notification of the requirements of this section;

(b) a written description of the procedures enacted by the division under Subsection (2) and how to access the procedures; and

(c) written notification of the foster parents' ability to petition the juvenile court directly for review of a decision to remove a foster child who, subject to Section 80-3-502, has been in the foster parents' custody for 12 months or longer.

(6) This section does not apply to the removal of a child based on a foster parent's request for the removal.

(7) It is unlawful for a person, with the intent to avoid compliance with the requirements of this section, to:

(a) take action, or encourage another to take action, against the license of a foster parent; or

(b) remove a child from a foster home before the child is placed with the foster parents for two years.

(8) The division may not remove a foster child from a foster parent who is a relative of the child on the basis of the age or health of the foster parent without determining:

(a) by clear and convincing evidence that the foster parent is incapable of caring for the

5298 foster child, if the alternative foster parent would not be another relative of the child;
5299 or

5300 (b) by a preponderance of the evidence that the foster parent is incapable of caring for
5301 the foster child, if the alternative foster parent would be another relative of the child.

5302 Section 62. Section **80-3-102** is amended to read:

5303 **80-3-102 . Definitions.**

5304 As used in this chapter:

5305 (1) "Abuse, neglect, or dependency petition" means a petition filed in accordance with this
5306 chapter to commence proceedings in a juvenile court alleging that a child is:

5307 (a) abused;

5308 (b) neglected; or

5309 (c) dependent.

5310 (2) "Custody" means the same as that term is defined in Section 80-2-102.

5311 (3) "Division" means the Division of Child and Family Services created in Section 80-2-201.

5312 (4) "Friend" means an adult who:

5313 (a) has an established relationship with the child or a family member of the child; and

5314 (b) is not the [~~natural~~]parent of the child.

5315 (5) "Immediate family member" means a spouse, child, parent, sibling, grandparent, or
5316 grandchild.

5317 (6) "Relative" means an adult who:

5318 (a) is the child's grandparent, great grandparent, aunt, great aunt, uncle, great uncle,
5319 brother-in-law, sister-in-law, stepparent, first cousin, stepsibling, or sibling;

5320 (b) is a first cousin of the child's parent;

5321 (c) is a permanent guardian or [~~natural~~]parent of the child's sibling; or

5322 (d) in the case of a child who is an Indian child, is an extended family member as
5323 defined in the Indian Child Welfare Act, 25 U.S.C. Sec. 1903.

5324 (7) "Sibling" means the same as that term is defined in Section 80-2-102.

5325 (8) "Sibling visitation" means the same as that term is defined in Section 80-2-102.

5326 (9) "Temporary custody" means the same as that term is defined in Section 80-2-102.

5327 Section 63. Section **80-3-107** is amended to read:

5328 **80-3-107 . Disclosure of records -- Record sharing.**

5329 (1)(a) Except as provided in Subsections (1)(c) through (e), in an abuse, neglect, or
5330 dependency proceeding occurring after the commencement of a shelter hearing under
5331 Section 80-3-301, or the filing of an abuse, neglect, or dependency petition, each

5332 party to the proceeding shall provide in writing to any other party or the other party's
5333 counsel any information that the party:

- 5334 (i) plans to report to the juvenile court at the proceeding; or
- 5335 (ii) could reasonably expect would be requested of the party by the juvenile court at
5336 the proceeding.

5337 (b) A party providing the disclosure required under Subsection (1)(a) shall make the
5338 disclosure:

- 5339 (i) for a dispositional hearing under Part 4, Adjudication, Disposition, and
5340 Permanency, no less than five days before the day on which the dispositional
5341 hearing is held; and
- 5342 (ii) for all other proceedings, no less than five days before the day on which the
5343 proceeding is held.

5344 (c) The division is not required to provide a court report or a child and family plan
5345 described in Section 80-3-307 to each party to the proceeding if:

- 5346 (i) the information is electronically filed with the juvenile court; and
- 5347 (ii) each party to the proceeding has access to the electronically filed information.

5348 (d) If a party to a proceeding obtains information after the deadline described in
5349 Subsection (1)(b), the information is exempt from the disclosure required under
5350 Subsection (1)(a) if the party certifies to the juvenile court that the information was
5351 obtained after the deadline.

5352 (e) Subsection (1)(a) does not apply to:

- 5353 (i) pretrial hearings; and
- 5354 (ii) the frequent, periodic review hearings held in a dependency drug court case to
5355 assess and promote the parent's progress in substance use disorder treatment.

5356 (2)(a) Except as provided in Subsection (2)(b), and notwithstanding any other provision
5357 of law:

- 5358 (i) counsel for all parties to the action shall be given access to all records, maintained
5359 by the division or any other state or local public agency, that are relevant to the
5360 abuse, neglect, or dependency proceeding under this chapter; and
- 5361 (ii) if the ~~[natural]~~parent of a child is not represented by counsel, the ~~[natural]~~parent
5362 shall have access to the records described in Subsection (2)(a)(i).

5363 (b) The disclosures described in Subsection (2)(a) are not required if:

- 5364 (i) subject to Subsection (2)(c), the division or other state or local public agency did
5365 not originally create the record being requested;

- (ii) disclosure of the record would jeopardize the life or physical safety of a child who has been a victim of abuse or neglect, or any individual who provided substitute care for the child;
- (iii) disclosure of the record would jeopardize the anonymity of the individual making the initial report of abuse or neglect or any others involved in the subsequent investigation;
- (iv) disclosure of the record would jeopardize the life or physical safety of an individual who has been a victim of domestic violence; or
- (v) the record is a Children's Justice Center interview, including a video or audio recording, and a transcript of the recording, the release of which is governed by Section 77-37-4.

(c) If a disclosure is denied under Subsection (2)(b)(i), the division shall inform the individual making the request:

- (i) of the existence of all records in the possession of the division or any other state or local public agency;
- (ii) of the name and address of the individual or agency that originally created the record; and
- (iii) that the individual making the request must seek access to the record from the individual or agency that originally created the record.

Section 64. 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

- 5400 conduct that causes the child to suffer harm; and
- 5401 (ii) there are no less restrictive means available by which the child's emotional health
- 5402 may be protected without removing the child from the custody of the child's
- 5403 parent or guardian;
- 5404 (c) the child or another child residing in the same household has been, or is considered
- 5405 to be at substantial risk of being, physically abused, sexually abused, or sexually
- 5406 exploited, by a parent or guardian, a member of the parent's or guardian's household,
- 5407 or other individual known to the parent or guardian;
- 5408 (d) the parent or guardian is unwilling to have physical custody of the child;
- 5409 (e) the child is abandoned or left without any provision for the child's support;
- 5410 (f) a parent or guardian who has been incarcerated or institutionalized has not arranged
- 5411 or cannot arrange for safe and appropriate care for the child;
- 5412 (g)(i) a relative or other adult custodian with whom the child is left by the parent or
- 5413 guardian is unwilling or unable to provide care or support for the child;
- 5414 (ii) the whereabouts of the parent or guardian are unknown; and
- 5415 (iii) reasonable efforts to locate the parent or guardian are unsuccessful;
- 5416 (h) subject to Subsection ~~[80-1-102(58)(b)]~~ 80-1-102(57)(b) and Sections 80-3-109 and
- 5417 80-3-304, the child is in immediate need of medical care;
- 5418 (i)(i) a parent's or guardian's actions, omissions, or habitual action create an
- 5419 environment that poses a serious risk to the child's health or safety for which
- 5420 immediate remedial or preventive action is necessary; or
- 5421 (ii) a parent's or guardian's action in leaving a child unattended would reasonably
- 5422 pose a threat to the child's health or safety;
- 5423 (j) the child or another child residing in the same household has been neglected;
- 5424 (k) the child's ~~[natural]~~ parent:
- 5425 (i) intentionally, knowingly, or recklessly causes the death of another parent of the
- 5426 child;
- 5427 (ii) is identified by a law enforcement agency as the primary suspect in an
- 5428 investigation for intentionally, knowingly, or recklessly causing the death of
- 5429 another parent of the child; or
- 5430 (iii) is being prosecuted for or has been convicted of intentionally, knowingly, or
- 5431 recklessly causing the death of another parent of the child;
- 5432 (l) an infant is an abandoned infant, as defined in Section 80-4-203;
- 5433 (m)(i) the parent or 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

(ii) any clandestine laboratory operation was located in the residence or on the property where the child resided; or

(n) the child's welfare is otherwise endangered.

(3)(a) For purposes of Subsection (2)(a), if a child has previously been adjudicated as abused, neglected, or dependent, and a subsequent incident of abuse, neglect, or dependency occurs involving the same substantiated abuser or under similar circumstance as the previous abuse, that fact is prima facie evidence that the child cannot safely remain in the custody of the child's parent.

(b) For purposes of Subsection (2)(c):

(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 65. 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:

- 5502 (a) the name and address of the individual to whom the notice is directed;
5503 (b) the date, time, and place of the shelter hearing;
5504 (c) the name of the child on whose behalf an abuse, neglect, or dependency petition is
5505 brought;
5506 (d) a concise statement regarding:
5507 (i) the reasons for removal or other action of the division under Subsection (1); and
5508 (ii) the allegations and code sections under which the proceeding is instituted;
5509 (e) a statement that the parent or guardian to whom notice is given, and the child, are
5510 entitled to have an attorney present at the shelter hearing, and that if the parent or
5511 guardian is an indigent individual and cannot afford an attorney, and desires to be
5512 represented by an attorney, one will be provided in accordance with Title 78B,
5513 Chapter 22, Indigent Defense Act; and
5514 (f) a statement that the parent or guardian is liable for the cost of support of the child in
5515 the protective custody, temporary custody, and custody of the division, and the cost
5516 for legal counsel appointed for the parent or guardian under Subsection (2)(e),
5517 according to the financial ability of the parent or guardian.
- 5518 (3) The notice described in Subsection (2) shall be personally served as soon as possible,
5519 but no later than one business day after the day on which the child is removed from the
5520 child's home, or the day on which a motion for expedited placement in temporary
5521 custody under Section 80-3-203 is filed, on:
5522 (a) the appropriate guardian ad litem; and
5523 (b) both parents and any guardian of the child, unless the parents or guardians cannot be
5524 located.
- 5525 (4) Notwithstanding Section 80-3-104, the following individuals shall be present at the
5526 shelter hearing:
5527 (a) the child, unless it would be detrimental for the child;
5528 (b) the child's parents or guardian, unless the parents or guardian cannot be located, or
5529 fail to appear in response to the notice;
5530 (c) counsel for the parents, if one is requested;
5531 (d) the child's guardian ad litem;
5532 (e) the child welfare caseworker from the division who is assigned to the case; and
5533 (f) the attorney from the attorney general's office who is representing the division.
- 5534 (5)(a) At the shelter hearing, the juvenile court shall:
5535 (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.

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

(a) the reason why the child was removed from the parent's or guardian's custody;

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

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

(d) the available services that could facilitate the return of the child to the custody of the child's parent or guardian; and

(e) subject to Subsections 80-3-302(7)(c) and (d), whether any relatives of the child or friends of the child's parents may be able and willing to accept temporary placement of the child.

(7) The juvenile court shall consider all relevant evidence provided by an individual or entity authorized to present relevant evidence under this section.

(8)(a) If necessary to protect the child, preserve the rights of a party, or for other good cause shown, the juvenile court may grant no more than one continuance, not to exceed five judicial days.

(b) A juvenile court shall honor, as nearly as practicable, the request by a parent or guardian for a continuance under Subsection (8)(a).

(c) Notwithstanding Subsection (8)(a), if the division fails to provide the notice described in Subsection (2) within the time described in Subsection (3), the juvenile court may grant the request of a parent or guardian for a continuance, not to exceed five judicial days.

(9)(a) If the child is in protective custody, the juvenile court shall order that the child be

5570 returned to the custody of the parent or guardian unless the juvenile court finds, by a
5571 preponderance of the evidence, consistent with the protections and requirements
5572 provided in Subsection 80-2a-201(1), that any one of the following exists:

- 5573 (i) subject to Subsection (9)(b)(i), there is a serious danger to the physical health or
5574 safety of the child and the child's physical health or safety may not be protected
5575 without removing the child from the custody of the child's parent;
- 5576 (ii)(A) the child is suffering emotional damage that results in a serious impairment
5577 in the child's growth, development, behavior, or psychological functioning;
5578 (B) the parent or guardian is unwilling or unable to make reasonable changes that
5579 would sufficiently prevent future damage; and
5580 (C) there are no reasonable means available by which the child's emotional health
5581 may be protected without removing the child from the custody of the child's
5582 parent or guardian;
- 5583 (iii) there is a substantial risk that the child will suffer abuse or neglect if the child is
5584 not removed from the custody of the child's parent or guardian;
- 5585 (iv) subject to Subsection (9)(b)(ii), the child or a minor residing in the same
5586 household has been, or is considered to be at substantial risk of being, physically
5587 abused, sexually abused, or sexually exploited by:
5588 (A) a parent or guardian;
5589 (B) a member of the parent's household or the guardian's household; or
5590 (C) an individual known to the parent or guardian;
- 5591 (v) the parent or guardian is unwilling to have physical custody of the child;
- 5592 (vi) the parent or guardian is unable to have physical custody of the child;
- 5593 (vii) the child is without any provision for the child's support;
- 5594 (viii) a parent who is incarcerated or institutionalized has not or cannot arrange for
5595 safe and appropriate care for the child;
- 5596 (ix)(A) a relative or other adult custodian with whom the child is left by the parent
5597 or guardian is unwilling or unable to provide care or support for the child;
5598 (B) the whereabouts of the parent or guardian are unknown; and
5599 (C) reasonable efforts to locate the parent or guardian are unsuccessful;
- 5600 (x) subject to Subsection [~~80-1-102(58)(b)(i)~~] 80-1-102(57)(b)(i) and Sections
5601 80-3-109 and 80-3-304, the child is in immediate need of medical care;
- 5602 (xi)(A) the physical environment or the fact that the child is left unattended
5603 beyond a reasonable period of time poses a threat to the child's health or safety;

- 5604 and
- 5605 (B) the parent or guardian is unwilling or unable to make reasonable changes that
- 5606 would remove the threat;
- 5607 (xii)(A) the child or a minor residing in the same household has been neglected;
- 5608 and
- 5609 (B) the parent or guardian is unwilling or unable to make reasonable changes that
- 5610 would prevent the neglect;
- 5611 (xiii) the parent, guardian, or an adult residing in the same household as the parent or
- 5612 guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine
- 5613 Drug Lab Act, and any clandestine laboratory operation was located in the
- 5614 residence or on the property where the child resided;
- 5615 (xiv)(A) the child's welfare is substantially endangered; and
- 5616 (B) the parent or guardian is unwilling or unable to make reasonable changes that
- 5617 would remove the danger; or
- 5618 (xv) the child's ~~natural~~ parent:
- 5619 (A) intentionally, knowingly, or recklessly causes the death of another parent of
- 5620 the child;
- 5621 (B) is identified by a law enforcement agency as the primary suspect in an
- 5622 investigation for intentionally, knowingly, or recklessly causing the death of
- 5623 another parent of the child; or
- 5624 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or
- 5625 recklessly causing the death of another parent of the child.
- 5626 (b)(i) Prima facie evidence of the finding described in Subsection (9)(a)(i) is
- 5627 established if:
- 5628 (A) a court previously adjudicated that the child suffered abuse, neglect, or
- 5629 dependency involving the parent; and
- 5630 (B) a subsequent incident of abuse, neglect, or dependency involving the parent
- 5631 occurs.
- 5632 (ii) For purposes of Subsection (9)(a)(iv), if the juvenile court finds that the parent
- 5633 knowingly allowed the child to be in the physical care of an individual after the
- 5634 parent received actual notice that the individual physically abused, sexually
- 5635 abused, or sexually exploited the child, that fact is prima facie evidence that there
- 5636 is a substantial risk that the child will be physically abused, sexually abused, or
- 5637 sexually exploited.

- (10)(a)(i) The juvenile court shall make a determination on the record as to whether reasonable efforts were made to prevent or eliminate the need for removal of the child from the child's home and whether there are available services that would prevent the need for continued removal.
- (ii) If the juvenile court finds that the child can be safely returned to the custody of the child's parent or guardian through the provision of the services described in Subsection (10)(a)(i), the juvenile court shall place the child with the child's parent or guardian and order that the services be provided by the division.
- (b) In accordance with federal law, the juvenile court shall consider the child's health, safety, and welfare as the paramount concern when making the determination described in Subsection (10)(a), and in ordering and providing the services described 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 66. 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]~~

~~[(H) has strictly complied with Sections 78B-6-120 through 78B-6-122, before removal of the child or voluntary surrender of the child by the custodial parent.]~~

(b)(i) "Parent" does not include an unmarried biological father, as defined in Section 81-13-101, who has not strictly complied with Sections 81-13-212 and 81-13-213 before the removal of the child or voluntary surrender of the child by the custodial parent.

(ii) ["Natural parent" includes the individuals described in Subsection (1)(b)] "Parent" includes, except as provided in Subsection (1)(b)(i), an individual with a parent-child relationship to the child under Section 81-5-201 regardless of whether the child has been or will be placed with adoptive parents or whether adoption has been or will be considered as a long-term goal for the child.

(2)(a) At the shelter hearing, if the juvenile court orders that a child be removed from the custody of the child's parent in accordance with Section 80-3-301, the juvenile court shall first determine whether there is another ~~[natural]~~parent with whom the child was not residing at the time the events or conditions that brought the child within the juvenile court's jurisdiction occurred, who desires to assume custody of the child.

(b) Subject to Subsection (7), if another ~~[natural]~~parent requests custody under Subsection (2)(a), the juvenile court shall place the child with that parent unless the juvenile court finds that the placement would be unsafe or otherwise detrimental to the child.

(c) The juvenile court:

- 5706 (i) shall make a specific finding regarding the fitness of the parent described in
5707 Subsection (2)(b) to assume custody, and the safety and appropriateness of the
5708 placement;
- 5709 (ii) shall, at a minimum, order the division to visit the parent's home, comply with the
5710 criminal background check provisions described in Section 80-3-305, and check
5711 the Management Information System for any previous reports of abuse or neglect
5712 received by the division regarding the parent at issue;
- 5713 (iii) may order the division to conduct any further investigation regarding the safety
5714 and appropriateness of the placement; and
- 5715 (iv) may place the child in the temporary custody of the division, pending the
5716 juvenile court's determination regarding the placement.
- 5717 (d) The division shall report the division's findings from an investigation under
5718 Subsection (2)(c), regarding the child in writing to the juvenile court.
- 5719 (3) If the juvenile court orders placement with a parent under Subsection (2):
- 5720 (a) the child and the parent are under the continuing jurisdiction of the juvenile court;
- 5721 (b) the juvenile court may order:
- 5722 (i) that the parent take custody subject to the supervision of the juvenile court; and
- 5723 (ii) that services be provided to the parent from whose custody the child was
5724 removed, the parent who has assumed custody, or both; and
- 5725 (c) the juvenile court shall order reasonable parent-time with the parent from whose
5726 custody the child was removed, unless parent-time is not in the best interest of the
5727 child.
- 5728 (4) The juvenile court shall periodically review an order described in Subsection (3) to
5729 determine whether:
- 5730 (a) placement with the parent continues to be in the child's best interest;
- 5731 (b) the child should be returned to the original custodial parent;
- 5732 (c) the child should be placed with a relative under Subsections (6) through (9); or
- 5733 (d) the child should be placed in the temporary custody of the division.
- 5734 (5)(a) Legal custody of the child is not affected by an order entered under Subsection (2)
5735 or (3).
- 5736 (b) To affect a previous court order regarding legal custody, the party shall petition the
5737 court for modification of legal custody.
- 5738 (6) Subject to Subsection (7), if, at the time of the shelter hearing, a child is removed from
5739 the custody of the child's parent and is not placed in the custody of the child's other

parent, the juvenile court:

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

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

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

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

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

(ii) If a relative or friend verbally communicates to the division or court that the relative or friend is interested in becoming a placement for the child, the division or court shall make a written record of the communication and include that written record in the report the division submits at the initial dispositional hearing, a report the division submits under Section 80-3-408, or the court's legal file.

(b)(i)(A) The preferential consideration that the juvenile court or division initially grants a friend under Subsection (7)(a)(i) expires 120 days after the day on which the shelter hearing occurs.

(B) After the day on which the time period described in Subsection (7)(b)(i)(A) expires, the division or the juvenile court may not grant preferential consideration to a friend, who has not obtained custody or asserted an interest in the child.

(ii)(A) Until eight months after the day on which the shelter hearing occurs, the preferential consideration that the juvenile court or division grants a relative under Subsection (7)(a)(i) is a rebuttable presumption that placement of the child with a relative is in the best interest of the child.

(B) After the rebuttable presumption described in Subsection (7)(b)(ii)(A) expires, the juvenile court or division shall give preferential consideration to a relative's request for placement of the child, if the placement is in the best interest of the child considering the totality of the circumstances.

(C) If a relative asserts an interest in becoming a placement for the child more than one year after the day on which the shelter hearing occurs, the juvenile court may not give the relative the preferential consideration described in Subsection (7)(b)(ii)(B).

(c) The following order of preference shall be applied when determining the individual with whom a child will be placed, provided that the individual is willing and able to care for the child:

(i) a noncustodial parent of the child;

(ii) a relative of the child;

(iii) subject to Subsection (7)(d), a friend if the friend is a licensed foster parent; and

(iv) other placements that are consistent with the requirements of law.

(d) In determining whether a friend is a willing, able, and appropriate placement for a child, the juvenile court or the division:

(i) subject to Subsections (7)(d)(ii) through (iv), shall consider the child's preferences or level of comfort with the friend;

(ii) is required to consider no more than one friend designated by each parent of the child and one friend designated by the child if the child is of sufficient maturity to articulate the child's wishes in relation to a placement;

(iii) may limit the number of designated friends to two, one of whom shall be a friend designated by the child if the child is of sufficient maturity to articulate the child's wishes in relation to a placement; and

(iv) shall give preference to a friend designated by the child if:

(A) the child is of sufficient maturity to articulate the child's wishes; and

(B) the basis for removing the child under Section 80-3-301 is sexual abuse of the child.

(e)(i) If a parent of the child or the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a placement, is not able to designate a friend who is a licensed foster parent for placement of the child, but is able to identify a friend who is willing to become licensed as a foster parent, the department shall fully cooperate to expedite the licensing process for the friend.

5808 (ii) If the friend described in Subsection (7)(e)(i) becomes licensed as a foster parent
5809 within the time frame described in Subsection (7)(b)(i), the juvenile court shall
5810 determine whether it is in the best interest of the child to place the child with the
5811 friend.

5812 (8)(a) If a relative or friend who is willing to cooperate with the child's permanency goal
5813 is identified under Subsection (6)(a), the juvenile court:

5814 (i) shall make a specific finding regarding:

5815 (A) the fitness of that relative or friend as a placement for the child; and
5816 (B) the safety and appropriateness of placement with the relative or friend; and

5817 (ii) may not consider a request for guardianship or adoption of the child by an
5818 individual who is not a relative of the child, or prevent the division from placing
5819 the child in the custody of a relative of the child in accordance with this part, until
5820 after the day on which the juvenile court makes the findings under Subsection
5821 (8)(a)(i).

5822 (b) In making the finding described in Subsection (8)(a), the juvenile court shall, at a
5823 minimum, order the division to:

5824 (i) if the child may be placed with a relative, conduct a background check that
5825 includes:

5826 (A) completion of a nonfingerprint-based, Utah Bureau of Criminal Identification
5827 background check of the relative;

5828 (B) a completed search, relating to the relative, of the Management Information
5829 System; and

5830 (C) a background check that complies with the criminal background check
5831 provisions described in Section 80-3-305, of each nonrelative of the child who
5832 resides in the household where the child may be placed;

5833 (ii) if the child will be placed with a noncustodial parent, complete a background
5834 check that includes:

5835 (A) the background check requirements applicable to an emergency placement
5836 with a noncustodial parent that are described in Subsections 80-2a-301(4) and
5837 (6);

5838 (B) a completed search, relating to the noncustodial parent of the child, of the
5839 Management Information System; and

5840 (C) a background check that complies with the criminal background check
5841 provisions described in Section 80-3-305, of each nonrelative of the child who

- 5842 resides in the household where the child may be placed;
- 5843 (iii) if the child may be placed with an individual other than a noncustodial parent or
- 5844 a relative, conduct a criminal background check of the individual, and each adult
- 5845 that resides in the household where the child may be placed, that complies with
- 5846 the criminal background check provisions described in Section 80-3-305;
- 5847 (iv) visit the relative's or friend's home;
- 5848 (v) check the Management Information System for any previous reports of abuse or
- 5849 neglect regarding the relative or friend at issue;
- 5850 (vi) report the division's findings in writing to the juvenile court; and
- 5851 (vii) provide sufficient information so that the juvenile court may determine whether:
- 5852 (A) the relative or friend has any history of abusive or neglectful behavior toward
- 5853 other children that may indicate or present a danger to this child;
- 5854 (B) the child is comfortable with the relative or friend;
- 5855 (C) the relative or friend recognizes the parent's history of abuse and is committed
- 5856 to protect the child;
- 5857 (D) the relative or friend is strong enough to resist inappropriate requests by the
- 5858 parent for access to the child, in accordance with court orders;
- 5859 (E) the relative or friend is committed to caring for the child as long as necessary;
- 5860 and
- 5861 (F) the relative or friend can provide a secure and stable environment for the child.
- 5862 (c) The division may determine to conduct, or the juvenile court may order the division
- 5863 to conduct, any further investigation regarding the safety and appropriateness of the
- 5864 placement described in Subsection (8)(a).
- 5865 (d) The division shall complete and file the division's assessment regarding placement
- 5866 with a relative or friend under Subsections (8)(a) and (b) as soon as practicable, in an
- 5867 effort to facilitate placement of the child with a relative or friend.
- 5868 (9)(a) The juvenile court may place a child described in Subsection (2)(a) in the
- 5869 temporary custody of the division, pending the division's investigation under
- 5870 Subsection (8), and the juvenile court's determination regarding the appropriateness
- 5871 of the placement.
- 5872 (b) The juvenile court shall ultimately base the juvenile court's determination regarding
- 5873 the appropriateness of a placement with a relative or friend on the best interest of the
- 5874 child.
- 5875 (10) If a juvenile court places a child described in Subsection (6) with the child's relative or

friend:

(a) the juvenile court shall:

- (i) order the relative or friend take custody, subject to the continuing supervision of the juvenile court;
- (ii) provide for reasonable parent-time with the parent or parents from whose custody the child is removed, unless parent-time is not in the best interest of the child; and
- (iii) conduct a periodic review no less often than every six months, to determine whether:
 - (A) placement with a relative or friend continues to be in the child's best interest;
 - (B) the child should be returned home; or
 - (C) the child should be placed in the custody of the division;

(b) the juvenile court may enter an order:

- (i) requiring the division to provide necessary services to the child and the child's relative or friend, including the monitoring of the child's safety and well-being; or
- (ii) that the juvenile court considers necessary for the protection and best interest of the child; and

(c) the child and the relative or friend in whose custody the child is placed are under the 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) 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 67. Section **80-3-307** is amended to read:

80-3-307 . Child and family plan developed by division -- Parent-time and relative visitation.

(1) The division shall develop and finalize a child's child and family plan no more than 45 days after the day on which the child enters the temporary custody of the division.

(2)(a) The division may use an interdisciplinary team approach in developing a child and family plan.

(b) The interdisciplinary team described in Subsection (2)(a) may include representatives from the following fields:

- (i) mental health;
- (ii) education; or
- (iii) if appropriate, law enforcement.

(3)(a) The division shall involve all of the following in the development of a child's child and family plan:

- (i) both of the child's ~~[natural]~~ parents, unless the whereabouts of a parent are unknown;
- (ii) the child;
- (iii) the child's foster parents; and
- (iv) if appropriate, the child's stepparent.

(b) Subsection (3)(a) does not prohibit any other party not listed in Subsection (3)(a) or a party's counsel from being involved in the development of a child's child and family plan if the party or counsel's participation is otherwise permitted by law.

(c) In relation to all information considered by the division in developing a child and family plan, the division shall give additional weight and attention to the input of the child's natural and foster parents upon the involvement of the child's natural and foster parents under Subsections (3)(a)(i) and (iii).

- 5978 (d)(i) The division shall make a substantial effort to develop a child and family plan
5979 with which the child's parents agree.
- 5980 (ii) If a parent does not agree with a child and family plan:
5981 (A) the division shall strive to resolve the disagreement between the division and
5982 the parent; and
5983 (B) if the disagreement is not resolved, the division shall inform the court of the
5984 disagreement.
- 5985 (4) A copy of the child and family plan shall, immediately upon completion, or as soon as
5986 reasonably possible thereafter, be provided to:
5987 (a) the guardian ad litem;
5988 (b) the child's ~~natural~~ parents; and
5989 (c) the child's foster parents.
- 5990 (5) A child and family plan shall:
5991 (a) specifically provide for the safety of the child, in accordance with federal law;
5992 (b) clearly define what actions or precautions will, or may be, necessary to provide for
5993 the health, safety, protection, and welfare of the child;
5994 (c) be specific to each child and the child's family, rather than general;
5995 (d) include individualized expectations and contain specific time frames;
5996 (e) except as provided in Subsection (6), address problems that:
5997 (i) keep a child in the child's placement; and
5998 (ii) keep a child from achieving permanence in the child's life;
5999 (f) be designed to:
6000 (i) minimize disruption to the normal activities of the child's family, including
6001 employment and school; and
6002 (ii) as much as practicable, help the child's parent maintain or obtain employment; and
6003 (g) set forth, with specificity, at least the following:
6004 (i) the reason the child entered into protective custody or the division's temporary
6005 custody or custody;
6006 (ii) documentation of:
6007 (A) the reasonable efforts made to prevent placement of the child in protective
6008 custody or the division's temporary custody or custody; or
6009 (B) the emergency situation that existed and that prevented the reasonable efforts
6010 described in Subsection (5)(g)(ii)(A), from being made;
6011 (iii) the primary permanency plan for the child, as described in Section 80-3-406, and

- 6012 the reason for selection of the plan;
- 6013 (iv) the concurrent permanency plan for the child, as described in Section 80-3-406,
- 6014 and the reason for the selection of the plan;
- 6015 (v) if the plan is for the child to return to the child's family:
- 6016 (A) specifically what the parents must do in order to enable the child to be
- 6017 returned home;
- 6018 (B) specifically how the requirements described in Subsection (5)(g)(v)(A) may
- 6019 be accomplished; and
- 6020 (C) how the requirements described in Subsection (5)(g)(v)(A) will be measured;
- 6021 (vi) the specific services needed to reduce the problems that necessitated placing the
- 6022 child in protective custody or the division's temporary custody or custody;
- 6023 (vii) the name of the individual who will provide for and be responsible for case
- 6024 management for the division;
- 6025 (viii) subject to Subsection (10), a parent-time schedule between the ~~[natural]~~parent
- 6026 and the child;
- 6027 (ix) subject to Subsection (7), the health and mental health care to be provided to
- 6028 address any known or diagnosed mental health needs of the child;
- 6029 (x) if residential treatment rather than a foster home is the proposed placement, a
- 6030 requirement for a specialized assessment of the child's health needs including an
- 6031 assessment of mental illness and behavior and conduct disorders;
- 6032 (xi) social summaries that include case history information pertinent to case planning;
- 6033 and
- 6034 (xii) subject to Subsection (12), a sibling visitation schedule.
- 6035 (6) For purposes of Subsection (5)(e), a child and family plan may only include
- 6036 requirements that:
- 6037 (a) address findings made by the court; or
- 6038 (b)(i) are requested or consented to by a parent or guardian of the child; and
- 6039 (ii) are agreed to by the division and the guardian ad litem.
- 6040 (7)(a) Subject to Subsection (7)(b), in addition to the information required under
- 6041 Subsection (5)(g)(ix), a child and family plan shall include a specialized assessment
- 6042 of the medical and mental health needs of a child, if the child:
- 6043 (i) is placed in residential treatment; and
- 6044 (ii) has medical or mental health issues that need to be addressed.
- 6045 (b) Notwithstanding Subsection (7)(a), a parent shall retain the right to seek a separate

- 6046 medical or mental health diagnosis of the parent's child from a licensed practitioner
6047 of the parent's choice.
- 6048 (8)(a) The division shall train the division's employees to develop child and family plans
6049 that comply with:
- 6050 (i) federal mandates; and
 - 6051 (ii) the specific needs of the particular child and the child's family.
- 6052 (b) The child's natural parents, foster parents, and if appropriate, stepparents, shall be
6053 kept informed of and supported to participate in important meetings and procedures
6054 related to the child's placement.
- 6055 (9) If the division documents to the court that there is a compelling reason that adoption,
6056 reunification, guardianship, and a placement described in Subsection 80-3-301(6)(e) are
6057 not in the child's best interest, the court may order another planned permanent living
6058 arrangement in accordance with federal law.
- 6059 (10)(a) Except as provided in Subsection (10)(b), parent-time may only be denied by a
6060 court order issued in accordance with Subsection 80-3-406(9).
- 6061 (b) Notwithstanding Subsection (10)(a), the person designated by the division or a court
6062 to supervise a parent-time session may deny parent-time for the session if the
6063 supervising person determines that, based on the parent's condition, it is necessary to
6064 deny parent-time to:
- 6065 (i) protect the physical safety of the child;
 - 6066 (ii) protect the life of the child; or
 - 6067 (iii) consistent with Subsection (10)(c), prevent the child from being traumatized by
6068 contact with the parent.
- 6069 (c) In determining whether the condition of the parent described in Subsection (10)(b)
6070 will traumatize a child, the person supervising the parent-time session shall consider
6071 the impact that the parent's condition will have on the child in light of:
- 6072 (i) the child's fear of the parent; and
 - 6073 (ii) the nature of the alleged abuse or neglect.
- 6074 (11) If a child is in the division's temporary custody or custody, the division shall consider
6075 visitation with the child's grandparent if:
- 6076 (a) the division determines the visitation to be in the best interest of the child;
 - 6077 (b) there are no safety concerns regarding the behavior or criminal background of the
6078 grandparent;
 - 6079 (c) allowing the grandparent visitation would not compete with or undermine the child's

6080 reunification plan;

6081 (d) there is a substantial relationship between the grandparent and child; and

6082 (e) the grandparent visitation will not unduly burden the foster parents.

6083 (12)(a) The division shall incorporate into the child and family plan reasonable efforts to
6084 provide sibling visitation if:

6085 (i) siblings are separated due to foster care or adoptive placement;

6086 (ii) the sibling visitation is in the best interest of the child for whom the child and
6087 family plan is developed; and

6088 (iii) the division has consent for sibling visitation from the guardian of the sibling.

6089 (b) The division shall obtain consent for sibling visitation from the sibling's guardian if
6090 the criteria of Subsections (12)(a)(i) and (ii) are met.

6091 Section 68. Section **80-3-405** is amended to read:

6092 **80-3-405 . Dispositions after adjudication.**

6093 (1) Upon adjudication under Subsection 80-3-402(1), the juvenile court may make the
6094 dispositions described in Subsection (2) at the dispositional hearing.

6095 (2)(a)(i) The juvenile court may vest custody of an abused, neglected, or dependent
6096 minor in the division or any other appropriate person, with or without
6097 court-specified child welfare services, in accordance with the requirements and
6098 procedures of this chapter.

6099 (ii) When placing a minor in the custody of the division or any other appropriate
6100 person, the juvenile court:

6101 (A) shall give primary consideration to the welfare of the minor;

6102 (B) shall give due consideration to the rights of the parent or parents concerning
6103 the minor; and

6104 (C) when practicable, may take into consideration the religious preferences of the
6105 minor and of the minor's parents or guardian.

6106 (b)(i) The juvenile court may appoint a guardian for the minor if it appears necessary
6107 in the interest of the minor.

6108 (ii) A guardian appointed under Subsection (2)(b)(i) may be a public or private
6109 institution or agency, but not a nonsecure residential placement provider, in which
6110 legal custody of the minor is vested.

6111 (iii) When placing a minor under the guardianship of an individual or of a private
6112 agency or institution, the juvenile court:

6113 (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 behalf of the minor against the ~~[natural]~~parents of the minor.

(iii) An order under this Subsection (2)(d):

- (A) shall remain in effect until the minor is 18 years old;
- (B) is not subject to review under Section 78A-6-358; and
- (C) may be modified by petition or motion as provided in Section 78A-6-357.

(e) The juvenile court may order a child be committed to the physical custody, as defined in Section 26B-5-401, of a local mental health authority, in accordance with the procedures and requirements of Title 26B, Chapter 5, Part 4, Commitment of Persons Under Age 18.

(f)(i) If the child has an intellectual disability, the juvenile court may make an order committing a minor to the Utah State Developmental Center in accordance with Title 26B, Chapter 6, Part 6, Admission to an Intermediate Care Facility for People with an Intellectual Disability.

(ii) The juvenile court shall follow the procedure applicable in the district court with respect to judicial commitments to the Utah State Developmental Center when ordering a commitment under Subsection (2)(f)(i).

(g)(i) Subject to Subsection ~~[80-1-102(58)(b)]~~ 80-1-102(57)(b) and Section 80-3-304, the juvenile court may order that a minor:

- (A) be examined or treated by a mental health therapist, as described in Section 80-3-109; or

6148 (B) receive other special care.

6149 (ii) For purposes of receiving the examination, treatment, or care described in
6150 Subsection (2)(g)(i), the juvenile court may place the minor in a hospital or other
6151 suitable facility that is not secure care or secure detention.

6152 (iii) In determining whether to order the examination, treatment, or care described in
6153 Subsection (2)(g)(i), the juvenile court shall consider:

6154 (A) the desires of the minor;

6155 (B) the desires of the parent or guardian of the minor if the minor is younger than
6156 18 years old; and

6157 (C) whether the potential benefits of the examination, treatment, or care outweigh
6158 the potential risks and side-effects, including behavioral disturbances, suicidal
6159 ideation, brain function impairment, or emotional or physical harm resulting
6160 from the compulsory nature of the examination, treatment, or care.

6161 (h) The juvenile court may make other reasonable orders for the best interest of the
6162 minor.

6163 (3)(a) At the dispositional hearing described in Subsection 80-3-402(3), if a child
6164 remains in an out-of-home placement, the juvenile court shall:

6165 (i) make specific findings regarding the conditions of parent-time that are in the
6166 child's best interest; and

6167 (ii) if parent-time is denied, state the facts that justify the denial.

6168 (b) Parent-time shall be under the least restrictive conditions necessary to:

6169 (i) protect the physical safety of the child; or

6170 (ii) prevent the child from being traumatized by contact with the parent due to the
6171 child's fear of the parent in light of the nature of the alleged abuse or neglect.

6172 (c)(i) The division or the person designated by the division or a court to supervise a
6173 parent-time session may deny parent-time for the session if the division or the
6174 supervising person determines that, based on the parent's condition, it is necessary
6175 to deny parent-time to:

6176 (A) protect the physical safety of the child;

6177 (B) protect the life of the child; or

6178 (C) consistent with Subsection (3)(c)(ii), prevent the child from being traumatized
6179 by contact with the parent.

6180 (ii) In determining whether the condition of the parent described in Subsection

6181 (3)(c)(i) will traumatize a child, the division or the person supervising the

parent-time session shall consider the impact that the parent's condition will have on the child in light of:

(A) the child's fear of the parent; and

(B) the nature of the alleged abuse or neglect.

(4) Upon an adjudication under this chapter, the juvenile court may not:

(a) commit a minor solely on the ground of abuse, neglect, or dependency to the Division of Juvenile Justice and Youth Services;

(b) assume the function of developing foster home services; or

(c) vest legal custody of an abused, neglected, or dependent minor in the division to primarily address the minor's ungovernable or other behavior, mental health, or disability, unless the division:

(i) engages other relevant divisions within the department that are conducting an assessment of the minor and the minor's family's needs;

(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) 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 69. 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

6216 permanency hearing no later than 12 months after the day on which the minor is
6217 initially removed from the minor's home.

6218 (b) If reunification services are not ordered at the dispositional hearing, the juvenile
6219 court shall hold a permanency hearing within 30 days after the day on which the
6220 dispositional hearing ends.

6221 (2)(a) If reunification services are ordered in accordance with Section 80-3-406, the
6222 juvenile court shall, at the permanency hearing, determine, consistent with
6223 Subsection (3), whether the minor may safely be returned to the custody of the
6224 minor's parent.

6225 (b) If the juvenile court finds, by a preponderance of the evidence, that return of the
6226 minor to the minor's parent would create a substantial risk of detriment to the minor's
6227 physical or emotional well-being, the minor may not be returned to the custody of the
6228 minor's parent.

6229 (c) Prima facie evidence that return of the minor to a parent or guardian would create a
6230 substantial risk of detriment to the minor is established if:

6231 (i) the parent or guardian fails to:

6232 (A) participate in a court approved child and family plan;

6233 (B) comply with a court approved child and family plan in whole or in part; or

6234 (C) meet the goals of a court approved child and family plan; or

6235 (ii) the minor's ~~natural~~ parent:

6236 (A) intentionally, knowingly, or recklessly causes the death of another parent of
6237 the minor;

6238 (B) is identified by a law enforcement agency as the primary suspect in an
6239 investigation for intentionally, knowingly, or recklessly causing the death of
6240 another parent of the minor; or

6241 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or
6242 recklessly causing the death of another parent of the minor.

6243 (3) In making a determination under Subsection (2)(a), the juvenile court shall:

6244 (a) review and consider:

6245 (i) the report prepared by the division;

6246 (ii) in accordance with the Utah Rules of Evidence, any admissible evidence offered
6247 by the minor's attorney guardian ad litem;

6248 (iii) any report submitted by the division under Subsection 80-3-408(3)(a)(i);

6249 (iv) any evidence regarding the efforts or progress demonstrated by the parent; and

- 6250 (v) the extent to which the parent cooperated and used the services provided; and
6251 (b) attempt to keep the minor's sibling group together if keeping the sibling group
6252 together is:
6253 (i) practicable; and
6254 (ii) in accordance with the best interest of the minor.
- 6255 (4) With regard to a case where reunification services are ordered by the juvenile court, if a
6256 minor is not returned to the minor's parent or guardian at the permanency hearing, the
6257 juvenile court shall, unless the time for the provision of reunification services is
6258 extended under Subsection (7):
6259 (a) order termination of reunification services to the parent;
6260 (b) make a final determination regarding whether termination of parental rights,
6261 adoption, or permanent custody and guardianship is the most appropriate final plan
6262 for the minor, taking into account the minor's primary permanency plan established
6263 by the juvenile court under Section 80-3-406; and
6264 (c) in accordance with Subsection 80-3-406(2), establish a concurrent permanency plan
6265 that identifies the second most appropriate final plan for the minor, if appropriate.
- 6266 (5) The juvenile court may order another planned permanent living arrangement other than
6267 reunification for a minor who is 16 years old or older upon entering the following
6268 findings:
6269 (a) the division has documented intensive, ongoing, and unsuccessful efforts to reunify
6270 the minor with the minor's parent or parents, or to secure a placement for the minor
6271 with a guardian, an adoptive parent, or an individual described in Subsection 80-3-301
6272 (6)(e);
6273 (b) the division has demonstrated that the division has made efforts to normalize the life
6274 of the minor while in the division's custody, in accordance with Section 80-2-308;
6275 (c) the minor prefers another planned permanent living arrangement; and
6276 (d) there is a compelling reason why reunification or a placement described in
6277 Subsection (5)(a) is not in the minor's best interest.
- 6278 (6) Except as provided in Subsection (7), the juvenile court may not extend reunification
6279 services beyond 12 months after the day on which the minor is initially removed from
6280 the minor's home, in accordance with the provisions of Section 80-3-406.
- 6281 (7)(a) Subject to Subsection (7)(b), the juvenile court may extend reunification services
6282 for no more than 90 days if the juvenile court finds, by a preponderance of the
6283 evidence, that:

- 6284 (i) there has been substantial compliance with the child and family plan;
6285 (ii) reunification is probable within that 90-day period; and
6286 (iii) the extension is in the best interest of the minor.
- 6287 (b)(i) Except as provided in Subsection (7)(c), the juvenile court may not extend any
6288 reunification services beyond 15 months after the day on which the minor is
6289 initially removed from the minor's home.
- 6290 (ii) Delay or failure of a parent to establish paternity or seek custody does not provide
6291 a basis for the juvenile court to extend services for the parent beyond the
6292 12-month period described in Subsection (6).
- 6293 (c) In accordance with Subsection (7)(d), the juvenile court may extend reunification
6294 services for one additional 90-day period, beyond the 90-day period described in
6295 Subsection (7)(a), if:
- 6296 (i) the juvenile court finds, by clear and convincing evidence, that:
- 6297 (A) the parent has substantially complied with the child and family plan;
6298 (B) it is likely that reunification will occur within the additional 90-day period; and
6299 (C) the extension is in the best interest of the minor;
- 6300 (ii) the juvenile court specifies the facts upon which the findings described in
6301 Subsection (7)(c)(i) are based; and
- 6302 (iii) the juvenile court specifies the time period in which it is likely that reunification
6303 will occur.
- 6304 (d) A juvenile court may not extend the time period for reunification services without
6305 complying with the requirements of this Subsection (7) before the extension.
- 6306 (e) In determining whether to extend reunification services for a minor, a juvenile court
6307 shall take into consideration the status of the minor siblings of the minor.
- 6308 (8)(a) At the permanency hearing, if a child remains in an out-of-home placement, the
6309 juvenile court shall:
- 6310 (i) make specific findings regarding the conditions of parent-time that are in the
6311 child's best interest; and
- 6312 (ii) if parent-time is denied, state the facts that justify the denial.
- 6313 (b) Parent-time shall be under the least restrictive conditions necessary to:
- 6314 (i) protect the physical safety of the child; or
- 6315 (ii) prevent the child from being traumatized by contact with the parent due to the
6316 child's fear of the parent in light of the nature of the alleged abuse or neglect.
- 6317 (c)(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 (8)(c)(ii), prevent the child from being traumatized by contact with the parent.

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

- (A) the child's fear of the parent; and
- (B) the nature of the alleged abuse or neglect.

(9) The juvenile court may, in the juvenile court's discretion:

- (a) enter any additional order that the juvenile court determines to be in the best interest of the minor, so long as that order does not conflict with the requirements and provisions of Subsections (4) through (8); or
- (b) order the division to provide protective supervision or other services to a minor and the minor's family after the division's custody of a minor is terminated.

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

- (b) If the division opposes the plan to terminate parental rights, the juvenile court may not require the division to file a petition for the termination of parental rights, except as required under Subsection 80-4-203(2).

(11)(a) Any party to an action may, at any time, petition the juvenile court for an 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:

- 6352 (a) entitle any parent to reunification services for any specified period of time;
- 6353 (b) limit a juvenile court's ability to terminate reunification services at any time before a
- 6354 permanency hearing; or
- 6355 (c) limit or prohibit the filing of a petition for termination of parental rights by any party,
- 6356 or a hearing on termination of parental rights, at any time before a permanency
- 6357 hearing provided that relative placement and custody options have been fairly
- 6358 considered in accordance with Sections 80-2a-201 and 80-4-104.
- 6359 (13)(a) Subject to Subsection (13)(b), if a petition for termination of parental rights is
- 6360 filed before the date scheduled for a permanency hearing, the juvenile court may
- 6361 consolidate the hearing on termination of parental rights with the permanency hearing.
- 6362 (b) For purposes of Subsection (13)(a), if the juvenile court consolidates the hearing on
- 6363 termination of parental rights with the permanency hearing:
- 6364 (i) the juvenile court shall first make a finding regarding whether reasonable efforts
- 6365 have been made by the division to finalize the permanency plan for the minor; and
- 6366 (ii) any reunification services shall be terminated in accordance with the time lines
- 6367 described in Section 80-3-406.
- 6368 (c) The juvenile court shall make a decision on a petition for termination of parental
- 6369 rights within 18 months after the day on which the minor is initially removed from
- 6370 the minor's home.
- 6371 (14)(a) If a juvenile court determines that a minor will not be returned to a parent of the
- 6372 minor, the juvenile court shall consider appropriate placement options inside and
- 6373 outside of the state.
- 6374 (b) In considering appropriate placement options under Subsection (14)(a), the juvenile
- 6375 court shall provide preferential consideration to a relative's request for placement of
- 6376 the minor.
- 6377 (15)(a) In accordance with Section 80-3-108, if a minor 14 years old or older desires an
- 6378 opportunity to address the juvenile court or testify regarding permanency or
- 6379 placement, the juvenile court shall give the minor's wishes added weight, but may not
- 6380 treat the minor's wishes as the single controlling factor under this section.
- 6381 (b) If the juvenile court's decision under this section differs from a minor's express
- 6382 wishes if the minor is of sufficient maturity to articulate the wishes in relation to
- 6383 permanency or the minor's placement, the juvenile court shall make findings
- 6384 explaining why the juvenile court's decision differs from the minor's wishes.
- 6385 (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) 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 70. Section **80-3-502** is amended to read:

80-3-502 . Review of foster care removal -- Foster parent's standing.

- (1) With regard to a minor in the custody of the division who is the subject of a petition alleging abuse, neglect, or dependency, and who has been placed in foster care with a foster family, the Legislature finds that:
 - (a) except with regard to the minor's ~~natural~~ parents, a foster family has a very limited but recognized interest in its familial relationship with the minor; and
 - (b) minors in the custody of the division are experiencing multiple changes in foster care placements with little or no documentation, and that numerous studies of child growth and development emphasize the importance of stability in foster care living arrangements.
- (2) For the reasons described in Subsection (1), the Legislature finds that, except with regard to the minor's ~~natural~~ parents, procedural due process protections must be provided to a foster family prior to removal of a foster minor from the foster home.
- (3)(a) A foster parent who has had a foster minor in the foster parent's home for 12 months or longer may petition the juvenile court for a review and determination of the appropriateness of a decision by the division to remove the minor from the foster home, unless the removal was for the purpose of:
 - (i) returning the minor to the minor's ~~natural~~ parent or legal guardian;
 - (ii) immediately placing the minor in an approved adoptive home;
 - (iii) placing the minor with a relative who obtained custody or asserted an interest in the minor within the preference period described in Subsection 80-3-302(8); or
 - (iv) placing an Indian child in accordance with placement preferences and other requirements described in the Indian Child Welfare Act, 25 U.S.C. Sec. 1915.
- (b) The foster parent may petition the juvenile court under this section without

6420 exhausting administrative remedies within the division.

6421 (c) The juvenile court may order the division to place the minor in a specified home, and
6422 shall base the juvenile court's determination on the best interest of the minor.

6423 (4) The requirements of this section do not apply to the removal of a minor based on a
6424 foster parent's request for that removal.

6425 Section 71. Section **80-4-104** is amended to read:

6426 **80-4-104 . Judicial process for termination -- Parent unfit or incompetent -- Best**
6427 **interest of child.**

6428 (1) Under both the United States Constitution and the constitution of this state, a parent
6429 possesses a fundamental liberty interest in the care, custody, and management of the
6430 parent's child. For this reason, the termination of family ties by the state may only be
6431 done for compelling reasons.

6432 (2) The juvenile court shall provide a fundamentally fair process to a parent if a party
6433 moves to terminate the parent's parental rights.

6434 (3) If the party moving to terminate parental rights is a governmental entity, the juvenile
6435 court shall find that any actions or allegations made in opposition to the rights and
6436 desires of a parent regarding the parent's child are supported by sufficient evidence to
6437 satisfy a parent's constitutional entitlement to heightened protection against government
6438 interference with the parent's fundamental rights and liberty interests.

6439 (4)(a) The fundamental liberty interest of a parent concerning the care, custody, and
6440 management of the parent's child is recognized, protected, and does not cease to exist
6441 simply because:

6442 (i) a parent may fail to be a model parent; or

6443 (ii) the parent's child is placed in the temporary custody of the state.

6444 (b) The juvenile court should give serious consideration to the fundamental right of a
6445 parent to rear the parent's child, and concomitantly, of the right of the child to be
6446 reared by the child's ~~natural~~ parent.

6447 (5) At all times, a parent retains a vital interest in preventing the irretrievable destruction of
6448 family life.

6449 (6) Before an adjudication of unfitness, government action in relation to a parent and a
6450 parent's child may not exceed the least restrictive means or alternatives available to
6451 accomplish a compelling state interest.

6452 (7) Until parental unfitness is established and the children suffer, or are substantially likely
6453 to suffer, serious detriment as a result, the child and the child's parent share a vital

6454 interest in preventing erroneous termination of their relationship and the juvenile court
6455 may not presume that a child and the child's parents are adversaries.

6456 (8)(a) It is in the best interest and welfare of a child to be raised under the care and
6457 supervision of the child's ~~[natural]~~ parents.

6458 (b) A child's need for a normal family life in a permanent home, and for positive,
6459 nurturing family relationships is usually best met by the child's ~~[natural]~~ parents.

6460 (c) Additionally, the integrity of the family unit and the right of parents to conceive and
6461 raise their children are constitutionally protected.

6462 (d) For these reasons, the juvenile court should only transfer custody of a child from the
6463 child's ~~[natural]~~ parent for compelling reasons and when there is a jurisdictional basis
6464 to do so.

6465 (9) The right of a fit, competent parent to raise the parent's child without undue government
6466 interference is a fundamental liberty interest that has long been protected by the laws
6467 and Constitution of this state and of the United States, and is a fundamental public
6468 policy of this state.

6469 (10)(a) The state recognizes that:

6470 (i) a parent has the right, obligation, responsibility, and authority to raise, manage,
6471 train, educate, provide for, and reasonably discipline the parent's child; and

6472 (ii) the state's role is secondary and supportive to the primary role of a parent.

6473 (b) It is the public policy of this state that a parent retain the fundamental right and duty
6474 to exercise primary control over the care, supervision, upbringing, and education of
6475 the parent's child.

6476 (c) The interests of the state favor preservation and not severance of natural familial
6477 bonds in situations where a positive, nurturing parent-child relationship can exist,
6478 including extended family association and support.

6479 (11) This chapter provides a judicial process for voluntary and involuntary severance of the
6480 parent-child relationship, designed to safeguard the rights and interests of all parties
6481 concerned and promote their welfare and that of the state.

6482 (12)(a) Wherever possible, family life should be strengthened and preserved, but if a
6483 parent is found, by reason of the parent's conduct or condition, to be unfit or
6484 incompetent based upon any of the grounds for termination described in this part, the
6485 juvenile court shall then consider the welfare and best interest of the child of
6486 paramount importance in determining whether termination of parental rights shall be
6487 ordered.

(b) In determining whether termination is in the best interest of the child, and in finding, based on the totality of the circumstances, that termination of parental rights, from the child's point of view, is strictly necessary to promote the child's best interest, the juvenile court shall consider, among other relevant factors, whether:

(i) sufficient efforts were dedicated to reunification in accordance with Section 80-4-301; and

(ii) pursuant to Section 80-3-302, the efforts to place the child with a relative who has, or is willing to come forward to care for the child, were given due weight.

Section 72. Section **80-4-106** is amended to read:

80-4-106 . Individuals entitled to be present at proceedings -- Legal representation -- Attorney general responsibilities.

(1)(a) The parties shall be advised of the parties' right to counsel, including the appointment of counsel for a parent or guardian facing any action initiated by a private party under this chapter or under Section ~~[78B-6-112]~~ 81-13-205 for termination of parental rights.

(b) If a parent or guardian is the subject of a petition for the termination of parental rights, the juvenile court shall:

(i) appoint an indigent defense service provider for a parent or guardian determined to be an indigent individual in accordance with Title 78B, Chapter 22, Part 2, Appointment of Counsel; and

(ii) order indigent defense services for the parent or guardian who is determined to be an indigent individual in accordance with Title 78B, Chapter 22, Part 2, Appointment of Counsel.

(c) In any action under this chapter, a guardian ad litem, as defined in Section 78A-2-801, shall represent the child in accordance with Sections 78A-2-803 and 80-3-104.

(2) Subject to Section 67-5-17 and the attorney general's prosecutorial discretion in civil enforcement actions, the attorney general shall, in accordance with Section 80-2-303, enforce this chapter, Chapter 2, Child Welfare Services, and Chapter 2a, Removal and Protective Custody of a Child, relating to the termination of parental rights.

(3)(a) The juvenile court shall admit any individual to a hearing unless the juvenile court makes a finding upon the record that the individual's presence at the hearing would:

(i) be detrimental to the best interest of a child who is a party to the proceeding;

(ii) impair the fact-finding process; or

(iii) be otherwise contrary to the interests of justice.

(b) The juvenile court may exclude an individual from a hearing under Subsection (3)(a) on the juvenile court's own motion or by motion of a party to the proceeding.

Section 73. Section **80-4-203** is amended to read:

80-4-203 . Mandatory petition for termination of parental rights.

(1) For purposes of this section, "abandoned infant" means a child who is 12 months old or younger and whose parent or parents:

(a) although having legal custody of the child, fail to maintain physical custody of the child without making arrangements for the care of the child;

(b) have failed to:

(i) maintain physical custody; and

(ii) exhibit the normal interest of a ~~natural~~ parent without just cause; or

(c) are unwilling to have physical custody of the child.

(2) Except as provided in Subsection (3), notwithstanding any other provision of this chapter, Chapter 2, Child Welfare Services, or Chapter 2a, Removal and Protective Custody of a Child, the division shall file a petition for termination of parental rights with regard to:

(a) an abandoned infant; or

(b) the child of a parent, whenever a court has determined that the parent has:

(i) committed murder or child abuse homicide of another child of that parent;

(ii) committed manslaughter of another child of that parent;

(iii) aided, abetted, attempted, conspired, or solicited to commit murder, child abuse homicide, or manslaughter against another child of that parent; or

(iv) committed a felony assault or abuse that results in serious physical injury to:

(A) another child of that parent; or

(B) the other parent of the child.

(3) The division is not required to file a petition for termination of parental rights under Subsection (2) if:

(a) the child is being cared for by a relative;

(b) the division has:

(i) documented in the child's child and family plan a compelling reason for determining that filing a petition for termination of parental rights is not in the child's best interest; and

(ii) made that child and family plan available to the juvenile court for the juvenile court's review; or

- (c)(i) the juvenile court has previously determined, in accordance with the provisions and limitations of Sections 80-2a-201, 80-2a-302, 80-3-301, and 80-3-406, that reasonable efforts to reunify the child with the child's parent or parents were required; and
- (ii) the division has not provided, within the time period specified in the child and family plan, services that had been determined to be necessary for the safe return of the child.

Section 74. Section **80-4-302** is amended to read:

80-4-302 . Evidence of grounds for termination.

- (1) In determining whether a parent or parents have abandoned a child, it is prima facie evidence of abandonment that the parent or parents:
- (a) although having legal custody of the child, have surrendered physical custody of the child, and for a period of six months following the surrender have not manifested to the child or to the person having the physical custody of the child a firm intention to resume physical custody or to make arrangements for the care of the child;
 - (b) have failed to communicate with the child by mail, telephone, or otherwise for six months;
 - (c) failed to have shown the normal interest of a [natural-]parent, without just cause; or
 - (d) have abandoned an infant, as described in Section 80-4-203.
- (2) In determining whether a parent or parents are unfit or have neglected a child the juvenile court shall consider:
- (a) emotional illness, mental illness, or mental deficiency of the parent that renders the parent unable to care for the immediate and continuing physical or emotional needs of the child for extended periods of time;
 - (b) conduct toward a child of a physically, emotionally, or sexually cruel or abusive nature;
 - (c) habitual or excessive use of intoxicating liquors, controlled substances, or dangerous drugs that render the parent unable to care for the child;
 - (d) repeated or continuous failure to provide the child with adequate food, clothing, shelter, education, or other care necessary for the child's physical, mental, and emotional health and development by a parent or parents who are capable of providing that care;
 - (e) whether the parent is incarcerated as a result of conviction of a felony, and the sentence is of such length that the child will be deprived of a normal home for more

- 6590 than one year;
- 6591 (f) a history of violent behavior;
- 6592 (g) whether the parent has intentionally exposed the child to pornography or material
- 6593 harmful to a minor, as defined in Section 76-10-1201; or
- 6594 (h) any other circumstance, conduct, or condition that the court considers relevant in the
- 6595 determination of whether a parent or parents are unfit or have neglected the child.
- 6596 (3) Notwithstanding Subsection (2)(c), the juvenile court may not discriminate against a
- 6597 parent because of or otherwise consider the parent's lawful possession or consumption of
- 6598 cannabis in a medicinal dosage form, a cannabis product, as those terms are defined in
- 6599 Section 26B-4-201 or a medical cannabis device, in accordance with Title 26B, Chapter
- 6600 4, Part 2, Cannabinoid Research and Medical Cannabis.
- 6601 (4) A parent who, legitimately practicing the parent's religious beliefs, does not provide
- 6602 specified medical treatment for a child is not, for that reason alone, a negligent or unfit
- 6603 parent.
- 6604 (5)(a) Notwithstanding Subsection (2), a parent may not be considered neglectful or
- 6605 unfit because of a health care decision made for a child by the child's parent unless
- 6606 the state or other party to the proceeding shows, by clear and convincing evidence,
- 6607 that the health care decision is not reasonable and informed.
- 6608 (b) Nothing in Subsection (5)(a) may prohibit a parent from exercising the right to
- 6609 obtain a second health care opinion.
- 6610 (6) If a child has been placed in the custody of the division and the parent or parents fail to
- 6611 comply substantially with the terms and conditions of a plan within six months after the
- 6612 date on which the child was placed or the plan was commenced, whichever occurs later,
- 6613 that failure to comply is evidence of failure of parental adjustment.
- 6614 (7) The following circumstances are prima facie evidence of unfitness:
- 6615 (a) sexual abuse, sexual exploitation, injury, or death of a sibling of the child, or of any
- 6616 child, due to known or substantiated abuse or neglect by the parent or parents;
- 6617 (b) conviction of a crime, if the facts surrounding the crime are of such a nature as to
- 6618 indicate the unfitness of the parent to provide adequate care to the extent necessary
- 6619 for the child's physical, mental, or emotional health and development;
- 6620 (c) a single incident of life-threatening or gravely disabling injury to or disfigurement of
- 6621 the child;
- 6622 (d) the parent has committed, aided, abetted, attempted, conspired, or solicited to
- 6623 commit murder or manslaughter of a child or child abuse homicide; or

(e) the parent intentionally, knowingly, or recklessly causes the death of another parent of the child, without legal justification.

Section 75. Section **80-4-307** is amended to read:

80-4-307 . Voluntary relinquishment -- Irrevocable.

(1) The individual consenting to termination of parental rights or voluntarily relinquishing parental rights shall sign the consent or relinquishment, or confirm a consent or relinquishment previously signed by the individual, under oath before:

(a) a judge of any court that has jurisdiction over proceedings for termination of parental rights in this state or any other state, or a public officer appointed by that court for the purpose of taking consents or relinquishments; or

(b) except as provided in Subsection (2), any person authorized to take consents or relinquishments under Subsections [78B-6-124(1)] 81-13-214(1) and (2).

(2) Only the juvenile court is authorized to take consents or relinquishments from a parent who has any child who is in the custody of a state agency or who has a child who is otherwise under the jurisdiction of the juvenile court.

(3)(a) The court, appointed officer, or other authorized person shall certify to the best of that person's information and belief that the individual executing the consent or relinquishment, or confirming a consent or relinquishment previously signed by the individual, has read and understands the consent or relinquishment and has signed the consent or relinquishment freely and voluntarily.

(b) A consent or relinquishment is not effective until the consent or relinquishment is certified pursuant to Subsection (3)(a).

(4) A consent or relinquishment that has been certified pursuant to Subsection (3)(a) is effective against the consenting or relinquishing individual and may not be revoked.

(5)(a) The requirements and processes described in Section 80-4-104, Sections 80-4-301 through 80-4-304, and Part 2, Petition for Termination of Parental Rights, do not apply to a voluntary relinquishment or consent for termination of parental rights.

(b) When determining voluntary relinquishment or consent for termination of parental rights, the juvenile court need only find that the relinquishment or termination is in the child's best interest.

(6)(a) There is a presumption that voluntary relinquishment or consent for termination of parental rights is not in the child's best interest where it appears to the juvenile court that the primary purpose for relinquishment or consent for termination is to avoid a financial support obligation.

(b) The presumption described in Subsection (6)(a) may be rebutted if the juvenile court finds the relinquishment or consent to termination of parental rights will facilitate the establishment of stability and permanency for the child.

(7) Upon granting a voluntary relinquishment the juvenile court may make orders relating to the child's care and welfare that the juvenile court considers to be in the child's best interest.

Section 76. Section **80-4-502** is amended to read:

80-4-502 . Safe relinquishment of a newborn child -- Termination of parental rights -- Affirmative defense.

(1)(a) A parent or a parent's designee may safely relinquish a newborn child at a hospital in accordance with this part and retain complete anonymity, so long as the newborn child has not been subject to abuse or neglect.

(b) Safe relinquishment of a newborn child who has not otherwise been subject to abuse or neglect shall not, in and of itself, constitute neglect, and the newborn child may not be considered a neglected child so long as the relinquishment is carried out in substantial compliance with this part.

(2)(a) Personnel employed by a hospital shall accept a newborn child who is relinquished under this part, and may presume that the individual relinquishing is the newborn child's parent or the parent's designee.

(b) The person receiving the newborn child may request information regarding the parent and newborn child's medical histories, and identifying information regarding the nonrelinquishing parent of the newborn child.

(c) If the newborn child's parent or the parent's designee provides the person receiving the newborn child with any of the information described in Subsection (2)(b) or any other personal items, the person shall provide the information or personal items to the division.

(d) Personnel employed by the hospital shall:

(i) provide any necessary medical care to the newborn child;

(ii) notify the division of receipt of the newborn child as soon as possible, but no later than 24 hours after receipt of the newborn child; and

(iii) prepare a birth certificate or foundling birth certificate if parentage is unknown for the newborn child and file the certificate with the Office of Vital Records and Statistics within the Department of Health and Human Services.

(e) A hospital and personnel employed by a hospital are immune from any civil or

criminal liability arising from accepting a newborn child if the personnel employed by the hospital substantially comply with the provisions of this part and medical treatment is administered according to standard medical practice.

(3) The division shall assume care and protective custody of the newborn child immediately upon notice from the hospital.

(4) So long as the division determines there is no abuse or neglect of the newborn child, neither the newborn child nor the child's parents are subject to:

(a) the investigation provisions contained in Section 80-2-701; or

(b) the provisions of Chapter 3, Abuse, Neglect, and Dependency Proceedings.

(5)(a) Unless identifying information relating to the nonrelinquishing parent of the newborn child is provided, the division shall:

(i) work with local law enforcement and the Bureau of Criminal Identification within the Department of Public Safety in an effort to ensure that the newborn child has not been identified as a missing child;

(ii) immediately place or contract for placement of the newborn child in a potential adoptive home and, within 10 days after the day on which the child is received, file a petition for termination of parental rights in accordance with this chapter;

(iii) direct the Office of Vital Records and Statistics within the Department of Health and Human Services to conduct a search for:

(A) a birth certificate for the newborn child; and

(B) unmarried biological fathers in the registry maintained by the Office of Vital Records and Statistics in accordance with [~~Title 78B, Chapter 15, Part 4, Registry~~] Title 81, Chapter 5, Part 4, Registry; and

(iv) provide notice to each potential father identified on the registry described in Subsection (5)(a)(iii) in accordance with [~~Title 78B, Chapter 15, Part 4, Registry~~] Title 81, Chapter 5, Part 4, Registry.

(b)(i) If no individual has affirmatively identified himself or herself within two weeks after the day on which notice under Subsection (5)(a)(iv) is complete and established paternity by scientific testing within as expeditious a time frame as practicable, a hearing on the petition for termination of parental rights shall be scheduled and notice provided in accordance with this chapter.

(ii) If a nonrelinquishing parent is not identified, relinquishment of a newborn child under this part is considered grounds for termination of parental rights of both the relinquishing and nonrelinquishing parents under Section 80-4-301.

(6) If at any time before the day on which the newborn child is adopted, the juvenile court finds it is in the best interest of the newborn child, the court shall deny the petition for termination of parental rights.

(7) The division shall provide for, or contract with a child-placing agency to provide for expeditious adoption of the newborn child.

(8) So long as the individual relinquishing a newborn child is the newborn child's parent or designee, and there is no abuse or neglect, safe relinquishment of a newborn child in substantial compliance with this part is an affirmative defense to any potential criminal liability for abandonment or neglect relating to the relinquishment.

Section 77. Section **80-7-102** is amended to read:

80-7-102 . Definitions.

As used in this chapter:

(1) "Emancipation" or "emancipated" means a legal status created by court order that allows a minor to:

(a) live independent of the minor's parents or guardian; and

(b) exercise the same rights as an adult under Subsection 80-7-105(1).

(2) "Guardian" has the same meaning as in Section 75-1-201.

(3) "Minor" means an individual who is 16 years old or older.

~~[(4) "Parent" means a natural parent as defined in Section 80-1-102.]~~

Section 78. Section **81-1-101** is amended to read:

TITLE 81. UTAH DOMESTIC RELATIONS CODE

81-1-101 . Definitions for title.

As used in this title:

~~[(1) "Child" means, except as provided in Section 81-6-101, a biological or adopted child of any age.]~~

(1) "Child" means, except as provided in Sections 81-5-102, 81-6-101, 81-8-102, and 81-10-101, a son or daughter of any age.

(2) "Court" means:

(a) a judge; or

(b) a court commissioner if the court commissioner has authority to hear the matter under Section 78A-5-107 or the Utah Rules of Judicial Administration.

(3) "Custodial parent" means:

(a) a parent awarded primary physical custody of a minor child by a court order;

(b) if both parents have joint physical custody:

- 6760 (i) the parent awarded more overnights each year by a court order; or
6761 (ii) the parent designated as the custodial parent by a court order; or
6762 (c) if there is no court order, the parent with whom the minor child resides more than
6763 one-half of the calendar year without regard to any temporary parent-time.

6764 (4) "Minor child" means, except as provided in Section 81-6-101, a child who is younger
6765 than 18 years old and is not emancipated.

6766 (5) "Noncustodial parent" means the parent who is not the custodial parent regardless of
6767 any designation of joint legal custody.

6768 (6) "Parent" means~~[a parent]~~ , except as provided in Section 81-13-211, an individual with
6769 an established parent-child relationship as described in Section ~~[78B-15-201]~~ 81-5-201.

6770 Section 79. Section **81-1-202** is amended to read:

6771 **81-1-202 . Court records in a domestic relations action.**

6772 (1)(a) In an action under this title, ~~[Title 78B, Chapter 13, Utah Uniform Child Custody~~
6773 ~~Jurisdiction and Enforcement Act, Title 78B, Chapter 14, Utah Uniform Interstate~~
6774 ~~Family Support Act, or Title 78B, Chapter 15, Utah Uniform Parentage Act,]~~a party
6775 may file a motion to have the records of the action other than the final judgment,
6776 order, or decree, classified as private.

6777 (b) If the court finds that there are substantial interests favoring restricting access that
6778 clearly outweigh the interests favoring access, the court may classify the records of
6779 the action, or any part of the records of the action, other than the final order,
6780 judgment, or decree, as private.

6781 (c) An order classifying part of the records of the action as private does not apply to
6782 subsequent filings.

6783 (d) The record of an action is private until the court determines it is possible to release
6784 the record without prejudice to the interests that justified the closure.

6785 (2)(a) Any interested person may petition the court to permit access to a record classified
6786 as private as described in Subsection (1).

6787 (b) The interested person described in Subsection (2)(a) shall serve the petition on the
6788 parties to the closure order.

6789 (3) A party shall place the social security number of any individual, who is the subject of an
6790 action under this title, in the records relating to the matter.

6791 Section 80. Section **81-4-404** is amended to read:

6792 **81-4-404 . Allegations of child abuse or child sexual abuse in a divorce**
6793 **proceeding -- Investigation.**

- (1) When an allegation of child abuse or child sexual abuse is made in a divorce proceeding, or a request for modification of a divorce decree, that implicates a party, the court, after making an inquiry, may order that an investigation be conducted by the Division of Child and Family Services in accordance with Title 80, Chapter 2, Child Welfare Services, and Title 80, Chapter 2a, Removal and Protective Custody of a Child.
- (2) A final award of custody or parent-time may not be rendered until a report on that investigation, consistent with Section 80-2-1005, is received by the court.
- (3) The Division of Child and Family Services shall conduct an investigation described in Subsection (1) within 30 days of the court's notice and request for an investigation.
- (4) In reviewing a report described in Subsection (2), the court shall comply with Sections 78A-2-703, 78A-2-705, and ~~[78B-15-612]~~ 81-5-612.
- Section 81. Section **81-5-102**, which is renumbered from Section 78B-15-102 is renumbered and amended to read:

CHAPTER 5. UNIFORM PARENTAGE ACT

Part 1. General Provisions

~~[78B-15-102]~~ **81-5-102 . Definitions for chapter.**

As used in this chapter:

- (1) "Adjudicated father" means a man who has been adjudicated by a tribunal to be the father of a child.
- (2) "Alleged father" means a man who alleges himself to be, or is alleged to be, the genetic father or a possible genetic father of a child, but whose paternity has not been determined.
- (3)(a) "Assisted reproduction" means a method of causing pregnancy other than sexual intercourse.
- (b) "Assisted reproduction" includes:
- (i) intrauterine insemination;
 - (ii) donation of eggs;
 - (iii) donation of embryos;
 - (iv) in vitro fertilization and transfer of embryos; ~~[and]~~ or
 - (v) intracytoplasmic sperm injection.
- ~~[(4) "Birth expenses" means all medical costs associated with the birth of a child, including the related expenses for the biological mother during her pregnancy and delivery.]~~
- ~~[(5)]~~ (4)(a) "Birth mother" means the ~~[biological mother of a child]~~ woman that gives

6827 birth to the child.

6828 (b) "Birth mother" does not include a gestational mother.

6829 ~~[(6)]~~ (5) "Child" means an individual of any age whose parentage may be determined under
6830 this chapter.

6831 (6) "Child support" means the same as that term is defined in Section 81-6-101.

6832 (7) "Child support services agency" means a public official or agency authorized under
6833 Title IV-D of the Social Security Act that has the authority to seek:

6834 (a) enforcement of support orders or laws relating to the duty of support;
6835 (b) establishment or modification of child support;
6836 (c) determination of parentage; or
6837 (d) location of child-support obligors and their income and assets.

6838 ~~[(7)]~~ (8) "Commence" means to file the initial pleading seeking an adjudication of parentage
6839 in the appropriate tribunal of this state.

6840 ~~[(8)]~~ (9) "Declarant father" means a male who[;] :
6841 (a) along with the [biological] birth mother, claims to be the genetic father of a child[;] ;
6842 and

6843 (b) signs a voluntary declaration of paternity to establish the man's [paternity] parentage.

6844 ~~[(9)]~~ (10) "Determination of parentage" means the establishment of the parent-child
6845 relationship by:

6846 (a) the signing of a valid declaration of paternity under Part 3, Voluntary Declaration of
6847 Paternity[-Act,] ; or

6848 (b) adjudication by a tribunal.

6849 ~~[(10)]~~ (11)(a) "Donor" means an individual who produces eggs or sperm used for assisted
6850 reproduction, whether or not for consideration.

6851 (b) "Donor" does not include:

6852 (i) a husband who provides sperm, or a wife who provides eggs, to be used for
6853 assisted reproduction by the wife;

6854 (ii) a woman who gives birth to a child by means of assisted reproduction, except as
6855 otherwise provided in Part 8, Gestational Agreement; [or]

6856 (iii) a parent under Part 7, Assisted Reproduction[-or] ; or
6857 (iv) an intended parent under Part 8, Gestational Agreement.

6858 ~~[(11)]~~ (12) "Ethnic or racial group" means, for purposes of genetic testing, a recognized
6859 group that an individual identifies as all or part of the individual's ancestry or that is so
6860 identified by other information.

- 6861 ~~[(12)]~~ (13) "Financial support" means:
- 6862 (a) a base child support award as defined in Section 81-6-101[;] ;
- 6863 (b) all past-due support ~~[which]~~ that accrues under an order for current periodic payments[;] ;
- 6864 and
- 6865 (c) sum certain judgments for past-due support.
- 6866 ~~[(13)]~~ (14)(a) "Genetic testing" means an analysis of genetic markers to exclude or
- 6867 identify a man as the father or a woman as the mother of a child.
- 6868 (b) "Genetic testing" includes an analysis of one or a combination of the following:
- 6869 (i) deoxyribonucleic acid; or
- 6870 (ii) blood-group antigens, red-cell antigens, human-leukocyte antigens, serum
- 6871 enzymes, serum proteins, or red-cell enzymes.
- 6872 ~~[(14)]~~ (15) "Gestational mother" means ~~[an adult woman who]~~ a woman who:
- 6873 (a) is 18 years old or older; and
- 6874 (b) gives birth to a child under a gestational agreement.
- 6875 ~~[(15)]~~ (16) "Man" means a male individual of any age.
- 6876 ~~[(16) "Medical support" means a provision in a support order that requires the purchase and~~
- 6877 ~~maintenance of appropriate insurance for health and dental expenses of dependent~~
- 6878 ~~children, and assigns responsibility for uninsured medical expenses.]~~
- 6879 ~~[(17) "Parent" means an individual who has established a parent-child relationship under~~
- 6880 ~~Section 78B-15-201.]~~
- 6881 (17) "Obligee" means the same as that term is defined in Section 81-6-101.
- 6882 (18) "Obligor" means the same as that term is defined in Section 81-6-101.
- 6883 (19) "Parentage" means a parent-child relationship.
- 6884 ~~[(18)]~~ (20)(a) "Parent-child relationship" means the legal relationship between a child
- 6885 and a parent of the child as described in Section 81-5-201.
- 6886 (b) "Parent-child relationship" includes:
- 6887 (i) the mother-child relationship~~[-and]~~ ; or
- 6888 (ii) the father-child relationship.
- 6889 ~~[(19)]~~ (21) ~~["Paternity"]~~ "Parentage index" means the likelihood of paternity calculated by
- 6890 computing the ratio between:
- 6891 (a) the likelihood that the tested man is the father, based on the genetic markers of the
- 6892 tested man and child, conditioned on the hypothesis that the tested man is the father
- 6893 of the child; and
- 6894 (b) the likelihood that the tested man is not the father, based on the genetic markers of

6895 the tested man and child, conditioned on the hypothesis that the tested man is not the
6896 father of the child and that the father is of the same ethnic or racial group as the
6897 tested man.

6898 [(20)] (22) "Presumed father" means a man who, by operation of law under Section [
6899 ~~78B-15-204~~] 81-5-204, is recognized as the father of a child until that status is rebutted
6900 or confirmed [~~as set forth in~~] in accordance with this chapter.

6901 [(21)] (23) "Probability of [~~paternity~~] parentage" means the measure, for the ethnic or racial
6902 group to which the alleged father belongs, of the probability that the man in question is
6903 the father of the child, compared with a random, unrelated man of the same ethnic or
6904 racial group, expressed as a percentage incorporating the [~~paternity~~] parentage index and
6905 a prior probability.

6906 [(22)] (24) "Record" means information that is inscribed on a tangible medium or that is
6907 stored in an electronic or other medium and is retrievable in perceivable form.

6908 [(23)] (25) "Signatory" means an individual who authenticates a record and is bound by [its]
6909 the record's terms.

6910 [(24)] (26) "State" means a state of the United States, the District of Columbia, Puerto Rico,
6911 the United States Virgin Islands, any territory, Native American Tribe, or insular
6912 possession subject to the jurisdiction of the United States.

6913 (27) "Support" means the same as that term is defined in Section 81-6-101.

6914 [(25) "Support-enforcement agency" means a public official or agency authorized under
6915 Title IV-D of the Social Security Act which has the authority to seek:]

6916 [(a) enforcement of support orders or laws relating to the duty of support;]

6917 [(b) establishment or modification of child support;]

6918 [(c) determination of parentage; or]

6919 [(d) location of child-support obligors and their income and assets.]

6920 [(26)] (28) "Tribunal" means a court of law, administrative agency, or quasi-judicial entity
6921 authorized to establish, enforce, or modify support orders or to determine parentage.

6922 (29) "Unmarried biological father" means the same as that term is defined in Section
6923 81-13-101.

6924 Section 82. Section **81-5-103**, which is renumbered from Section 78B-15-103 is renumbered
6925 and amended to read:

6926 **[~~78B-15-103~~] 81-5-103 . Scope -- Choice of law -- Determination of maternity.**

6927 (1) This chapter applies to determinations of parentage in this state.

6928 (2) The tribunal shall apply the law of this state to adjudicate the parent-child relationship.

6929 (3) The applicable law may not depend upon:

6930 (a) the place of birth of the child; or

6931 (b) the past or present residence of the child.

6932 ~~[(3)]~~ (4) This chapter may not create, enlarge, or diminish parental rights or duties under
6933 other laws of this state.

6934 (5) The provisions of this chapter relating to a determination of paternity also apply to a
6935 determination of maternity.

6936 Section 83. Section **81-5-104**, which is renumbered from Section 78B-15-104 is renumbered
6937 and amended to read:

6938 **[78B-15-104] 81-5-104 . Authority of Office of Recovery Services -- Duty of**
6939 **attorney general and county attorney.**

6940 ~~[(1)(a) Except as provided in Subsection 78A-6-104(1)(a)(i), the district court has~~
6941 ~~original jurisdiction over any action brought under this chapter.]~~

6942 ~~[(b) If the juvenile court has concurrent jurisdiction under Subsection 78A-6-104(1)(a)(i)~~
6943 ~~over a paternity action filed in the district court, the district court may transfer~~
6944 ~~jurisdiction over the paternity action to the juvenile court.]~~

6945 ~~[(2)]~~ (1) The Office of Recovery Services is authorized to establish ~~[paternity]~~ parentage in
6946 accordance with this chapter, Title 26B, Chapter 9, Recovery Services and
6947 Administration of Child Support, and Title 63G, Chapter 4, Administrative Procedures
6948 Act.

6949 (2) Whenever the state commences an action under this chapter, the attorney general, or the
6950 county attorney of the county where the obligee resides, shall represent the state.

6951 (3) The attorney general or the county attorney does not represent or have an attorney-client
6952 relationship with the obligee or the obligor in carrying out the duties under this chapter.

6953 ~~[(3) A court shall, without adjudicating paternity, dismiss a petition that is filed under this~~
6954 ~~chapter by an unmarried biological father if he is not entitled to consent to the adoption~~
6955 ~~of the child under Sections 78B-6-121 and 78B-6-122.]~~

6956 Section 84. Section **81-5-105** is enacted to read:

6957 **81-5-105 . General requirements for parentage action or settlement -- Filing**
6958 **parentage with the Office of Vital Records and Statistics.**

6959 (1) A court shall, without adjudicating parentage, dismiss a petition that is filed under this
6960 chapter by an unmarried biological father if the unmarried biological father is not
6961 entitled to consent to the adoption of the child as described in Section 81-13-213.

6962 (2) The standard of proof in a trial to establish parentage is "by clear and convincing

evidence."

(3) Utah Rule of Civil Procedure 55, Default, applies to a parentage action commenced under this chapter.

(4) An agreement of settlement with an alleged father is binding only when approved by the tribunal.

(5) If a parentage action is brought under this chapter, the obligor's liabilities for past support are limited to the period of four years preceding the commencement of an action.

(6)(a) If the tribunal determines that an alleged father is a parent of the child, the tribunal may upon the tribunal's own motion, or upon motion of the alleged father, order parent-time rights in accordance with Title 81, Chapter 9, Custody, Parent-time, and Visitation, as the tribunal considers appropriate under the circumstances.

(b) Parent-time rights may not be granted to an alleged father if the child has been subsequently adopted.

(7) A party to an action under this chapter has a continuing obligation to keep the tribunal informed of the party's current address.

(8) A proceeding under this chapter is subject to other laws of this state governing the health, safety, privacy, and liberty of a child or other individual who could be jeopardized by disclosure of identifying information, including address, telephone number, place of employment, social security number, the child's day-care facility, or school.

(9) An adjudication of parentage or declaration of paternity shall be filed with the Office of Vital Records and Statistics in accordance with Section 26B-8-104.

Section 85. Section **81-5-201**, which is renumbered from Section 78B-15-201 is renumbered and amended to read:

Part 2. Parent and Child Relationship

[78B-15-201] 81-5-201 . Establishment of parent-child relationship.

(1)(a) The mother-child relationship is established between a woman and a child by:

(i) the woman's having given birth to the child, except as otherwise provided in Part 8, Gestational Agreement;

(ii) an adjudication of the woman's maternity;

(iii) adoption of the child by the woman;

(iv) an adjudication confirming the woman as a parent of a child born to a gestational mother if the agreement was validated under Part 8, Gestational Agreement, or is enforceable under other law; or

6997 (v) an unrebutted presumption of maternity of the child established in the same
6998 manner as under Section [78B-15-204] 81-5-204.

6999 (b) In this chapter, the presumption of maternity shall be treated the same as a
7000 presumption of paternity as established in Subsection [78B-15-201(2)(a)] (2)(a).

7001 (2) The father-child relationship is established between a man and a child by:

7002 (a) an unrebutted presumption of the man's paternity of the child under Section [
7003 ~~78B-15-204~~] 81-5-204;

7004 (b) an effective declaration of paternity by the man under [~~Part 3, Voluntary Declaration~~
7005 ~~of Paternity Act~~] Part 3, Voluntary Declaration of Paternity, unless the declaration has
7006 been rescinded or successfully challenged;

7007 (c) an adjudication of the man's paternity;

7008 (d) adoption of the child by the man;

7009 (e) the man having consented to assisted reproduction by a woman under Part 7,
7010 Assisted Reproduction, which resulted in the birth of the child; or

7011 (f) an adjudication confirming the man as a parent of a child born to a gestational mother
7012 if the agreement was validated under Part 8, Gestational Agreement, or is enforceable
7013 under other law.

7014 Section 86. Section **81-5-202**, which is renumbered from Section 78B-15-202 is renumbered
7015 and amended to read:

7016 **[~~78B-15-202~~] 81-5-202 . No discrimination based on marital status.**

7017 A child born to parents who are not married to each other whose [~~paternity~~] parentage
7018 has been determined under this chapter has the same rights under the law as a child born to
7019 parents who are married to each other.

7020 Section 87. Section **81-5-203**, which is renumbered from Section 78B-15-203 is renumbered
7021 and amended to read:

7022 **[~~78B-15-203~~] 81-5-203 . Consequences of establishment of parentage.**

7023 Unless parental rights are terminated, a parent-child relationship established under this
7024 chapter applies for all purposes, except as otherwise specifically provided by other law of this
7025 state.

7026 Section 88. Section **81-5-204**, which is renumbered from Section 78B-15-204 is renumbered
7027 and amended to read:

7028 **[~~78B-15-204~~] 81-5-204 . Presumption of parentage.**

7029 (1) A man is presumed to be the father of a child if:

7030 (a) [~~he and the mother~~] the man and the birth mother of the child are married to each

other and the child is born during the marriage;

- (b) ~~[he and the mother]~~ the man and the birth mother of the child were married to each other and the child is born within 300 days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation;
- (c) before the birth of the child, ~~[he and the mother]~~ the man and the birth mother of the child married each other in apparent compliance with law, even if the attempted marriage is or could be declared invalid, and the child is born during the invalid marriage or within 300 days after ~~[its]~~ the marriage's termination by death, annulment, declaration of invalidity, or divorce or after a decree of separation; or
- (d) after the birth of the child, ~~[he and the mother]~~ the man and the birth mother of the child married each other in apparent compliance with law, whether or not the marriage is, or could be declared, invalid, ~~[he voluntarily asserted his paternity]~~ the man voluntarily asserted the man's parentage of the child, and there is no other presumptive father of the child, and:
 - (i) the assertion is in a record filed with the Office of Vital Records and Statistics;
 - (ii) ~~[he]~~ the man agreed to be and is named as the child's father on the child's birth certificate; or
 - (iii) ~~[he]~~ the man promised in a record to support the child as his own.

- (2) A presumption of ~~[paternity]~~ parentage established under this section may only be rebutted in accordance with Section ~~[78B-15-607]~~ 81-5-607.
- (3) If a child has an adjudicated father, the results of genetic testing are inadmissible to challenge ~~[paternity except as set forth in Section 78B-15-607]~~ parentage except as described in Section 81-5-607.

Section 89. Section **81-5-301**, which is renumbered from Section 78B-15-301 is renumbered and amended to read:

Part 3. Voluntary Declaration of Paternity

[78B-15-301] 81-5-301 . Declaration of paternity.

The birth mother of a child and a man claiming to be the genetic father of the child may sign a declaration of paternity to establish the paternity of the child.

Section 90. Section **81-5-302**, which is renumbered from Section 78B-15-302 is renumbered and amended to read:

[78B-15-302] 81-5-302 . Execution of declaration of paternity.

- (1) A declaration of paternity described in Section 81-5-301 must:

- (a) be in a record;

- 7065 (b) be signed, or otherwise authenticated, under penalty of perjury, by the birth mother
7066 and by the declarant father;
- 7067 (c) be signed by the birth mother and declarant father in the presence of two witnesses
7068 who are not related by blood or marriage; ~~[and]~~
- 7069 (d) state that the child whose paternity is being declared:
7070 (i) does not have a presumed father, or has a presumed father whose full name is
7071 stated; and
7072 (ii) does not have another declarant or adjudicated father;
- 7073 (e) state whether there has been genetic testing and, if so, that the declarant man's claim
7074 of paternity is consistent with the results of the testing; and
- 7075 (f) state that the signatories understand that the declaration is the equivalent of a legal
7076 finding of paternity of the child and that a challenge to the declaration is permitted
7077 only under the limited circumstances described in Section ~~[78B-15-307]~~ 81-5-307.
- 7078 (2) If ~~[either]~~ the birth mother or the declarant father is a minor child, the voluntary
7079 declaration must also be signed by that ~~[minor's]~~ minor child's parent or legal guardian.
- 7080 (3) A declaration of paternity is void if ~~[it]~~ the declaration of paternity:
7081 (a) states that another man is a presumed father, unless a denial of paternity signed or
7082 otherwise authenticated by the presumed father is filed with the Office of Vital
7083 Records and Statistics in accordance with Section ~~[78B-15-303]~~ 81-5-303;
- 7084 (b) states that another man is a declarant or adjudicated father; or
- 7085 (c) falsely denies the existence of a presumed, declarant, or adjudicated father of the
7086 child.
- 7087 (4) A presumed father may sign or otherwise authenticate ~~[an acknowledgment of paternity]~~
7088 a declaration of paternity.
- 7089 (5) The declaration of paternity shall be:
7090 (a) in a form prescribed by the Office of Vital Records ~~[and shall be]~~ and Statistics; and
7091 (b) accompanied with a written and verbal notice of the alternatives to, the legal
7092 consequences of, and the rights and responsibilities that arise from signing the
7093 declaration.
- 7094 (6) The ~~[Social Security]~~ social security number of any ~~[person]~~ individual who is subject to
7095 declaration of paternity shall be placed in the records relating to the matter.
- 7096 (7)(a) The declaration of paternity shall become an amendment to the original birth
7097 certificate.
- 7098 (b) The original certificate and the declaration shall be marked as to be distinguishable.

7099 (c) The declaration may be included as part of subsequently issued certified copies of the
7100 birth certificate.

7101 (d) Alternatively, electronically issued copies of a certificate may reflect the amended
7102 information and the date of the amendment only.

7103 (8)(a) A declaration of paternity may be completed and signed any time after the birth of
7104 the child.

7105 (b) A declaration of paternity may not be signed or filed after consent to or
7106 relinquishment for adoption has been signed.

7107 (9) A declaration of paternity shall be considered effective when filed and entered into a
7108 database established and maintained by the Office of Vital Records and Statistics.

7109 Section 91. Section **81-5-303**, which is renumbered from Section 78B-15-303 is renumbered
7110 and amended to read:

7111 **[78B-15-303] 81-5-303 . Denial of paternity.**

7112 (1) A presumed or declarant father may sign a denial of ~~[his paternity]~~ the presumed or
7113 declarant father's paternity.

7114 (2) The denial is valid only if:

7115 ~~[(1)]~~ (a) a declaration of paternity signed, or otherwise authenticated, by another man is
7116 filed ~~[pursuant to Section 78B-15-305]~~ in accordance with Section 81-5-305;

7117 ~~[(2)]~~ (b) the denial is in a form prescribed by and filed with the Office of Vital Records~~;~~
7118 and Statistics and is signed, or otherwise authenticated, under penalty of perjury; and

7119 ~~[(3)]~~ (c) the presumed or declarant father has not previously:

7120 ~~[(a)]~~ (i) declared ~~[his]~~ the presumed or declarant father's paternity, unless the previous
7121 declaration has been rescinded ~~[pursuant to Section 78B-15-306]~~ in accordance
7122 with Section 81-5-306 or successfully challenged ~~[pursuant to Section 78B-15-307]~~
7123 in accordance with Section 81-5-307; or

7124 ~~[(b)]~~ (ii) been adjudicated to be the father of the child.

7125 Section 92. Section **81-5-304**, which is renumbered from Section 78B-15-304 is renumbered
7126 and amended to read:

7127 **[78B-15-304] 81-5-304 . Rules for declaration and denial of paternity.**

7128 (1)(a) A declaration of paternity and a denial of paternity shall be contained in a single
7129 document.

7130 (b) If the declaration ~~[and denial]~~ of paternity and the denial of paternity are both
7131 necessary, neither is valid until both are signed and filed.

7132 (2) A declaration of paternity or a denial of paternity may not be signed before the birth of

7133 the child.

7134 (3) Subject to Subsection (1), a declaration of paternity or denial of paternity takes effect on
7135 the birth of the child or the filing of the document with the Office of Vital Records and
7136 Statistics, whichever occurs later.

7137 (4) A declaration of paternity or denial of paternity signed by a minor and by the minor's
7138 parent or legal guardian is valid if [it] the declaration of paternity or the denial of
7139 paternity is otherwise in compliance with this chapter.

7140 Section 93. Section **81-5-305**, which is renumbered from Section 78B-15-305 is renumbered
7141 and amended to read:

7142 **[78B-15-305] 81-5-305 . Effect of declaration or denial of paternity.**

7143 (1) Except as otherwise provided in Sections [78B-15-306] 81-5-306 and [78B-15-307]
7144 81-5-307, a valid declaration of paternity filed with the Office of Vital Records and
7145 Statistics is equivalent to a legal finding of [paternity] parentage of a child and confers
7146 upon the declarant father all of the rights and duties of a parent.

7147 (2)(a) When a declaration of paternity is filed, [it] the declaration of paternity shall be
7148 recognized as a basis for a child support order without any further requirement or
7149 proceeding regarding the establishment of [paternity] parentage.

7150 [(a)] (b) The liabilities of the declarant father include[, but are not limited to,] the
7151 reasonable expense of the birth mother's pregnancy and confinement and for the
7152 education, necessary support, and any funeral expenses for the child.

7153 [(b)] (c) When a father declares paternity, [his] the father's liability under Subsection
7154 (2)(a) for past amounts due is limited to the period of four years immediately
7155 preceding the date that the voluntary declaration of paternity was filed.

7156 (3)(a) Except as otherwise provided in Sections [78B-15-306] 81-5-306 and [78B-15-307]
7157 81-5-307, a valid denial of paternity by a presumed or declarant father filed with the
7158 Office of Vital Records and Statistics in conjunction with a valid declaration of
7159 paternity is equivalent to a legal finding of the [nonpaternity] nonparentage of the
7160 presumed or declarant father and discharges the presumed or declarant father from all
7161 rights and duties of a parent.

7162 (b) If a valid denial of paternity is filed with the Office of Vital Records[, the declarant
7163 or presumed father] and Statistics, the presumed or declarant father may not recover
7164 child support [he] that was paid prior to the time of filing.

7165 Section 94. Section **81-5-306**, which is renumbered from Section 78B-15-306 is renumbered
7166 and amended to read:

[78B-15-306] 81-5-306 . Proceeding for rescission.

- (1) A signatory may rescind a declaration of paternity or denial of paternity by filing a voluntary rescission document with the Office of Vital Records and Statistics in a form prescribed by the ~~[office]~~ Office of Vital Records and Statistics before the earlier of:
- (a) 60 days after the effective date of the declaration or denial, as provided in Sections [78B-15-303] 81-5-303 and [78B-15-304] 81-5-304; or
- (b) the date of notice of the first adjudicative proceeding to which the signatory is a party, before a tribunal to adjudicate an issue relating to the child, including a proceeding that establishes support.
- (2) Upon receiving a voluntary rescission document from a signatory under Subsection (1), the Office of Vital Records and Statistics shall provide notice of the rescission, by mail, to the other signatory at the last-known address of that signatory.

Section 95. Section **81-5-307**, which is renumbered from Section 78B-15-307 is renumbered and amended to read:

[78B-15-307] 81-5-307 . Challenge after expiration of period for rescission.

- (1) After the period for rescission under Section [78B-15-306] 81-5-306 has expired, a signatory of a declaration of paternity or denial of paternity~~[- or a support-enforcement]~~ or a child support services agency, may commence a proceeding to challenge the declaration or denial only on the basis of fraud, duress, or material mistake of fact.
- (2) A party challenging a declaration of paternity or denial of paternity has the burden of proof.
- (3) A challenge brought on the basis of fraud or duress may be commenced at any time.
- (4)(a) A challenge brought on the basis of a material mistake of fact may be commenced within four years after the declaration is filed with the Office of Vital Records and Statistics.
- (b) For the purposes of this Subsection (4), if the declaration of paternity was filed with the Office of Vital Records ~~[prior to]~~ and Statistics before May 1, 2005, a challenge may be brought within four years after May 1, 2005.
- (5) For purposes of Subsection (4), genetic test results that exclude a declarant father or that rebuttably identify another man as the father in accordance with Section [78B-15-505] 81-5-505 constitute a material mistake of fact.

Section 96. Section **81-5-308**, which is renumbered from Section 78B-15-308 is renumbered and amended to read:

[78B-15-308] 81-5-308 . Procedure for rescission or challenge.

- 7201 (1) Every signatory to a declaration of paternity and any related denial of paternity must be
7202 made a party to a proceeding to rescind or challenge the declaration or denial.
- 7203 (2) For the purpose of rescission of, or challenge to, a declaration of paternity or denial of
7204 paternity, a signatory submits to personal jurisdiction of this state by signing the
7205 declaration or denial, effective upon the filing of the document with the Office of Vital
7206 Records and Statistics.
- 7207 (3) Except for good cause shown, during the pendency of a proceeding to rescind or
7208 challenge a declaration of paternity or denial of paternity, the tribunal may not suspend
7209 the legal responsibilities of a signatory arising from the declaration, including the duty to
7210 pay child support.
- 7211 (4) A proceeding to rescind or to challenge a declaration of paternity or denial of paternity
7212 must be conducted in the same manner as a proceeding to adjudicate parentage under
7213 Part 6, Adjudication of Parentage.
- 7214 (5) At the conclusion of a proceeding to rescind or challenge a declaration of paternity or
7215 denial of paternity, the tribunal shall order the Office of Vital Records and Statistics to
7216 amend the birth record of the child, if appropriate.
- 7217 (6) If the declaration is rescinded, the declarant father may not recover child support [he]
7218 that was paid prior to the entry of an order of rescission.

7219 Section 97. Section **81-5-309**, which is renumbered from Section 78B-15-309 is renumbered
7220 and amended to read:

7221 **[78B-15-309] 81-5-309 . Ratification barred.**

7222 A tribunal or administrative agency conducting a judicial or administrative proceeding
7223 may not ratify an unchallenged declaration of paternity.

7224 Section 98. Section **81-5-310**, which is renumbered from Section 78B-15-310 is renumbered
7225 and amended to read:

7226 **[78B-15-310] 81-5-310 . Full faith and credit.**

7227 A tribunal of this state shall give full faith and credit to a declaration of paternity or
7228 denial of paternity effective in another state if the declaration or denial has been signed and is
7229 otherwise in compliance with the law of the other state.

7230 Section 99. Section **81-5-311**, which is renumbered from Section 78B-15-311 is renumbered
7231 and amended to read:

7232 **[78B-15-311] 81-5-311 . Forms for declaration, denial, or rescission.**

- 7233 (1) To facilitate compliance with this part, the Office of Vital Records and Statistics shall
7234 prescribe forms for the declaration[, denial, and rescission of paternity] of paternity, the

denial of paternity, and the rescission of a declaration of paternity.

- (2) A valid declaration of paternity or denial of paternity is not affected by a later modification of the prescribed form.

Section 100. Section **81-5-312**, which is renumbered from Section 78B-15-312 is renumbered and amended to read:

[78B-15-312] 81-5-312 . Release of information.

The Office of Vital Records and Statistics may release information relating to the declaration of paternity or denial of paternity to a signatory of the declaration or denial and to tribunals and federal, tribal, and state ~~[support-enforcement]~~ child support services agencies of this state or another state.

Section 101. Section **81-5-313**, which is renumbered from Section 78B-15-313 is renumbered and amended to read:

[78B-15-313] 81-5-313 . Rulemaking by Office of Vital Records and Statistics.

The Office of Vital Records and Statistics may adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this part.

Section 102. Section **81-5-401**, which is renumbered from Section 78B-15-401 is renumbered and amended to read:

Part 4. Registry

[78B-15-401] 81-5-401 . Maintenance of records.

- (1) The Office of Vital Records and Statistics shall register the following records ~~[which]~~ that are filed with the office:

- (a) all declarations of paternity;
- (b) all judicial and administrative determinations of ~~[paternity]~~ parentage; and
- (c) all notices of proceedings to establish ~~[paternity which are filed pursuant to Sections 78B-6-110, 78B-6-120, 78B-6-121, and 78B-6-122]~~ parentage that are filed in accordance with Sections 81-13-207, 81-13-212, and 81-13-213.

- (2) A notice of initiation of ~~[paternity]~~ parentage proceedings may not be accepted into the registry unless accompanied by a copy of the pleading ~~[which]~~ that has been filed with the court to establish ~~[paternity]~~ parentage.

- (3) A notice of initiation of ~~[paternity]~~ parentage proceedings may not be filed if another man is the adjudicated or declarant father.

Section 103. Section **81-5-402**, which is renumbered from Section 78B-15-402 is renumbered and amended to read:

[78B-15-402] 81-5-402 . Effect of registration.

(1) An unmarried biological father who desires to be notified of a proceeding for adoption of a child must file a notice of the initiation of ~~[paternity]~~ parentage proceedings as required by Sections ~~[78B-6-110, 78B-6-120, 78B-6-121, and 78B-6-122]~~ 81-13-207, 81-13-212, and 81-13-213.

(2) A registrant shall promptly notify the registry in a record of any change in the information registered.

(3) The Office of Vital Records and Statistics shall incorporate all new information received into its records but need not affirmatively seek to obtain current information for incorporation in the registry.

Section 104. Section **81-5-403**, which is renumbered from Section 78B-15-403 is renumbered and amended to read:

[78B-15-403] 81-5-403 . Notice of proceeding.

Notice of an adoption proceeding shall be given to ~~[unmarried biological fathers pursuant to Section 78B-6-110]~~ an unmarried biological father as described in Section 81-13-207.

Section 105. Section **81-5-404**, which is renumbered from Section 78B-15-404 is renumbered and amended to read:

[78B-15-404] 81-5-404 . Required form.

(1)(a) The Office of Vital Records and Statistics shall prepare a form to be filed with the agency.

(b) The form shall require the signature of the registrant and state that the form is signed under penalty of perjury.

(2) The form shall also state that:

(a) a timely filing of notice of the initiation of ~~[paternity proceedings which]~~ parentage proceedings that is filed pursuant to Subsection ~~[78B-15-402(1)]~~ 81-5-402(1) entitles the registrant to notice of a proceeding for adoption of the child;

(b) a timely filing does not commence a proceeding to establish ~~[paternity]~~ parentage;

(c) the information disclosed on the form may be used against the registrant to establish ~~[paternity]~~ parentage;

(d) services to assist in establishing ~~[paternity]~~ parentage of a child who is not placed for adoption are available to the registrant through the Office of Recovery Services;

(e) the registrant should also file in another state if conception or birth of the child occurred in the other state;

(f) information on registries of other states is available from the Office of Vital Records

7303 and Statistics; and

7304 (g) procedures exist to remove the filing of a proceeding to establish [~~paternity~~] parentage
 7305 if the proceeding is dismissed, or if a finding of [~~paternity~~] parentage is rescinded or
 7306 set aside under this chapter.

7307 Section 106. Section **81-5-405**, which is renumbered from Section 78B-15-405 is renumbered
 7308 and amended to read:

7309 **[~~78B-15-405~~] 81-5-405 . Furnishing of information -- Confidentiality.**

7310 (1)(a) The Office of Vital Records and Statistics shall send a copy of the filing to a
 7311 person or entity [~~set forth~~] described in Subsection (2), who has requested a copy.

7312 (b) The copy of the filing shall be sent to the most recent address provided by the
 7313 requestor.

7314 (2) Information contained in records [~~which~~] that are filed pursuant to Section [~~78B-15-401~~]
 7315 81-5-401 is confidential and may be released on request only to:

7316 (a) a tribunal or a person designated by the tribunal;

7317 (b) the birth mother of the child who is the subject of the filing;

7318 (c) an agency authorized by other law to receive the information;

7319 (d) a licensed child-placing agency;

7320 (e) the Office of Recovery Services, the Office of the Attorney General, or a [~~support-enforcement~~]
 7321 child support services agency of another state or tribe;

7322 (f) a party or the party's attorney of record in a proceeding under this chapter or in a
 7323 proceeding for adoption of, or for termination of parental rights regarding, a child
 7324 who is the subject of the filing; and

7325 (g) the registry of [~~paternity~~] parentage in another state.

7326 Section 107. Section **81-5-406**, which is renumbered from Section 78B-15-406 is renumbered
 7327 and amended to read:

7328 **[~~78B-15-406~~] 81-5-406 . Penalty for releasing information.**

7329 A person who intentionally or knowingly, releases confidential information from the
 7330 Office of Vital Records [~~which is filed pursuant to Section 78B-15-401~~] and Statistics that is
 7331 filed in accordance with Section 81-5-401 to a person or agency not authorized to receive the
 7332 information under Section [~~78B-15-405~~] 81-5-405 is guilty of a class B misdemeanor.

7333 Section 108. Section **81-5-407**, which is renumbered from Section 78B-15-407 is renumbered
 7334 and amended to read:

7335 **[~~78B-15-407~~] 81-5-407 . Removal of registration -- Rulemaking authority.**

7336 The Office of Vital Records and Statistics may remove a registration in accordance with

rules adopted by the [office] Office of Vital Records and Statistics in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 109. Section **81-5-408**, which is renumbered from Section 78B-15-408 is renumbered and amended to read:

[78B-15-408] 81-5-408 . Fees for registry.

(1) A fee may not be charged to remove a registration.

(2) Except as otherwise provided in Subsection (3), the Office of Vital Records and Statistics may charge a reasonable fee for registering records pursuant to Section [78B-15-401] 81-5-401, making a search of the registry, and for furnishing a certificate.

(3) The Office of Recovery Services, the Office of the Attorney General, and [support-enforcement] child support services agencies of other states or tribes may not be required to pay the fee authorized by Subsection (2).

Section 110. Section **81-5-409**, which is renumbered from Section 78B-15-409 is renumbered and amended to read:

[78B-15-409] 81-5-409 . Search of records -- Certificate.

(1) Upon the request of an individual, tribunal, or agency identified in Section [78B-15-405] 81-5-405, the Office of Vital Records and Statistics shall search its records for any registration made [pursuant to Section 78B-15-401] in accordance with Section 81-5-401 and furnish to the requestor a certificate of search [which] that shall be signed on behalf of the [office] Office of Vital Records and Statistics and state that:

(a) a search has been made of the records of the Office of Vital Records and Statistics;

and

(b) a registration containing the information required to identify the registrant:

(i) has been found and is attached to the certificate of search; or

(ii) has not been found.

(2) A petitioner shall file the certificate of search with the tribunal in connection with a proceeding for adoption.

Section 111. Section **81-5-410**, which is renumbered from Section 78B-15-410 is renumbered and amended to read:

[78B-15-410] 81-5-410 . Admissibility of information.

A certificate of search of the registry of [paternity] parentage in this or another state is admissible in a proceeding for adoption of a child and, if relevant, in other legal proceedings.

Section 112. Section **81-5-501**, which is renumbered from Section 78B-15-501 is renumbered and amended to read:

Part 5. Genetic Testing**[78B-15-501] 81-5-501 . Scope of part.**

This part governs genetic testing of an individual to determine parentage, whether the individual:

- (1) voluntarily submits to testing; or
- (2) is tested pursuant to an order of a tribunal or a ~~[support-enforcement]~~ child support services agency.

Section 113. Section **81-5-502**, which is renumbered from Section 78B-15-502 is renumbered and amended to read:

[78B-15-502] 81-5-502 . Order for testing.

- (1) Upon the motion of any party to the action, except as otherwise provided in this part and Part 6, Adjudication of Parentage, the tribunal shall order the child and other designated individuals to submit to genetic testing if the request for testing is supported by the sworn statement of a party to the proceeding:
 - (a) alleging ~~[paternity]~~ parentage and stating facts establishing a reasonable probability of the requisite sexual contact between the individuals; or
 - (b) denying ~~[paternity]~~ parentage and stating facts establishing a possibility that sexual contact between the individuals, if any, did not result in the conception of the child.
- (2) If a request for genetic testing of a child is made before birth, the tribunal may not order in-utero testing.
- (3) If two or more ~~[men]~~ individuals are subject to an order for genetic testing, the testing may be ordered concurrently or sequentially.

Section 114. Section **81-5-503**, which is renumbered from Section 78B-15-503 is renumbered and amended to read:

[78B-15-503] 81-5-503 . Requirements for genetic testing.

- (1) Genetic testing must be of a type reasonably relied upon by experts in the field of genetic testing and performed in a testing laboratory accredited by:
 - (a) the American Association of Blood Banks, or a successor to its functions;
 - (b) the American Society for Histocompatibility and Immunogenetics, or a successor to its functions; or
 - (c) an accrediting body designated by the federal Secretary of Health and Human Services.
- (2)(a) A specimen used in genetic testing may consist of one or more samples, or a combination of samples, of blood, buccal cells, bone, hair, or other body tissue or

7405 fluid.

7406 (b) The specimen used in the testing need not be of the same kind for each individual
7407 undergoing genetic testing.

7408 Section 115. Section **81-5-504**, which is renumbered from Section 78B-15-504 is renumbered
7409 and amended to read:

7410 **[78B-15-504] 81-5-504 . Report of genetic testing.**

7411 (1)(a) A report of genetic testing must be in a record and signed under penalty of perjury
7412 by a designee of the testing laboratory.

7413 (b) A report made under the requirements of this part is self-authenticating.

7414 (2) Documentation from the testing laboratory of the following information is sufficient to
7415 establish a reliable chain of custody that allows the results of genetic testing to be
7416 admissible without testimony:

7417 (a) the names and photographs of the individuals whose specimens have been taken;

7418 (b) the names of the individuals who collected the specimens;

7419 (c) the places and dates the specimens were collected;

7420 (d) the names of the individuals who received the specimens in the testing laboratory;

7421 (e) the dates the specimens were received; and

7422 (f) the fingerprints of the individuals whose specimens have been taken.

7423 Section 116. Section **81-5-505**, which is renumbered from Section 78B-15-505 is renumbered
7424 and amended to read:

7425 **[78B-15-505] 81-5-505 . Genetic testing results -- Rebuttal.**

7426 (1) Under this chapter, a man is presumed to be identified as the father of a child if the
7427 genetic testing complies with this part and the results disclose that:

7428 (a) the man has at least a 99% probability of [~~paternity~~] parentage, using a prior
7429 probability of 0.50, as calculated by using the combined [~~paternity~~] parentage index
7430 obtained in the testing; and

7431 (b) a combined [~~paternity~~] parentage index of at least 100 to 1.

7432 (2) A man identified under Subsection (1) as the father of the child may rebut the genetic
7433 testing results only by other genetic testing satisfying the requirements of this part [~~which~~]
7434 that:

7435 (a) excludes the man as a genetic father of the child; or

7436 (b) identifies another man as the possible father of the child.

7437 (3)(a) If an issue is raised as to whether the appropriate ethnic or racial group database
7438 was used by the testing laboratory, the testing laboratory will be asked to rerun the

test using the correct ethnic or racial group database.

(b) If the testing laboratory does not have an adequate database, another testing laboratory may be engaged to perform the calculations.

(4) If a presumption of ~~[paternity]~~ parentage is not rebutted by a second test, the tribunal shall issue an order establishing ~~[paternity]~~ parentage.

Section 117. Section **81-5-506**, which is renumbered from Section 78B-15-506 is renumbered and amended to read:

[78B-15-506] 81-5-506 . Costs of genetic testing.

(1) Subject to assessment of costs under Part 6, Adjudication of Parentage, the cost of initial genetic testing shall be advanced:

(a) by a ~~[support-enforcement]~~ child support services agency in a proceeding in which the ~~[support-enforcement]~~ child support services agency is providing services;

(b) by the individual who made the request;

(c) as agreed by the parties; or

(d) as ordered by the tribunal.

(2) In cases in which the cost is advanced by the ~~[support-enforcement]~~ child support services agency, the agency may seek reimbursement from a man who is rebuttably identified as the father of the child.

Section 118. Section **81-5-507**, which is renumbered from Section 78B-15-507 is renumbered and amended to read:

[78B-15-507] 81-5-507 . Additional genetic testing.

(1) The tribunal shall order additional genetic testing upon the request of a party who contests the result of the original testing.

(2) If the previous genetic testing identified a man as the father of the child under Section [78B-15-505] 81-5-505, the tribunal may not order additional testing unless the party provides advance payment for the testing.

(3) If the tribunal orders a second genetic test in accordance with this section, the additional testing must be completed within 45 days of the tribunal's order or the requesting party's objection to the first test will be automatically denied.

(4) If failure to complete the test occurs because of noncooperation of the birth mother or unavailability of the child, the time will be tolled.

Section 119. Section **81-5-508**, which is renumbered from Section 78B-15-508 is renumbered and amended to read:

[78B-15-508] 81-5-508 . Genetic testing when specimens not available.

(1) Subject to Subsection (2), if a genetic-testing specimen is not available from a man who may be the father of a child, for good cause and under extraordinary circumstances the tribunal considers to be just, the tribunal may order the following individuals to submit specimens for genetic testing:

- (a) the parents of the man;
- (b) brothers and sisters of the man;
- (c) other children of the man and their mothers; and
- (d) other relatives of the man necessary to complete genetic testing.

(2) Issuance of an order under this section requires a finding that a need for genetic testing outweighs the legitimate interests of the individual sought to be tested.

Section 120. Section **81-5-509**, which is renumbered from Section 78B-15-509 is renumbered and amended to read:

[78B-15-509] 81-5-509 . Deceased individual.

For good cause shown, the tribunal may order genetic testing of a deceased individual.

Section 121. Section **81-5-510**, which is renumbered from Section 78B-15-510 is renumbered and amended to read:

[78B-15-510] 81-5-510 . Identical brothers.

(1) The tribunal may order genetic testing of a brother of a man identified as the father of a child if the man is commonly believed to have an identical brother and evidence suggests that the brother may be the genetic father of the child.

(2) If each brother satisfies the requirements as the identified father of the child under Section [78B-15-505] 81-5-505 without consideration of another identical brother being identified as the father of the child, the tribunal may rely on nongenetic evidence to adjudicate which brother is the father of the child.

Section 122. Section **81-5-511**, which is renumbered from Section 78B-15-511 is renumbered and amended to read:

[78B-15-511] 81-5-511 . Confidentiality of genetic testing.

Release of the report of genetic testing for parentage is controlled by Title 63G, Chapter 2, Government Records Access and Management Act.

Section 123. Section **81-5-601**, which is renumbered from Section 78B-15-601 is renumbered and amended to read:

Part 6. Adjudication of Parentage

[78B-15-601] 81-5-601 . Definitions for part -- Proceeding authorized.

(1) As used in this part, "divorce" includes an annulment.

7507 [(1)] (2) An adjudicative proceeding may be maintained to determine the parentage of a
7508 child.

7509 (3) A judicial proceeding is governed by the ~~[rules of civil procedure]~~ Utah Rules of Civil
7510 Procedure.

7511 (4) An administrative proceeding is governed by Title 63G, Chapter 4, Administrative
7512 Procedures Act.

7513 [(2) For the purposes of this part, "divorce" also includes an annulment.]

7514 Section 124. Section **81-5-602**, which is renumbered from Section 78B-15-602 is renumbered
7515 and amended to read:

7516 **[78B-15-602] 81-5-602 . Standing to maintain proceeding.**

7517 Subject to ~~[Part 3, Voluntary Declaration of Paternity Act]~~ Part 3, Voluntary Declaration
7518 of Paternity, and Sections ~~[78B-15-607 and 78B-15-609]~~ 81-5-607 and 81-5-609, a proceeding
7519 to adjudicate parentage may be maintained by:

- 7520 (1) the child;
7521 (2) the birth mother of the child;
7522 (3) a man whose paternity of the child is to be adjudicated;
7523 (4) the ~~[support-enforcement]~~ child support services agency or other governmental agency
7524 authorized by other law;
7525 (5) an authorized adoption agency or licensed child-placing agency;
7526 (6) a representative authorized by law to act for an individual who would otherwise be
7527 entitled to maintain a proceeding but who is deceased, incapacitated, or a minor child; or
7528 (7) an intended parent under Part 8, Gestational Agreement.

7529 Section 125. Section **81-5-603**, which is renumbered from Section 78B-15-603 is renumbered
7530 and amended to read:

7531 **[78B-15-603] 81-5-603 . Parties to proceeding.**

7532 The following individuals shall be joined as parties in a proceeding to adjudicate
7533 parentage:

- 7534 (1) the birth mother of the child;
7535 (2) a man whose paternity of the child is to be adjudicated; and
7536 (3) the state in accordance with Section 81-6-106.

7537 Section 126. Section **81-5-604**, which is renumbered from Section 78B-15-604 is renumbered
7538 and amended to read:

7539 **[78B-15-604] 81-5-604 . Personal jurisdiction.**

- 7540 (1) An individual may not be adjudicated to be a parent unless the tribunal has personal

jurisdiction over the individual.

- (2) A tribunal of this state having jurisdiction to adjudicate parentage may exercise personal jurisdiction over a nonresident individual, or the guardian or conservator of the individual, if the conditions prescribed in Section ~~[78B-14-201]~~ 81-8-201 are fulfilled, or the individual has signed a declaration of paternity.
- (3) Lack of jurisdiction over one individual does not preclude the tribunal from making an adjudication of parentage binding on another individual over whom the tribunal has personal jurisdiction.

Section 127. Section **81-5-605**, which is renumbered from Section 78B-15-605 is renumbered and amended to read:

[78B-15-605] 81-5-605 . Venue for a parentage proceeding.

~~[Venue for a judicial proceeding to adjudicate parentage is in the county of this state]~~

- (1) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a person shall bring a proceeding to adjudicate parentage in the county in which:
- ~~[(1)]~~ (a) the child resides or is found;
- ~~[(2)]~~ (b) the respondent resides or is found if the child does not reside in this state; or
- ~~[(3)]~~ (c) a proceeding for probate or administration of the presumed or alleged father's estate has been commenced.
- (2) Subsection (1) does not apply to a proceeding brought in the Business and Chancery Court.

Section 128. Section **81-5-606**, which is renumbered from Section 78B-15-606 is renumbered and amended to read:

[78B-15-606] 81-5-606 . No limitation -- Child having no declarant or adjudicated father.

- (1) A proceeding to adjudicate the parentage of a child having no declarant or adjudicated father may be commenced at any time.
- (2) If initiated after the child becomes an adult, only the child may initiate the proceeding.

Section 129. Section **81-5-607**, which is renumbered from Section 78B-15-607 is renumbered and amended to read:

[78B-15-607] 81-5-607 . Limitation -- Child having presumed father.

- (1) [Paternity]
- (a) Parentage of a child conceived or born during a marriage with a presumed father, as described in Subsection ~~[78B-15-204(1)(a), (b), or (c),]~~ 81-5-204(1)(a), (b), or (c) may be raised by the presumed father, ~~[the mother, or a support enforcement agency]~~

the birth mother, or a child support services agency at any time before filing an action for divorce or in the pleadings at the time of the divorce of the parents.

~~[(a)]~~

(b)(i) If the issue is raised prior to the adjudication, genetic testing may be ordered by the tribunal in accordance with Section ~~[78B-15-608]~~ 81-5-608.

(ii) Failure of the birth mother of the child to appear for testing may result in an order allowing a motherless calculation of ~~[paternity]~~ parentage.

(iii) Failure of the birth mother to make the child available may not result in a determination that the presumed father is not the father, but shall allow for appropriate proceedings to compel the cooperation of the birth mother.

(iv) If the question of ~~[paternity]~~ parentage has been raised in the pleadings in a divorce and the tribunal addresses the issue and enters an order, the parties are estopped from raising the issue again, and the order of the tribunal may not be challenged on the basis of material mistake of fact.

~~[(b)]~~ (c) If the presumed father seeks to rebut the presumption of ~~[paternity]~~ parentage, then denial of a motion seeking an order for genetic testing or a decision to disregard genetic test results shall be based on a preponderance of the evidence.

~~[(e)]~~ (d) If the birth mother seeks to rebut the presumption of ~~[paternity]~~ parentage, the birth mother has the burden to show by a preponderance of the evidence that it would be in the best interests of the child to disestablish the parent-child relationship.

~~[(d)]~~

(e)(i) If a ~~[support enforcement agency]~~ child support services agency seeks to rebut the presumption of parentage and the ~~[presumptive parent]~~ presumed father opposes the rebuttal, the agency's request shall be denied.

(ii) Otherwise, the denial of the agency's motion seeking an order for genetic testing or a decision to disregard genetic test results shall be based on a preponderance of the evidence, taking into account the best interests of the child.

(2) For the presumption outside of marriage described in Subsection ~~[78B-15-204(1)(d)]~~ 81-5-204(1)(d), the presumption may be rebutted at any time if the tribunal determines that the presumed father and the birth mother of the child neither cohabited nor engaged in sexual intercourse with each other during the probable time of conception.

(3) The presumption may be rebutted by:

(a) genetic test results that exclude the presumed father;

(b) genetic test results that rebuttably identify another man as the father in accordance

7609 with Section ~~[78B-15-505]~~ 81-5-505;

7610 (c) evidence that the presumed father and the birth mother of the child neither cohabited
7611 nor engaged in sexual intercourse with each other during the probable time of
7612 conception; or

7613 (d) an adjudication under this part.

7614 (4) There is no presumption to rebut if the presumed father was properly served and there
7615 has been a final adjudication of the issue.

7616 Section 130. Section **81-5-608**, which is renumbered from Section 78B-15-608 is renumbered
7617 and amended to read:

7618 **~~[78B-15-608]~~ 81-5-608 . Authority to deny motion for genetic testing or disregard**
7619 **test results.**

7620 (1) In a proceeding to adjudicate the parentage of a child having a presumed father or to
7621 challenge the ~~[paternity]~~ parentage of a child having a declarant father, the tribunal may
7622 deny a motion seeking an order for genetic testing of the birth mother, the child, and the
7623 presumed or declarant father, or if testing has been completed, the tribunal may
7624 disregard genetic test results that exclude the presumed or declarant father if the tribunal
7625 determines that:

7626 (a) the conduct of the birth mother or the presumed or declarant father estops that party
7627 from denying parentage; and

7628 (b) it would be inequitable to disrupt the ~~[father]~~ parent-child relationship between the
7629 child and the presumed or declarant father.

7630 (2) In determining whether to deny a motion seeking an order for genetic testing or to
7631 disregard genetic test results under this section, the tribunal shall consider the best
7632 interest of the child, including the following factors:

7633 (a) the length of time between the proceeding to adjudicate parentage and the time that
7634 the presumed or declarant father was placed on notice that ~~[he]~~ the presumed or
7635 declarant father might not be the genetic father of the child;

7636 (b) the length of time during which the presumed or declarant father has assumed the
7637 role of ~~[father]~~ parent of the child;

7638 (c) the facts surrounding the presumed or declarant father's discovery of ~~[his possible~~
7639 nonpaternity] the father's possible nonparentage;

7640 (d) the nature of the relationship between the child and the presumed or declarant father;

7641 (e) the age of the child;

7642 (f) the harm that may result to the child if presumed or declared ~~[paternity]~~ parentage is

- 7643 successfully disestablished;
- 7644 (g) the nature of the relationship between the child and any alleged father;
- 7645 (h) the extent to which the passage of time reduces the chances of establishing the [
- 7646 ~~paternity of another man~~] parentage of another individual and a child-support
- 7647 obligation in favor of the child; and
- 7648 (i) other factors that may affect the equities arising from the disruption of the [father]
- 7649 parent-child relationship between the child and the presumed or declarant father or
- 7650 the chance of other harm to the child.

- 7651 (3) If the tribunal denies a motion seeking an order for genetic testing or disregards genetic
- 7652 test results that exclude the presumed or declarant father, [it] the tribunal shall issue an
- 7653 order adjudicating the presumed or declarant father to be the father of the child.

7654 Section 131. Section **81-5-609**, which is renumbered from Section 78B-15-609 is renumbered

7655 and amended to read:

7656 **[78B-15-609] 81-5-609 . Limitation -- Child having declarant father.**

- 7657 (1) If a child has a declarant father, a signatory to the declaration of paternity or denial of [
- 7658 ~~paternity or a support-enforcement~~] parentage or a child support services agency may
- 7659 commence a proceeding seeking to rescind the declaration or denial or challenge the [
- 7660 ~~paternity~~] parentage of the child only within the time allowed under Section [78B-15-306
- 7661 ~~or 78B-15-307~~] 81-5-306 or 81-5-307.
- 7662 (2) A proceeding under this section is subject to the application of the principles of estoppel
- 7663 established in Section [78B-15-608] 81-5-608.

7664 Section 132. Section **81-5-610**, which is renumbered from Section 78B-15-610 is renumbered

7665 and amended to read:

7666 **[78B-15-610] 81-5-610 . Joinder of judicial proceedings -- Court reliance of**

7667 **custody and parent-time standards.**

- 7668 (1) Except as otherwise provided in Subsection (2), a judicial proceeding to adjudicate
- 7669 parentage may be joined with a proceeding for adoption, termination of parental rights,
- 7670 child custody or visitation, child support, divorce, annulment, legal separation or
- 7671 separate maintenance, probate or administration of an estate, or other appropriate
- 7672 proceeding.
- 7673 (2) A respondent may not join a proceeding described in Subsection (1) with a proceeding
- 7674 to adjudicate parentage brought under [~~Title 78B, Chapter 14, Utah Uniform Interstate~~
- 7675 ~~Family Support Act~~] Chapter 8, Uniform Interstate Family Support Act.
- 7676 (3) A court may determine issues of custody, parent-time, visitation, and child support in

7677 accordance with [~~Title 81,~~]Chapter 6, Child Support, Chapter 7, Payment and
7678 Enforcement of Spousal and Child Support, and [~~Title 81,~~]Chapter 9, Custody,
7679 Parent-time, and Visitation.

7680 (4)(a) If a parentage action is determining issues of custody or parent-time for a child
7681 and the parents of the child are not married, the parties shall attend the mandatory
7682 parenting course described in Subsection 81-9-103(1)(b) within:

- 7683 (i) for the petitioner, 60 days after the day on which the petition is filed; and
- 7684 (ii) for the respondent, 30 days after the day on which the respondent is served.

7685 (b) The clerk of the court shall provide notice to a petitioner that the petitioner is
7686 required to attend the parenting course.

7687 (c) A petition shall include information regarding the parenting course when the petition
7688 is served on the respondent.

7689 (d) The court may not grant a final custody or parent-time order in a parentage action
7690 until:

- 7691 (i) both parties have attended the parenting course; and
- 7692 (ii) both parties have presented a certificate of course completion to the court.

7693 (5) For a party that is unable to pay the costs of the parenting course, and before the court
7694 enters an order for custody or parent-time in the parentage action, the court shall:

- 7695 (a) make a final determination of indigency; and
- 7696 (b) order the party to pay the costs of the parenting course if the court determines the
7697 party is not indigent.

7698 (6)(a) Notwithstanding Subsection (4), the court may waive the requirement that the
7699 parties attend the parenting course, on the court's own motion or on the motion of one
7700 of the parties, if the court determines course attendance and completion are not
7701 necessary, appropriate, or feasible, or in the best interest of the parties.

7702 (b) If the requirement is waived, the court may proceed with entering a final custody or
7703 parent-time order.

7704 Section 133. Section **81-5-611**, which is renumbered from Section 78B-15-611 is renumbered
7705 and amended to read:

7706 **[78B-15-611] 81-5-611 . Proceeding before birth.**

7707 (1) A proceeding to determine parentage may be commenced before the birth of the
7708 child, but may not be concluded until after the birth of the child.

7709 (2) The following actions may be taken before the birth of the child:

- 7710 [(+)] (a) service of process;

7711 [(2)] (b) discovery; and
 7712 [(3)] (c) except as prohibited by Section [78B-15-502] 81-5-502, collection of specimens
 7713 for genetic testing.

7714 Section 134. Section **81-5-612**, which is renumbered from Section 78B-15-612 is renumbered
 7715 and amended to read:

7716 **[78B-15-612] 81-5-612 . Minor child as party -- Representation.**

7717 (1) A minor child is a permissible party, but is not a necessary party to a proceeding under
 7718 this part.

7719 (2) The tribunal may appoint an attorney guardian ad litem under Sections 78A-2-703 and
 7720 78A-2-803, or a private attorney guardian ad litem under Section 78A-2-705, to
 7721 represent [~~a minor or~~] a minor child or an incapacitated child if the child is a party.

7722 Section 135. Section **81-5-613**, which is renumbered from Section 78B-15-613 is renumbered
 7723 and amended to read:

7724 **[78B-15-613] 81-5-613 . Admissibility of results of genetic testing -- Expenses.**

7725 (1)(a) Except as otherwise provided in Subsection (3), a record of a genetic-testing
 7726 expert is admissible as evidence of the truth of the facts asserted in the report unless a
 7727 party objects to its admission within 14 days after its receipt by the objecting party
 7728 and cites specific grounds for exclusion.

7729 (b) Unless a party files a timely objection, testimony shall be in affidavit form.

7730 (c) The admissibility of the report is not affected by whether the testing was performed:

7731 [(a)] (i) voluntarily or pursuant to an order of the tribunal; or

7732 [(b)] (ii) before or after the commencement of the proceeding.

7733 (2)(a) A party objecting to the results of genetic testing may call one or more
 7734 genetic-testing experts to testify in person or by telephone, video conference,
 7735 deposition, or another method approved by the tribunal.

7736 (b) Unless otherwise ordered by the tribunal, the party offering the testimony bears the
 7737 expense for the expert testifying.

7738 (3) If a child has a presumed or declarant father, the results of genetic testing are
 7739 inadmissible to adjudicate parentage unless performed:

7740 (a) [~~pursuant to Section 78B-15-503~~] in accordance with Section 81-5-503;

7741 (b) within the time periods [~~set forth~~] described in this chapter; [~~and~~]

7742 (c) pursuant to a tribunal order or administrative process; or

7743 (d) with the consent of both the mother and the presumed or declarant father.

7744 (4) If a child has an adjudicated father, the results of genetic testing are inadmissible to

challenge ~~[paternity]~~ parentage except as set forth in Sections ~~[78B-15-607 and 78B-15-608]~~ 81-5-607 and 81-5-608.

- (5) Copies of bills for genetic testing and for prenatal and postnatal health care for the birth mother and child which are furnished to the adverse party not less than 10 days before the date of a hearing are admissible to establish:

- (a) the amount of the charges billed; and
- (b) that the charges were reasonable, necessary, and customary.

Section 136. Section **81-5-614**, which is renumbered from Section 78B-15-614 is renumbered and amended to read:

~~[78B-15-614]~~ 81-5-614 . Consequences of failing to submit to genetic testing.

- (1) An order for genetic testing is enforceable by contempt.
- (2) If an individual whose ~~[paternity]~~ parentage is being determined fails to submit to genetic testing ordered by the tribunal, the tribunal for that reason may adjudicate parentage contrary to the position of that individual.
- (3)(a) Genetic testing of the birth mother of a child is not a condition precedent to testing the child and a man whose paternity is being determined.
- (b) If the birth mother is unavailable or fails to submit to genetic testing, the tribunal may order the testing of the child and every man who is potentially the father of the child.

Section 137. Section **81-5-615**, which is renumbered from Section 78B-15-615 is renumbered and amended to read:

~~[78B-15-615]~~ 81-5-615 . Admission of parentage authorized.

- (1) A respondent in a proceeding to adjudicate parentage may admit to the ~~[paternity]~~ parentage of a child by filing a pleading to that effect or by admitting ~~[paternity]~~ parentage under penalty of perjury when making an appearance or during a hearing.
- (2) If the tribunal finds that the admission of ~~[paternity]~~ parentage satisfies the requirements of this section and finds that there is no reason to question the admission, the tribunal shall issue an order adjudicating the child to be the child of the man admitting ~~[paternity]~~ parentage.

Section 138. Section **81-5-616**, which is renumbered from Section 78B-15-616 is renumbered and amended to read:

~~[78B-15-616]~~ 81-5-616 . Temporary order.

- (1) In a proceeding under this part, the tribunal shall issue a temporary order for support of a child if the order is appropriate and the individual ordered to pay support is:

- (a) a presumed father of the child;
- (b) petitioning to ~~[have his paternity adjudicated]~~ be adjudicated a parent;
- (c) identified as the father through genetic testing under Section ~~[78B-15-505]~~ 81-5-505;
- (d) an alleged father who has failed to submit to genetic testing;
- (e) shown by clear and convincing evidence to be the father of the child; or
- (f) the birth mother of the child.

(2) A temporary tribunal order may include provisions for custody and visitation as provided by other laws of this state.

Section 139. Section **81-5-617**, which is renumbered from Section 78B-15-617 is renumbered and amended to read:

[78B-15-617] 81-5-617 . Requirements for adjudication of parentage.

~~[The tribunal shall apply the following rules to adjudicate the paternity of a child:]~~

- (1) ~~[The paternity of a child having a presumed, declarant, or adjudicated father may be disproved only by]~~ In an adjudication of the parentage of a child, the tribunal may only disprove the parentage of a child having a presumed father, declarant father, or adjudicated father if there are admissible results of genetic testing excluding that man as the father of the child or identifying another man as the father of the child.
- (2) Unless the results of genetic testing are admitted to rebut other results of genetic testing, ~~[a man identified as the father]~~ or except as provided in Section 81-5-608, the tribunal shall adjudicate a man identified as the father of a child under Section [78B-15-505 must be adjudicated] 81-5-505 as the father of the child[, unless an exception is granted under Section 78B-15-608].
- (3) If the tribunal finds that genetic testing under Section ~~[78B-15-505 neither identifies nor excludes a man as the father]~~ 81-5-505 does not identify or exclude a man as the father of a child, the tribunal:
- (a) ~~[-]may not dismiss the proceeding[-. In that event, the tribunal]~~ ; and
- (b) shall order further testing.
- (4) Unless the results of genetic testing are admitted to rebut other results of genetic testing, ~~[a man properly excluded as the father of a child by genetic testing must be adjudicated not to be the father of the child]~~ or except as provided in Section 81-5-608, the tribunal shall adjudicate a man properly excluded as the father of a child by genetic testing to not be the father of the child.

Section 140. Section **81-5-618**, which is renumbered from Section 78B-15-618 is renumbered and amended to read:

7813 **[78B-15-618] 81-5-618 . Adjudication of parentage -- Jury trial prohibited.**

7814 A jury trial is prohibited to adjudicate [paternity] parentage of a child.

7815 Section 141. Section **81-5-619**, which is renumbered from Section 78B-15-619 is renumbered
7816 and amended to read:

7817 **[78B-15-619] 81-5-619 . Adjudication of parentage -- Hearings -- Inspection of**
7818 **records.**

7819 (1) On request of a party and for good cause shown, the tribunal may close a proceeding
7820 under this part.

7821 (2) A final order in a proceeding under this part is available for public inspection.

7822 (3) Other papers and records are available only with the consent of the parties or on order of
7823 the tribunal for good cause.

7824 Section 142. Section **81-5-620**, which is renumbered from Section 78B-15-620 is renumbered
7825 and amended to read:

7826 **[78B-15-620] 81-5-620 . Adjudication of parentage -- Order on default.**

7827 The tribunal shall issue an order adjudicating the [paternity] parentage of a man who:

7828 (1) after service of process, is in default; and

7829 (2) is found by the tribunal to be the father of a child.

7830 Section 143. Section **81-5-621**, which is renumbered from Section 78B-15-621 is renumbered
7831 and amended to read:

7832 **[78B-15-621] 81-5-621 . Adjudication of parentage -- Dismissal for want of**
7833 **prosecution.**

7834 (1) The tribunal may issue an order dismissing a proceeding commenced under this
7835 chapter for want of prosecution only without prejudice.

7836 (2) An order of dismissal for want of prosecution purportedly with prejudice is void and has
7837 only the effect of a dismissal without prejudice.

7838 Section 144. Section **81-5-622**, which is renumbered from Section 78B-15-622 is renumbered
7839 and amended to read:

7840 **[78B-15-622] 81-5-622 . Order adjudicating parentage.**

7841 (1) The tribunal shall issue an order adjudicating whether a man alleged or claiming to be
7842 the father is the parent of the child.

7843 (2) An order adjudicating parentage must identify the child by name and date of birth.

7844 (3)(a) Except as otherwise provided in Subsection (4), the tribunal may assess filing
7845 fees, reasonable attorney fees, fees for genetic testing, other costs, necessary travel,
7846 and other reasonable expenses incurred in a proceeding under this part.

(b) The tribunal may award attorney fees, which may be paid directly to the attorney, who may enforce the order in the attorney's own name.

- (4) The tribunal may not assess fees, costs, or expenses against the ~~[support-enforcement]~~ child support services agency of this state or another state, except as provided by law.
- (5) On request of a party and for good cause shown, the tribunal may order that the name of the child be changed.
- (6) If the order of the tribunal is at variance with the child's birth certificate, the tribunal shall order the Office of Vital Records and Statistics to issue an amended birth registration.

Section 145. Section **81-5-623**, which is renumbered from Section 78B-15-623 is renumbered and amended to read:

[78B-15-623] 81-5-623 . Binding effect of determination of parentage.

- (1) Except as otherwise provided in Subsection (2), a determination of parentage is binding on:
- (a) all signatories to a declaration or denial of paternity as provided in Part 3, Voluntary Declaration of Paternity~~[-Aet]~~; and
 - (b) all parties to an adjudication by a tribunal acting under circumstances that satisfy the jurisdictional requirements of Section ~~[78B-14-201]~~ 81-8-201.
- (2) A child is not bound by a determination of parentage under this chapter unless:
- (a) the determination was based on an unrescinded declaration of paternity and the declaration is consistent with the results of genetic testing;
 - (b) the adjudication of parentage was based on a finding consistent with the results of genetic testing and the consistency is declared in the determination or is otherwise shown; or
 - (c) the child was a party or was represented in the proceeding determining parentage by a guardian ad litem.
- (3) In a proceeding to dissolve a marriage, the tribunal is considered to have made an adjudication of the parentage of a child if the question of ~~[paternity]~~ parentage is raised and the tribunal adjudicates according to ~~[Part 6, Adjudication of Parentage,]~~ this part and the final order:
- (a) expressly identifies a child as a "child of the marriage," "issue of the marriage," or similar words indicating that the husband is the father of the child; or
 - (b) provides for support of the child by the husband unless ~~[paternity]~~ parentage is specifically disclaimed in the order.

- 7881 (4) The tribunal is not considered to have made an adjudication of the parentage of a child
7882 if the child was born at the time of entry of the order and other children are named as
7883 children of the marriage, but that child is specifically not named.
- 7884 (5) Once the [paternity] parentage of a child has been adjudicated, an individual who was
7885 not a party to the [paternity] parentage proceeding may not challenge the [paternity]
7886 parentage, unless:
- 7887 (a) the party seeking to challenge can demonstrate a fraud upon the tribunal;
7888 (b) the challenger can demonstrate by clear and convincing evidence that the challenger
7889 did not know about the adjudicatory proceeding or did not have a reasonable
7890 opportunity to know of the proceeding; and
7891 (c) there would be harm to the child to leave the order in place.
- 7892 (6) A party to an adjudication of [paternity] parentage may challenge the adjudication only
7893 under law of this state relating to appeal, vacation of judgments, or other judicial review.
- 7894 (7) A party to an adjudication may not bring a challenge under Subsection (6) if the party
7895 committed the fraud.

7896 Section 146. Section **81-5-701**, which is renumbered from Section 78B-15-701 is renumbered
7897 and amended to read:

7898 **Part 7. Assisted Reproduction**

7899 **[78B-15-701] 81-5-701 . Scope.**

7900 This part does not apply to the birth of a child conceived by means of sexual intercourse[;]
7901 or as result of a gestational agreement [~~as provided in~~] described in Part 8, Gestational
7902 Agreement.

7903 Section 147. Section **81-5-702**, which is renumbered from Section 78B-15-702 is renumbered
7904 and amended to read:

7905 **[78B-15-702] 81-5-702 . Parental status of donor.**

7906 A donor is not a parent of a child conceived by means of assisted reproduction.

7907 Section 148. Section **81-5-703**, which is renumbered from Section 78B-15-703 is renumbered
7908 and amended to read:

7909 **[78B-15-703] 81-5-703 . Husband's parentage of child of assisted reproduction.**

7910 If a husband provides sperm for, or consents to, assisted reproduction by his wife as
7911 provided in Section [~~78B-15-704, he~~] 81-5-704, the husband is the father of a resulting child
7912 born to his wife.

7913 Section 149. Section **81-5-704**, which is renumbered from Section 78B-15-704 is renumbered
7914 and amended to read:

7915 **[78B-15-704] 81-5-704 . Consent to assisted reproduction.**

7916 (1)(a) A consent to assisted reproduction by a married woman must be in a record signed
7917 by the woman and her husband.

7918 (b) ~~[This requirement]~~ The requirement described in Subsection (1)(a) does not apply to
7919 the donation of eggs for assisted reproduction by another woman.

7920 (2) Failure of the husband to sign a consent required by Subsection (1), before or after the
7921 birth of the child, does not preclude a finding that the husband is the father of a child
7922 born to ~~[his wife if the wife and husband]~~ the married woman if the married woman and
7923 the married woman's husband openly treat the child as their own.

7924 Section 150. Section **81-5-705**, which is renumbered from Section 78B-15-705 is renumbered
7925 and amended to read:

7926 **[78B-15-705] 81-5-705 . Limitation on husband's dispute of paternity.**

7927 (1) Except as otherwise provided in Subsection (2), the husband of a wife who gives birth
7928 to a child by means of assisted reproduction may not challenge ~~[his]~~ the husband's
7929 paternity of the child unless:

7930 (a) within two years after learning of the birth of the child ~~[he]~~ the husband commences a
7931 proceeding to adjudicate ~~[his]~~ the husband's paternity; and

7932 (b) the tribunal finds that ~~[he]~~ the spouse did not consent to the assisted reproduction,
7933 before or after the birth of the child.

7934 (2) A proceeding to adjudicate paternity may be maintained at any time if the tribunal
7935 determines that:

7936 (a) the husband did not provide sperm for, or before or after the birth of the child
7937 consent to, assisted reproduction by ~~[his]~~ the husband's wife;

7938 (b) the husband and the birth mother of the child have not cohabited since the probable
7939 time of assisted reproduction; and

7940 (c) the husband never openly treated the child as ~~[his]~~ the husband's own.

7941 (3) The limitation provided in this section applies to a marriage declared invalid after
7942 assisted reproduction.

7943 Section 151. Section **81-5-706**, which is renumbered from Section 78B-15-706 is renumbered
7944 and amended to read:

7945 **[78B-15-706] 81-5-706 . Effect of dissolution of marriage.**

7946 (1) If a marriage is dissolved before placement of eggs, sperm, or an embryo, the former
7947 spouse is not a parent of the resulting child unless the former spouse consented in a
7948 record that if assisted reproduction were to occur after a divorce, the former spouse

7949 would be a parent of the child.

7950 (2) The consent of the former spouse to assisted reproduction may be revoked by that
7951 individual in a record at any time before placement of eggs, sperm, or embryos.

7952 Section 152. Section **81-5-707**, which is renumbered from Section 78B-15-707 is renumbered
7953 and amended to read:

7954 **[78B-15-707] 81-5-707 . Parental status of deceased spouse.**

7955 If a spouse dies before placement of eggs, sperm, or an embryo, the deceased spouse is
7956 not a parent of the resulting child unless the deceased spouse consented in a record that if
7957 assisted reproduction were to occur after death, the deceased spouse would be a parent of the
7958 child.

7959 Section 153. Section **81-5-708**, which is renumbered from Section 78B-15-708 is renumbered
7960 and amended to read:

7961 **[78B-15-708] 81-5-708 . Access to identifying information and medical history.**

7962 (1) A person conceived through assisted reproduction who is at least 18 years [~~of age~~] old
7963 shall be provided, upon the person's request, access to the nonidentifying medical history
7964 of the donor who assisted in the reproduction process that resulted in the person's birth.

7965 (2) Under no circumstance may a person who donated to a fertility clinic for the purpose of
7966 assisted reproduction be liable for financial support to the child conceived through
7967 assisted reproduction or the child's parent.

7968 (3) Except as provided in this section, a donor's request to remain anonymous shall be given
7969 full deference.

7970 Section 154. Section **81-5-801**, which is renumbered from Section 78B-15-801 is renumbered
7971 and amended to read:

7972 **Part 8. Gestational Agreement**

7973 **[78B-15-801] 81-5-801 . Gestational agreement authorized.**

7974 (1) A prospective gestational mother, the prospective gestational mother's spouse if the
7975 prospective gestational mother is married, a donor or the donors, and the intended
7976 parents may enter into a written agreement providing that:

7977 (a) the prospective gestational mother agrees to pregnancy by means of assisted
7978 reproduction;

7979 (b) the prospective gestational mother, the prospective gestational mother's spouse if the
7980 prospective gestational mother is married, and the donors relinquish all rights and
7981 duties as the parents of a child conceived through assisted reproduction; and

7982 (c) the intended parents become the parents of the child.

(2) The intended gestational mother may not currently be receiving Medicaid or any other state assistance.

(3)(a) The intended parents shall be married.

(b) Both intended parents must be parties to the gestational agreement.

(4) A gestational agreement is enforceable only if validated as provided in Section [78B-15-803] 81-5-803.

(5) A gestational agreement does not apply:

(a) to the birth of a child conceived by means of sexual intercourse; or

(b) if neither intended parent is a donor.

(6) The parties to a gestational agreement shall be 21 years old or older.

(7) The gestational mother's eggs may not be used in the assisted reproduction procedure.

(8) If the gestational mother is married, the gestational mother's spouse's sperm or eggs may not be used in the assisted reproduction procedure.

Section 155. Section **81-5-802**, which is renumbered from Section 78B-15-802 is renumbered and amended to read:

[78B-15-802] 81-5-802 . Requirements of petition.

(1) The intended parents and the prospective gestational mother may file a petition in the district tribunal to validate a gestational agreement.

(2) A petition to validate a gestational agreement may not be maintained unless either the mother or intended parents have been residents of this state for at least 90 days.

(3) The prospective gestational mother's spouse, if the prospective gestational mother is married, must join in the petition.

(4) A copy of the gestational agreement must be attached to the petition.

Section 156. Section **81-5-803**, which is renumbered from Section 78B-15-803 is renumbered and amended to read:

[78B-15-803] 81-5-803 . Hearing to validate gestational agreement.

(1) If the requirements of Subsection (2) are satisfied, a tribunal may issue an order validating the gestational agreement and declaring that the intended parents will be the parents of a child born during the term of the agreement.

(2) The tribunal may issue an order under Subsection (1) only on finding that:

(a) the residence requirements of Section [78B-15-802] 81-5-802 have been satisfied and the parties have submitted to the jurisdiction of the tribunal under the jurisdictional standards of this part;

(b) unless waived by the tribunal, a home study of the intended parents has been

- 8017 conducted in accordance with [~~Sections 78B-6-128 through 78B-6-131~~] Chapter 13,
8018 Part 4, Placement of a Minor Child or Vulnerable Adult for Adoption, and the
8019 intended parents meet the standards of fitness applicable to adoptive parents;
8020 (c) all parties have participated in counseling with a licensed mental health professional
8021 as evidenced by a certificate:
8022 (i) signed by the licensed mental health professional that affirms that all parties have
8023 discussed options and consequences of the agreement; and
8024 (ii) presented to the tribunal;
8025 (d) all parties have voluntarily entered into the agreement and understand the
8026 agreement's terms;
8027 (e) the prospective gestational mother has had at least one pregnancy and delivery and
8028 the prospective gestational mother's bearing another child will not pose an
8029 unreasonable health risk to the unborn child or to the physical or mental health of the
8030 prospective gestational mother;
8031 (f) adequate provision has been made for all reasonable health-care expense associated
8032 with the gestational agreement until the birth of the child, including responsibility for
8033 all reasonable health-care expense if the agreement is terminated;
8034 (g) the consideration, if any, paid to the prospective gestational mother is reasonable;
8035 (h) all the parties to the agreement are 21 years old or older;
8036 (i) the gestational mother's eggs are not being used in the assisted reproduction
8037 procedure; and
8038 (j) if the gestational mother is married, the gestational mother's spouse's sperm or eggs
8039 are not being used in the assisted reproduction procedure.
8040 (3) Whether to validate a gestational agreement is within the discretion of the tribunal,
8041 subject only to review for abuse of discretion.

8042 Section 157. Section **81-5-804**, which is renumbered from Section 78B-15-804 is renumbered
8043 and amended to read:

8044 **[78B-15-804] 81-5-804 . Inspection of records.**

8045 The proceedings, records, and identities of the individuals to a gestational agreement
8046 under this part are subject to inspection under the confidentiality standards applicable to
8047 adoptions as provided under other laws of this state.

8048 Section 158. Section **81-5-805**, which is renumbered from Section 78B-15-805 is renumbered
8049 and amended to read:

8050 **[78B-15-805] 81-5-805 . Exclusive, continuing jurisdiction.**

Subject to the jurisdictional standards of Section ~~[78B-13-201]~~ 81-11-201, the tribunal conducting a proceeding under this part has exclusive, continuing jurisdiction of all matters arising out of the gestational agreement until a child born to the gestational mother during the period governed by the agreement attains the age of 180 days.

Section 159. Section **81-5-806**, which is renumbered from Section 78B-15-806 is renumbered and amended to read:

~~[78B-15-806]~~ 81-5-806 . Termination of gestational agreement.

(1) After issuance of an order under this part, but before the prospective gestational mother becomes pregnant by means of assisted reproduction, the prospective gestational mother, the prospective gestational mother's spouse, or either of the intended parents may terminate the gestational agreement only by giving written notice of termination to all other parties.

(2) The tribunal for good cause shown also may terminate the gestational agreement.

(3)(a) An individual who terminates an agreement shall file notice of the termination with the tribunal.

(b) On receipt of the notice, the tribunal shall vacate the order issued under this part.

(c) An individual who does not notify the tribunal of the termination of the agreement is subject to appropriate sanctions.

(4) A prospective gestational mother, or the prospective gestational mother's spouse if married, is not liable to the intended parents for terminating an agreement ~~[pursuant to]~~ in accordance with this section.

Section 160. Section **81-5-807**, which is renumbered from Section 78B-15-807 is renumbered and amended to read:

~~[78B-15-807]~~ 81-5-807 . Parentage under validated gestational agreement.

(1)(a) Upon birth of a child to a gestational mother, the intended parents shall file notice with the tribunal that a child has been born to the gestational mother within 300 days after assisted reproduction.

(b) ~~[Thereupon]~~ If the intended parents file a notice described in Subsection (1)(a), the tribunal shall issue an order:

~~[(a)]~~ (i) confirming that the intended parents are the parents of the child;

~~[(b)]~~ (ii) if necessary, ordering that the child be surrendered to the intended parents;
and

~~[(c)]~~ (iii) directing the Office of Vital Records and Statistics to issue a birth certificate naming the intended parents as parents of the child.

- (2) If the parentage of a child born to the gestational mother is in dispute as not the result of an assisted reproduction, the tribunal shall order genetic testing to determine the parentage of the child.

Section 161. Section **81-5-808**, which is renumbered from Section 78B-15-808 is renumbered and amended to read:

[78B-15-808] 81-5-808 . Gestational agreement -- Miscellaneous provisions.

- (1) A gestational agreement may provide for payment of consideration.
- (2) A gestational agreement may not limit the right of the gestational mother to make decisions to safeguard the gestational mother's health or that of the embryo or fetus.
- (3) After the issuance of an order under this part, subsequent marriage of the gestational mother does not affect the validity of a gestational agreement, and the gestational mother's spouse's consent to the agreement is not required, nor is the gestational mother's spouse a presumed parent of the resulting child.

Section 162. Section **81-5-809**, which is renumbered from Section 78B-15-809 is renumbered and amended to read:

[78B-15-809] 81-5-809 . Effect of nonvalidated gestational agreement.

- (1) A gestational agreement, whether in a record or not, which is not validated by a tribunal is not enforceable.
- (2) If a birth results under a gestational agreement that is not judicially validated as provided in this part, the parent-child relationship is determined as provided in Part 2, Parent and Child Relationship.
- (3)(a) The individuals who are parties to a nonvalidated gestational agreement as intended parents may be held liable for support of the resulting child, even if the agreement is otherwise unenforceable.
- (b) The liability under this Subsection (3) includes assessing all expenses and fees as provided in Section ~~[78B-15-622]~~ **81-5-622**.

Section 163. Section **81-5-901**, which is renumbered from Section 78B-15-901 is renumbered and amended to read:

Part 9. Applicability Provisions

[78B-15-901] 81-5-901 . Uniformity of application and construction of this chapter.

- (1) This chapter is a uniform law.
- (2) In applying and construing this chapter, consideration shall be given to the need to promote uniformity of the law with respect to [its] the uniform law's subject matter

8119 among the states that enact [it] this uniform law.

8120 Section 164. Section **81-5-902**, which is renumbered from Section 78B-15-902 is renumbered
8121 and amended to read:

8122 **[78B-15-902] 81-5-902 . Transitional provision.**

8123 A proceeding to adjudicate parentage [which] that was commenced before May 1, 2005,
8124 is governed by the law in effect at the time the proceeding was commenced.

8125 Section 165. Section **81-8-102**, which is renumbered from Section 78B-14-102 is renumbered
8126 and amended to read:

8127 **CHAPTER 8. UNIFORM INTERSTATE FAMILY SUPPORT ACT**

8128 **Part 1. General Provisions**

8129 **[78B-14-102] 81-8-102 . Definitions for chapter.**

8130 As used in this chapter:

8131 (1) "Alleged father" means the same as that term is defined in Section 81-5-102.

8132 (2) "Birth mother" means the same as that term is defined in Section 81-5-102.

8133 [(1)] (3) "Child" means an individual, whether over or under the age of majority, who is or
8134 is alleged to be owed a duty of support by the individual's parent or who is or is alleged
8135 to be the beneficiary of a support order directed to the parent.

8136 [(2)] (4) "Child support order" means a support order for a child, including a child who has
8137 attained the age of majority under the law of the issuing state or foreign country.

8138 (5) "Child support services agency" means a public official, governmental entity, or private
8139 agency authorized to:

8140 (a) seek enforcement of support orders or laws relating to the duty of support;

8141 (b) seek establishment or modification of child support;

8142 (c) request determination of parentage of a child;

8143 (d) attempt to locate obligors or their assets; or

8144 (e) request determination of the controlling child support order.

8145 [(3)] (6) "Convention" means the convention on the International Recovery of Child Support
8146 and Other Forms of Family Maintenance, concluded at The Hague on November 23,
8147 2007.

8148 [(4)] (7) "Duty of support" means an obligation imposed or imposable by law to provide
8149 support for a child, spouse, or former spouse, including an unsatisfied obligation to
8150 provide support.

8151 [(5)] (8) "Foreign country" means a country, including a political subdivision thereof, other

than the United States, that authorizes the issuance of support orders and:

(a) which has been declared under the law of the United States to be a foreign reciprocating country;

(b) which has established a reciprocal arrangement for child support with this state as provided in Section ~~[78B-14-308]~~ 81-8-308;

(c) which has enacted a law or established procedures for the issuance and enforcement of support orders which are substantially similar to the procedures under this chapter; or

(d) in which the convention is in force with respect to the United States.

~~[(6)]~~ (9) "Foreign support order" means a support order of a foreign tribunal.

~~[(7)]~~ (10)(a) "Foreign tribunal" means a court, administrative agency, or quasi-judicial entity of a foreign country which is authorized to establish, enforce, or modify support orders or to determine parentage of a child. ~~[The term]~~

(b) "Foreign tribunal" includes a competent authority under the convention.

~~[(8)]~~ (11) "Home state" means the state or foreign country in which a child lived with a parent or a person acting as parent for at least six consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six months old, the state or foreign country in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six-month or other period.

~~[(9)]~~ (12) "Income" includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of this state.

~~[(10)]~~ (13) "Income-withholding order" means an order or other legal process directed to an obligor's employer or other source of income as defined in Section 26B-9-101, to withhold support from the income of the obligor.

~~[(11)]~~ (14) "Initiating tribunal" means the tribunal of a state or foreign country from which a petition or comparable pleading is forwarded or in which a petition or comparable pleading is filed for forwarding to another state or foreign country.

~~[(12)]~~ (15) "Issuing foreign country" means the foreign country in which a tribunal issues a support order or a judgment determining parentage of a child.

~~[(13)]~~ (16) "Issuing state" means the state in which a tribunal issues a support order or a judgment determining parentage of a child.

~~[(14)]~~ (17) "Issuing tribunal" means the tribunal of a state or foreign country that issues a

- 8186 support order or a judgment determining parentage of a child.
- 8187 ~~[(15)]~~ (18) "Law" includes decisional and statutory law and rules and regulations having the
- 8188 force of law.
- 8189 ~~[(16)]~~ (19) "Obligee" means:
- 8190 (a) an individual to whom a duty of support is or is alleged to be owed or in whose favor
- 8191 a support order or a judgment determining parentage of a child has been issued;
- 8192 (b) a foreign country, state, or political subdivision of a state to which the rights under a
- 8193 duty of support or support order have been assigned or which has independent claims
- 8194 based on financial assistance provided to an individual obligee in place of child
- 8195 support;
- 8196 (c) an individual seeking a judgment determining parentage of the individual's child; or
- 8197 (d) a person who is a creditor in a proceeding under Part 7, Support Proceedings Under
- 8198 Convention.
- 8199 ~~[(17)]~~ (20) "Obligor" means an individual who, or the estate of a decedent that:
- 8200 (a) owes or is alleged to owe a duty of support;
- 8201 (b) is alleged but has not been adjudicated to be a parent of a child;
- 8202 (c) is liable under a support order; or
- 8203 (d) is a debtor in a proceeding under Part 7, Support Proceedings Under Convention.
- 8204 ~~[(18)]~~ (21) "Outside this state" means a location in another state or a country other than the
- 8205 United States, whether or not the country is a foreign country.
- 8206 ~~[(19)]~~ (22) "Person" means an individual, corporation, business trust, estate, trust,
- 8207 partnership, limited liability company, association, joint venture, government,
- 8208 governmental subdivision, agency, or instrumentality, public corporation, or any other
- 8209 legal or commercial entity.
- 8210 (23) "Presumed father" means the same as that term is defined in Section 81-5-102.
- 8211 ~~[(20)]~~ (24) "Record" means information that is inscribed on a tangible medium or that is
- 8212 stored in an electronic or other medium and is retrievable in perceivable form.
- 8213 ~~[(21)]~~ (25) "Register" means to file in a tribunal of this state a support order or judgment
- 8214 determining parentage of a child issued in another state or a foreign country.
- 8215 ~~[(22)]~~ (26) "Registering tribunal" means a tribunal in which a support order or judgment
- 8216 determining parentage of a child is registered.
- 8217 ~~[(23)]~~ (27) "Responding state" means a state in which a petition or comparable pleading for
- 8218 support or to determine parentage of a child is filed or to which a petition or comparable
- 8219 pleading is forwarded for filing from another state or a foreign country.

8220 ~~[(24)]~~ (28) "Responding tribunal" means the authorized tribunal in a responding state or
8221 foreign country.

8222 ~~[(25)]~~ (29) "Spousal support order" means a support order for a spouse or former spouse of
8223 the obligor.

8224 ~~[(26)]~~ (30)(a) "State" means a state of the United States, the District of Columbia, Puerto
8225 Rico, the United States Virgin Islands, or any territory or insular possession subject
8226 to the jurisdiction of the United States. ~~[The term]~~

8227 (b) "State" includes an Indian nation or tribe.

8228 ~~[(27) "Support enforcement agency" means a public official, governmental entity, or private
8229 agency authorized to:]~~

8230 ~~[(a) seek enforcement of support orders or laws relating to the duty of support;]~~

8231 ~~[(b) seek establishment or modification of child support;]~~

8232 ~~[(c) request determination of parentage of a child;]~~

8233 ~~[(d) attempt to locate obligors or their assets; or]~~

8234 ~~[(e) request determination of the controlling child support order.]~~

8235 ~~[(28)]~~ (31)(a) "Support order" means a judgment, decree, order, decision, or directive,
8236 whether temporary, final, or subject to modification, issued in a state or foreign
8237 country for the benefit of a child, a spouse, or a former spouse, which provides for
8238 monetary support, health care, arrearages, retroactive support, or reimbursement for
8239 financial assistance provided to an individual obligee in place of child support. ~~[The
8240 term may include]~~

8241 (b) "Support order" includes related costs and fees, interest, income withholding,
8242 automatic adjustment, reasonable attorney fees, and other relief.

8243 ~~[(29)]~~ (32) "Tribunal" means a court, administrative agency, or quasi-judicial entity
8244 authorized to establish, enforce, or modify support orders or to determine parentage of a
8245 child.

8246 Section 166. Section **81-8-103**, which is renumbered from Section 78B-14-103 is renumbered
8247 and amended to read:

8248 **[78B-14-103] 81-8-103 . State tribunal and child support services agency.**

8249 (1) ~~[The district court]~~ A court with jurisdiction under Title 78A, Judiciary and Judicial
8250 Administration, and the Utah Department of Health and Human Services are the
8251 tribunals of this state.

8252 (2) The Utah Department of Health and Human Services is the state ~~[support enforcement~~
8253 agency] child support services agency.

Section 167. Section **81-8-104**, which is renumbered from Section 78B-14-104 is renumbered and amended to read:

[78B-14-104] 81-8-104 . Remedies cumulative.

- (1) Remedies provided by this chapter are cumulative and do not affect the availability of remedies under other law or the recognition of a foreign support order on the basis of comity.
- (2) This chapter does not:
 - (a) provide the exclusive method of establishing or enforcing a support order under the law of this state; or
 - (b) grant a tribunal of this state jurisdiction to render judgment or issue an order relating to child custody or parent-time in a proceeding under this chapter.

Section 168. Section **81-8-105**, which is renumbered from Section 78B-14-105 is renumbered and amended to read:

[78B-14-105] 81-8-105 . Application of chapter to residents of foreign countries and foreign support proceedings.

- (1) A tribunal of this state shall apply Part 1, General Provisions, Part 2, Jurisdiction, Part 3, Civil Provisions of General Application, Part 4, Establishment of Support Order or Determination of Parentage, Part 5, Enforcement of Support Order Without Registration, and Part 6, Registration, Enforcement, and Modification of Support Order and, as applicable, Part 7, Support Proceedings Under Convention, to a support proceeding involving:
 - (a) a foreign support order;
 - (b) a foreign tribunal; or
 - (c) an obligee, obligor, or child residing in a foreign country.
- (2) A tribunal of this state that is requested to recognize and enforce a support order on the basis of comity may apply the procedural and substantive provisions of Part 1, General Provisions, Part 2, Jurisdiction, Part 3, Civil Provisions of General Application, Part 4, Establishment of Support Order or Determination of Parentage, Part 5, Enforcement of Support Order Without Registration, and Part 6, Registration, Enforcement, and Modification of Support Order.
- (3)(a) Part 7, Support Proceedings Under Convention, applies only to a support proceeding under the convention.
- (b) In a proceeding, if a provision of Part 7, Support Proceedings Under Convention is inconsistent with Part 1, General Provisions, Part 2, Jurisdiction, Part 3, Civil

8288 Provisions of General Application, Part 4, Establishment of Support Order or
8289 Determination of Parentage, Part 5, Enforcement of Support Order Without
8290 Registration, and Part 6, Registration, Enforcement, and Modification of Support
8291 Order, Part 7, Support Proceedings Under Convention, controls.

8292 Section 169. Section **81-8-201**, which is renumbered from Section 78B-14-201 is renumbered
8293 and amended to read:

8294 **Part 2. Jurisdiction**

8295 **[78B-14-201] 81-8-201 . Bases for jurisdiction over nonresident.**

- 8296 (1) In a proceeding to establish or enforce a support order or to determine parentage of a
8297 child, a tribunal of this state may exercise personal jurisdiction over a nonresident
8298 individual, or the individual's guardian or conservator, if:
- 8299 (a) the individual is personally served with notice within this state;
 - 8300 (b) the individual submits to the jurisdiction of this state by consent in a record, by
8301 entering a general appearance, or by filing a responsive document having the effect of
8302 waiving any contest to personal jurisdiction;
 - 8303 (c) the individual resided with the child in this state;
 - 8304 (d) the individual resided in this state and provided prenatal expenses or support for the
8305 child;
 - 8306 (e) the child resides in this state as a result of the acts or directives of the individual;
 - 8307 (f) the individual engaged in sexual intercourse in this state and the child may have been
8308 conceived by that act of intercourse;
 - 8309 (g) the individual asserted parentage of a child in the putative father registry maintained
8310 in this state by the ~~[state registrar of vital records in the Department of Health~~
8311 ~~pursuant to Title 78B, Chapter 6, Part 1, Utah Adoption Act]~~ Office of Vital Records
8312 and Statistics in accordance with Chapter 13, Adoption; or
 - 8313 (h) there is any other basis consistent with the constitutions of this state and the United
8314 States for the exercise of personal jurisdiction.
- 8315 (2) The bases of personal jurisdiction set forth in Subsection (1) or in any other law of this
8316 state may not be used to acquire personal jurisdiction for a tribunal of this state to
8317 modify a child support order of another state unless the requirements of Section [
8318 ~~78B-14-611]~~ 81-8-611 are met, or, in the case of a foreign support order, unless the
8319 requirements of Section [~~78B-14-615]~~ 81-8-615 are met.

8320 Section 170. Section **81-8-202**, which is renumbered from Section 78B-14-202 is renumbered
8321 and amended to read:

8322 **[78B-14-202] 81-8-202 . Duration of personal jurisdiction.**

8323 Personal jurisdiction acquired by a tribunal of this state in a proceeding under this
8324 chapter or other law of this state relating to a support order continues as long as a tribunal of
8325 this state has continuing, exclusive jurisdiction to modify [its] the tribunal's order or continuing
8326 jurisdiction to enforce [its] the tribunal's order [as provided by Sections 78B-14-205,
-8327 78B-14-206, and 78B-14-211] as described in Sections 81-8-205, 81-8-206, and 81-8-211.

8328 Section 171. Section **81-8-203**, which is renumbered from Section 78B-14-203 is renumbered
8329 and amended to read:

8330 **[78B-14-203] 81-8-203 . Initiating and responding tribunal of state.**

8331 Under this chapter, a tribunal of this state may serve as an initiating tribunal to forward
8332 proceedings to a tribunal of another state and as a responding tribunal for proceedings initiated
8333 in another state or a foreign country.

8334 Section 172. Section **81-8-204**, which is renumbered from Section 78B-14-204 is renumbered
8335 and amended to read:

8336 **[78B-14-204] 81-8-204 . Simultaneous proceedings in another state.**

8337 (1) A tribunal of this state may exercise jurisdiction to establish a support order if the
8338 petition or comparable pleading is filed after a pleading is filed in another state or a
8339 foreign country only if:

- 8340 (a) the petition or comparable pleading in this state is filed before the expiration of the
8341 time allowed in the other state or the foreign country for filing a responsive pleading
8342 challenging the exercise of jurisdiction by the other state or the foreign country;
8343 (b) the contesting party timely challenges the exercise of jurisdiction in the other state or
8344 the foreign country; and
8345 (c) if relevant, this state is the home state of the child.

8346 (2) A tribunal of this state may not exercise jurisdiction to establish a support order if the
8347 petition or comparable pleading is filed before a petition or comparable pleading is filed
8348 in another state or a foreign country if:

- 8349 (a) the petition or comparable pleading in the other state or foreign country is filed
8350 before the expiration of the time allowed in this state for filing a responsive pleading
8351 challenging the exercise of jurisdiction by this state;
8352 (b) the contesting party timely challenges the exercise of jurisdiction in this state; and
8353 (c) if relevant, the other state or foreign country is the home of the child.

8354 Section 173. Section **81-8-205**, which is renumbered from Section 78B-14-205 is renumbered
8355 and amended to read:

[78B-14-205] 81-8-205 . Continuing, exclusive jurisdiction to modify child support order.

- (1) A tribunal of this state that has issued a child support order consistent with the law of this state has and shall exercise continuing, exclusive jurisdiction to modify its child support order if the order is the controlling order, and:
- (a) at the time of the filing of a request for modification, this state is the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued; or
- (b) even if this state is not the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued, the parties consent in a record or in open court that the tribunal of this state may continue to exercise jurisdiction to modify [its] the tribunal's order.
- (2) A tribunal of this state that has issued a child support order consistent with the law of this state may not exercise continuing, exclusive jurisdiction to modify the order if:
- (a) all of the parties who are individuals file consent in a record with the tribunal of this state that a tribunal of another state that has jurisdiction over at least one of the parties who is an individual or that is located in the state of residence of the child may modify the order and assume continuing, exclusive jurisdiction; or
- (b) [its] the tribunal's order is not the controlling order.
- (3) If a tribunal of another state has issued a child support order [~~pursuant to~~] in accordance with the Uniform Interstate Family Support Act or a law substantially similar to the act, [which] that modifies a child support order of a tribunal of this state, [~~tribunals~~] a tribunal of this state shall recognize the continuing, exclusive jurisdiction of the tribunal of the other state.
- (4) A tribunal of this state that lacks continuing, exclusive jurisdiction to modify a child support order may serve as an initiating tribunal to request a tribunal of another state to modify a support order issued in that state.

- (5) A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

Section 174. Section **81-8-206**, which is renumbered from Section 78B-14-206 is renumbered and amended to read:

[78B-14-206] 81-8-206 . Continuing jurisdiction to enforce child support order.

- (1) A tribunal of this state that has issued a child support order consistent with the law of this state may serve as an initiating tribunal to request a tribunal of another state to

8390 enforce:

- 8391 (a) the order if the order is the controlling order and has not been modified by a tribunal
8392 of another state that assumed jurisdiction [~~pursuant to~~] in accordance with the
8393 Uniform Interstate Family Support Act; or
- 8394 (b) a money judgment for arrears of support and interest on the order accrued before a
8395 determination that an order of a tribunal of another state is the controlling order.
- 8396 (2) A tribunal of this state having continuing jurisdiction over a support order may act as a
8397 responding tribunal to enforce the order.

8398 Section 175. Section **81-8-207**, which is renumbered from Section 78B-14-207 is renumbered
8399 and amended to read:

8400 **[78B-14-207] 81-8-207 . Determination of controlling child-support order.**

- 8401 (1) If a proceeding is brought under this chapter and only one tribunal has issued a child
8402 support order, the order of that tribunal controls and shall be so recognized.
- 8403 (2) If a proceeding is brought under this chapter, and two or more child support orders have
8404 been issued by tribunals of this state, another state, or a foreign country with regard to
8405 the same obligor and same child, a tribunal of this state having personal jurisdiction over
8406 both the obligor and individual obligee shall apply the following rules and by order shall
8407 determine which order controls and shall be recognized:
- 8408 (a) If only one of the tribunals would have continuing, exclusive jurisdiction under this
8409 chapter, the order of that tribunal controls.
- 8410 (b) If more than one of the tribunals would have continuing, exclusive jurisdiction under
8411 this chapter, an order issued by a tribunal in the current home state of the child
8412 controls, or if an order has not been issued in the current home state of the child, the
8413 order most recently issued controls.
- 8414 (c) If none of the tribunals would have continuing, exclusive jurisdiction under this
8415 chapter, the tribunal of this state shall issue a child support order, which controls.
- 8416 (3)(a) If two or more child support orders have been issued for the same obligor and
8417 same child, upon request of a party who is an individual or that is a [~~support~~
8418 ~~enforcement~~] child support services agency, a tribunal of this state having personal
8419 jurisdiction over both the obligor and the obligee who is an individual shall determine
8420 which order controls under Subsection (2).
- 8421 (b) The request under Subsection (3)(a) may be filed with a registration for enforcement
8422 or registration for modification pursuant to Part 6, Registration, Enforcement, and
8423 Modification of Support Order, or may be filed as a separate proceeding.

- 8424 (4)(a) A request to determine which is the controlling order shall be accompanied by a
8425 copy of every child support order in effect and the applicable record of payments.
- 8426 (b) The requesting party shall give notice of the request to each party whose rights may
8427 be affected by the determination.
- 8428 (5) The tribunal that issued the controlling order under Subsection (1), (2), or (3) has
8429 continuing jurisdiction to the extent provided in Section ~~[78B-14-205 or 78B-14-206]~~
8430 81-8-205 or 81-8-206.
- 8431 (6) A tribunal of this state that determines by order which is the controlling order under
8432 Subsection (2)(a), (b), or (3) that issues a new controlling order under Subsection (2)(c),
8433 shall state in that order:
- 8434 (a) the basis upon which the tribunal made ~~[its]~~ the tribunal's determination;
8435 (b) the amount of prospective support, if any; and
8436 (c) the total amount of consolidated arrears and accrued interest, if any, under all of the
8437 orders after all payments made are credited as provided by Section ~~[78B-14-209]~~
8438 81-8-209.
- 8439 (7)(a) Within 30 days after issuance of an order determining which is the controlling
8440 order, the party obtaining the order shall file a certified copy of ~~[it]~~ the order in each
8441 tribunal that issued or registered an earlier order of child support.
- 8442 (b) A party or ~~[support enforcement]~~ child support services agency obtaining the order
8443 that fails to file a certified copy is subject to appropriate sanctions by a tribunal in
8444 which the issue of failure to file arises.
- 8445 (c) The failure to file does not affect the validity or enforceability of the controlling
8446 order.
- 8447 (8) An order that has been determined to be the controlling order, or a judgment for
8448 consolidated arrears of support and interest, if any, made ~~[pursuant to]~~ in accordance with
8449 this section shall be recognized in proceedings under this chapter.
- 8450 Section 176. Section **81-8-208**, which is renumbered from Section 78B-14-208 is renumbered
8451 and amended to read:
- 8452 **[78B-14-208] 81-8-208 . Child support orders for two or more obligees.**
- 8453 In responding to registrations or petitions for enforcement of two or more child support
8454 orders in effect at the same time with regard to the same obligor and different individual
8455 obligees, at least one of which was issued by a tribunal of another state or a foreign country, a
8456 tribunal of this state shall enforce those orders in the same manner as if the orders had been
8457 issued by a tribunal of this state.

Section 177. Section **81-8-209**, which is renumbered from Section 78B-14-209 is renumbered and amended to read:

~~[78B-14-209]~~ 81-8-209 . Credit for payments.

A tribunal of this state shall credit amounts collected for a particular period pursuant to any child support order against the amounts owed for the same period under any other child support order for support of the same child issued by a tribunal of this or another state or foreign country.

Section 178. Section **81-8-210**, which is renumbered from Section 78B-14-210 is renumbered and amended to read:

~~[78B-14-210]~~ 81-8-210 . Application of chapter to nonresident subject to personal jurisdiction.

(1) A tribunal of this state exercising personal jurisdiction over a nonresident in a proceeding under this chapter, under other law of this state relating to a support order, or recognizing a foreign support order may:

- (a) receive evidence from outside this state [~~pursuant to Section 78B-14-316;~~] in accordance with Section 81-8-316;
- (b) communicate with a tribunal outside this state [~~pursuant to Section 78B-14-317;~~] in accordance with Section 81-8-317; and
- (c) obtain discovery through a tribunal outside this state [~~pursuant to Section 78B-14-318]~~ in accordance with Section 81-8-318.

(2) In all other respects, Part 3, Civil Provisions of General Application, Part 4, Establishment of Support Order or Determination of Parentage, Part 5, Enforcement of Support Order Without Registration, and Part 6, Registration, Enforcement, and Modification of Support Order, do not apply and the tribunal shall apply the procedural and substantive law of this state.

Section 179. Section **81-8-211**, which is renumbered from Section 78B-14-211 is renumbered and amended to read:

~~[78B-14-211]~~ 81-8-211 . Continuing, exclusive jurisdiction to modify spousal support order.

(1) A tribunal of this state issuing a spousal support order consistent with the law of this state has continuing, exclusive jurisdiction to modify the spousal support order throughout the existence of the support obligation.

(2) A tribunal of this state may not modify a spousal support order issued by a tribunal of another state or foreign country having continuing, exclusive jurisdiction over that order

8492 under the law of that state or foreign country.

8493 (3) A tribunal of this state that has continuing, exclusive jurisdiction over a spousal support
8494 order may serve as:

8495 (a) an initiating tribunal to request a tribunal of another state to enforce the spousal
8496 support order issued in this state; or

8497 (b) a responding tribunal to enforce or modify [its] the tribunal's own spousal support
8498 order.

8499 Section 180. Section **81-8-301**, which is renumbered from Section 78B-14-301 is renumbered
8500 and amended to read:

8501 **Part 3. Civil Provisions of General Application**

8502 **[78B-14-301] 81-8-301 . Proceedings under chapter.**

8503 (1) Except as otherwise provided in this chapter, this part applies to all proceedings under
8504 this chapter.

8505 (2) An individual petitioner or a [~~support enforcement~~] child support services agency may
8506 initiate a proceeding authorized under this chapter by filing a petition in an initiating
8507 tribunal for forwarding to a responding tribunal or by filing a petition or a comparable
8508 pleading directly in a tribunal of another state or a foreign country [~~which~~] that has or
8509 can obtain personal jurisdiction over the respondent.

8510 Section 181. Section **81-8-302**, which is renumbered from Section 78B-14-302 is renumbered
8511 and amended to read:

8512 **[78B-14-302] 81-8-302 . Action by parent who is under 18 years old.**

8513 A [~~minor parent~~] parent who is under 18 years old, or a guardian or other legal
8514 representative of [~~a minor~~] the parent, may maintain a proceeding on behalf of or for the benefit
8515 of the [~~minor's~~] parent's child.

8516 Section 182. Section **81-8-303**, which is renumbered from Section 78B-14-303 is renumbered
8517 and amended to read:

8518 **[78B-14-303] 81-8-303 . Application of law of state.**

8519 Except as otherwise provided in this chapter, a responding tribunal of this state shall:

8520 (1) apply the procedural and substantive law generally applicable to similar proceedings
8521 originating in this state and may exercise all powers and provide all remedies available
8522 in those proceedings; and

8523 (2) determine the duty of support and the amount payable in accordance with the law and
8524 support guidelines of this state.

8525 Section 183. Section **81-8-304**, which is renumbered from Section 78B-14-304 is renumbered

and amended to read:

[78B-14-304] 81-8-304 . Duties of initiating tribunal.

(1) Upon the filing of a petition authorized by this chapter, an initiating tribunal of this state shall forward the petition and its accompanying documents:

(a) to the responding tribunal or appropriate ~~[support enforcement]~~ child support services agency in the responding state; or

(b) if the identity of the responding tribunal is unknown, to the state information agency of the responding state with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged.

(2)(a) If requested by the responding tribunal, a tribunal of this state shall issue a certificate or other document and make findings required by the law of the responding state.

(b) If the responding tribunal is in a foreign country, upon request, the tribunal of this state shall specify the amount of support sought, convert that amount into the equivalent amount in the foreign currency under applicable official or market exchange rate as publicly reported, and provide any other documents necessary to satisfy the requirements of the responding foreign tribunal.

Section 184. Section **81-8-305**, which is renumbered from Section 78B-14-305 is renumbered and amended to read:

[78B-14-305] 81-8-305 . Duties and powers of responding tribunal.

(1) When a responding tribunal of this state receives a petition or comparable pleading from an initiating tribunal or directly ~~[pursuant to Subsection 78B-14-301(2), it]~~ in accordance with Subsection 81-8-301(2), the responding tribunal shall cause the petition or pleading to be filed and notify the petitioner where and when ~~[it]~~ the petition or pleading was filed.

(2) A responding tribunal of this state, to the extent not prohibited by other law, may do one or more of the following:

(a) establish or enforce a support order, modify a child support order, determine the controlling child support order, or determine parentage of a child;

(b) order an obligor to comply with a support order, specifying the amount and the manner of compliance;

(c) order income withholding;

(d) determine the amount of any arrearages and specify a method of payment;

(e) enforce orders by civil or criminal contempt, or both;

(f) set aside property for satisfaction of the support order;

- (g) place liens and order execution on the obligor's property;
- (h) order an obligor to keep the tribunal informed of the obligor's current residential address, electronic mail address, telephone number, employer, address of employment, and telephone number at the place of employment;
- (i) issue a bench warrant for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal and enter the bench warrant in any local and state computer systems for criminal warrants;
- (j) order the obligor to seek appropriate employment by specified methods;
- (k) award reasonable attorney fees and other fees and costs; and
- (l) grant any other available remedy.

- (3) A responding tribunal of this state shall include in a support order issued under this chapter, or in the documents accompanying the order, the calculations on which the support order is based.
- (4) A responding tribunal of this state may not condition the payment of a support order issued under this chapter upon compliance by a party with provisions for parent-time.
- (5) If a responding tribunal of this state issues an order under this chapter, the tribunal shall send a copy of the order to the petitioner and the respondent and to the initiating tribunal, if any.
- (6) If requested to enforce a support order, arrears, or judgment or modify a support order stated in a foreign currency, a responding tribunal of this state shall convert the amount stated in the foreign currency to the equivalent amount in dollars under the applicable official or market exchange rate as publicly reported.

Section 185. Section **81-8-306**, which is renumbered from Section 78B-14-306 is renumbered and amended to read:

[78B-14-306] 81-8-306 . Inappropriate tribunal.

If a petition or comparable pleading is received by an inappropriate tribunal of this state, the tribunal shall forward the pleading and accompanying documents to an appropriate tribunal in this state or another state and notify the petitioner where and when the pleading was sent.

Section 186. Section **81-8-307**, which is renumbered from Section 78B-14-307 is renumbered and amended to read:

[78B-14-307] 81-8-307 . Duties of child support services agency.

- (1) A ~~[support enforcement]~~ child support services agency of this state, upon request, shall provide services to a petitioner in a proceeding under this chapter.
- (2) A ~~[support enforcement]~~ child support services agency of this state that is providing

8594 services to the petitioner shall:

- 8595 (a) take all steps necessary to enable an appropriate tribunal of this state, another state,
8596 or a foreign country to obtain jurisdiction over the respondent;
- 8597 (b) request an appropriate tribunal to set a date, time, and place for a hearing;
- 8598 (c) make a reasonable effort to obtain all relevant information, including information as
8599 to income and property of the parties;
- 8600 (d) within 10 days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of
8601 notice in a record from an initiating, responding, or registering tribunal, send a copy
8602 of the notice to the petitioner;
- 8603 (e) within 10 days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of
8604 communication in a record from the respondent or the respondent's attorney, send a
8605 copy of the communication to the petitioner; and
- 8606 (f) notify the petitioner if jurisdiction over the respondent cannot be obtained.

8607 (3) A ~~[support-enforcement]~~ child support services agency of this state that requests
8608 registration of a child support order in this state for enforcement or for modification
8609 shall make reasonable efforts:

- 8610 (a) to ensure that the order to be registered is the controlling order; or
- 8611 (b) if two or more child support orders exist and the identity of the controlling order has
8612 not been determined, to ensure that a request for such a determination is made in a
8613 tribunal having jurisdiction to do so.

8614 (4) A ~~[support-enforcement]~~ child support services agency of this state that requests
8615 registration and enforcement of a support order, arrears, or judgment stated in a foreign
8616 currency shall convert the amounts stated in the foreign currency into the equivalent
8617 amounts in dollars under the applicable official or market exchange rate as publicly
8618 reported.

8619 (5) A ~~[support-enforcement]~~ child support services agency of this state shall issue or request
8620 a tribunal of this state to issue a child support order and an income-withholding order
8621 that redirects payment of current support, arrears, and interest if requested to do so by a [
8622 ~~support-enforcement]~~ child support services agency of another state [~~pursuant to Section~~
8623 ~~78B-14-319]~~ in accordance with Section 81-8-319.

8624 (6) This chapter does not create or negate a relationship of attorney and client or other
8625 fiduciary relationship between a ~~[support-enforcement]~~ child support services agency or
8626 the attorney for the agency and the individual being assisted by the agency.

8627 Section 187. Section **81-8-308**, which is renumbered from Section 78B-14-308 is renumbered

and amended to read:

[78B-14-308] 81-8-308 . Duty of attorney general.

- (1) If the attorney general determines that the ~~[support enforcement]~~ child support services agency is neglecting or refusing to provide services to an individual, the attorney general may order the agency to perform ~~[its]~~ the agency's duties under this chapter or may provide those services directly to the individual.
- (2) The attorney general may determine that a foreign country has established a reciprocal arrangement for child support with this state and take appropriate action for notification of the determination.

Section 188. Section **81-8-309**, which is renumbered from Section 78B-14-309 is renumbered and amended to read:

[78B-14-309] 81-8-309 . Private counsel.

An individual may employ private counsel to represent the individual in proceedings authorized by this chapter.

Section 189. Section **81-8-310**, which is renumbered from Section 78B-14-310 is renumbered and amended to read:

[78B-14-310] 81-8-310 . Duties of state information agency.

- (1) The Office of Recovery Services is the state information agency under this chapter.
- (2) The state information agency shall:
- (a) compile and maintain a current list, including addresses, of the tribunals in this state which have jurisdiction under this chapter and any support enforcement agencies in this state and transmit a copy to the state information agency of every other state;
 - (b) maintain a register of names and addresses of tribunals and support enforcement agencies received from other states;
 - (c) forward to the appropriate tribunal in the county in this state in which the obligee who is an individual or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under this chapter received from another state or a foreign country; and
 - (d) obtain information concerning the location of the obligor and the obligor's property within this state not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver licenses, and Social

8662 Security.

8663 Section 190. Section **81-8-311**, which is renumbered from Section 78B-14-311 is renumbered
8664 and amended to read:

8665 **[78B-14-311] 81-8-311 . Pleadings and accompanying documents.**

8666 (1)(a) In a proceeding under this chapter, a petitioner seeking to establish a support
8667 order, to determine parentage of a child, or to register and modify a support order of a
8668 tribunal of another state or a foreign country shall file a petition.

8669 (b) Unless otherwise ordered under Section [78B-14-312] 81-8-312, the petition or
8670 accompanying documents shall provide, so far as known, the name, residential
8671 address, and [Social Security] social security numbers of the obligor and the obligee
8672 or the parent and alleged parent, and the name, sex, residential address, [Social
8673 Security] social security number, and date of birth of each child for whose benefit
8674 support is sought or whose parentage is to be determined.

8675 (c) Unless filed at the time of registration, the petition shall be accompanied by a copy
8676 of any support order known to have been issued by another tribunal.

8677 (d) The petition may include any other information that may assist in locating or
8678 identifying the respondent.

8679 (2)(a) The petition shall specify the relief sought.

8680 (b) The petition and accompanying documents shall conform substantially with the
8681 requirements imposed by the forms mandated by federal law for use in cases filed by
8682 a [support enforcement] child support services agency.

8683 Section 191. Section **81-8-312**, which is renumbered from Section 78B-14-312 is renumbered
8684 and amended to read:

8685 **[78B-14-312] 81-8-312 . Nondisclosure of information in exceptional**
8686 **circumstances.**

8687 (1) If a party alleges in an affidavit or a pleading under oath that the health, safety, or
8688 liberty of a party or child would be jeopardized by disclosure of specific identifying
8689 information, that information must be sealed and may not be disclosed to the other party
8690 or the public.

8691 (2) After a hearing in which a tribunal takes into consideration the health, safety, or liberty
8692 of the party or child, the tribunal may order disclosure of information that the tribunal
8693 determines to be in the interest of justice.

8694 Section 192. Section **81-8-313**, which is renumbered from Section 78B-14-313 is renumbered
8695 and amended to read:

8696 **[78B-14-313] 81-8-313 . Costs and fees.**

8697 (1) The petitioner may not be required to pay a filing fee or other costs.

8698 (2)(a) If an obligee prevails, a responding tribunal of this state may assess against an
8699 obligor filing fees, reasonable attorney fees, other costs, and necessary travel and
8700 other reasonable expenses incurred by the obligee and the obligee's witnesses.

8701 (b) The tribunal may not assess fees, costs, or expenses against the obligee or the [
8702 ~~support-enforcement~~] child support services agency of either the initiating or the
8703 responding state or a foreign country, except as provided by law.

8704 (c) Attorney fees may be taxed as costs, and may be ordered paid directly to the
8705 attorney, who may enforce the order in the attorney's own name.

8706 (d) Payment of support owed to the obligee has priority over fees, costs, and expenses.

8707 (3)(a) The tribunal shall order the payment of costs and reasonable attorney fees if it
8708 determines that a hearing was requested primarily for delay.

8709 (b) In a proceeding under Part 6, Registration, Enforcement, and Modification of
8710 Support Order, a hearing is presumed to have been requested primarily for delay if a
8711 registered support order is confirmed or enforced without change.

8712 Section 193. Section **81-8-314**, which is renumbered from Section 78B-14-314 is renumbered
8713 and amended to read:

8714 **[78B-14-314] 81-8-314 . Limited immunity of petitioner.**

8715 (1) Participation by a petitioner in a proceeding under this chapter before a responding
8716 tribunal, whether in person, by private attorney, or through services provided by the [
8717 ~~support-enforcement~~] child support services agency, does not confer personal jurisdiction
8718 over the petitioner in another proceeding.

8719 (2) A petitioner is not amenable to service of civil process while physically present in this
8720 state to participate in a proceeding under this chapter.

8721 (3) The immunity granted by this section does not extend to civil litigation based on acts
8722 unrelated to a proceeding under this chapter committed by a party while present in this
8723 state to participate in the proceeding.

8724 Section 194. Section **81-8-315**, which is renumbered from Section 78B-14-315 is renumbered
8725 and amended to read:

8726 **[78B-14-315] 81-8-315 . Nonparentage as defense.**

8727 A party whose parentage of a child has been previously determined by or pursuant to
8728 law may not plead nonparentage as a defense to a proceeding under this chapter.

8729 Section 195. Section **81-8-316**, which is renumbered from Section 78B-14-316 is renumbered

and amended to read:

[78B-14-316] 81-8-316 . Special rules of evidence and procedure.

- (1) The physical presence of a nonresident party who is an individual in a tribunal of this state is not required for the establishment, enforcement, or modification of a support order or the rendition of a judgment determining parentage of a child.
- (2) An affidavit, a document substantially complying with federally mandated forms, or a document incorporated by reference in any of them, which would not be excluded under the hearsay rule if given in person, is admissible in evidence if given under penalty of perjury by a party or witness residing outside this state.
- (3)(a) A copy of the record of child support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal.
(b) The copy is evidence of facts asserted in it and is admissible to show whether payments were made.
- (4) Copies of bills for testing for parentage of a child, and for prenatal and postnatal health care of the birth mother and child, furnished to the adverse party at least 10 days before trial, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary, and customary.
- (5) Documentary evidence transmitted from outside this state to a tribunal of this state by telephone, telecopier, or other electronic means that do not provide an original record may not be excluded from evidence on an objection based on the means of transmission.
- (6)(a) In a proceeding under this chapter, a tribunal of this state shall permit a party or witness residing outside this state to be deposed or to testify under penalty of perjury by telephone, audiovisual means, or other electronic means at a designated tribunal or other location.
(b) A tribunal of this state shall cooperate with other tribunals in designating an appropriate location for the deposition or testimony.
- (7) If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.
- (8) A privilege against disclosure of communications between spouses does not apply in a proceeding under this chapter.
- (9) The defense of immunity based on the relationship of husband and wife or parent and child does not apply in a proceeding under this chapter.
- (10) A voluntary acknowledgment of paternity, certified as a true copy, is admissible to

8764 establish parentage of the child.

8765 Section 196. Section **81-8-317**, which is renumbered from Section 78B-14-317 is renumbered
8766 and amended to read:

8767 **[78B-14-317] 81-8-317 . Communications between tribunals.**

8768 (1) A tribunal of this state may communicate with a tribunal outside this state in a
8769 record, or by telephone, electronic mail, or other means, to obtain information
8770 concerning the laws, the legal effect of a judgment, decree, or order of that tribunal, and
8771 the status of a proceeding.

8772 (2) A tribunal of this state may furnish similar information by similar means to a tribunal
8773 outside this state.

8774 Section 197. Section **81-8-318**, which is renumbered from Section 78B-14-318 is renumbered
8775 and amended to read:

8776 **[78B-14-318] 81-8-318 . Assistance with discovery.**

8777 A tribunal of this state may:

- 8778 (1) request a tribunal outside this state to assist in obtaining discovery; and
8779 (2) upon request, compel a person over whom it has jurisdiction to respond to a discovery
8780 order issued by a tribunal outside this state.

8781 Section 198. Section **81-8-319**, which is renumbered from Section 78B-14-319 is renumbered
8782 and amended to read:

8783 **[78B-14-319] 81-8-319 . Receipt and disbursement of payments.**

8784 (1)(a) A ~~[support enforcement]~~ child support services agency or tribunal of this state
8785 shall disburse promptly any amounts received pursuant to a support order, as directed
8786 by the order.

8787 (b) The agency or tribunal shall furnish to a requesting party or tribunal of another state
8788 or a foreign country a certified statement by the custodian of the record of the
8789 amounts and dates of all payments received.

8790 (2) If neither the obligor, nor the obligee who is an individual, nor the child resides in this
8791 state, upon request from the ~~[support enforcement]~~ child support services agency of this
8792 state or another state, the Office of Recovery Services or a tribunal of this state shall:

8793 (a) direct that the support payment be made to the ~~[support enforcement]~~ child support
8794 services agency in the state in which the obligee is receiving services; and

8795 (b) issue and send to the obligor's employer a conforming income-withholding order or
8796 an administrative notice of change of payee, reflecting the redirected payments.

8797 (3) The ~~[support enforcement]~~ child support services agency of this state receiving

redirected payments from another state pursuant to a law similar to Subsection (2) shall furnish to a requesting party or tribunal of the other state a certified statement by the custodian of the record of the amount and dates of all payments received.

Section 199. Section **81-8-401**, which is renumbered from Section 78B-14-401 is renumbered and amended to read:

Part 4. Establishment of Support Order or Determination of Parentage

[78B-14-401] 81-8-401 . Establishment of support order.

- (1) If a support order entitled to recognition under this chapter has not been issued, a responding tribunal of this state with personal jurisdiction over the parties may issue a support order if:
- (a) the individual seeking the order resides outside this state; or
 - (b) the ~~[support enforcement]~~ child support services agency seeking the order is located outside this state.
- (2) The tribunal may issue a temporary child support order if the tribunal determines that an order is appropriate and the individual ordered to pay is:
- (a) a presumed father of the child;
 - (b) petitioning to have ~~[his paternity]~~ the individual's parentage adjudicated;
 - (c) identified as the father of the child through genetic testing;
 - (d) an alleged father who has declined to submit to genetic testing;
 - (e) shown by clear and convincing evidence to be the father of the child;
 - (f) ~~[an acknowledged]~~ a declarant father, as defined in Section 81-5-102, determined in accordance with ~~[Title 78B, Chapter 15, Part 3, Voluntary Declaration of Paternity Act]~~ Chapter 5, Part 3, Voluntary Declaration of Paternity;
 - (g) the birth mother of the child; or
 - (h) an individual who has been ordered to pay child support in a previous proceeding and the order has not been reversed or vacated.
- (3) Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders ~~[pursuant to Section 78B-14-305]~~ in accordance with Section 81-8-305.

Section 200. Section **81-8-402**, which is renumbered from Section 78B-14-402 is renumbered and amended to read:

[78B-14-402] 81-8-402 . Proceeding to determine parentage.

A tribunal of this state authorized to determine parentage of a child may serve as a responding tribunal in a proceeding to determine parentage brought under this chapter or a law

or procedure substantially similar to this chapter.

Section 201. Section **81-8-501**, which is renumbered from Section 78B-14-501 is renumbered and amended to read:

Part 5. Enforcement of Support Order Without Registration

[78B-14-501] 81-8-501 . Employer's receipt of income-withholding order of another state.

An income-withholding order issued in another state may be sent by or on behalf of the obligee, or by the ~~[support-enforcement]~~ child support services agency, to the person defined as the obligor's employer under Title 26B, Chapter 9, Part 3, Income Withholding in IV-D Cases, and Title 26B, Chapter 9, Part 4, Income Withholding in Non IV-D Cases, without first filing a petition or comparable pleading or registering the order with a tribunal of this state.

Section 202. Section **81-8-502**, which is renumbered from Section 78B-14-502 is renumbered and amended to read:

[78B-14-502] 81-8-502 . Employer's compliance with income-withholding order of another state.

- (1) Upon receipt of an income-withholding order, the obligor's employer shall immediately provide a copy of the order to the obligor.
- (2) The employer shall treat an income-withholding order issued in another state which appears regular on its face as if it had been issued by a tribunal of this state.
- (3) Except as otherwise provided in Subsection (4) and Section ~~[78B-14-503]~~ 81-8-503, the employer shall withhold and distribute the funds as directed in the withholding order by complying with terms of the order which specify:
 - (a) the duration and amount of periodic payments of current child support, stated as a sum certain;
 - (b) the person designated to receive payments and the address to which the payments are to be forwarded;
 - (c) medical support, whether in the form of periodic cash payment, stated as a sum certain, or ordering the obligor to provide health ~~[insurance]~~ care coverage for the child under a policy available through the obligor's employment;
 - (d) the amount of periodic payments of fees and costs for a ~~[support-enforcement]~~ child support services agency, the issuing tribunal, and the obligee's attorney, stated as sums certain; and
 - (e) the amount of periodic payments of arrearages and interest on arrearages, stated as sums certain.

(4) An employer shall comply with the law of the state of the obligor's principal place of employment for withholding from income with respect to:

- (a) the employer's fee for processing an income withholding order;
- (b) the maximum amount permitted to be withheld from the obligor's income; and
- (c) the times within which the employer must implement the withholding order and forward the child support payment.

Section 203. Section **81-8-503**, which is renumbered from Section 78B-14-503 is renumbered and amended to read:

[78B-14-503] 81-8-503 . Employer's compliance with two or more income-withholding orders.

If an obligor's employer receives two or more income-withholding orders with respect to the earnings of the same obligor, the employer satisfies the terms of the multiple orders if the employer complies with the law of the state of the obligor's principal place of employment to establish the priorities for the withholding and allocating income withheld for two or more child support obligees.

Section 204. Section **81-8-504**, which is renumbered from Section 78B-14-504 is renumbered and amended to read:

[78B-14-504] 81-8-504 . Immunity from civil liability.

An employer that complies with an income withholding order issued in another state in accordance with this part is not subject to civil liability to an individual or agency with regard to the employer's withholding of child support from the obligor's income.

Section 205. Section **81-8-505**, which is renumbered from Section 78B-14-505 is renumbered and amended to read:

[78B-14-505] 81-8-505 . Penalties for noncompliance.

An employer that willfully fails to comply with an income withholding order issued in another state and received for enforcement is subject to the same penalties that may be imposed for noncompliance with an order issued by a tribunal of this state.

Section 206. Section **81-8-506**, which is renumbered from Section 78B-14-506 is renumbered and amended to read:

[78B-14-506] 81-8-506 . Contest by obligor.

- (1) An obligor may contest the validity or enforcement of an income-withholding order issued in another state and received directly by an employer in this state by registering the order in a tribunal of this state and filing a contest to that order as provided in Part 6, Registration, Enforcement, and Modification of Support Order, or otherwise contesting

8900 the order in the same manner as if the order had been issued by a tribunal of this state.

8901 (2) The obligor shall give notice of the contest to:

8902 (a) a [~~support-enforcement~~] child support services agency providing services to the
8903 obligee;

8904 (b) each employer that has directly received an income-withholding order relating to the
8905 obligor; and

8906 (c) the person designated to receive payments in the income-withholding order or if no
8907 person is designated, to the obligee.

8908 Section 207. Section **81-8-507**, which is renumbered from Section 78B-14-507 is renumbered
8909 and amended to read:

8910 **[78B-14-507] 81-8-507 . Administrative enforcement of orders.**

8911 (1) A party or [~~support-enforcement~~] child support services agency seeking to enforce a
8912 support order or an income-withholding order, or both, issued in another state, or
8913 seeking to enforce a foreign support order, may send the documents required for
8914 registering the order to a [~~support-enforcement~~] child support services agency of this
8915 state.

8916 (2)(a)(i) Upon receipt of the documents, the [~~support-enforcement~~] child support
8917 services agency, without initially seeking to register the order, shall consider and,
8918 if appropriate, use any administrative procedure authorized by the law of this state
8919 to enforce a support order or an income-withholding order, or both.

8920 (ii) If the obligor does not contest administrative enforcement, the order need not be
8921 registered.

8922 (b) If the obligor contests the validity or administrative enforcement of the order, the [
8923 ~~support-enforcement~~] child support services agency shall register the order [~~pursuant~~
8924 ~~to~~] in accordance with this chapter.

8925 Section 208. Section **81-8-601**, which is renumbered from Section 78B-14-601 is renumbered
8926 and amended to read:

8927 **Part 6. Registration, Enforcement, and Modification of Support Order**

8928 **[78B-14-601] 81-8-601 . Registration of order for enforcement.**

8929 A support order or income-withholding order issued in another state, or a foreign
8930 support order, may be registered in this state for enforcement.

8931 Section 209. Section **81-8-602**, which is renumbered from Section 78B-14-602 is renumbered
8932 and amended to read:

8933 **[78B-14-602] 81-8-602 . Procedure to register order for enforcement.**

- (1) Except as otherwise provided in Section ~~[78B-14-706]~~ 81-8-706, a support order or income-withholding order of another state, or a foreign support order, may be registered in this state by sending the following records to the appropriate tribunal in this state:
- (a) a letter of transmittal to the tribunal requesting registration and enforcement;
 - (b) two copies, including one certified copy, of the order to be registered, including any modification of the order;
 - (c) a sworn statement by the person requesting registration or a certified statement by the custodian of the records showing the amount of any arrearage;
 - (d) the name of the obligor and, if known:
 - (i) the obligor's address and ~~[Social Security]~~ social security number;
 - (ii) the name and address of the obligor's employer and any other source of income of the obligor; and
 - (iii) a description and the location of property of the obligor in this state not exempt from execution; and
 - (e) except as otherwise provided in Section ~~[78B-14-312]~~ 81-8-312, the name and address of the obligee and, if applicable, the person to whom support payments are to be remitted.
- (2) On receipt of a request for registration, the registering tribunal shall cause the order to be filed as an order of a tribunal of another state, or a foreign support order, together with one copy of the documents and information, regardless of their form.
- (3)(a) A petition or comparable pleading seeking a remedy that shall be affirmatively sought under law of this state may be filed at the same time as the request for registration or later.
- (b) The pleading shall specify the grounds for the remedy sought.
- (4) If two or more orders are in effect, the person requesting registration shall:
- (a) furnish to the tribunal a copy of every support order asserted to be in effect in addition to the documents specified in this section;
 - (b) specify the order alleged to be the controlling order, if any; and
 - (c) specify the amount of consolidated arrears, if any.
- (5)(a) A request for a determination of which is the controlling order may be filed separately or with a request for registration and enforcement or for registration and modification.
- (b) The person requesting registration shall give notice of the request to each party whose rights may be affected by the determination.

8968 Section 210. Section **81-8-603**, which is renumbered from Section 78B-14-603 is renumbered
8969 and amended to read:

8970 **[78B-14-603] 81-8-603 . Effect of registration for enforcement.**

- 8971 (1) A support order or income-withholding order issued in another state, or a foreign
8972 support order, is registered when the order is filed in the registering tribunal of this state.
8973 (2) A registered support order issued in another state or a foreign country is enforceable in
8974 the same manner and is subject to the same procedures as an order issued by a tribunal
8975 of this state.
8976 (3) Except as otherwise provided in this chapter, a tribunal of this state shall recognize and
8977 enforce, but may not modify, a registered support order if the issuing tribunal had
8978 jurisdiction.

8979 Section 211. Section **81-8-604**, which is renumbered from Section 78B-14-604 is renumbered
8980 and amended to read:

8981 **[78B-14-604] 81-8-604 . Choice of law.**

- 8982 (1) Except as otherwise provided in Subsection (4), the law of the issuing state or foreign
8983 country governs:
8984 (a) the nature, extent, amount, and duration of current payments under a registered
8985 support order;
8986 (b) the computation and payment of arrearages and accrual of interest on the arrearages
8987 under the support order; and
8988 (c) the existence and satisfaction of other obligations under the support order.
8989 (2) In a proceeding for arrears under a registered support order, the statute of limitation of
8990 this state or of the issuing state or foreign country, whichever is longer, applies.
8991 (3) A responding tribunal of this state shall apply the procedures and remedies of this state
8992 to enforce current support and collect arrears and interest due on a support order of
8993 another state or a foreign country registered in this state.
8994 (4) After a tribunal of this or another state determines which is the controlling order and
8995 issues an order consolidating arrears, if any, a tribunal of this state shall prospectively
8996 apply the law of the state or foreign country issuing the controlling order, including its
8997 law on interest on arrears, on current and future support, and on consolidated arrears.

8998 Section 212. Section **81-8-605**, which is renumbered from Section 78B-14-605 is renumbered
8999 and amended to read:

9000 **[78B-14-605] 81-8-605 . Notice of registration of order.**

- 9001 (1)(a) When a support order or income-withholding order issued in another state, or a

foreign support order, is registered, the registering tribunal of this state shall notify the nonregistering party.

(b) The notice shall be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

(2) A notice shall inform the nonregistering party:

(a) that a registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this state;

(b) that a hearing to contest the validity or enforcement of the registered order shall be requested within 20 days after notice, unless the registered order is under Section [~~78B-14-707~~] 81-8-707;

(c) that failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages; and

(d) of the amount of any alleged arrearages.

(3) If the registering party asserts that two or more orders are in effect, a notice shall also:

(a) identify the two or more orders and the order alleged by the registering party to be the controlling order and the consolidated arrears, if any;

(b) notify the nonregistering party of the right to a determination of which is the controlling order;

(c) state that the procedures provided in Subsection (2) apply to the determination of which is the controlling order; and

(d) state that failure to contest the validity or enforcement of the order alleged to be the controlling order in a timely manner may result in confirmation that the order is the controlling order.

(4) Upon registration of an income-withholding order for enforcement, the [~~support enforcement~~] child support services agency or the registering tribunal shall notify the obligor's employer [~~pursuant to~~] in accordance with Title 26B, Chapter 9, Part 3, Income Withholding in IV-D Cases.

Section 213. Section **81-8-606**, which is renumbered from Section 78B-14-606 is renumbered and amended to read:

[~~78B-14-606~~] 81-8-606 . Procedure to contest validity or enforcement of registered support order.

(1)(a) A nonregistering party seeking to contest the validity or enforcement of a registered support order in this state shall request a hearing within the time required

9036 by Section [~~78B-14-605~~] 81-8-605.

9037 (b) The nonregistering party may seek to vacate the registration, to assert any defense to
9038 an allegation of noncompliance with the registered order, or to contest the remedies
9039 being sought or the amount of any alleged arrearages pursuant to Section [~~78B-14-607~~]
9040 81-8-607.

9041 (2) If the nonregistering party fails to contest the validity or enforcement of the registered
9042 support order in a timely manner, the order is confirmed by operation of law.

9043 (3) If a nonregistering party requests a hearing to contest the validity or enforcement of the
9044 registered support order, the registering tribunal shall schedule the matter for hearing
9045 and give notice to the parties of the date, time, and place of the hearing.

9046 Section 214. Section **81-8-607**, which is renumbered from Section 78B-14-607 is renumbered
9047 and amended to read:

9048 **[~~78B-14-607~~] 81-8-607 . Contest of registration or enforcement.**

9049 (1) A party contesting the validity or enforcement of a registered support order or seeking
9050 to vacate the registration has the burden of proving one or more of the following
9051 defenses:

- 9052 (a) the issuing tribunal lacked personal jurisdiction over the contesting party;
9053 (b) the order was obtained by fraud;
9054 (c) the order has been vacated, suspended, or modified by a later order;
9055 (d) the issuing tribunal has stayed the order pending appeal;
9056 (e) there is a defense under the law of this state to the remedy sought;
9057 (f) full or partial payment has been made;
9058 (g) the statute of limitation under Section [~~78B-14-604~~] 81-8-604 precludes enforcement
9059 of some or all of the alleged arrearages; or
9060 (h) the alleged controlling order is not the controlling order.

9061 (2)(a) If a party presents evidence establishing a full or partial defense under Subsection
9062 (1), a tribunal may stay enforcement of a registered support order, continue the
9063 proceeding to permit production of additional relevant evidence, and issue other
9064 appropriate orders.

9065 (b) An uncontested portion of the registered support order may be enforced by all
9066 remedies available under the law of this state.

9067 (3) If the contesting party does not establish a defense under Subsection (1) to the validity
9068 or enforcement of a registered support order, the registering tribunal shall issue an order
9069 confirming the order.

Section 215. Section **81-8-608**, which is renumbered from Section 78B-14-608 is renumbered and amended to read:

[78B-14-608] 81-8-608 . Confirmed order.

Confirmation of a registered support order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

Section 216. Section **81-8-609**, which is renumbered from Section 78B-14-609 is renumbered and amended to read:

[78B-14-609] 81-8-609 . Procedure to register child support order of another state for modification.

(1) A party or ~~[support enforcement]~~ child support services agency seeking to modify, or to modify and enforce, a child support order issued in another state shall register that order in this state in the same manner provided in Sections ~~[78B-14-601 through 78B-14-608]~~ 81-8-601 through 81-8-608 if the order has not been registered.

(2) A petition for modification may be filed at the same time as a request for registration, or later.

(3) The pleading shall specify the grounds for modification.

Section 217. Section **81-8-610**, which is renumbered from Section 78B-14-610 is renumbered and amended to read:

[78B-14-610] 81-8-610 . Effect of registration for modification.

A tribunal of this state may enforce a child support order of another state registered for purposes of modification, in the same manner as if the order had been issued by a tribunal of this state, but the registered support order may be modified only if the requirements of Section [~~78B-14-611 or 78B-14-613~~ 81-8-611 or 81-8-613 have been met.

Section 218. Section **81-8-611**, which is renumbered from Section 78B-14-611 is renumbered and amended to read:

[78B-14-611] 81-8-611 . Modification of child support order of another state.

(1) If Section ~~[78B-14-613]~~ 81-8-613 does not apply, upon petition a tribunal of this state may modify a child support order issued in another state which is registered in this state if, after notice and hearing, the tribunal finds that:

(a) the following requirements are met:

(i) neither the child, nor the obligee who is an individual, nor the obligor resides in the issuing state;

(ii) a petitioner who is a nonresident of this state seeks modification; and

- 9104 (iii) the respondent is subject to the personal jurisdiction of the tribunal of this state;
9105 or
- 9106 (b) this state is the residence of the child, or a party who is an individual, is subject to
9107 the personal jurisdiction of the tribunal of this state and all of the parties who are
9108 individuals have filed consents in a record in the issuing tribunal for a tribunal of this
9109 state to modify the support order and assume continuing, exclusive jurisdiction.
- 9110 (2) Modification of a registered child support order is subject to the same requirements,
9111 procedures, and defenses that apply to the modification of an order issued by a tribunal
9112 of this state and the order may be enforced and satisfied in the same manner.
- 9113 (3)(a) A tribunal of this state may not modify any aspect of a child support order that
9114 may not be modified under the law of the issuing state, including the duration of the
9115 obligation of support.
- 9116 (b) If two or more tribunals have issued child support orders for the same obligor and
9117 same child, the order that controls and shall be so recognized under Section [
9118 ~~78B-14-207~~] 81-8-207 establishes the aspects of the support order [~~which~~] that are
9119 nonmodifiable.
- 9120 (4)(a) In a proceeding to modify a child support order, the law of the state that is
9121 determined to have issued the initial controlling order governs the duration of the
9122 obligation of support.
- 9123 (b) The obligor's fulfillment of the duty of support established by that order precludes
9124 imposition of a further obligation of support by a tribunal of this state.
- 9125 (5) On issuance of an order by a tribunal of this state modifying a child support order issued
9126 in another state, the tribunal of this state becomes the tribunal of continuing, exclusive
9127 jurisdiction.
- 9128 (6) Notwithstanding Subsections (1) through (5) and Subsection [~~78B-14-201(2)~~]
9129 81-8-201(2), a tribunal of this state retains jurisdiction to modify an order issued by a
9130 tribunal of this state if:
- 9131 (a) one party resides in another state; and
- 9132 (b) the other party resides outside the United States.

9133 Section 219. Section **81-8-612**, which is renumbered from Section 78B-14-612 is renumbered
9134 and amended to read:

9135 **[~~78B-14-612~~] 81-8-612 . Recognition of order modified in another state.**

9136 If a child support order issued by a tribunal of this state is modified by a tribunal of
9137 another state that assumed jurisdiction [~~pursuant to~~] in accordance with the Uniform Interstate

9138 Family Support Act, a tribunal of this state:

- 9139 (1) may enforce [its] the tribunal's order that was modified only as to arrears and interest
9140 accruing before the modification;
- 9141 (2) may provide appropriate relief for violations of [its] the tribunal's order which occurred
9142 before the effective date of the modification; and
- 9143 (3) shall recognize the modifying order of the other state, upon registration, for the purpose
9144 of enforcement.

9145 Section 220. Section **81-8-613**, which is renumbered from Section 78B-14-613 is renumbered
9146 and amended to read:

9147 **~~[78B-14-613]~~ 81-8-613 . Jurisdiction to modify child support order of another**
9148 **state when individual parties reside in this state.**

- 9149 (1) If all of the parties who are individuals reside in this state and the child does not reside
9150 in the issuing state, a tribunal of this state has jurisdiction to enforce and to modify the
9151 issuing state's child support order in a proceeding to register that order.
- 9152 (2) A tribunal of this state exercising jurisdiction under this section shall apply the
9153 provisions of this part, Part 1, General Provisions, and Part 2, Jurisdiction, and the
9154 procedural and substantive law of this state to the proceeding for enforcement or
9155 modification. Part 3, Civil Provisions of General Application, Part 4, Establishment of
9156 Support Order or Determination of Parentage, Part 5, Enforcement of Support Order
9157 Without Registration, Part 7, Support Proceedings Under Convention, and Part 8,
9158 Rendition, do not apply.

9159 Section 221. Section **81-8-614**, which is renumbered from Section 78B-14-614 is renumbered
9160 and amended to read:

9161 **~~[78B-14-614]~~ 81-8-614 . Notice to issuing tribunal of modification.**

- 9162 (1) Within 30 days after issuance of a modified child support order, the party obtaining
9163 the modification shall file a certified copy of the order with the issuing tribunal that had
9164 continuing, exclusive jurisdiction over the earlier order, and in each tribunal in which
9165 the party knows the earlier order has been registered.
- 9166 (2) A party who obtains the order and fails to file a certified copy is subject to appropriate
9167 sanctions by a tribunal in which the issue of failure to file arises.
- 9168 (3) The failure to file does not affect the validity or enforceability of the modified order of
9169 the new tribunal having continuing, exclusive jurisdiction.

9170 Section 222. Section **81-8-615**, which is renumbered from Section 78B-14-615 is renumbered
9171 and amended to read:

[78B-14-615] 81-8-615 . Jurisdiction to modify child support order of foreign country.

(1) Except as otherwise provided in Section ~~[78B-14-711]~~ 81-8-711, if a foreign country lacks or refuses to exercise jurisdiction to modify its child support order pursuant to its laws, a tribunal of this state may assume jurisdiction to modify the child support order and bind all individuals subject to the personal jurisdiction of the tribunal whether or not the consent to modification of a child support order otherwise required of the individual ~~[pursuant to Section 78B-14-611]~~ in accordance with Section 81-8-611 has been given or whether the individual seeking modification is a resident of this state or of the foreign country.

(2) An order issued by a tribunal of this state modifying a foreign child support order ~~[pursuant to]~~ in accordance with this section is the controlling order.

Section 223. Section **81-8-616**, which is renumbered from Section 78B-14-616 is renumbered and amended to read:

[78B-14-616] 81-8-616 . Procedure to register child support order of foreign country for modification.

(1) A party or ~~[support enforcement]~~ child support services agency seeking to modify, or to modify and enforce, a foreign child support order not under the convention may register that order in this state under Sections ~~[78B-14-601 through 78B-14-608]~~ 81-8-601 through 81-8-608 if the order has not been registered.

(2) A petition for modification may be filed at the same time as a request for registration, or at another time.

(3) The petition shall specify the grounds for modification.

Section 224. Section **81-8-701**, which is renumbered from Section 78B-14-701.5 is renumbered and amended to read:

Part 7. Support Proceedings Under Convention

[78B-14-701.5] 81-8-701 . Definitions for part.

As used in this part:

(1) "Application" means a request under the convention by an obligee or obligor, or on behalf of a child, made through a central authority for assistance from another central authority.

(2) "Central authority" means the entity designated by the United States or a foreign country described in Subsection ~~[78B-14-102(5)(d)]~~ 81-8-102(8)(d) to perform the functions specified in the convention.

(3) "Convention support order" means a support order of a tribunal of a foreign country described in Subsection ~~[78B-14-102(5)(d)]~~ 81-8-102(8)(d).

(4) "Direct request" means a petition filed by an individual in a tribunal of this state in a proceeding involving an obligee, obligor, or child residing outside the United States.

(5) "Foreign central authority" means the entity designated by a foreign country described in Subsection ~~[78B-14-102(5)(d)]~~ 81-8-102(8)(d) to perform the functions specified in the convention.

(6) "Foreign support agreement":

(a) means an agreement for support in a record that:

(i) is enforceable as a support order in the country of origin;

(ii) has been:

(A) formally drawn up or registered as an authentic instrument by a foreign tribunal; or

(B) authenticated by, or concluded, registered, or filed with a foreign tribunal; and

(iii) may be reviewed and modified by a foreign tribunal; and

(b) includes a maintenance arrangement or authentic instrument under the convention.

(7) "United States central authority" means the Secretary of the United States Department of Health and Human Services.

Section 225. Section **81-8-702**, which is renumbered from Section 78B-14-702 is renumbered and amended to read:

[78B-14-702] 81-8-702 . Applicability.

(1) This part applies only to a support proceeding under the convention.

(2) In such a proceeding, if a provision of this part is inconsistent with Part 1, General Provisions, Part 2, Jurisdiction, Part 3, Civil Provisions of General Application, Part 4, Establishment of Support Order or Determination of Parentage, Part 5, Enforcement of Support Order Without Registration, and Part 6, Registration, Enforcement, and Modification of Support Order, this part controls.

Section 226. Section **81-8-703**, which is renumbered from Section 78B-14-703 is renumbered and amended to read:

[78B-14-703] 81-8-703 . Relationship of Department of Health and Human Services to United States central authority.

The Utah Department of Health and Human Services is recognized as the agency designated by the United States central authority to perform specific functions under the convention.

Section 227. Section **81-8-704**, which is renumbered from Section 78B-14-704 is renumbered and amended to read:

[78B-14-704] 81-8-704 . Initiation by Department of Health and Human Services of support proceeding under convention.

(1) In a support proceeding under this part, the Utah Department of Health and Human Services shall:

- (a) transmit and receive applications; and
- (b) initiate or facilitate the institution of a proceeding regarding an application in a tribunal of this state.

(2) The following support proceedings are available to an obligee under the convention:

- (a) recognition or recognition and enforcement of a foreign support order;
- (b) enforcement of a support order issued or recognized in this state;
- (c) establishment of a support order if there is no existing order, including, if necessary, determination of parentage of a child;
- (d) establishment of a support order if recognition of a foreign support order is refused under Subsection [78B-14-708(2)(b)] 81-8-708(2)(b), (d), or (i);
- (e) modification of a support order of a tribunal of this state; and
- (f) modification of a support order of a tribunal of another state or a foreign country.

(3) The following support proceedings are available under the convention to an obligor against which there is an existing support order:

- (a) recognition of an order suspending or limiting enforcement of an existing support order of a tribunal of this state;
- (b) modification of a support order of a tribunal of this state; and
- (c) modification of a support order of a tribunal of another state or a foreign country.

(4) A tribunal of this state may not require security, bond, or deposit, however described, to guarantee the payment of costs and expenses in proceedings under the convention.

Section 228. Section **81-8-705**, which is renumbered from Section 78B-14-705 is renumbered and amended to read:

[78B-14-705] 81-8-705 . Direct request.

(1)(a) A petitioner may file a direct request seeking establishment or modification of a support order or determination of parentage of a child.

(b) In the proceeding, the law of this state applies.

(2)(a) A petitioner may file a direct request seeking recognition and enforcement of a support order or support agreement.

9274 (b) In the proceeding, Sections [~~78B-14-706 through 78B-14-713~~] 81-8-706 through
9275 81-8-713 apply.

9276 (3) In a direct request for recognition and enforcement of a convention support order or
9277 foreign support agreement:

9278 (a) a security, bond, or deposit is not required to guarantee the payment of costs and
9279 expenses; and

9280 (b) an obligee or obligor that in the issuing country has benefitted from free legal
9281 assistance is entitled to benefit, at least to the same extent, from any free legal
9282 assistance provided for by the law of this state under the same circumstances.

9283 (4) A petitioner filing a direct request is not entitled to assistance from the [~~Department of~~
9284 ~~Human Services~~] Utah Department of Health and Human Services.

9285 (5) This part does not prevent the application of laws of this state that provide simplified,
9286 more expeditious rules regarding a direct request for recognition and enforcement of a
9287 foreign support order or foreign support agreement.

9288 Section 229. Section **81-8-706**, which is renumbered from Section 78B-14-706 is renumbered
9289 and amended to read:

9290 **[~~78B-14-706~~] 81-8-706 . Registration of convention support order.**

9291 (1) Except as otherwise provided in this part, a party who is an individual or a [~~support~~
9292 ~~enforcement~~] child support services agency seeking recognition of a convention support
9293 order shall register the order in this state as provided in Part 6, Registration,
9294 Enforcement, and Modification of Support Order.

9295 (2) Notwithstanding Section [~~78B-14-311~~] 81-8-311 and Subsection [~~78B-14-602(1)~~]
9296 81-8-602(1), a request for registration of a convention support order shall be
9297 accompanied by:

9298 (a) a complete text of the support order or an abstract or extract of the support order
9299 drawn up by the issuing foreign tribunal, which may be in the form recommended by
9300 the Hague Conference on Private International Law;

9301 (b) a record stating that the support order is enforceable in the issuing country;

9302 (c) if the respondent did not appear and was not represented in the proceedings in the
9303 issuing country, a record attesting, as appropriate, either that the respondent had
9304 proper notice of the proceedings and an opportunity to be heard or that the
9305 respondent had proper notice of the support order and an opportunity to be heard in a
9306 challenge or appeal on fact or law before a tribunal;

9307 (d) a record showing the amount of arrears, if any, and the date the amount was

- 9308 calculated;
- 9309 (e) a record showing a requirement for automatic adjustment of the amount of support, if
- 9310 any, and the information necessary to make the appropriate calculations; and
- 9311 (f) if necessary, a record showing the extent to which the applicant received free legal
- 9312 assistance in the issuing country.
- 9313 (3) A request for registration of a convention support order may seek recognition and
- 9314 partial enforcement of the order.
- 9315 (4) A tribunal of this state may vacate the registration of a convention support order without
- 9316 the filing of a contest under Section ~~[78B-14-707]~~ 81-8-707 only if, acting on its own
- 9317 motion, the tribunal finds that recognition and enforcement of the order would be
- 9318 manifestly incompatible with public policy.
- 9319 (5) The tribunal shall promptly notify the parties of the registration or the order vacating the
- 9320 registration of a convention support order.
- 9321 Section 230. Section **81-8-707**, which is renumbered from Section 78B-14-707 is renumbered
- 9322 and amended to read:
- 9323 **[78B-14-707] 81-8-707 . Contest of registered convention support order.**
- 9324 (1) Except as otherwise provided in this part, Sections ~~[78B-14-605 through 78B-14-608]~~
- 9325 81-8-605 through 81-8-608 apply to a contest of a registered convention support order.
- 9326 (2) A party contesting a registered convention support order shall file a contest not later
- 9327 than 30 days after notice of the registration, but if the contesting party does not reside in
- 9328 the United States, the contest shall be filed not later than 60 days after notice of the
- 9329 registration.
- 9330 (3) If the nonregistering party fails to contest the registered convention support order by the
- 9331 time specified in Subsection (2), the order is enforceable.
- 9332 (4)(a) A contest of a registered convention support order may be based only on grounds
- 9333 set forth in Section ~~[78B-14-708]~~ 81-8-708.
- 9334 (b) The contesting party bears the burden of proof.
- 9335 (5) In a contest of a registered convention support order, a tribunal of this state:
- 9336 (a) is bound by the findings of fact on which the foreign tribunal based its jurisdiction;
- 9337 and
- 9338 (b) may not review the merits of the order.
- 9339 (6) A tribunal of this state deciding a contest of a registered convention support order shall
- 9340 promptly notify the parties of ~~[its]~~ the tribunal's decision.
- 9341 (7) A challenge or appeal, if any, does not stay the enforcement of a convention support

order unless there are exceptional circumstances.

Section 231. Section **81-8-708**, which is renumbered from Section 78B-14-708 is renumbered and amended to read:

[78B-14-708] 81-8-708 . Recognition and enforcement of registered convention support order.

- (1) Except as otherwise provided in Subsection (2), a tribunal of this state shall recognize and enforce a registered convention support order.
- (2) The following grounds are the only grounds on which a tribunal of this state may refuse recognition and enforcement of a registered convention support order:
 - (a) recognition and enforcement of the order is manifestly incompatible with public policy, including the failure of the issuing tribunal to observe minimum standards of due process, which include notice and an opportunity to be heard;
 - (b) the issuing tribunal lacked personal jurisdiction consistent with Section ~~[78B-14-201]~~ 81-8-201;
 - (c) the order is not enforceable in the issuing country;
 - (d) the order was obtained by fraud in connection with a matter of procedure;
 - (e) a record transmitted in accordance with Section ~~[78B-14-706]~~ 81-8-706 lacks authenticity or integrity;
 - (f) a proceeding between the same parties and having the same purpose is pending before a tribunal of this state and that proceeding was the first to be filed;
 - (g) the order is incompatible with a more recent support order involving the same parties and having the same purpose if the more recent support order is entitled to recognition and enforcement under this chapter in this state;
 - (h) payment, to the extent alleged arrears have been paid in whole or in part;
 - (i) in a case in which the respondent neither appeared nor was represented in the proceeding in the issuing foreign country:
 - (i) if the law of that country provides for prior notice of proceedings, the respondent did not have proper notice of the proceedings and an opportunity to be heard; or
 - (ii) if the law of that country does not provide for prior notice of the proceedings, the respondent did not have proper notice of the order and an opportunity to be heard in a challenge or appeal on fact or law before a tribunal; or
 - (j) the order was made in violation of Section ~~[78B-14-711]~~ 81-8-711.
- (3) If a tribunal of this state does not recognize a convention support order under Subsection (2)(b), (d), or (i):

- 9376 (a) the tribunal may not dismiss the proceeding without allowing a reasonable time for a
9377 party to request the establishment of a new convention support order; and
9378 (b) the ~~[Department of Human Services]~~ Utah Department of Health and Human Services
9379 shall take all appropriate measures to request a child support order for the obligee if
9380 the application for recognition and enforcement was received under Section [
9381 ~~78B-14-704~~] 81-8-704.

9382 Section 232. Section **81-8-709**, which is renumbered from Section 78B-14-709 is renumbered
9383 and amended to read:

9384 **[78B-14-709] 81-8-709 . Partial enforcement.**

- 9385 (1) If a tribunal of this state does not recognize and enforce a convention support order
9386 in its entirety, ~~[it]~~ the tribunal shall enforce any severable part of the order.
9387 (2) An application or direct request may seek recognition and partial enforcement of a
9388 convention support order.

9389 Section 233. Section **81-8-710**, which is renumbered from Section 78B-14-710 is renumbered
9390 and amended to read:

9391 **[78B-14-710] 81-8-710 . Foreign support agreement.**

- 9392 (1) Except as otherwise provided in Subsections (3) and (4), a tribunal of this state shall
9393 recognize and enforce a foreign support agreement registered in this state.
9394 (2) An application or direct request for recognition and enforcement of a foreign support
9395 agreement shall be accompanied by:
9396 (a) a complete text of the foreign support agreement; and
9397 (b) a record stating that the foreign support agreement is enforceable as an order of
9398 support in the issuing country.
9399 (3) A tribunal of this state may vacate the registration of a foreign support agreement only
9400 if, acting on its own motion, the tribunal finds that recognition and enforcement would
9401 be manifestly incompatible with public policy.
9402 (4) In a contest of a foreign support agreement, a tribunal of this state may refuse
9403 recognition and enforcement of the agreement if ~~[it]~~ the tribunal finds:
9404 (a) recognition and enforcement of the agreement is manifestly incompatible with public
9405 policy;
9406 (b) the agreement was obtained by fraud or falsification;
9407 (c) the agreement is incompatible with a support order involving the same parties and
9408 having the same purpose in this state, another state, or a foreign country if the support
9409 order is entitled to recognition and enforcement under this chapter in this state; or

(d) the record submitted under Subsection (2) lacks authenticity or integrity.

- (5) A proceeding for recognition and enforcement of a foreign support agreement shall be suspended during the pendency of a challenge to or appeal of the agreement before a tribunal of another state or a foreign country.

Section 234. Section **81-8-711**, which is renumbered from Section 78B-14-711 is renumbered and amended to read:

[78B-14-711] 81-8-711 . Modification of convention child support order.

- (1) A tribunal of this state may not modify a convention child support order if the obligee remains a resident of the foreign country where the support order was issued unless:
- (a) the obligee submits to the jurisdiction of a tribunal of this state, either expressly or by defending on the merits of the case without objecting to the jurisdiction at the first available opportunity; or
- (b) the foreign tribunal lacks or refuses to exercise jurisdiction to modify ~~[its]~~ the foreign tribunal's support order or issue a new support order.
- (2) If a tribunal of this state does not modify a convention child support order because the order is not recognized in this state, Subsection ~~[78B-14-708(3)]~~ 81-8-708(3) applies.

Section 235. Section **81-8-712**, which is renumbered from Section 78B-14-712 is renumbered and amended to read:

[78B-14-712] 81-8-712 . Personal information -- Limit on use.

Personal information gathered or transmitted under this part may be used only for the purposes for which it was gathered or transmitted.

Section 236. Section **81-8-713**, which is renumbered from Section 78B-14-713 is renumbered and amended to read:

[78B-14-713] 81-8-713 . Record in original language -- English translation.

A record filed with a tribunal of this state under this part shall be in the original language and, if not in English, shall be accompanied by an English translation.

Section 237. Section **81-8-801**, which is renumbered from Section 78B-14-801 is renumbered and amended to read:

Part 8. Rendition

[78B-14-801] 81-8-801 . Definitions for part -- Grounds for rendition.

- (1) ~~[For purposes of]~~ As used in this part, "governor" includes an individual performing the functions of governor or the executive authority of a state covered by this chapter.
- (2) The governor of this state may:
- (a) demand that the governor of another state surrender an individual found in the other

9444 state who is charged criminally in this state with having failed to provide for the
9445 support of an obligee; or

9446 (b) on the demand of the governor of another state, surrender an individual found in this
9447 state who is charged criminally in the other state with having failed to provide for the
9448 support of an obligee.

9449 (3) A provision for extradition of individuals not inconsistent with this chapter applies to
9450 the demand even if the individual whose surrender is demanded was not in the
9451 demanding state when the crime was allegedly committed and has not fled therefrom.

9452 Section 238. Section **81-8-802**, which is renumbered from Section 78B-14-802 is renumbered
9453 and amended to read:

9454 **[78B-14-802] 81-8-802 . Conditions of rendition.**

9455 (1) Before making demand that the governor of another state surrender an individual
9456 charged criminally in this state with having failed to provide for the support of an
9457 obligee, the governor of this state may require a prosecutor of this state to demonstrate
9458 that at least 60 days previously the obligee had initiated proceedings for support
9459 pursuant to this chapter or that the proceeding would be of no avail.

9460 (2)(a) If, under this chapter or a law substantially similar to this chapter, the governor of
9461 another state makes a demand that the governor of this state surrender an individual
9462 charged criminally in that state with having failed to provide for the support of a
9463 child or other individual to whom a duty of support is owed, the governor may
9464 require a prosecutor to investigate the demand and report whether a proceeding for
9465 support has been initiated or would be effective.

9466 (b) If it appears that a proceeding would be effective but has not been initiated, the
9467 governor may delay honoring the demand for a reasonable time to permit the
9468 initiation of a proceeding.

9469 (3)(a) If a proceeding for support has been initiated and the individual whose rendition is
9470 demanded prevails, the governor may decline to honor the demand.

9471 (b) If the petitioner prevails and the individual whose rendition is demanded is subject to
9472 a support order, the governor may decline to honor the demand if the individual is
9473 complying with the support order.

9474 Section 239. Section **81-8-901**, which is renumbered from Section 78B-14-901 is renumbered
9475 and amended to read:

9476 **Part 9. Applicability Provisions**

9477 **[78B-14-901] 81-8-901 . Uniformity of application and construction.**

9478 (1) This chapter is a uniform act.

9480 (2) In applying and construing [it] this chapter, consideration shall be given to the need to
9481 promote uniformity of the law with respect to [its] this uniform law's subject matter
9482 among states that enact [it] this uniform law.

9483 Section 240. Section **81-8-902**, which is renumbered from Section 78B-14-902 is renumbered
9484 and amended to read:

9485 **[78B-14-902] 81-8-902 . Transitional provision.**

9486 This chapter applies to proceedings begun on or after July 1, 2015:

9487 (1) to establish a support order or determine parentage of a child; or

9488 (2) to register, recognize, enforce, or modify a prior support order, determination, or
9489 agreement, whenever issued or entered.

9490 Section 241. Section **81-9-202** is amended to read:

9491 **81-9-202 . Advisory guidelines for a custody and parent-time arrangement.**

9492 (1) In addition to the parent-time schedules provided in Sections 81-9-302 and 81-9-304,
9493 the following advisory guidelines are suggested to govern a custody and parent-time
9494 arrangement between parents.

9495 (2) A parent-time schedule mutually agreed upon by both parents is preferable to a
9496 court-imposed solution.

9497 (3) A parent-time schedule shall be used to maximize the continuity and stability of the
9498 minor child's life.

9499 (4) Each parent shall give special consideration to make the minor child available to attend
9500 family functions including funerals, weddings, family reunions, religious holidays,
9501 important ceremonies, and other significant events in the life of the minor child or in the
9502 life of either parent which may inadvertently conflict with the parent-time schedule.

9503 (5)(a) The court shall determine the responsibility for the pick up, delivery, and return of
9504 the minor child when the parent-time order is entered.

9505 (b) The court may change the responsibility described in Subsection (5)(a) at any time a
9506 subsequent modification is made to the parent-time order.

9507 (c) If the noncustodial parent will be providing transportation, the custodial parent shall:

9508 (i) have the minor child ready for parent-time at the time the minor child is to be
9509 picked up[-]; and

9510 (ii) be present at the custodial home or make reasonable alternate arrangements to
9511 receive the minor child at the time the minor child is returned.

9512 (d) If the custodial parent will be transporting the minor child, the noncustodial parent

- 9513 shall:
- 9514 (i) be at the appointed place at the time the noncustodial parent is to receive the
- 9515 minor child; and
- 9516 (ii) have the minor child ready to be picked up at the appointed time and place or
- 9517 have made reasonable alternate arrangements for the custodial parent to pick up
- 9518 the minor child.
- 9519 (6) A parent may not interrupt regular school hours for a school-age minor child for the
- 9520 exercise of parent-time.
- 9521 (7) The court may:
- 9522 (a) make alterations in the parent-time schedule to reasonably accommodate the work
- 9523 schedule of both parents; and
- 9524 (b) increase the parent-time allowed to the noncustodial parent but may not diminish the
- 9525 standardized parent-time provided in Sections 81-9-302 and 81-9-304.
- 9526 (8) The court may make alterations in the parent-time schedule to reasonably accommodate
- 9527 the distance between the parties and the expense of exercising parent-time.
- 9528 (9) A parent may not withhold parent-time or child support due to the other parent's failure
- 9529 to comply with a court-ordered parent-time schedule.
- 9530 (10)(a) The custodial parent shall notify the noncustodial parent within 24 hours of
- 9531 receiving notice of all significant school, social, sports, and community functions in
- 9532 which the minor child is participating or being honored.
- 9533 (b) The noncustodial parent is entitled to attend and participate fully in the functions
- 9534 described in Subsection (10)(a).
- 9535 (c) The noncustodial parent shall have access directly to all school reports including
- 9536 preschool and daycare reports and medical records.
- 9537 (d) A parent shall immediately notify the other parent in the event of a medical
- 9538 emergency.
- 9539 (11) Each parent shall provide the other with the parent's current address and telephone
- 9540 number, email address, and other virtual parent-time access information within 24 hours
- 9541 of any change.
- 9542 (12)(a) Each parent shall permit and encourage, during reasonable hours, reasonable and
- 9543 uncensored communications with the minor child, in the form of mail privileges and
- 9544 virtual parent-time if the equipment is reasonably available.
- 9545 (b) If the parents cannot agree on whether the equipment is reasonably available, the
- 9546 court shall decide whether the equipment for virtual parent-time is reasonably

- 9547 available_by taking into consideration:
- 9548 (i) the best interests of the minor child;
- 9549 (ii) each parent's ability to handle any additional expenses for virtual parent-time; and
- 9550 (iii) any other factors the court considers material.
- 9551 (13)(a) Parental care is presumed to be better care for the minor child than surrogate care.
- 9552 (b) The court shall encourage the parties to cooperate in allowing the noncustodial
- 9553 parent, if willing and able to transport the minor child, to provide the child care.
- 9554 (c) Child care arrangements existing during the marriage are preferred as are child care
- 9555 arrangements with nominal or no charge.
- 9556 (14) Each parent shall:
- 9557 (a) provide all surrogate care providers with the name, current address, and telephone
- 9558 number of the other parent; and
- 9559 (b) provide the noncustodial parent with the name, current address, and telephone
- 9560 number of all surrogate care providers unless the court for good cause orders
- 9561 otherwise.
- 9562 (15)(a) Each parent is entitled to an equal division of major religious holidays celebrated
- 9563 by the parents.
- 9564 (b) The parent who celebrates a religious holiday that the other parent does not celebrate
- 9565 shall have the right to be together with the minor child on the religious holiday.
- 9566 (16) If the minor child is on a different parent-time schedule than a sibling, based on
- 9567 Sections 81-9-302 and 81-9-304, the parents should consider if an upward deviation for
- 9568 parent-time with all the minor children so that parent-time is uniform between school
- 9569 aged and nonschool aged children, is appropriate.
- 9570 (17)(a) When one or both parents are servicemembers or contemplating joining a
- 9571 uniformed service, the parents should resolve issues of custodial responsibility in the
- 9572 event of deployment as soon as practicable through reaching a voluntary agreement
- 9573 pursuant to Section [~~78B-20-201~~] 81-10-201 or through court order obtained pursuant
- 9574 to this part.
- 9575 (b) Service members shall ensure their family care plan reflects orders and agreements
- 9576 entered and filed pursuant to [~~Title 78B, Chapter 20,~~] Chapter 10, Uniform Deployed
- 9577 Parents Custody, Parent-time, and Visitation Act.
- 9578 (18) A parent shall immediately notify the other parent if:
- 9579 (a) the parent resides with an individual or provides an individual with access to the
- 9580 minor child; and

(b) the parent knows that the individual:

(i) is required to register as a sex offender~~[-or]~~ , a kidnap offender, or a child abuse offender for an offense against a minor child under Title 77, Chapter 41, [~~Sex and~~

~~Kidnap Offender Registry~~] Sex, Kidnap, and Child Abuse Offender Registry; or

~~[(ii) is required to register as a child abuse offender under Title 77, Chapter 43, Child Abuse Offender Registry; or]~~

~~[(iii)]~~ (ii) has been convicted of:

(A) a child abuse offense under Section 76-5-109, 76-5-109.2, 76-5-109.3, 76-5-114, or 76-5-208;

(B) a sexual offense against a minor child under Title 76, Chapter 5, Part 4, Sexual Offenses;

(C) an offense for kidnapping or human trafficking of a minor child under Title 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(D) a sexual exploitation offense against a minor child under Title 76, Chapter 5b, Sexual Exploitation Act; or

(E) an offense that is substantially similar to an offense under Subsections [~~(18)(b)(iii)(A)]~~ (18)(b)(ii)(A) through (D).

(19)(a) For emergency purposes, whenever the minor child travels with a parent, the parent shall provide the following information to the other parent:

(i) an itinerary of travel dates;

(ii) destinations;

(iii) places where the minor child or traveling parent can be reached; and

(iv) the name and telephone number of an available third person who would be knowledgeable of the minor child's location.

(b) Unchaperoned travel of a minor child under the age of five years is not recommended.

Section 242. Section **81-9-203** is amended to read:

81-9-203 . Custody and parent-time proceedings -- Requirements for parenting plan.

(1) In a custody or parent-time proceeding that is not a divorce action, the court may require the parents to attend the mandatory educational course described in Section ~~[81-4-106]~~ 81-4-105.

(2)(a) In a proceeding between parents regarding the custody or parent-time for a minor child, the parent shall file and serve a proposed parenting plan at the time of the filing

of the parent's original petition or at the time of filing the parent's answer or counterclaim.

(b) In a proceeding in which a parent seeks to modify custody provisions or a parenting plan, the parent shall file the proposed parenting plan with the petition to modify or the answer or counterclaim to the petition to modify.

(c) A parent who desires joint legal custody shall file a proposed parenting plan in accordance with this section.

(3) If a parent files a proposed parenting plan in compliance with this section, the parent may move the court for an order of default to adopt the plan if the other parent fails to file a proposed parenting plan as required by this section.

(4) A parent may file and serve an amended proposed parenting plan according to the Utah Rules of Civil Procedure.

(5) The parent submitting a proposed parenting plan shall attach a verified statement that the plan is proposed by that parent in good faith.

(6)(a) Both parents may submit a parenting plan which has been agreed upon.

(b) The parents shall attach a verified statement to the parenting plan that is signed by both parents.

(7) If the parents file inconsistent parenting plans, the court may appoint a guardian ad litem to represent the best interests of the minor child, who may, if necessary, file a separate parenting plan reflecting the best interests of the minor child.

(8)(a) If a parent is a service member, the parenting plan shall be consistent with Subsection (16).

(b) If a parent becomes a service member after a parenting plan is adopted, the parents shall amend the existing parenting plan as soon as practical to comply with Subsection (16).

(9) The objectives of a parenting plan are to:

(a) provide for the minor child's physical care;

(b) maintain the minor child's emotional stability;

(c) provide for the minor child's changing needs as the minor child grows and matures in a way that minimizes the need for future modifications to the parenting plan;

(d) set forth the authority and responsibilities of each parent with respect to the minor child consistent with the definitions outlined in this chapter;

(e) minimize the minor child's exposure to harmful parental conflict;

(f) encourage the parents, where appropriate, to meet the responsibilities to their minor

- 9649 child through agreements in the parenting plan rather than relying on judicial
9650 intervention; and
- 9651 (g) protect the best interests of the minor child.
- 9652 (10)(a) The parenting plan shall contain:
- 9653 (i) provisions for resolution of future disputes between the parents, allocation of
9654 decision-making authority, and residential provisions for the minor child;
- 9655 (ii) provisions addressing notice and parent-time responsibilities in the event of the
9656 relocation of a party; and
- 9657 (iii) a process for resolving disputes, unless precluded or limited by statute.
- 9658 (b) A dispute resolution process under Subsection (10)(a)(iii) may include:
- 9659 (i) counseling;
- 9660 (ii) mediation or arbitration by a specified individual or agency; or
- 9661 (iii) court action.
- 9662 (c) In the dispute resolution process under Subsection (10)(b):
- 9663 (i) preference shall be given to the provisions in the parenting plan;
- 9664 (ii) parents shall use the designated process to resolve disputes relating to
9665 implementation of the plan, except those related to financial support, unless an
9666 emergency exists;
- 9667 (iii) a written record shall be prepared of any agreement reached in counseling or
9668 mediation and provided to each party;
- 9669 (iv) if arbitration becomes necessary, a written record shall be prepared and a copy of
9670 the arbitration award shall be provided to each party;
- 9671 (v) if the court finds that a parent has used or frustrated the dispute resolution process
9672 without good reason, the court may award attorney fees and financial sanctions to
9673 the prevailing parent;
- 9674 (vi) the district court has the right of review from the dispute resolution process; and
- 9675 (vii) the provisions of this Subsection (10)(c) shall be set forth in any final decree or
9676 order.
- 9677 (11)(a) Subject to the other provisions of this Subsection (11), the parenting plan shall
9678 allocate decision-making authority to one or both parties regarding the minor child's
9679 education, healthcare, and religious upbringing.
- 9680 (b) The parties may incorporate an agreement related to the care and growth of the minor
9681 child in these specified areas or in other areas into the plan that are consistent with
9682 parenting functions and the criteria outlined in Subsection (9).

- 9683 (c) Regardless of the allocation of decision-making in the parenting plan, a parent may
9684 make emergency decisions affecting the health or safety of the minor child.
- 9685 (d) A minor child's education plan shall designate the following:
- 9686 (i) the home residence for purposes of identifying the appropriate school or another
9687 specific plan that provides for where the minor child will attend school;
- 9688 (ii) which parent has authority to make education decisions for the minor child if the
9689 parents cannot agree; and
- 9690 (iii) whether one or both parents have access to the minor child during school and
9691 authority to check the minor child out of school.
- 9692 (e) If an education provision is not included in the parenting plan:
- 9693 (i) a parent with sole physical custody shall make the decisions listed in Subsection
9694 (11)(d);
- 9695 (ii) in the event of joint physical custody when one parent has custody a majority of
9696 the time as described in Subsection 81-9-205(10):
- 9697 (A) the parent having the minor child the majority of the time shall make the
9698 decisions listed in Subsections (11)(d)(i) and (ii); and
- 9699 (B) both parents with joint physical custody shall have access to the minor child
9700 during school and authority to check the child out of school; or
- 9701 (iii) in the event of joint physical custody when the parents have custody an equal
9702 amount of time:
- 9703 (A) the court shall determine how the decisions listed in Subsections (11)(d)(i)
9704 and (ii) are made; and
- 9705 (B) both parents with joint physical custody shall have access to the minor child
9706 during school and authority to check the minor child out of school.
- 9707 (12) Each parent may make decisions regarding the day-to-day care and control of the
9708 minor child while the minor child is residing with that parent.
- 9709 (13) When mutual decision-making is designated but cannot be achieved, the parties shall
9710 make a good faith effort to resolve the issue through the dispute resolution process.
- 9711 (14) The parenting plan shall include a residential schedule that designates in which parent's
9712 home a minor child shall reside on given days of the year, including provisions for
9713 holidays, birthdays of family members, vacations, and other special occasions.
- 9714 (15)(a) If a parent fails to comply with a provision of the parenting plan or a child
9715 support order, the other parent's obligations under the parenting plan or the child
9716 support order are not affected.

(b) Failure to comply with a provision of the parenting plan or a child support order may result in a finding of contempt of court.

(16)(a) If a parent is a service member, the parenting plan shall contain provisions that address the foreseeable parenting and custodial issues likely to arise in the event of notification of deployment or other contingency, including long-term deployments, short-term deployments, death, incapacity, and noncombatant evacuation operations.

(b) The provisions in the parenting plan described in Subsection (16)(a) shall comport substantially with the requirements of an agreement made pursuant to Section [~~78B-20-201~~] 81-10-201.

Section 243. Section **81-9-204** is amended to read:

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

(1) In a proceeding between parents in which the custody and parent-time of a minor child is at issue, the court shall consider the best interests of the minor child in determining any form of custody and parent-time.

(2) The court shall determine whether an order for custody or parent-time is in the best interests of the minor child by a preponderance of the evidence.

(3) In determining any form of custody and parent-time under Subsection (1), the court shall consider:

(a) for each parent, and in accordance with Section 81-9-104, evidence of domestic violence, physical abuse, or sexual abuse involving the minor child, the parent, or a household member of the parent;

(b) whether the parent has intentionally exposed the minor child to pornography or material harmful to minors, as "material" and "harmful to minors" are defined in Section 76-10-1201; and

(c) whether custody and parent-time would endanger the minor child's health or physical or psychological safety.

(4) In determining the form of custody and parent-time that is in the best interests of the minor child, the court may consider, among other factors the court finds relevant, the following for each parent:

(a) evidence of psychological maltreatment;

(b) the parent's demonstrated understanding of, responsiveness to, and ability to meet the developmental needs of the minor child, including the minor child's:

(i) physical needs;

- 9751 (ii) emotional needs;
- 9752 (iii) educational needs;
- 9753 (iv) medical needs; and
- 9754 (v) any special needs;
- 9755 (c) the parent's capacity and willingness to function as a parent, including:
 - 9756 (i) parenting skills;
 - 9757 (ii) co-parenting skills, including:
 - 9758 (A) ability to appropriately communicate with the other parent;
 - 9759 (B) ability to encourage the sharing of love and affection; and
 - 9760 (C) willingness to allow frequent and continuous contact between the minor child
 - 9761 and the other parent, except that, if the court determines that the parent is
 - 9762 acting to protect the minor child from domestic violence, neglect, or abuse, the
 - 9763 parent's protective actions may be taken into consideration; and
 - 9764 (iii) ability to provide personal care rather than surrogate care;
 - 9765 (d) the past conduct and demonstrated moral character of the parent as described in
 - 9766 Subsection (9);
 - 9767 (e) the emotional stability of the parent;
 - 9768 (f) the parent's inability to function as a parent because of drug abuse, excessive
 - 9769 drinking, or other causes;
 - 9770 (g) the parent's reason for having relinquished custody or parent-time in the past;
 - 9771 (h) duration and depth of desire for custody or parent-time;
 - 9772 (i) the parent's religious compatibility with the minor child;
 - 9773 (j) the parent's financial responsibility;
 - 9774 (k) the child's interaction and relationship with step-parents, extended family members
 - 9775 of other individuals who may significantly affect the minor child's best interests;
 - 9776 (l) who has been the primary caretaker of the minor child;
 - 9777 (m) previous parenting arrangements in which the minor child has been happy and
 - 9778 well-adjusted in the home, school, and community;
 - 9779 (n) the relative benefit of keeping siblings together;
 - 9780 (o) the stated wishes and concerns of the minor child, taking into consideration the
 - 9781 minor child's cognitive ability and emotional maturity;
 - 9782 (p) the relative strength of the minor child's bond with the parent, meaning the depth,
 - 9783 quality, and nature of the relationship between the parent and the minor child; and
 - 9784 (q) any other factor the court finds relevant.

- 9785 (5)(a) A minor child may not be required by either party to testify unless the trier of fact
9786 determines that extenuating circumstances exist that would necessitate the testimony
9787 of the minor child be heard and there is no other reasonable method to present the
9788 minor child's testimony.
- 9789 (b)(i) The court may inquire and take into consideration the minor child's desires
9790 regarding future custody or parent-time schedules, but the expressed desires are
9791 not controlling and the court may determine the minor child's custody or
9792 parent-time otherwise.
- 9793 (ii) The desires of a minor child who is 14 years old or older shall be given added
9794 weight, but is not the single controlling factor.
- 9795 (c)(i) If an interview with a minor child is conducted by the court in accordance with
9796 Subsection (5)(b), the interview shall be conducted by the court in camera.
- 9797 (ii) The prior consent of the parties may be obtained but is not necessary if the court
9798 finds that an interview with a minor child is the only method to ascertain the
9799 minor child's desires regarding custody.
- 9800 (6)(a) Except as provided in Subsection (6)(b), a court may not discriminate against a
9801 parent due to a disability, as defined in Section 57-21-2, in awarding custody or
9802 determining whether a substantial change has occurred for the purpose of modifying
9803 an award of custody.
- 9804 (b) The court may not consider the disability of a parent as a factor in awarding custody
9805 or modifying an award of custody based on a determination of a substantial change in
9806 circumstances, unless the court makes specific findings that:
- 9807 (i) the disability significantly or substantially inhibits the parent's ability to provide
9808 for the physical and emotional needs of the minor child at issue; and
- 9809 (ii) the parent with a disability lacks sufficient human, monetary, or other resources
9810 available to supplement the parent's ability to provide for the physical and
9811 emotional needs of the minor child at issue.
- 9812 (c) Nothing in this section may be construed to apply to adoption proceedings under [
9813 ~~Title 78B, Chapter 6, Part 1, Utah Adoption Act~~] Chapter 13, Adoption.
- 9814 (7) This section does not establish:
- 9815 (a) a preference for either parent solely because of the gender of the parent; or
- 9816 (b) a preference for or against joint physical custody or sole physical custody, but allows
9817 the court and the family the widest discretion to choose a parenting plan that is in the
9818 best interest of the minor child.

- 9819 (8) When an issue before the court involves custodial responsibility in the event of a
9820 deployment of a parent who is a service member and the service member has not yet
9821 been notified of deployment, the court shall resolve the issue based on the standards in
9822 Sections ~~[78B-20-306 through 78B-20-309]~~ 81-10-306 through 81-10-309.
- 9823 (9) In considering the past conduct and demonstrated moral standards of each party under
9824 Subsection (4)(d) or any other factor a court finds relevant, the court may not:
- 9825 (a)(i) consider or treat a parent's lawful possession or use of cannabis in a medicinal
9826 dosage form, a cannabis product in a medicinal dosage form, or a medical
9827 cannabis device, in accordance with Title 4, Chapter 41a, Cannabis Production
9828 Establishments and Pharmacies, Title 26B, Chapter 4, Part 2, Cannabinoid
9829 Research and Medical Cannabis, or Subsection 58-37-3.7(2) or (3) any differently
9830 than the court would consider or treat the lawful possession or use of any
9831 prescribed controlled substance; or
- 9832 (ii) discriminate against a parent because of the parent's status as a:
- 9833 (A) cannabis production establishment agent, as that term is defined in Section
9834 4-41a-102;
- 9835 (B) medical cannabis pharmacy agent, as that term is defined in Section 26B-4-201;
- 9836 (C) medical cannabis courier agent, as that term is defined in Section 26B-4-201;
- 9837 or
- 9838 (D) medical cannabis cardholder in accordance with Title 26B, Chapter 4, Part 2,
9839 Cannabinoid Research and Medical Cannabis; or
- 9840 (b) discriminate against a parent based upon the parent's agreement or disagreement with
9841 a minor child of the couple's:
- 9842 (i) assertion that the minor child's gender identity is different from the minor child's
9843 biological sex; or
- 9844 (ii) practice of having or expressing a different gender identity than the minor child's
9845 biological sex.
- 9846 (10)(a) The court shall consider evidence of domestic violence if evidence of domestic
9847 violence is presented.
- 9848 (b) The court shall consider as primary, the safety and well-being of the minor child and
9849 the parent who experiences domestic violence.
- 9850 (c) A court shall consider an order issued by a court in accordance with Title 78B,
9851 Chapter 7, Part 6, Cohabitant Abuse Protective Orders, as evidence of real harm or
9852 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 244. Section **81-9-208** is amended to read:

**81-9-208 . Modification or termination of a custody or parent-time order --
Noncompliance with a parent-time order.**

(1) The court has continuing jurisdiction to make subsequent changes to modify:

(a) custody of a minor child if there is a showing of a substantial and material change in circumstances since the entry of the order; and

(b) parent-time for a minor child if there is a showing that there is a change in circumstances since the entry of the order.

(2) A substantial and material change in circumstances under Subsection (1)(a) includes a showing by a parent that the other parent:

(a) resides with an individual or provides an individual with access to the minor child;

9887 and

9888 (b) knows that the individual:

9889 (i) is required to register as a sex offender~~[-or]~~ , a kidnap offender, or a child abuse
9890 offender for an offense against a minor child under Title 77, Chapter 41, [~~Sex and~~
9891 ~~Kidnap Offender Registry~~] Sex, Kidnap, and Child Abuse Offender Registry; or
9892 [~~(ii) is required to register as a child abuse offender under Title 77, Chapter 43, Child~~
9893 ~~Abuse Offender Registry; or~~]

9894 [(~~iii~~)] (ii) has been convicted of:

9895 (A) a child abuse offense under Section 76-5-109, 76-5-109.2, 76-5-109.3,
9896 76-5-114, or 76-5-208;

9897 (B) a sexual offense against a minor child under Title 76, Chapter 5, Part 4, Sexual
9898 Offenses;

9899 (C) an offense for kidnapping or human trafficking of a minor child under Title
9900 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

9901 (D) a sexual exploitation offense against a minor child under Title 76, Chapter 5b,
9902 Sexual Exploitation Act; or

9903 (E) an offense that is substantially similar to an offense under Subsections [
9904 ~~(2)(b)(iii)(A)~~] (2)(b)(ii)(A) through (D).

9905 (3) On the petition of one or both of the parents, or the joint legal or physical custodians if
9906 they are not the parents, the court may, after a hearing, modify or terminate an order that
9907 established joint legal custody or joint physical custody if:

9908 (a) the verified petition or accompanying affidavit initially alleges that admissible
9909 evidence will show that there has been a substantial and material change in the
9910 circumstances of the minor child or one or both parents or joint legal or physical
9911 custodians since the entry of the order to be modified;

9912 (b) a modification of the terms and conditions of the order would be an improvement for
9913 and in the best interest of the minor child; and

9914 (c)(i) both parents have complied in good faith with the dispute resolution procedure
9915 in accordance with Subsection 81-9-205(8); or

9916 (ii) if no dispute resolution procedure is contained in the order that established joint
9917 legal custody or joint physical custody, the court orders the parents to participate
9918 in a dispute resolution procedure in accordance with Subsection 81-9-205(13)
9919 unless the parents certify that, in good faith, they have used a dispute resolution
9920 procedure to resolve their dispute.

- 9921 (4)(a) In determining whether the best interest of a minor child will be served by either
9922 modifying or terminating the joint legal custody or joint physical custody order, the
9923 court shall, in addition to other factors the court considers relevant, consider the
9924 factors described in Sections 81-9-204 and 81-9-205.
- 9925 (b) A court order modifying or terminating an existing joint legal custody or joint
9926 physical custody order shall contain written findings that:
9927 (i) a substantial and material change of circumstance has occurred; and
9928 (ii) a modification of the terms and conditions of the order would be an improvement
9929 for and in the best interest of the minor child.
- 9930 (c) The court shall give substantial weight to the existing joint legal custody or joint
9931 physical custody order when the minor child is thriving, happy, and well-adjusted.
- 9932 (5) The court shall, in every case regarding a petition for termination of a joint legal
9933 custody or joint physical custody order, consider reasonable alternatives to preserve the
9934 existing order in accordance with Section 81-9-204.
- 9935 (6) The court may modify the terms and conditions of the existing order in accordance with
9936 this chapter and may order the parents to file a parenting plan in accordance with
9937 Section 81-9-203.
- 9938 (7) A parent requesting a modification from sole custody to joint legal custody or joint
9939 physical custody or both, or any other type of shared parenting arrangement, shall file
9940 and serve a proposed parenting plan with the petition to modify in accordance with
9941 Section 81-9-203.
- 9942 (8) If an issue before the court involves custodial responsibility in the event of deployment
9943 of one or both parents who are service members, and the service member has not yet
9944 been notified of deployment, the court shall resolve the issue based on the standards in
9945 Sections ~~[78B-20-306 through 78B-20-309]~~ 81-10-306 through 81-10-309.
- 9946 (9) If the court finds that an action to modify custody or parent-time is filed or answered
9947 frivolously and, in a manner, designed to harass the other party, the court shall assess
9948 attorney fees as costs against the offending party.
- 9949 (10) If a petition to modify custody or parent-time provisions of a court order is made and
9950 denied, the court shall order the petitioner to pay the reasonable attorney fees expended
9951 by the prevailing party in that action if the court determines that the petition was without
9952 merit and not asserted or defended against in good faith.
- 9953 (11) If a motion or petition alleges noncompliance with a parent-time order by a parent, or a
9954 visitation order by a grandparent or other member of the immediate family where a

visitation or parent-time right has been previously granted by the court, the court:

(a) may award to the prevailing party:

(i) actual attorney fees incurred;

(ii) the costs incurred by the prevailing party because of the other party's failure to provide or exercise court-ordered visitation or parent-time, including:

(A) court costs;

(B) child care expenses;

(C) transportation expenses actually incurred;

(D) lost wages, if ascertainable; or

(E) counseling for a parent or a minor child if ordered or approved by the court; or

(iii) any other appropriate equitable remedy; and

(b) shall award reasonable make-up parent-time to the prevailing party, unless make-up parent-time is not in the best interest of the minor child.

Section 245. Section **81-9-209** is amended to read:

81-9-209 . Notice of relocation -- Effect of relocation on parent-time schedule.

- (1) As used in this section, "relocation" means moving 150 miles or more from the residence of the other parent.
- (2) The relocating parent shall provide written notice to the other parent at least 60 days before the day on which the relocating parent intends to relocate.
- (3) The written notice of relocation under Subsection (2) shall contain statements affirming :
 - (a) the parent-time provisions in Subsection (9) or a parent-time schedule approved by both parties will be followed; and
 - (b) that a parent will not interfere with the other's parental rights pursuant to court ordered parent-time arrangements or the parent-time schedule approved by both parties.
- (4) The court shall, upon motion of any party or upon the court's own motion, schedule a hearing with notice to:
 - (a) review the notice of relocation and the relevant parent-time schedule under Section [~~81-8-302 or 81-8-304~~] 81-9-302 or 81-9-304; and
 - (b) make appropriate orders regarding the parent-time schedule and costs for parent-time transportation.
- (5) In a hearing to review the notice of relocation, the court shall, in determining if the relocation of a custodial parent is in the best interest of the minor child, consider any other factors that the court considers relevant to the determination.

- 9989 (6) If the court determines that relocation is not in the best interest of the minor child, and
9990 the custodial parent relocates, the court may order a change of custody.
- 9991 (7)(a) If the court finds that the relocation is in the best interest of the minor child, the
9992 court shall determine the parent-time schedule and allocate the transportation costs
9993 that will be incurred for the minor child to visit the noncustodial parent.
- 9994 (b) In making a determination under Subsection (7)(a), the court shall consider:
- 9995 (i) the reason for the parent's relocation;
- 9996 (ii) the additional costs or difficulty to both parents in exercising parent-time;
- 9997 (iii) the economic resources of both parents; and
- 9998 (iv) other factors the court considers necessary and relevant.
- 9999 (8) If a parent relocates because of an act of domestic violence or family violence by the
10000 other parent, the court shall make specific findings and orders with regard to the
10001 application of this section.
- 10002 (9) Unless otherwise ordered by the court, upon the relocation of one of the parties, the
10003 following schedule is the minimum parent-time the noncustodial parent is entitled to a
10004 minor child who is five to 18 years old:
- 10005 (a) in years ending in an odd number, the minor child shall spend the following holidays
10006 with the noncustodial parent:
- 10007 (i) Thanksgiving holiday beginning Wednesday until Sunday; and
- 10008 (ii) Spring break, if applicable, beginning the last day of school before the holiday
10009 until the day before school resumes;
- 10010 (b) in years ending in an even number, the minor child shall spend the following
10011 holidays with the noncustodial parent:
- 10012 (i) the entire winter school break period; and
- 10013 (ii) the Fall school break beginning the last day of school before the holiday until the
10014 day before school resumes;
- 10015 (c) extended parent-time equal to 1/2 of the summer or off-track time for consecutive
10016 weeks; and
- 10017 (d) one weekend per month, at the option and expense of the noncustodial parent.
- 10018 (10) For extended parent-time under Subsection (9)(c), the minor child should be returned
10019 to the custodial home no later than seven days before school begins, except that this
10020 week is counted when determining the amount of parent-time to be divided between the
10021 parents for the summer or off-track period.
- 10022 (11)(a) The court may also set a parent-time schedule for a minor child who is younger

than five years old.

(b) The schedule shall take into consideration the following:

(i) the age of the minor child;

(ii) the developmental needs of the minor child;

(iii) the distance between the parents' homes;

(iv) the travel arrangements and cost;

(v) the level of attachment between the minor child and the noncustodial parent; and

(vi) any other factors relevant to the best interest of the minor child.

(12) The noncustodial parent's monthly weekend entitlement is subject to the following restrictions.

(a)(i) If the noncustodial parent has not designated a specific weekend for parent-time, the noncustodial parent shall receive the last weekend of each month unless a holiday assigned to the custodial parent falls on that particular weekend.

(ii) If a holiday assigned to the custodial parent falls on the last weekend of the month, the noncustodial parent is entitled to the next to the last weekend of the month.

(b) If a noncustodial parent's extended parent-time or parent-time over a holiday extends into or through the first weekend of the next month, that weekend shall be considered the noncustodial parent's monthly weekend entitlement for that month.

(c) If a minor child is out of school for teacher development days or snow days after the minor child begins the school year, or other days not included in the list of holidays in Subsection (9) and those days are contiguous with the noncustodial parent's monthly weekend parent-time, those days shall be included in the weekend parent-time.

(13) The custodial parent is entitled to all parent-time not specifically allocated to the noncustodial parent.

(14) In the event finances and distance preclude the exercise of minimum parent-time for the noncustodial parent during the school year, the court should consider awarding more time for the noncustodial parent during the summer time if it is in the best interests of the [the-]minor child.

(15)(a) Upon the motion of any party, the court may order uninterrupted parent-time with the noncustodial parent for a minimum of 30 days during extended parent-time, unless the court finds it is not in the best interest of the minor child.

(b) If the court orders uninterrupted parent-time during a period not covered by this

section, the court shall specify in its order which parent is responsible for the minor child's travel expenses.

- (16)(a) Unless otherwise ordered by the court the relocating party shall be responsible for all the minor child's travel expenses relating to Subsections (9)(a) and (b) and 1/2 of the minor child's travel expenses relating to Subsection (9)(c), provided the noncustodial parent is current on all support obligations.
- (b) If the noncustodial parent has been found in contempt for not being current on all support obligations, the noncustodial parent is responsible for all of the minor child's travel expenses under Subsection (9), unless the court rules otherwise.
- (c) A responsible party shall make a reimbursement to the other for the minor child's travel expenses within 30 days of receipt of documents detailing those expenses.
- (17) The court may apply this provision to any preexisting decree of divorce.
- (18) Any action under this section may be set for an expedited hearing.
- (19) A parent who fails to comply with the notice of relocation in Subsection (2) is in contempt of the court's order.

Section 246. Section **81-9-303** is amended to read:

81-9-303 . Optional schedule for parent-time for a minor child five to 18 years old.

- (1)(a) The optional parent-time schedule in this section applies to a minor child who is five to 18 years old.
- (b) For purposes of calculating child support, the optional parent-time schedule in this section is 145 overnights.
- (c) Any impact on child support shall be consistent with joint physical custody.
- (2) The parents and the court may consider the increased parent-time schedule in this section as a minimum parent-time schedule when the parties agree or the noncustodial parent can demonstrate:
- (a) the noncustodial parent has been actively involved in the minor child's life;
- (b) the parties can communicate effectively regarding the minor child or the noncustodial parent has a plan to accomplish effective communications regarding the minor child;
- (c) the noncustodial parent has the ability to facilitate the increased parent-time;
- (d) the increased parent-time would be in the best interest of the minor child; and
- (e) any other factor the court considers relevant.
- (3) In determining whether a noncustodial parent has been actively involved in the minor

child's life, the court shall consider:

- (a) demonstrated responsibility in caring for the minor child;
- (b) involvement in childcare;
- (c) presence or volunteer efforts in the minor child's school and at extracurricular activities;
- (d) assistance with the minor child's homework;
- (e) involvement in preparation of meals, bath time, and bedtime for the minor child;
- (f) bonding with the minor child; and
- (g) any other factor the court considers relevant.

(4) In determining whether a noncustodial parent has the ability to facilitate the increased parent-time, the court shall consider:

- (a) the geographic distance between the residences of the parents and the distance between the parents' residences and the minor child's school;
- (b) the noncustodial parent's ability to assist with after school care;
- (c) the health of the minor child and the noncustodial parent in accordance with Subsection [81-9-204(5)] 81-9-204(4);
- (d) flexibility of employment or another schedule of the noncustodial parent;
- (e) ability to provide appropriate playtime with the minor child;
- (f) history and ability of the noncustodial parent to implement a flexible schedule for the minor child;
- (g) physical facilities of the noncustodial parent's residence; and
- (h) any other factor the court considers relevant.

(5) If the parties agree or the court enters an order for the optional parent-time schedule under this section, a parenting plan in compliance with Section 81-9-203 shall be filed with any order incorporating the optional parent-time schedule described in Subsection (6).

(6) The following schedule is considered the optional parent-time to which the noncustodial parent is entitled to the minor child:

- (a)(i) one weekday evening to be specified by the noncustodial parent or the court or Wednesday evening if not specified, beginning at 5:30 p.m. and ending the following day upon delivering the minor child to school or at 8 a.m. if there is no school; or
- (ii) at the election of the noncustodial parent, one weekday specified by the noncustodial parent or the court:

- 10125 (A) beginning at the time the minor child's school is regularly dismissed until the
10126 following day upon delivering the minor child to school or at 8 a.m. if there is
10127 no school; or
- 10128 (B) if there is no school, the noncustodial parent is available to be with the minor
10129 child, and in accommodation with the custodial parent's work schedule,
10130 beginning at 8 a.m. and ending on the following day upon delivering the minor
10131 child to school or at 8 a.m. if there is no school;
- 10132 (b)(i) beginning the first weekend after the entry of the decree, alternating weekends
10133 beginning at 6 p.m. on Friday and ending on Monday upon delivering the minor
10134 child to school or at 8 a.m. if there is no school; or
- 10135 (ii) at the election of the noncustodial parent, beginning the first weekend after the
10136 entry of the decree, alternating weekends:
- 10137 (A) beginning at the time the minor child's school is regularly dismissed on Friday
10138 and ending on Monday upon delivering the minor child to school or at 8 a.m. if
10139 there is no school; or
- 10140 (B) if there is no school, the noncustodial parent is available to be with the minor
10141 child, and in accommodation with the custodial parent's work schedule,
10142 beginning on Friday at 9 a.m. and ending on Monday upon delivering the
10143 minor child to school or at 8 a.m. if there is no school;
- 10144 (c) each holiday granted to the noncustodial parent in accordance with the holiday
10145 schedule described in Subsection (15); and
- 10146 (d) extended parent-time with the minor child when school is not in session for summer
10147 break in accordance with Subsection (7).
- 10148 (7)(a) For extended parent-time with the minor child under Subsection (6)(d) and at the
10149 election of the noncustodial parent, the noncustodial parent is entitled up to four
10150 weeks of parent-time with the minor child, which may be consecutive, when school is
10151 not in session for summer break.
- 10152 (b) For the four weeks of extended parent-time for a noncustodial parent under
10153 Subsection (7)(a):
- 10154 (i) two weeks, which may be consecutive, shall be uninterrupted parent-time for the
10155 noncustodial parent; and
- 10156 (ii) two weeks, which may be consecutive, may be interrupted by the custodial parent
10157 for a weekday visit on the same day on which the noncustodial parent is granted
10158 weekday day parent-time.

(c) A custodial parent is entitled to uninterrupted parent-time with the minor child for two weeks, which may be consecutive, when school is not in session for summer break.

(8)(a) Each parent shall provide notification to the other parent of the parent's plans for the exercise of parent-time for summer break under Subsection (7).

(b) For the notification requirement under Subsection (8)(a):

(i) in odd-numbered years:

(A) the noncustodial parent shall provide notice to the custodial parent by May 1;

and

(B) the custodial parent shall provide notice to the noncustodial parent by May 15;

and

(ii) in even-numbered years:

(A) the custodial parent shall provide notice to the noncustodial parent by May 1;

and

(B) the noncustodial parent shall provide notice to the custodial parent by May 15.

(c)(i) If a parent fails to provide a notification within the time periods described in Subsection (8)(b), the complying parent may determine the schedule for summer break for the noncomplying parent.

(ii) If both parents fail to provide notice within the time periods described in

Subsection (8)(b), the first parent to provide notice may determine the schedule

for summer break for the other parent.

(d) If a custodial parent intends to interrupt a noncustodial parent's parent-time under Subsection (7)(b)(ii), the custodial parent shall provide notification to the noncustodial parent of the intent to interrupt parent-time within 10 days after the day on which the custodial parent receives notification of the noncustodial parent's plans for the exercise of interrupted extended parent-time.

(9)(a) An election should be made by the noncustodial parent at the time of entry of the divorce decree or court order, except that the election may be changed by mutual agreement, court order, or by the noncustodial parent in the event of a change in the minor child's schedule.

(b) An election by either parent concerning parent-time shall be made a part of the decree and made a part of the parent-time order.

(10)(a) Changes may not be made to the parent-time schedule under this section, except that if a conflict arises in the parent-time schedule, the following order of precedence

shall be applied when determining which parent is entitled to parent-time:

- (i) the holiday schedule for Mother's Day or Father's Day under Subsection (15);
- (ii) the holiday schedule for the minor child's birthday, unless a parent is exercising uninterrupted extended parent-time under Subsection (7) and takes the minor child away from that parent's residence during the uninterrupted extended parent-time;
- (iii) the holiday schedule for any holiday under Subsection (15) that is not Father's Day, Mother's Day, or the minor child's birthday;
- (iv) extended parent-time under Subsection (7); and
- (v) the schedule for weekday or weekend parent-time.

(b) A parent exercising parent-time for the minor child's birthday may bring other siblings along for the minor child's birthday.

(11) A stepparent, grandparent, or other responsible adult designated by the noncustodial parent, may pick up the minor child for parent-time if the custodial parent is aware of the identity of the individual and the noncustodial parent will be with the minor child by 7 p.m.

(12) If a holiday falls on a regularly scheduled school day, the parent exercising parent-time shall be responsible for the minor child's attendance at school for that school day.

(13) If there is more than one minor child and the minor children's school schedules vary for purpose of a holiday, at the option of the parent exercising the holiday or the parent's half of the holiday, the minor children may remain together for the holiday period beginning the first evening that all minor children's schools are dismissed for the holiday and ending the evening before any minor child returns to school.

(14) If there is a minor child five to 18 years old and a minor child under five years old and both minor children are the children of the parties, the parents and the court should consider an upward deviation for parent-time with all the minor children so that parent-time is uniform based on a schedule under this section.

(15) The following table is the holiday schedule for parent-time under this section.

Holiday	Holiday Time Period	Years Noncustodial Parent is Granted Holiday	Years Custodial Parent is Granted Holiday
Dr. Martin Luther King Jr. Day	(1) Holiday begins Friday at:(a) 9 a.m. if school is not in session and the parent can be with the minor child;	Odd years	Even years

		<p>(b) the time that school is regularly dismissed; or</p> <p>(c) 6 p.m. at the election of the parent granted the holiday.</p> <p>(2) Holiday ends:</p> <p>(a) upon delivering of the minor child to school on the day following Dr. Martin Luther King Jr. Day; or</p> <p>(b) at 8 a.m. on the day following Dr. Martin Luther King Jr. Day if there is no school.</p>		
10222	President's Day	<p>(1) Holiday begins Friday at:</p> <p>(a) 9 a.m. if school is not in session and the parent can be with the minor child;</p> <p>(b) the time that school is regularly dismissed; or</p> <p>(c) 6 p.m. at the election of the parent granted the holiday.</p> <p>(2) Holiday ends:</p> <p>(a) upon delivering the minor child to school on the day following President's Day; or</p> <p>(b) at 8 a.m. on the day following President's Day if there is no school.</p>	Even years	Odd years
10223	Spring Break	<p>(1) Holiday begins at 6 p.m. on the day that school dismisses for spring break.</p> <p>(2) Holiday ends:</p> <p>(a) upon delivering the minor child to school on the day following the end of spring break; or</p> <p>(b) at 8 a.m. on the day following the end of spring break if there is no school.</p>	Odd years	Even years
10224	Memorial Day	<p>(1) Holiday begins Friday at:</p>	Even years	Odd years

		<p>(a) 9 a.m. if school is not in session and the parent can be with the minor child;</p> <p>(b) the time that school is regularly dismissed; or</p> <p>(c) 6 p.m. at the election of the parent granted the holiday.</p> <p>(2) Holiday ends:</p> <p>(a) upon delivering the minor child to school on the day following Memorial Day; or</p> <p>(b) at 8 a.m. on the day following Memorial Day if there is no school.</p>		
10225	Mother's Day	<p>(1) Holiday begins on Mother's Day at 9 a.m.</p> <p>(2) Holiday ends on Mother's Day at 7 p.m.</p>	All years if noncustodial parent is the mother or other parent designated in the order.	All years if custodial parent is the mother or other parent designated in the order.
10226	Father's Day	<p>(1) Holiday begins on Father's Day at 9 a.m.</p> <p>(2) Holiday ends on Father's Day at 7 p.m.</p>	All years if noncustodial parent is the father or other parent designated in the order.	All years if custodial parent is the father or other parent designated in the order.
10227	Juneteenth National Freedom Day	<p>(1) Holiday begins at:</p> <p>(a) 6 p.m. on the day before Juneteenth National Freedom Day if the day before Juneteenth National Freedom Day is not Father's Day; or</p> <p>(b) 9 a.m. on Juneteenth National Freedom Day if the day before Juneteenth National Freedom Day is Father's Day.</p>	Even years	Odd years

		(2) Holiday ends at 6 p.m. on the day following Juneteenth National Freedom Day.		
10228	Independence Day	(1) Holiday begins on July 3rd at 6 p.m. (2) Holiday ends on July 5th at 6 p.m.	Odd years	Even years
10229	Pioneer Day	(1) Holiday begins on July 23rd at 6 p.m. (2) Holiday ends on July 25th at 6 p.m.	Even years	Odd years
10230	Labor Day	(1) Holiday begins Friday at: (a) 9 a.m. if school is not in session and the parent can be with the minor child; (b) the time that school is regularly dismissed; or (c) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends: (a) upon delivering the minor child to school on the day following Labor Day; or (b) at 8 a.m. on the day following Labor Day if there is no school.	Odd years	Even years
10231	Columbus Day	(1) Holiday begins at 6 p.m. on the day before Columbus Day. (2) Holiday ends at 7 p.m. on Columbus Day.	Even years	Odd years
10232	Fall Break	(1) Holiday begins at 6 p.m. on the day school is dismissed for fall break. (2) Holiday ends: (a) upon delivering the minor child to school on the day following the end of fall break; or (b) at 8 a.m. on the day following the end of fall break if there is no school.	Odd years	Even years

10233	Halloween	(1) Holiday begins on October 31st or the day that Halloween is traditionally celebrated in the local community: (a) at the time that school is dismissed; or (b) at 4 p.m. if there is no school. (2) Holiday ends at 9 p.m. on the same day the holiday begins.	Even years	Odd years
10234	Veterans Day	(1) Holiday begins at 6 p.m. on the day before Veterans Day. (2) Holiday ends at 7 p.m. on Veterans Day.	Odd years	Even years
10235	Thanksgiving	(1) Holiday begins on Wednesday at: (a) 6 p.m.; or (b) the time school is regularly dismissed for Thanksgiving at the election of the parent granted the holiday. (2) Holiday ends: (a) upon delivering the minor child to school on the Monday following Thanksgiving; or (b) at 8 a.m. on the Monday following Thanksgiving if there is no school.	Even years	Odd years
10236	Winter Break (First Half)	(1) Holiday begins at: (a) 6 p.m. on the day that school dismisses for winter break; or (b) the time school is regularly dismissed on the day that school dismisses for winter break at the election of the parent granted the holiday. (2) Holiday ends on December 27th at 7 p.m.	Odd years	Even years

10237	Winter Break (Second Half)	(1) Holiday begins on December 27th at 7 p.m. (2) Holiday ends upon delivering the minor child to school on the day that school resumes after the winter break.	Even years	Odd years
10238	Day of Minor Child's Birthday	(1) Holiday begins at 3 p.m. (2) Holiday ends at 9 p.m.	Even years	Odd years
10239	Day Before or After Minor Child's Birthday	(1) Holiday begins at 3 p.m. (2) Holiday ends at 9 p.m.	Odd years	Even years

Section 247. Section **81-9-305** is amended to read:

81-9-305 . Equal parent-time schedule.

- (1)(a) A court may order the equal parent-time schedule described in this section if the court determines that:
- (i) the equal parent-time schedule is in the minor child's best interest;
 - (ii) each parent has been actively involved in the minor child's life; and
 - (iii) each parent can effectively facilitate the equal parent-time schedule.
- (b) To determine whether each parent has been actively involved in the minor child's life, the court shall consider:
- (i) each parent's demonstrated responsibility in caring for the minor child;
 - (ii) each parent's involvement in child care;
 - (iii) each parent's presence or volunteer efforts in the minor child's school and at extracurricular activities;
 - (iv) each parent's assistance with the minor child's homework;
 - (v) each parent's involvement in preparation of meals, bath time, and bedtime for the minor child;
 - (vi) each parent's bond with the minor child; and
 - (vii) any other factor the court considers relevant.
- (c) To determine whether each parent can effectively facilitate the equal parent-time schedule, the court shall consider:
- (i) the geographic distance between the residence of each parent and the distance between each residence and the minor child's school;
 - (ii) each parent's ability to assist with the minor child's after school care;

- (iii) the health of the minor child and each parent, consistent with Subsection [81-9-204(5)] 81-9-204(4);
- (iv) the flexibility of each parent's employment or other schedule;
- (v) each parent's ability to provide appropriate playtime with the minor child;
- (vi) each parent's history and ability to implement a flexible schedule for the minor child;
- (vii) physical facilities of each parent's residence; and
- (viii) any other factor the court considers relevant.

(2)(a) If the parties agree to or the court orders the equal parent-time schedule described in this section, a parenting plan in accordance with Section 81-9-203 shall be filed with an order incorporating the equal parent-time schedule.

(b) An order under this section shall result in 182 overnights per year for one parent, and 183 overnights per year for the other parent.

(c) Under the equal parent-time schedule, a parent is not considered to have the minor child the majority of the time for the purposes of Subsection 81-9-203(11)(e)(ii) or 81-9-205(10).

(d) Child support for the equal parent-time schedule shall be consistent with Section 81-6-206.

(e) A court shall determine which parent receives 182 overnights and which parent receives 183 overnights for parent-time.

(3)(a) Unless the parents agree otherwise and subject to a holiday, the equal parent-time schedule is as follows:

- (i) one parent shall exercise parent-time starting Monday morning and ending Wednesday morning;
- (ii) the other parent shall exercise parent-time starting Wednesday morning and ending Friday morning; and
- (iii) each parent shall alternate weeks exercising parent-time starting Friday morning and ending Monday morning.

(b) The child exchange shall take place:

- (i) at the time the minor child's school begins; or
- (ii) if school is not in session, at 9 a.m.

(4)(a) The parents may create a holiday schedule.

(b) If the parents are unable to create a holiday schedule under Subsection (4)(a), the court shall:

- (i) order the holiday schedule described in Section 81-9-302 or 81-9-304; and
- (ii) designate which parent shall exercise parent-time for each holiday described in Section 81-9-302 or 81-9-304.

- (5)(a) Each year, a parent may designate two consecutive weeks to exercise uninterrupted parent-time during the summer when school is not in session.
- (b)(i) One parent may make a designation at any time and the other parent may make a designation after May 1.
- (ii) A parent shall make a designation at least 30 days before the day on which the designated two-week period begins.
- (c) The court shall designate which parent may make the earlier designation described in Subsection (5)(b)(i) for an even numbered year with the other parent allowed to make the earlier designation in an odd numbered year.
- (d) The two consecutive weeks described in Subsection (5)(a) take precedence over all holidays except for Mother's Day and Father's Day.

Section 248. Section **81-9-402** is amended to read:

81-9-402 . Custody and visitation for individuals other than a parent -- Venue.

- (1)(a) In accordance with Section 80-2a-201, it is the public policy of this state that a parent retain the fundamental right and duty to exercise primary control over the care, supervision, upbringing, and education of a minor child of the parent.
- (b) There is a rebuttable presumption that a parent's decisions are in the minor child's best interests.
- (2) A court may find the presumption in Subsection (1) rebutted and grant custodial or visitation rights to an individual other than a parent who, by clear and convincing evidence, establishes that:
- (a) the individual has intentionally assumed the role and obligations of a parent;
 - (b) the individual and the minor child have formed a substantial emotional bond and created a parent-child type relationship;
 - (c) the individual substantially contributed emotionally or financially to the minor child's well being;
 - (d) the assumption of the parental role is not the result of a financially compensated surrogate care arrangement;
 - (e) the continuation of the relationship between the individual and the minor child is in the minor child's best interest;
 - (f) the loss or cessation of the relationship between the individual and the minor child

would substantially harm the minor child; and

(g) the parent:

(i) is absent; or

(ii) is found by a court to have abused or neglected the minor child.

(3) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, or Section 78A-6-350, an individual shall file a verified petition, or a petition supported by an affidavit, for custodial or visitation rights to the minor child in the juvenile court if a matter is pending in the juvenile court, or in the district court in the county where the minor child:

(a) currently resides; or

(b) lived with a parent or an individual other than a parent who acted as a parent within six months before the commencement of the action.

(4) An individual may file a petition under this section in a pending divorce, parentage action, or other proceeding, including a proceeding in the juvenile court involving custody of or visitation with a minor child.

(5) The petition shall include detailed facts supporting the petitioner's right to file the petition including the criteria set forth in Subsection (2) and residency information described in Section ~~[78B-13-209]~~ 81-11-209.

(6) An individual may not file a petition under this section against a parent who is actively serving outside the state in any branch of the military.

(7) Notice of a petition filed pursuant to this chapter shall be served in accordance with the Utah Rules of Civil Procedure on all of the following:

(a) the minor child's biological, adopted, presumed, declarant, and adjudicated parents;

(b) any individual who has court-ordered custody or visitation rights;

(c) the minor child's guardian;

(d) the guardian ad litem, if one has been appointed;

(e) an individual or agency that has physical custody of the minor child or that claims to have custody or visitation rights; and

(f) any other individual or agency that has previously appeared in any action regarding custody of or visitation with the minor child.

(8) The court may order a custody evaluation to be conducted in any proceeding brought under this section.

(9) The court may enter temporary orders in a proceeding brought under this section pending the entry of final orders.

(10) Except as provided in Subsection (11), a court may not grant custody of a minor child

under this section to an individual:

- (a) who is not the parent of the minor child; and
- (b) who, before a custody order is issued, is convicted, pleads guilty, or pleads no contest to a felony or attempted felony involving conduct that constitutes any of the following:
 - (i) child abuse, as described in Sections 76-5-109, 76-5-109.2, 76-5-109.3, and 76-5-114;
 - (ii) child abuse homicide, as described in Section 76-5-208;
 - (iii) child kidnapping, as described in Section 76-5-301.1;
 - (iv) human trafficking of a child, as described in Section 76-5-308.5;
 - (v) sexual abuse of a minor, as described in Section 76-5-401.1;
 - (vi) rape of a child, as described in Section 76-5-402.1;
 - (vii) object rape of a child, as described in Section 76-5-402.3;
 - (viii) sodomy on a child, as described in Section 76-5-403.1;
 - (ix) sexual abuse of a child, as described in Section 76-5-404.1, or aggravated sexual abuse of a child, as described in Section 76-5-404.3;
 - (x) sexual exploitation of a minor, as described in Section 76-5b-201;
 - (xi) aggravated sexual exploitation of a minor, as described in Section 76-5b-201.1; or
 - (xii) an offense in another state that, if committed in this state, would constitute an offense described in this Subsection (10).

(11)(a) As used in this Subsection (11), "disqualifying offense" means an offense listed in Subsection (10) that prevents a court from granting custody except as provided in this Subsection (11).

(b) An individual described in Subsection (10) may only be considered for custody of a minor child if the following criteria are met by clear and convincing evidence:

- (i) the individual is a relative, as defined in Section 80-3-102, of the minor child;
- (ii) at least 10 years have elapsed from the day on which the individual is successfully released from prison, jail, parole, or probation related to a disqualifying offense;
- (iii) during the 10 years before the day on which the individual files a petition with the court seeking custody the individual has not been convicted, plead guilty, or plead no contest to an offense greater than an infraction or traffic violation that would likely impact the health, safety, or well-being of the minor child;
- (iv) the individual can provide evidence of successful treatment or rehabilitation

- 10399 directly related to the disqualifying offense;
- 10400 (v) the court determines that the risk related to the disqualifying offense is unlikely to
- 10401 cause harm, as defined in Section 80-1-102, or potential harm to the minor child
- 10402 currently or at any time in the future when considering all of the following:
- 10403 (A) the minor child's age;
- 10404 (B) the minor child's gender;
- 10405 (C) the minor child's development;
- 10406 (D) the nature and seriousness of the disqualifying offense;
- 10407 (E) the preferences of a minor child who is 12 years old or older;
- 10408 (F) any available assessments, including custody evaluations, parenting
- 10409 assessments, psychological or mental health assessments, and bonding
- 10410 assessments; and
- 10411 (G) any other relevant information;
- 10412 (vi) the individual can provide evidence of the following:
- 10413 (A) the relationship with the minor child is of long duration;
- 10414 (B) that an emotional bond exists with the minor child; and
- 10415 (C) that custody by the individual who has committed the disqualifying offense
- 10416 ensures the best interests of the minor child are met;
- 10417 (vii)(A) there is no other responsible relative known to the court who has or likely
- 10418 could develop an emotional bond with the minor child and does not have a
- 10419 disqualifying offense; or
- 10420 (B) if there is a responsible relative known to the court that does not have a
- 10421 disqualifying offense, Subsection (11)(d) applies; and
- 10422 (viii) that the continuation of the relationship between the individual with the
- 10423 disqualifying offense and the minor child could not be sufficiently maintained
- 10424 through any type of visitation if custody were given to the relative with no
- 10425 disqualifying offense described in Subsection (11)(d).
- 10426 (c) The individual with the disqualifying offense bears the burden of proof regarding
- 10427 why placement with that individual is in the best interest of the minor child over
- 10428 another responsible relative or equally situated individual who does not have a
- 10429 disqualifying offense.
- 10430 (d) If, as provided in Subsection (11)(b)(vii)(B), there is a responsible relative known to
- 10431 the court who does not have a disqualifying offense:
- 10432 (i) preference for custody is given to a relative who does not have a disqualifying

offense; and

(ii) before the court may place custody with the individual who has the disqualifying offense over another responsible, willing, and able relative:

(A) an impartial custody evaluation shall be completed; and

(B) a guardian ad litem shall be assigned.

(12) Subsections (10) and (11) apply to a case pending on March 25, 2017, for which a final decision on custody has not been made and to a case filed on or after March 25, 2017.

Section 249. Section **81-10-101**, which is renumbered from Section 78B-20-102 is renumbered and amended to read:

CHAPTER 10. UNIFORM DEPLOYED PARENTS CUSTODY, PARENT-TIME,

AND VISITATION ACT

Part 1. General Provisions

[78B-20-102] 81-10-101 . Definitions for chapter.

As used in this chapter:

(1) "Adult" means an individual who ~~[has attained]~~ is at least 18 years old or is an emancipated minor child.

(2)(a) "Caretaking authority" means the right to live with and care for a child on a day-to-day basis.

(b) "Caretaking authority" includes physical custody, parent-time, right to access, and visitation.

(3) "Child" means:

(a) ~~[an unemancipated individual who has not attained 18 years old]~~ a minor child; or

(b) an adult son or daughter by birth or adoption, or under the law of this state other than this chapter, who is the subject of a court order concerning custodial responsibility.

(4) "Court" means a tribunal, including an administrative agency, authorized under the law of this state other than this chapter to make, enforce, or modify a decision regarding custodial responsibility.

(5)(a) "Custodial responsibility" includes all powers and duties relating to caretaking authority and decision-making authority for a child.~~[-The term]~~

(b) "Custodial responsibility" includes physical custody, legal custody, parent-time, right to access, visitation, and authority to grant limited contact with a child.

(6)(a) "Decision-making authority" means the power to make important decisions

10465 regarding a child, including decisions regarding the child's education, religious
10466 training, health care, extracurricular activities, and travel.~~[-The term]~~

10467 (b) "Decision-making authority" does not include the power to make decisions that
10468 necessarily accompany a grant of caretaking authority.

10469 (7) "Deploying parent" means a service member who is deployed or has been notified of
10470 impending deployment and is:

10471 (a) a parent of a child under the law of this state other than this chapter; or

10472 (b) an individual who has custodial responsibility for a child under the law of this state
10473 other than this chapter.

10474 (8) "Deployment" means the movement or mobilization of a service member for more than
10475 90 days but less than 18 months pursuant to uniformed service orders that:

10476 (a) are designated as unaccompanied;

10477 (b) do not authorize dependent travel; or

10478 (c) otherwise do not permit the movement of family members to the location to which
10479 the service member is deployed.

10480 (9) "Family care plan" means a formal written contingency plan mandated by regulation of
10481 the various departments and components of the uniformed service that requires certain
10482 service member parents of minor children to plan in advance for the smooth, rapid
10483 transfer of parental responsibilities to designees during the absence of the service
10484 member due to death, incapacity, short-term absences, long-term absences, including
10485 deployments, or noncombatant evacuation operations.

10486 (10) "Family member" means a sibling, aunt, uncle, cousin, stepparent, or grandparent of a
10487 child, or an individual recognized to be in a familial relationship with a child under the
10488 law of this state other than this chapter.

10489 (11)(a) "Limited contact" means the authority of a nonparent to visit a child for a limited
10490 time.

10491 (b) "Limited contact" includes authority to take the child to a place other than the
10492 residence of the child.

10493 (12) "Nonparent" means an individual other than a deploying parent or other parent.

10494 (13) "Other parent" means an individual who, in common with a deploying parent, is:

10495 (a) a parent of a child under the law of this state other than this chapter; or

10496 (b) an individual who has custodial responsibility for a child under the law of this state
10497 other than this chapter.

10498 (14) "Record" means information that is inscribed on a tangible medium or that is stored in

an electronic or other medium and is retrievable in perceivable form.

(15) "Return from deployment" means the conclusion of a service member's deployment as specified in uniformed service orders.

(16) "Service member" means a member of a uniformed service.

(17) "Sign" means, with present intent to authenticate or adopt a record:

(a) to execute or adopt a tangible symbol; or

(b) to attach to or logically associate with the record an electronic symbol, sound, or process.

(18) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(19) "Uniformed service" means:

(a) active and reserve components of the United States armed forces;

(b) the United States Merchant Marine;

(c) the commissioned corps of the United States Public Health Service;

(d) the commissioned corps of the National Oceanic and Atmospheric Administration of the United States; or

(e) the National Guard of a state.

Section 250. Section **81-10-102**, which is renumbered from Section 78B-20-103 is renumbered and amended to read:

[78B-20-103] 81-10-102 . Remedies for noncompliance.

In addition to other remedies under the law of this state other than this chapter, if a court finds that a party to a proceeding under this chapter has acted in bad faith or intentionally failed to comply with this chapter or a court order issued under this chapter, the court may assess reasonable attorney fees and costs against the party and order other appropriate relief.

Section 251. Section **81-10-103**, which is renumbered from Section 78B-20-104 is renumbered and amended to read:

[78B-20-104] 81-10-103 . Jurisdiction.

(1) A court may issue an order regarding custodial responsibility under this chapter only if the court has jurisdiction under [~~Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act~~] Chapter 11, Uniform Child Custody Jurisdiction and Enforcement Act.

(2) If a court has issued a temporary order regarding custodial responsibility pursuant to Part 3, Judicial Procedure for Granting Custodial Responsibility During Deployment, the

residence of the deploying parent is not changed by reason of the deployment for the purposes of [~~Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act~~] Chapter 11, Uniform Child Custody Jurisdiction and Enforcement Act, during the deployment.

(3) If a court has issued a permanent order regarding custodial responsibility before notice of deployment and the parents modify that order temporarily by agreement pursuant to Part 2, Agreement Addressing Custodial Responsibility During Deployment, the residence of the deploying parent is not changed by reason of the deployment for the purposes of [~~Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act~~] Chapter 11, Uniform Child Custody Jurisdiction and Enforcement Act.

(4) If a court in another state has issued a temporary order regarding custodial responsibility as a result of impending or current deployment, the residence of the deploying parent is not changed by reason of the deployment for the purposes of [~~Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act~~] Chapter 11, Uniform Child Custody Jurisdiction and Enforcement Act.

(5) This section does not prevent a court from exercising temporary emergency jurisdiction under [~~Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act~~] Chapter 11, Uniform Child Custody Jurisdiction and Enforcement Act.

Section 252. Section **81-10-104**, which is renumbered from Section 78B-20-105 is renumbered and amended to read:

[78B-20-105] 81-10-104 . Notification required of deploying parent.

(1)(a) Except as otherwise provided in Subsection (4) and subject to Subsection (3), a deploying parent shall in a record notify the other parent of a pending deployment not later than seven days after receiving notice of deployment unless reasonably prevented from doing so by the circumstances of service.

(b) If the circumstances of service prevent giving notification within the seven days, the deploying parent shall give the notification as soon as reasonably possible.

(2)(a) Except as otherwise provided in Subsection (4) and subject to Subsection (3), each parent shall in a record provide the other parent with a plan for fulfilling that parent's share of custodial responsibility during deployment.

(b) Each parent shall provide the plan as soon as reasonably possible after notification of deployment is given under Subsection (1).

(3)(a) If a court order currently in effect prohibits disclosure of the address or contact information of the other parent, notification of deployment under Subsection (1), or

notification of a plan for custodial responsibility during deployment under Subsection (2), may be made only to the issuing court.

(b) If the address of the other parent is available to the issuing court, the court shall forward the notification to the other parent.

(c) The court shall keep confidential the address or contact information of the other parent.

(4) Notification in a record under Subsection (1) or (2) is not required if the parents are living in the same residence and both parents have actual notice of the deployment or plan.

(5) In a proceeding regarding custodial responsibility, a court may consider the reasonableness of a parent's efforts to comply with this section.

Section 253. Section **81-10-105**, which is renumbered from Section 78B-20-106 is renumbered and amended to read:

[78B-20-106] 81-10-105 . Duty to notify of change of address.

(1)(a) Except as otherwise provided in Subsection (2), an individual to whom custodial responsibility has been granted during deployment pursuant to Part 2, Agreement Addressing Custodial Responsibility During Deployment, or Part 3, Judicial Procedure for Granting Custodial Responsibility During Deployment, shall notify the deploying parent and any other individual with custodial responsibility of a child of any change of the individual's mailing address or residence until the grant is terminated.

(b) The individual shall provide notice to any court that has issued a custody or child support order concerning the child, which is in effect.

(2)(a) If a court order currently in effect prohibits disclosure of the address or contact information of an individual to whom custodial responsibility has been granted, a notification under Subsection (1) may be made only to the court that issued the order.

(b) The court shall keep confidential the mailing address or residence of the individual to whom custodial responsibility has been granted.

Section 254. Section **81-10-106**, which is renumbered from Section 78B-20-107 is renumbered and amended to read:

[78B-20-107] 81-10-106 . General consideration in custody proceeding of parent's military service.

In a proceeding for custodial responsibility of a child of a service member, a court may not consider a parent's past deployment or possible future deployment in itself in determining

the best interest of the child but may consider any significant impact on the best interest of the child of the parent's past or possible future deployment.

Section 255. Section **81-10-201**, which is renumbered from Section 78B-20-201 is renumbered and amended to read:

Part 2. Agreement Addressing Custodial Responsibility During Deployment

[78B-20-201] 81-10-201 . Form of agreement.

(1)(a) The parents of a child may enter into a temporary agreement under this part granting custodial responsibility during deployment.

(b) When the parents of a child include one or more servicemembers, the parents should enter into an agreement granting custodial responsibility before notice of deployment, but may also enter into an agreement granting custodial responsibility following notice of deployment.

(2) An agreement under Subsection (1) shall be:

(a) in writing; and

(b) signed by both parents and any nonparent to whom custodial responsibility is granted.

(3) Subject to Subsection (4), an agreement under Subsection (1), if feasible, shall:

(a) identify the destination, duration, and conditions of the deployment that is the basis for the agreement if the deployment has been noticed;

(b) specify the allocation of caretaking authority among the deploying parent, the other parent, and any nonparent;

(c) specify any decision-making authority that accompanies a grant of caretaking authority;

(d) specify any grant of limited contact to a nonparent;

(e) if under the agreement custodial responsibility is shared by the other parent and a nonparent, or by other nonparents, provide a process to resolve any dispute that may arise;

(f) specify the frequency, duration, and means, including electronic means, by which the deploying parent will have contact with the child, any role to be played by the other parent in facilitating the contact, and the allocation of any costs of contact;

(g) specify the contact between the deploying parent and child during the time the deploying parent is on leave or is otherwise available;

(h) acknowledge that any party's child-support obligation cannot be modified by the agreement, and that changing the terms of the obligation during deployment requires modification in the appropriate court;

- (i) provide that the agreement will terminate according to the procedures under Part 4, Return from Deployment, after the deploying parent returns from deployment; and
- (j) if the agreement is required to be filed pursuant to Section ~~[78B-20-205]~~ 81-10-205, specify which parent is required to file the agreement.

(4) The omission of any of the items specified in Subsection (3) does not invalidate an agreement under this section.

(5) A servicemember shall ensure that the servicemember's family care plan reflects orders and agreements entered and filed ~~[pursuant to]~~ in accordance with this chapter.

Section 256. Section **81-10-202**, which is renumbered from Section 78B-20-202 is renumbered and amended to read:

[78B-20-202] 81-10-202 . Nature of authority created by agreement.

(1)(a) An agreement under this part is temporary and terminates pursuant to Part 4, Return from Deployment, after the deploying parent returns from deployment, unless the agreement has been terminated before that time by court order or modification under Section ~~[78B-2-203]~~ 81-10-203.

(b) The agreement may not create an independent, continuing right to caretaking authority, decision-making authority, or limited contact in an individual to whom custodial responsibility is given.

(2) A nonparent who has caretaking authority, decision-making authority, or limited contact by an agreement under this part has standing to enforce the agreement until it has been terminated by court order, by modification under Section ~~[78B-20-203]~~ 81-10-203, or under Part 4, Return from Deployment.

Section 257. Section **81-10-203**, which is renumbered from Section 78B-20-203 is renumbered and amended to read:

[78B-20-203] 81-10-203 . Modification of agreement.

(1) By mutual consent, the parents of a child may modify an agreement regarding custodial responsibility made ~~[pursuant to]~~ in accordance with this part.

(2) If an agreement is modified under Subsection (1) before deployment of a deploying parent, the modification shall be in writing and signed by both parents and any nonparent who will exercise custodial responsibility under the modified agreement.

(3) If an agreement is modified under Subsection (1) during deployment of a deployed parent, the modification shall be agreed to in a record by both parents and any nonparent who will exercise custodial responsibility under the modified agreement.

Section 258. Section **81-10-204**, which is renumbered from Section 78B-20-204 is renumbered

and amended to read:

[78B-20-204] 81-10-204 . Power of attorney.

- (1) A deploying parent, by power of attorney, may delegate all or part of custodial responsibility to an adult nonparent for the period of deployment if no other parent possesses custodial responsibility under the law of this state other than this chapter or if a court order currently in effect prohibits contact between the child and the other parent.
- (2) The deploying parent may revoke the power of attorney by signing a revocation of the power.

Section 259. Section **81-10-205**, which is renumbered from Section 78B-20-205 is renumbered and amended to read:

[78B-20-205] 81-10-205 . Filing agreement or power of attorney with court.

- (1)(a) An agreement or power of attorney under this part shall be filed within a reasonable time with any court that has entered an order on custodial responsibility or child support that is in effect concerning the child who is the subject of the agreement or power.
- (b) The case number and heading of the pending case concerning custodial responsibility or child support shall be provided to the court with the agreement or power.
- (2) Notwithstanding Subsection (1), failure to file an agreement or power of attorney does not invalidate an otherwise valid agreement or power of attorney.

Section 260. Section **81-10-301**, which is renumbered from Section 78B-20-301 is renumbered and amended to read:

Part 3. Judicial Procedure for Granting Custodial Responsibility During Deployment

[78B-20-301] 81-10-301 . Definitions for part.

[En] As used in this part, "close and substantial relationship" means a relationship in which a significant bond exists between a child and a nonparent.

Section 261. Section **81-10-302**, which is renumbered from Section 78B-20-302 is renumbered and amended to read:

[78B-20-302] 81-10-302 . Proceeding for temporary custody -- Order.

- (1)(a) After a deploying parent receives notice of deployment and until the deployment terminates, a court may issue a temporary order granting custodial responsibility unless prohibited by Section 39A-6-105 and the Servicemembers Civil Relief Act, 50 U.S.C. Appendix Sections 521 and 522.
- (b) A court may not issue a permanent order granting custodial responsibility without the consent of the deploying parent.

(2)(a) At any time after a deploying parent receives notice of deployment, either parent may file a motion regarding custodial responsibility of a child during deployment.

(b) The motion shall be filed in a pending proceeding for custodial responsibility in a court with jurisdiction under Section [78B-20-104] 81-10-103 or, if there is no pending proceeding in a court with jurisdiction under Section [78B-20-104] 81-10-103, in a new action for granting custodial responsibility during deployment.

Section 262. Section **81-10-303**, which is renumbered from Section 78B-20-303 is renumbered and amended to read:

[78B-20-303] 81-10-303 . Expedited hearing.

If a motion to grant custodial responsibility is filed under Subsection [78B-20-302(2)] 81-10-302(2) before a deploying parent deploys, the court shall conduct an expedited hearing.

Section 263. Section **81-10-304**, which is renumbered from Section 78B-20-304 is renumbered and amended to read:

[78B-20-304] 81-10-304 . Testimony by electronic means.

In a proceeding under this part, a party or witness who is not reasonably available to appear personally may appear, provide testimony, and present evidence by electronic means unless the court finds good cause to require a personal appearance.

Section 264. Section **81-10-305**, which is renumbered from Section 78B-20-305 is renumbered and amended to read:

[78B-20-305] 81-10-305 . Effect of prior judicial order or agreement.

In a proceeding for a grant of custodial responsibility [~~pursuant to~~] in accordance with this part, the following rules apply:

- (1) a prior judicial order designating custodial responsibility in the event of deployment is binding on the court unless the circumstances meet the requirements of the law of this state other than this chapter for modifying a judicial order regarding custodial responsibility; and
- (2) the court shall enforce a prior written agreement between the parents for designating custodial responsibility in the event of deployment, including an agreement executed under Part 2, Agreement Addressing Custodial Responsibility During Deployment, unless the court finds that the agreement is contrary to the best interest of the child.

Section 265. Section **81-10-306**, which is renumbered from Section 78B-20-306 is renumbered and amended to read:

[78B-20-306] 81-10-306 . Grant of caretaking or decision-making authority to nonparent.

(1) On motion of a deploying parent and in accordance with the law of this state other than this chapter, if it is in the best interest of the child a court may grant caretaking authority to a nonparent who is an adult family member of the child with whom the child has a close and substantial relationship.

(2) Unless a grant of caretaking authority to a nonparent under Subsection (1) is agreed to by the other parent, the grant is limited to an amount of time not greater than:

(a) the amount of time granted to the deploying parent under a permanent custody order, but the court may add unusual travel time necessary to transport the child; or

(b) in the absence of a permanent custody order that is currently in effect, the amount of time that the deploying parent habitually cared for the child before being notified of deployment, but the court may add unusual travel time necessary to transport the child.

(3)(a) A court may grant part of a deploying parent's decision-making authority, if the deploying parent is unable to exercise that authority, to a nonparent who is an adult family member of the child with whom the child has a close and substantial relationship.

(b) If a court grants the authority to a nonparent, the court shall specify the decision-making powers granted, including decisions regarding the child's education, religious training, health care, extracurricular activities, and travel.

Section 266. Section **81-10-307**, which is renumbered from Section 78B-20-307 is renumbered and amended to read:

[78B-20-307] 81-10-307 . Grant of limited contact.

On motion of a deploying parent, and in accordance with the law of this state other than this chapter, unless the court finds that the contact would be contrary to the best interest of the child, a court shall grant limited contact to a nonparent who is a family member of the child or an individual with whom the child has a close and substantial relationship.

Section 267. Section **81-10-308**, which is renumbered from Section 78B-20-308 is renumbered and amended to read:

[78B-20-308] 81-10-308 . Nature of authority created by temporary custody order.

(1)(a) A grant of authority under this part is temporary and terminates under Part 4, Return from Deployment, after the return from deployment of the deploying parent, unless the grant has been terminated before that time by court order.

(b) The grant may not create an independent, continuing right to caretaking authority,

10771 decision-making authority, or limited contact in an individual to whom it is granted.

- 10772 (2) A nonparent granted caretaking authority, decision-making authority, or limited contact
10773 under this part has standing to enforce the grant until it is terminated by court order or
10774 under Part 4, Return from Deployment.

10775 Section 268. Section **81-10-309**, which is renumbered from Section 78B-20-309 is renumbered
10776 and amended to read:

10777 **[78B-20-309] 81-10-309 . Content of temporary custody order.**

- 10778 (1) An order granting custodial responsibility under this part shall:

- 10779 (a) designate the order as temporary; and
10780 (b) identify to the extent feasible the destination, duration, and conditions of the
10781 deployment.

- 10782 (2) If applicable, an order for custodial responsibility under this part shall:

- 10783 (a) specify the allocation of caretaking authority, decision-making authority, or limited
10784 contact among the deploying parent, the other parent, and any nonparent;
10785 (b) if the order divides caretaking or decision-making authority between individuals, or
10786 grants caretaking authority to one individual and limited contact to another, provide a
10787 process to resolve any dispute that may arise;
10788 (c) provide for liberal communication between the deploying parent and the child during
10789 deployment, including through electronic means, unless contrary to the best interest
10790 of the child, and allocate any costs of communications;
10791 (d) provide for liberal contact between the deploying parent and the child during the
10792 time the deploying parent is on leave or otherwise available, unless contrary to the
10793 best interest of the child;
10794 (e) provide for reasonable contact between the deploying parent and the child after
10795 return from deployment until the temporary order is terminated, even if the time of
10796 contact exceeds the time the deploying parent spent with the child before entry of the
10797 temporary order; and
10798 (f) provide that the order will terminate ~~[pursuant to]~~ in accordance with Part 4, Return
10799 from Deployment, after the deploying parent returns from deployment.

10800 Section 269. Section **81-10-310**, which is renumbered from Section 78B-20-310 is renumbered
10801 and amended to read:

10802 **[78B-20-310] 81-10-310 . Order for child support.**

10803 If a court has issued an order granting caretaking authority under this part, or an
10804 agreement granting caretaking authority has been executed under Part 2, Agreement

Addressing Custodial Responsibility During Deployment, the court may enter a temporary order for child support consistent with the law of this state other than this chapter if the court has jurisdiction under ~~[Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act]~~ Chapter 8, Uniform Interstate Family Support Act.

Section 270. Section **81-10-311**, which is renumbered from Section 78B-20-311 is renumbered and amended to read:

~~[78B-20-311]~~ 81-10-311 . Modifying or terminating grant of custodial responsibility to nonparent.

(1)(a) Except for an order under Section ~~[78B-20-305]~~ 81-10-305, except as otherwise provided in Subsection (2), and consistent with Section 39A-6-105 and the Servicemembers Civil Relief Act, 50 U.S.C. Appendix Sections 521 and 522, on motion of a deploying parent, other parent, or any nonparent to whom caretaking authority, decision-making authority, or limited contact has been granted, the court may modify or terminate the grant if the modification or termination is consistent with this part and it is in the best interest of the child.

(b) A modification is temporary and terminates ~~[pursuant to]~~ in accordance with Part 4, Return from Deployment, after the deploying parent returns from deployment, unless the grant has been terminated before that time by court order.

(2) On motion of a deploying parent, the court shall terminate a grant of limited contact.

Section 271. Section **81-10-401**, which is renumbered from Section 78B-20-401 is renumbered and amended to read:

Part 4. Return from Deployment

~~[78B-20-401]~~ 81-10-401 . Procedure for terminating temporary grant of custodial responsibility established by agreement.

(1) At any time after return from deployment, a temporary agreement granting custodial responsibility under Part 2, Agreement Addressing Custodial Responsibility During Deployment, may be terminated by an agreement to terminate signed by the deploying parent and the other parent.

(2) A temporary agreement under Part 2, Agreement Addressing Custodial Responsibility During Deployment, granting custodial responsibility terminates:

(a) if an agreement to terminate under Subsection (1) specifies a date for termination, on that date; or

(b) if the agreement to terminate does not specify a date, on the date the agreement to terminate is signed by the deploying parent and the other parent.

(3) In the absence of an agreement under Subsection (1) to terminate, a temporary agreement granting custodial responsibility terminates under Part 2, Agreement Addressing Custodial Responsibility During Deployment, 30 days after the deploying parent gives notice to the other parent that the deploying parent returned from deployment.

(4)(a) If a temporary agreement granting custodial responsibility was filed with a court [pursuant to ~~Section 78B-20-205~~] in accordance with Section 81-10-205, an agreement to terminate the temporary agreement shall also be filed with that court within a reasonable time after the signing of the agreement.

(b) The case number and heading of the case concerning custodial responsibility or child support shall be provided to the court with the agreement to terminate.

Section 272. Section **81-10-402**, which is renumbered from Section 78B-20-402 is renumbered and amended to read:

[78B-20-402] 81-10-402 . Consent procedure for terminating temporary grant of custodial responsibility established by court order.

(1) At any time after a deploying parent returns from deployment, the deploying parent and the other parent may file with the court an agreement to terminate a temporary order for custodial responsibility issued under Part 3, Judicial Procedure for Granting Custodial Responsibility During Deployment.

(2) After an agreement has been filed, the court shall issue an order terminating the temporary order effective on the date specified in the agreement.

(3) If a date is not specified, the order is effective immediately.

Section 273. Section **81-10-403**, which is renumbered from Section 78B-20-403 is renumbered and amended to read:

[78B-20-403] 81-10-403 . Visitation before termination of temporary grant of custodial responsibility.

After a deploying parent returns from deployment until a temporary agreement or order for custodial responsibility established under Part 2, Agreement Addressing Custodial Responsibility During Deployment, or a provision of a court order specifying temporary custodial responsibility during deployment issued under Part 3, Judicial Procedure for Granting Custodial Responsibility During Deployment, or [Title 81,] Chapter 9, Custody, Parent-time, and Visitation, is terminated, the court shall issue a temporary order granting the deploying parent reasonable contact with the child unless it is contrary to the best interest of the child, even if the time of contact exceeds the time the deploying parent spent with the child

before deployment.

Section 274. Section **81-10-404**, which is renumbered from Section 78B-20-404 is renumbered and amended to read:

[78B-20-404] 81-10-404 . Termination by operation of law of temporary grant of custodial responsibility established by court order.

(1) If an agreement between the parties to terminate a court order for temporary custodial responsibility during deployment under Part 3, Judicial Procedure for Granting Custodial Responsibility During Deployment, or to terminate a provision of an order for temporary custodial responsibility during deployment entered under [Title 81,] Chapter 9, Custody, Parent-time, and Visitation, has not been filed, the temporary order terminates 30 days after the day on which the deploying parent gives notice to the other parent and any nonparent granted custodial responsibility that the deploying parent has returned from deployment.

(2) A proceeding seeking to prevent termination of a temporary order for custodial responsibility is governed by the law of this state other than this chapter.

Section 275. Section **81-10-501**, which is renumbered from Section 78B-20-501 is renumbered and amended to read:

Part 5. Applicability Provisions

[78B-20-501] 81-10-501 . Uniformity of application and construction.

In applying and construing this [~~uniform act~~] chapter, consideration shall be given to the need to promote uniformity of the law with respect to [its] this uniform law's subject matter among states that enact [it] this uniform law.

Section 276. Section **81-10-502**, which is renumbered from Section 78B-20-502 is renumbered and amended to read:

[78B-20-502] 81-10-502 . Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

Section 277. Section **81-10-503**, which is renumbered from Section 78B-20-503 is renumbered and amended to read:

[78B-20-503] 81-10-503 . Savings clause.

This chapter does not affect the validity of a temporary court order concerning custodial

responsibility during deployment that was entered before May 10, 2016.

Section 278. Section **81-11-101**, which is renumbered from Section 78B-13-102 is renumbered and amended to read:

CHAPTER 11. UNIFORM CHILD CUSTODY JURISDICTION AND

ENFORCEMENT ACT

Part 1. General Provisions

[78B-13-102] 81-11-101 . Definitions for chapter.

As used in this chapter:

(1) "Abandoned" means left without provision for reasonable and necessary care or supervision.

~~[(2) "Child" means an individual under 18 years of age and not married.]~~

~~[(3)]~~ (2)(a) "Child custody determination" means a judgment, decree, or other order of a court providing for the legal custody, physical custody, or parent-time with respect to a minor child.~~[-The term]~~

(b) "Child custody determination" includes a permanent, temporary, initial, and modification order.~~[-The term]~~

(c) "Child custody determination" does not include an order relating to child support or other monetary obligation of an individual.

~~[(4)]~~ (3)(a) "Child custody proceeding" means a proceeding in which legal custody, physical custody, or parent-time with respect to a minor child is an issue. ~~[-The term]~~

(b) "Child custody proceeding" includes a proceeding for divorce, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, and protection from domestic violence, in which the issue may appear.~~[-The term]~~

(c) "Child custody proceeding" does not include a proceeding involving juvenile delinquency, contractual emancipation, or enforcement under Part 3, Enforcement.

~~[(5)]~~ (4) "Commencement" means the filing of the first pleading in a proceeding.

~~[(6)]~~ (5) "Court" means an entity authorized under the law of a state to establish, enforce, or modify a child custody determination.

~~[(7)]~~ (6) "Home state" means:

(a) if the minor child is six months old or older, the state in which a minor child lived with a parent or a person acting as a parent for at least six consecutive months immediately before the commencement of a child custody proceeding~~[-In the case~~

of a child less than six months of age, the term means] , including any period of temporary absence of the parent or the person acting as a parent during that time period; or

(b) if the minor child is younger than six months old, the state in which the minor child lived from birth with [any of the persons mentioned. A period of temporary absence of any of the mentioned persons is part of the period.] a parent or a person acting as parent, including any period of temporary absence of the parent or the person acting as a parent during that time period.

[(8)] (7) "Initial determination" means the first child custody determination concerning a particular minor child.

[(9)] (8) "Issuing court" means the court that makes a child custody determination for which enforcement is sought under this chapter.

[(10)] (9) "Issuing state" means the state in which a child custody determination is made.

[(11)] (10) "Modification" means a child custody determination that changes, replaces, supersedes, or is otherwise made after a previous determination concerning the same minor child, whether or not it is made by the court that made the previous determination.

[(12)] (11) "Person" includes government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

[(13)] (12) "Person acting as a parent" means a person, other than a parent, who:

(a) has physical custody of the minor child or has had physical custody for a period of six consecutive months, including any temporary absence, within one year immediately before the commencement of a child custody proceeding; and

(b) has been awarded legal custody by a court or claims a right to legal custody under the law of this state.

[(14)] (13) "Physical custody" means the physical care and supervision of a minor child.

[(15)] (14) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

[(16)] (15) "Tribe" means an Indian tribe, or band, or Alaskan Native village which is recognized by federal law or formally acknowledged by a state.

[(17)] (16) "Writ of assistance" means an order issued by a court authorizing law enforcement officers to take physical custody of a minor child.

Section 279. Section **81-11-102**, which is renumbered from Section 78B-13-103 is renumbered and amended to read:

[78B-13-103] 81-11-102 . Proceedings governed by other law.

(1) ~~[For purposes of]~~ As used in this section, "adoption proceeding" means any proceeding under ~~[Title 78B, Chapter 6, Part 1, Utah Adoption Act]~~ Chapter 13, Adoption.

(2) This chapter does not govern:

(a) an adoption proceeding; or

(b) a proceeding pertaining to the authorization of emergency medical care for a minor child.

Section 280. Section **81-11-103**, which is renumbered from Section 78B-13-104 is renumbered and amended to read:

[78B-13-104] 81-11-103 . Application to Indian tribes.

(1) A child custody proceeding that pertains to an Indian child as defined in the Indian Child Welfare Act, 25 U.S.C. 1901 et seq., is not subject to this chapter to the extent that it is governed by the Indian Child Welfare Act.

(2) A court of this state shall treat a tribe as a state of the United States for purposes of Part 1, General Provisions, and Part 2, Jurisdiction.

(3) A child custody determination made by a tribe under factual circumstances in substantial conformity with the jurisdictional standards of this chapter shall be recognized and enforced under the provisions of Part 3, Enforcement.

Section 281. Section **81-11-104**, which is renumbered from Section 78B-13-105 is renumbered and amended to read:

[78B-13-105] 81-11-104 . International application of chapter.

(1) A court of this state shall treat a foreign country as a state of the United States for purposes of applying Part 1, General Provisions, and Part 2, Jurisdiction.

(2) A child custody determination made in a foreign country under factual circumstances in substantial conformity with the jurisdictional standards of this chapter shall be recognized and enforced under Part 3, Enforcement.

(3) The court need not apply the provisions of this chapter when the child custody law of the other country violates fundamental principles of human rights.

Section 282. Section **81-11-105**, which is renumbered from Section 78B-13-106 is renumbered and amended to read:

[78B-13-106] 81-11-105 . Binding force of child custody determination.

(1) A child custody determination made by a court of this state that had jurisdiction under this chapter binds all persons who have:

(a)(i) ~~[-]~~been served in accordance with the laws of this state or notified in

accordance with Section ~~[78B-13-108 or who have]~~ 81-11-107; or

(ii) ~~[-]~~submitted to the jurisdiction of the court~~[-, and who have-]~~ ; and

(b) been given an opportunity to be heard.

(2) The determination is conclusive as to ~~[them]~~ the persons described in Subsection (1) as to all decided issues of law and fact except to the extent the determination is modified.

Section 283. Section **81-11-106**, which is renumbered from Section 78B-13-107 is renumbered and amended to read:

[78B-13-107] 81-11-106 . Priority.

If a question of existence or exercise of jurisdiction under this chapter is raised in a child custody proceeding, the question, upon request of a party, shall be given priority on the calendar and handled expeditiously.

Section 284. Section **81-11-107**, which is renumbered from Section 78B-13-108 is renumbered and amended to read:

[78B-13-108] 81-11-107 . Notice to persons outside state.

(1)(a) Notice required for the exercise of jurisdiction when a person is outside this state may be given in a manner prescribed by the law of this state for the service of process or by the law of the state in which the service is made.

(b) Notice shall be given in a manner reasonably calculated to give actual notice, but may be by publication if other means are not effective.

(2) Proof of service may be made in the manner prescribed by the law of this state or by the law of the state in which the service is made.

(3) Notice is not required for the exercise of jurisdiction with respect to a person who submits to the jurisdiction of the court.

Section 285. Section **81-11-108**, which is renumbered from Section 78B-13-109 is renumbered and amended to read:

[78B-13-109] 81-11-108 . Appearance and limited immunity.

(1) A party to a child custody proceeding who is not subject to personal jurisdiction in this state and is a responding party under Part 2, Jurisdiction, a party in a proceeding to modify a child custody determination under Part 2, Jurisdiction, or a petitioner in a proceeding to enforce or register a child custody determination under Part 3, Enforcement, may appear and participate in the proceeding without submitting to personal jurisdiction over the party for another proceeding or purpose.

(2)(a) A party is not subject to personal jurisdiction in this state solely by being physically present for the purpose of participating in a proceeding under this chapter.

(b) If a party is subject to personal jurisdiction in this state on a basis other than physical presence, the party may be served with process in this state.

(c) If a party present in this state is subject to the jurisdiction of another state, service of process allowable under the laws of that state may be accomplished in this state.

(3) The immunity granted by this section does not extend to civil litigation based on acts unrelated to the participation in a proceeding under this chapter committed by an individual while present in this state.

Section 286. Section **81-11-109**, which is renumbered from Section 78B-13-110 is renumbered and amended to read:

[78B-13-110] 81-11-109 . Communication between courts.

(1) As used in this section:

(a) "Record" means information that is inscribed on a tangible medium or that which is stored in an electronic or other medium and is retrievable in perceivable form.

(b) "Record" includes:

(i) notes or transcripts of a court reporter who listened to a conference call between the courts;

(ii) an electronic recording of a telephone call;

(iii) a memorandum or an electronic record of the communication between the courts;

or

(iv) a memorandum or an electronic record made by a court after the communication.

~~[(1)]~~ (2) A court of this state may communicate with a court in another state concerning a proceeding arising under this chapter.

~~[(2)]~~ (3)(a) The court may allow the parties to participate in the communication.

(b) If the parties are not able to participate in the communication, the parties shall be given the opportunity to present facts and legal arguments before a decision on jurisdiction is made.

~~[(3)]~~ (4)(a) A communication between courts on schedules, calendars, court records, and similar matters may occur without informing the parties.

(b) A record need not be made of that communication.

~~[(4)]~~ (5)(a) Except as provided in Subsection ~~[(3)]~~ (4), a record shall be made of the communication.

(b) The parties shall be informed promptly of the communication and granted access to the record.

~~[(5) For the purposes of this section, "record" means information that is inscribed on a~~

tangible medium or that which is stored in an electronic or other medium and is retrievable in perceivable form. A record includes notes or transcripts of a court reporter who listened to a conference call between the courts, an electronic recording of a telephone call, a memorandum or an electronic record of the communication between the courts, or a memorandum or an electronic record made by a court after the communication.]

Section 287. Section **81-11-110**, which is renumbered from Section 78B-13-111 is renumbered and amended to read:

[78B-13-111] 81-11-110 . Taking testimony in another state.

- (1)(a) In addition to other procedures available to a party, a party to a child custody proceeding may offer testimony of witnesses who are located in another state, including testimony of the parties and the minor child, by deposition or other means allowable in this state for testimony taken in another state.
- (b) The court on [its] the court's own motion may:
- (i) order that the testimony of a person be taken in another state; and [may-]
 - (ii) prescribe the manner in which and the terms upon which the testimony is taken.
- (2)(a) A court of this state may permit an individual residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means before a designated court or at another location in that state.
- (b) A court of this state shall cooperate with courts of other states in designating an appropriate location for the deposition or testimony.
- (3) Documentary evidence transmitted from another state to a court of this state by technological means that do not produce an original writing may not be excluded from evidence on an objection based on the means of transmission.

Section 288. Section **81-11-111**, which is renumbered from Section 78B-13-112 is renumbered and amended to read:

[78B-13-112] 81-11-111 . Cooperation between courts -- Preservation of records.

- (1) A court of this state may request the appropriate court of another state to:
- (a) hold an evidentiary hearing;
 - (b) order a person to produce or give evidence under procedures of that state;
 - (c) order that an evaluation be made with respect to the custody of a minor child involved in a pending proceeding;
 - (d) forward to the court of this state a certified copy of the transcript of the record of the hearing, the evidence otherwise presented, and any evaluation prepared in

- 11109 compliance with the request; and
- 11110 (e) order a party to a child custody proceeding or any person having physical custody of
- 11111 the minor child to appear in the proceeding with or without the minor child.
- 11112 (2) Upon request of a court of another state, a court of this state may:
- 11113 (a) hold a hearing or enter an order described in Subsection (1); or
- 11114 (b) order a person in this state to appear alone or with the minor child in a custody
- 11115 proceeding in another state.
- 11116 (3)(a) A court of this state may condition compliance with a request under Subsection
- 11117 (2)(b) upon assurance by the other state that travel and other necessary expenses will
- 11118 be advanced or reimbursed.
- 11119 (b) If ~~[the person]~~ an individual who has physical custody of the minor child cannot be
- 11120 served or fails to obey the order, or it appears the order will be ineffective, the court
- 11121 may issue a warrant of arrest against ~~[the person to secure his]~~ the individual to secure
- 11122 the individual's appearance with the minor child in the other state.
- 11123 (4) Travel and other necessary and reasonable expenses incurred under Subsections (1) and
- 11124 (2) may be assessed against the parties according to the law of this state.
- 11125 (5)(a) A court of this state shall preserve the pleadings, orders, decrees, records of
- 11126 hearings, evaluations, and other pertinent records with respect to a child custody
- 11127 proceeding until the ~~[child attains 18 years of age]~~ minor child is 18 years old.
- 11128 (b) Upon appropriate request by a court or law enforcement official of another state, the
- 11129 court shall forward a certified copy of these records.
- 11130 Section 289. Section **81-11-201**, which is renumbered from Section 78B-13-201 is renumbered
- 11131 and amended to read:

Part 2. Jurisdiction

~~[78B-13-201]~~ **81-11-201 . Initial child custody jurisdiction.**

- 11133 (1) Except as otherwise provided in Section ~~[78B-13-204]~~ 81-11-204, a court of this state
- 11134 has jurisdiction to make an initial child custody determination only if:
- 11135 (a) this state is the home state of the minor child on the date of the commencement of the
- 11136 proceeding, or was the home state of the minor child within six months before the
- 11137 commencement of the proceeding and the minor child is absent from this state but a
- 11138 parent or person acting as a parent continues to live in this state;
- 11139 (b) a court of another state does not have jurisdiction under Subsection (1)(a), or a court
- 11140 of the home state of the minor child has declined to exercise jurisdiction on the
- 11141 ground that this state is the more appropriate forum under Section ~~[78B-13-207 or~~
- 11142

11143 ~~78B-13-208;~~ 81-11-207 or 81-11-208, and:

11144 (i) the minor child and the minor child's parents, or the minor child and at least one
11145 parent or a person acting as a parent have a significant connection with this state
11146 other than mere physical presence; and

11147 (ii) substantial evidence is available in this state concerning the minor child's care,
11148 protection, training, and personal relationships;

11149 (c) all courts having jurisdiction under Subsection (1)(a) or (b) have declined to exercise
11150 jurisdiction on the ground that a court of this state is the more appropriate forum to
11151 determine the custody of the minor child under Section [~~78B-13-207 or 78B-13-208~~]
11152 81-11-207 or 81-11-208; or

11153 (d) no state would have jurisdiction under Subsection (1)(a), (b), or (c).

11154 (2) Subsection (1) is the exclusive jurisdictional basis for making a child custody
11155 determination by a court of this state.

11156 (3) Physical presence of, or personal jurisdiction over, a party or a minor child is neither
11157 necessary nor sufficient to make a child custody determination.

11158 Section 290. Section **81-11-202**, which is renumbered from Section 78B-13-202 is renumbered
11159 and amended to read:

11160 **[78B-13-202] 81-11-202 . Exclusive, continuing jurisdiction.**

11161 (1) Except as otherwise provided in Section [~~78B-13-204~~] 81-11-204, a court of this state
11162 that has made a child custody determination consistent with Section [~~78B-13-201 or~~
11163 ~~78B-13-203~~] 81-11-201 or 81-11-203 has exclusive, continuing jurisdiction over the
11164 determination until:

11165 (a) a court of this state determines that [~~neither~~]the minor child, the minor child and one
11166 parent, [~~nor~~] and the minor child and a person acting as a parent do not have a
11167 significant connection with this state and that substantial evidence is no longer
11168 available in this state concerning the minor child's care, protection, training, and
11169 personal relationships; or

11170 (b) a court of this state or a court of another state determines that [~~neither the child, nor a~~
11171 ~~parent, nor~~] the minor child, a parent, and any person acting as a parent [~~presently~~
11172 ~~resides~~] do not presently reside in this state.

11173 (2) A court of this state that has exclusive, continuing jurisdiction under this section may
11174 decline to exercise [~~its~~] the court's jurisdiction if the court determines that it is an
11175 inconvenient forum under Section [~~78B-13-207~~] 81-11-207.

11176 (3) A court of this state that has made a child custody determination and does not have

exclusive, continuing jurisdiction under this section may modify that determination only if ~~[it] the court~~ has jurisdiction to make an initial determination under Section ~~[78B-13-201] 81-11-201~~.

Section 291. Section **81-11-203**, which is renumbered from Section 78B-13-203 is renumbered and amended to read:

~~[78B-13-203] 81-11-203 . Jurisdiction to modify determination.~~

Except as otherwise provided in Section ~~[78B-13-204] 81-11-204~~, a court of this state may not modify a child custody determination made by a court of another state unless a court of this state has jurisdiction to make an initial determination under Subsection ~~[78B-13-201(1)(a)] 81-11-201(1)(a)~~ or (b) and:

- (1) the court of the other state determines ~~[it] the court~~ no longer has exclusive, continuing jurisdiction under Section ~~[78B-13-202] 81-11-202~~ or that a court of this state would be a more convenient forum under Section ~~[78B-13-207] 81-11-207~~; or
- (2) a court of this state or a court of the other state determines that ~~[neither the child, nor a parent, nor]~~ the minor child, a parent, and any person acting as a parent presently ~~[resides]~~ do not reside in the other state.

Section 292. Section **81-11-204**, which is renumbered from Section 78B-13-204 is renumbered and amended to read:

~~[78B-13-204] 81-11-204 . Temporary emergency jurisdiction.~~

- (1) A court of this state has temporary emergency jurisdiction if the minor child is present in this state and the minor child has been abandoned or it is necessary in an emergency to protect the minor child because the minor child, or a sibling or parent of the minor child, is subjected to or threatened with mistreatment or abuse.
- (2)(a) If there is no previous child custody determination that is entitled to be enforced under this chapter, and if no child custody proceeding has been commenced in a court of a state having jurisdiction under Sections ~~[78B-13-201 through 78B-13-203] 81-11-201 through 81-11-203~~, a child custody determination made under this section remains in effect until an order is obtained from a court of a state having jurisdiction under Sections ~~[78B-13-201 through 78B-13-203] 81-11-201 through 81-11-203~~.
- (b) If a child custody proceeding has not been or is not commenced in a court of a state having jurisdiction under Sections ~~[78B-13-201 through 78B-13-203] 81-11-201 through 81-11-203~~, a child custody determination made under this section becomes a final determination, if:
 - ~~[(a)]~~ (i) it so provides; and

11211 [(b)] (ii) this state becomes the home state of the minor child.

11212 (3)(a) If there is a previous child custody determination that is entitled to be enforced
11213 under this chapter, or a child custody proceeding has been commenced in a court of a
11214 state having jurisdiction under Sections ~~[78B-13-201 through 78B-13-203]~~ 81-11-201
11215 through 81-11-203, any order issued by a court of this state under this section shall
11216 specify in the order a period of time which the court considers adequate to allow the
11217 person seeking an order to obtain an order from the state having jurisdiction under
11218 Sections ~~[78B-13-201 through 78B-13-203]~~ 81-11-201 through 81-11-203.

11219 (b) The order issued in this state remains in effect until an order is obtained from the
11220 other state within the period specified or the period expires.

11221 (4)(a) A court of this state that has been asked to make a child custody determination
11222 under this section, upon being informed that a child custody proceeding has been
11223 commenced, or a child custody determination has been made, by a court of a state
11224 having jurisdiction under Sections ~~[78B-13-201 through 78B-13-203]~~ 81-11-201
11225 through 81-11-203, shall immediately communicate with the other court.

11226 (b) A court of this state that is exercising jurisdiction ~~[pursuant to Sections 78B-13-201~~
11227 ~~through 78B-13-203]~~ in accordance with Sections 81-11-201 through 81-11-203,
11228 upon being informed that a child custody proceeding has been commenced, or a child
11229 custody determination has been made by a court of another state under a statute
11230 similar to this section shall immediately communicate with the court of that state.

11231 (c) The purpose of the communication is to resolve the emergency, protect the safety of
11232 the parties and the minor child, and determine a period for the duration of the
11233 temporary order.

11234 Section 293. Section **81-11-205**, which is renumbered from Section 78B-13-205 is renumbered
11235 and amended to read:

11236 **[78B-13-205] 81-11-205 . Notice -- Opportunity to be heard -- Joinder.**

11237 (1) Before a child custody determination is made under this chapter, notice and an
11238 opportunity to be heard in accordance with the standards of Section ~~[78B-13-108]~~
11239 81-11-107 shall be given to all persons entitled to notice under the law of this state as in
11240 child custody proceedings between residents of this state, any parent whose parental
11241 rights have not been previously terminated, and any person having physical custody of
11242 the minor child.

11243 (2) This chapter does not govern the enforceability of a child custody determination made
11244 without notice and an opportunity to be heard.

- (3) The obligation to join a party and the right to intervene as a party in a child custody proceeding under this chapter are governed by the law of this state as in child custody proceedings between residents of this state.

Section 294. Section **81-11-206**, which is renumbered from Section 78B-13-206 is renumbered and amended to read:

[78B-13-206] 81-11-206 . Simultaneous proceedings.

- (1) Except as otherwise provided in Section ~~[78B-13-204]~~ 81-11-204, a court of this state may not exercise its jurisdiction under this chapter if at the time of the commencement of the proceeding a proceeding concerning the custody of the minor child had been previously commenced in a court of another state having jurisdiction substantially in conformity with this chapter, unless the proceeding has been terminated or is stayed by the court of the other state because a court of this state is a more convenient forum under Section ~~[78B-13-207]~~ 81-11-207.

- (2)(a) Except as otherwise provided in Section ~~[78B-13-204]~~ 81-11-204, a court of this state, before hearing a child custody proceeding, shall examine the court documents and other information supplied by the parties ~~[pursuant to Section 78B-13-209]~~ in accordance with Section 81-11-209.

(b) If the court determines that a child custody proceeding was previously commenced in a court in another state having jurisdiction substantially in accordance with this chapter, the court of this state shall stay ~~[its]~~ the court's proceeding and communicate with the court of the other state.

(c) If the court of the state having jurisdiction substantially in accordance with this chapter does not determine that the court of this state is a more appropriate forum, the court of this state shall dismiss the proceeding.

- (3)(a) In a proceeding to modify a child custody determination, a court of this state shall determine whether a proceeding to enforce the determination has been commenced in another state.

(b) If a proceeding to enforce a child custody determination has been commenced in another state, the court may:

~~[(a)]~~ (i) stay the proceeding for modification pending the entry of an order of a court of the other state enforcing, staying, denying, or dismissing the proceeding for enforcement;

~~[(b)]~~ (ii) enjoin the parties from continuing with the proceeding for enforcement; or

~~[(c)]~~ (iii) proceed with the modification under conditions it considers appropriate.

Section 295. Section **81-11-207**, which is renumbered from Section 78B-13-207 is renumbered and amended to read:

[78B-13-207] 81-11-207 . Inconvenient forum.

(1)(a) A court of this state that has jurisdiction under this chapter to make a child custody determination may decline to exercise its jurisdiction at any time if ~~it~~ the court determines that ~~it~~ the court is an inconvenient forum under the circumstances and that a court of another state is a more appropriate forum.

(b) The issue of inconvenient forum may be raised upon the court's own motion, request of another court, or motion of a party.

(2)(a) Before determining whether ~~it~~ the court is an inconvenient forum, a court of this state shall consider whether it is appropriate that a court of another state exercise jurisdiction.

(b) ~~[For this purpose]~~ In making a determination under Subsection (2)(a), the court shall:

(i) allow the parties to submit information~~[-and shall]~~ ; and

(ii) consider all relevant factors, including:

~~[(a)]~~ (A) whether domestic violence has occurred and is likely to continue in the future and which state could best protect the parties and the minor child;

~~[(b)]~~ (B) the length of time the minor child has resided outside this state;

~~[(c)]~~ (C) the distance between the court in this state and the court in the state that would assume jurisdiction;

~~[(d)]~~ (D) the relative financial circumstances of the parties;

~~[(e)]~~ (E) any agreement of the parties as to which state should assume jurisdiction;

~~[(f)]~~ (F) the nature and location of the evidence required to resolve the pending litigation, including the testimony of the minor child;

~~[(g)]~~ (G) the ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence; and

~~[(h)]~~ (H) the familiarity of the court of each state with the facts and issues of the pending litigation.

(3) If a court of this state determines that ~~it~~ the court is an inconvenient forum and that a court of another state is a more appropriate forum, ~~it~~ the court shall stay the proceedings upon condition that a child custody proceeding be promptly commenced in another designated state and may impose any other condition the court considers just and proper.

(4) A court of this state may decline to exercise ~~its~~ the court's jurisdiction under this

chapter if a child custody determination is incidental to an action for divorce or another proceeding while still retaining jurisdiction over the divorce or other proceeding.

Section 296. Section **81-11-208**, which is renumbered from Section 78B-13-208 is renumbered and amended to read:

[78B-13-208] 81-11-208 . Jurisdiction declined by reason of conduct.

(1) Except as otherwise provided in Section [78B-13-204] 81-11-204 or by other law of this state, if a court of this state has jurisdiction under this chapter because a person invoking the jurisdiction has engaged in unjustifiable conduct, the court shall decline to exercise [its] the court's jurisdiction unless:

(a) the parents and all persons acting as parents have acquiesced in the exercise of jurisdiction;

(b) a court of the state otherwise having jurisdiction under Sections [78B-13-201 through 78B-13-203] 81-11-201 through 81-11-203 determines that this state is a more appropriate forum under Section [78B-13-207] 81-11-207; or

(c) no other state would have jurisdiction under Sections [78B-13-201 through 78B-13-203] 81-11-201 through 81-11-203.

(2) If a court of this state declines to exercise [its] the court's jurisdiction [~~pursuant to~~] in accordance with Subsection (1), [it] the court may fashion an appropriate remedy to ensure the safety of the minor child and prevent a repetition of the wrongful conduct, including staying the proceeding until a child custody proceeding is commenced in a court having jurisdiction under Sections [78B-13-201 through 78B-13-203] 81-11-201 through 81-11-203.

(3)(a) If a court dismisses a petition or stays a proceeding because it declines to exercise [its jurisdiction pursuant to] the court's jurisdiction in accordance with Subsection (1), [it] the court shall charge the party invoking the jurisdiction of the court with necessary and reasonable expenses including costs, communication expenses, attorney fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from whom fees are sought establishes that the award would be clearly inappropriate.

(b) The court may not assess fees, costs, or expenses against this state except as otherwise provided by law other than this chapter.

Section 297. Section **81-11-209**, which is renumbered from Section 78B-13-209 is renumbered and amended to read:

[78B-13-209] 81-11-209 . Information to be submitted to court.

- 11347 (1)(a) In a child custody proceeding, each party, in [its] the party's first pleading or in an
11348 attached affidavit, shall give information, if reasonably ascertainable, under oath as to
11349 the minor child's present address, the places where the minor child has lived during
11350 the last five years, and the names and present addresses of the persons with whom the
11351 minor child has lived during that period.
- 11352 (b) The pleading or affidavit shall state whether the party:
- 11353 [~~(a)~~] (i) has participated, as a party or witness or in any other capacity, in any other
11354 proceeding concerning the custody of or parent-time with the minor child and, if
11355 so, identify the court, the case number of the proceeding, and the date of the child
11356 custody determination, if any;
- 11357 [~~(b)~~] (ii) knows of any proceeding that could affect the current proceeding, including
11358 proceedings for enforcement and proceedings relating to domestic violence,
11359 protective orders, termination of parental rights, and adoptions and, if so, identify
11360 the court and the case number and the nature of the proceeding; and
- 11361 [~~(c)~~] (iii) knows the names and addresses of any person not a party to the proceeding
11362 who has physical custody of the minor child or claims rights of legal custody or
11363 physical custody of, or parent-time with, the minor child and, if so, the names and
11364 addresses of those persons.
- 11365 (2) If the information required by Subsection (1) is not furnished, the court, upon [its] the
11366 court's own motion or that of a party, may stay the proceeding until the information is
11367 furnished.
- 11368 (3)(a) If the declaration as to any of the items described in Subsection (1) is in the
11369 affirmative, the declarant shall give additional information under oath as required by
11370 the court.
- 11371 (b) The court may examine the parties under oath as to details of the information
11372 furnished and other matters pertinent to the court's jurisdiction and the disposition of
11373 the case.
- 11374 (4) Each party has a continuing duty to inform the court of any proceeding in this or any
11375 other state that could affect the current proceeding.
- 11376 (5) If a party alleges in an affidavit or a pleading under oath that the health, safety, or
11377 liberty of a party or minor child would be put at risk by the disclosure of identifying
11378 information, that information shall be sealed and not disclosed to the other party or the
11379 public unless the court orders the disclosure to be made after a hearing in which the
11380 court takes into consideration the health, safety, or liberty of the party or minor child and

determines that the disclosure is in the interest of justice.

Section 298. Section **81-11-210**, which is renumbered from Section 78B-13-210 is renumbered and amended to read:

[78B-13-210] 81-11-210 . Appearance of parties and child.

- (1)(a) A court of this state may order a party to a child custody proceeding who is in this state to appear before the court personally with or without the minor child.
- (b) The court may order any person who is in this state and who has physical custody or control of the minor child to appear physically with the minor child.
- (2) If a party to a child custody proceeding whose presence is desired by the court is outside this state, the court may order that a notice given [~~pursuant to Section 78B-13-108~~] in accordance with Section 81-11-107 include a statement directing the party to appear personally with or without the minor child and declaring that failure to appear may result in a decision adverse to the party.
- (3) The court may enter any orders necessary to ensure the safety of the minor child and of any person ordered to appear under this section.
- (4) If a party to a child custody proceeding who is outside this state is directed to appear under Subsection (2) or desires to appear personally before the court with or without the minor child, the court may require another party to pay reasonable and necessary travel and other expenses of the party so appearing and of the minor child.

Section 299. Section **81-11-301**, which is renumbered from Section 78B-13-301 is renumbered and amended to read:

Part 3. Enforcement

[78B-13-301] 81-11-301 . Definitions for part.

As used in this part:

- (1) "Petitioner" means a person who seeks enforcement of a child custody determination or enforcement of an order for the return of the minor child under the Hague Convention on the Civil Aspects of International Child Abduction.
- (2) "Respondent" means a person against whom a proceeding has been commenced for enforcement of a child custody determination or enforcement of an order for the return of the minor child under the Hague Convention on the Civil Aspects of International Child Abduction.

Section 300. Section **81-11-302**, which is renumbered from Section 78B-13-302 is renumbered and amended to read:

[78B-13-302] 81-11-302 . Scope -- Hague Convention Enforcement.

This chapter may be invoked to enforce:

- (1) a child custody determination; and
- (2) an order for the return of the minor child made under the Hague Convention on the Civil Aspects of International Child Abduction.

Section 301. Section **81-11-303**, which is renumbered from Section 78B-13-303 is renumbered and amended to read:

[78B-13-303] 81-11-303 . Duty to enforce.

- (1) A court of this state shall recognize and enforce a child custody determination of a court of another state if the latter court exercised jurisdiction that was in substantial conformity with this chapter or the determination was made under factual circumstances meeting the jurisdictional standards of this chapter and the determination has not been modified in accordance with this chapter.

- (2)(a) A court may utilize any remedy available under other law of this state to enforce a child custody determination made by a court of another state.

- (b) The procedure provided by this part does not affect the availability of other remedies to enforce a child custody determination.

Section 302. Section **81-11-304**, which is renumbered from Section 78B-13-304 is renumbered and amended to read:

[78B-13-304] 81-11-304 . Temporary parent-time.

- (1) A court of this state which does not have jurisdiction to modify a child custody determination may issue a temporary order enforcing:

- (a) a parent-time schedule made by a court of another state; or
 - (b) the parent-time provisions of a child custody determination of another state that does not provide for a specific parent-time schedule.

- (2)(a) If a court of this state makes an order under Subsection (1)(b), [it] the court shall specify in the order a period that [it] the court considers adequate to allow the petitioner to obtain an order from a court having jurisdiction under the criteria specified in Part 2, Jurisdiction.

- (b) The order remains in effect until an order is obtained from the other court or the period expires.

Section 303. Section **81-11-305**, which is renumbered from Section 78B-13-305 is renumbered and amended to read:

[78B-13-305] 81-11-305 . Registration of child custody determination.

- (1) A child custody determination issued by a court of another state may be registered in

11449 this state, with or without a simultaneous request for enforcement, by sending to the
11450 district court in this state:

- 11451 (a) a letter or other document requesting registration;
- 11452 (b) two copies, including one certified copy, of the determination sought to be
11453 registered, and a statement under penalty of perjury that to the best of the knowledge
11454 and belief of the person seeking registration the order has not been modified; and
- 11455 (c) except as otherwise provided in Section [~~78B-13-209~~] 81-11-209, the name and
11456 address of the person seeking registration and any parent or person acting as a parent
11457 who has been awarded custody or parent-time in the child custody determination
11458 sought to be registered.

11459 (2) On receipt of the documents required by Subsection (1), the registering court shall:

- 11460 (a) cause the determination to be filed as a foreign judgment, together with one copy of
11461 any accompanying documents and information, regardless of their form; and
- 11462 (b) serve notice upon [~~the persons named pursuant to Subsection (1)(c) and provide them~~]
11463 a person named as described in Subsection (1)(c) and provide the person with an
11464 opportunity to contest the registration in accordance with this section.

11465 (3) The notice required by Subsection (2)(b) shall state:

- 11466 (a) that a registered determination is enforceable as of the date of the registration in the
11467 same manner as a determination issued by a court of this state;
- 11468 (b) that a hearing to contest the validity of the registered determination shall be
11469 requested within 20 days after service of notice; and
- 11470 (c) that failure to contest the registration will result in confirmation of the child custody
11471 determination and preclude further contest of that determination with respect to any
11472 matter that could have been asserted.

11473 (4)(a) A person seeking to contest the validity of a registered order shall request a
11474 hearing within 20 days after service of the notice.

11475 (b) At that hearing, the court shall confirm the registered order unless the person
11476 contesting registration establishes that:

- 11477 [~~(a)~~] (i) the issuing court did not have jurisdiction under Part 2, Jurisdiction;
- 11478 [~~(b)~~] (ii) the child custody determination sought to be registered has been vacated,
11479 stayed, or modified by a court of a state having jurisdiction to do so under Part 2,
11480 Jurisdiction; or
- 11481 [~~(c)~~] (iii) the person contesting registration was entitled to notice, but notice was not
11482 given in accordance with the standards of Section [~~78B-13-108~~] 81-11-107 in the

proceedings before the court that issued the order for which registration is sought.

- (5) If a timely request for a hearing to contest the validity of the registration is not made, the registration is confirmed as a matter of law and the person requesting registration and all persons served shall be notified of the confirmation.
- (6) Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter which could have been asserted at the time of registration.

Section 304. Section **81-11-306**, which is renumbered from Section 78B-13-306 is renumbered and amended to read:

[78B-13-306] 81-11-306 . Enforcement of registered determination.

- (1) A court of this state may grant any relief normally available under the law of this state to enforce a registered child custody determination made by a court of another state.
- (2) A court of this state shall recognize and enforce, but may not modify except in accordance with Part 2, Jurisdiction, a registered child custody determination of another state.

Section 305. Section **81-11-307**, which is renumbered from Section 78B-13-307 is renumbered and amended to read:

[78B-13-307] 81-11-307 . Simultaneous proceedings.

- (1) If a proceeding for enforcement under this part has been or is commenced in this state and a court of this state determines that a proceeding to modify the determination has been commenced in another state having jurisdiction to modify the determination under Part 2, Jurisdiction, the enforcing court shall immediately communicate with the modifying court.
- (2) The proceeding for enforcement continues unless the enforcing court, after consultation with the modifying court, stays or dismisses the proceeding.

Section 306. Section **81-11-308**, which is renumbered from Section 78B-13-308 is renumbered and amended to read:

[78B-13-308] 81-11-308 . Expedited enforcement of child custody determination.

- (1)(a) A petition under this part shall be verified.
- (b) Certified copies of all orders sought to be enforced and of the order confirming registration, if any, shall be attached to the petition.
- (c) A copy of a certified copy of an order may be attached instead of the original.
- (2) A petition for enforcement of a child custody determination shall state:
- (a) whether the court that issued the determination identified the jurisdictional basis [it]

the court relied upon in exercising jurisdiction and, if so, what the basis was;

(b) whether the determination for which enforcement is sought has been vacated, stayed, or modified by a court whose decision shall be enforced under this chapter or federal law and, if so, identify the court, the case number of the proceeding, and the action taken;

(c) whether any proceeding has been commenced that could affect the current proceeding, including proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court and the case number and the nature of the proceeding;

(d) the present physical address of the minor child and the respondent, if known; and

(e) whether relief in addition to the immediate physical custody of the minor child and attorney fees is sought, including a request for assistance from law enforcement officials and, if so, the relief sought.

(3) If the child custody determination has been registered and confirmed under Section [~~78B-13-305~~] 81-11-305, the petition shall also state the date and place of registration.

(4) The court shall issue an order directing the respondent to appear with or without the minor child at a hearing and may enter any orders necessary to ensure the safety of the parties and the minor child.

(5)(a) The hearing shall be held on the next judicial day following service of process unless that date is impossible.

(b) In that event, the court shall hold the hearing on the first day possible.

(c) The court may extend the date of hearing at the request of the petitioner.

(6) The order shall:

(a) state the time and place of the hearing[~~and shall~~] ; and

(b) advise the respondent that at the hearing the court will order the delivery of the child and the payment of fees, costs, and expenses under Section [~~78B-13-312, and may~~] 81-11-312.

(7) The order may set an additional hearing to determine whether further relief is appropriate, unless the respondent appears and establishes that:

(a) the child custody determination has not been registered and confirmed under Section [~~78B-13-305~~] 81-11-305, and that:

(i) the issuing court did not have jurisdiction under Part 2, Jurisdiction;

(ii) the child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court of a state having jurisdiction to do so

- 11551 under Part 2, Jurisdiction, or federal law; or
- 11552 (iii) the respondent was entitled to notice, but notice was not given in accordance
- 11553 with the standards of Section ~~[78B-13-108]~~ 81-11-107 in the proceedings before
- 11554 the court that issued the order for which enforcement is sought; or
- 11555 (b) the child custody determination for which enforcement is sought was registered and
- 11556 confirmed under Section ~~[78B-13-305]~~ 81-11-305, but has been vacated, stayed, or
- 11557 modified by a court of a state having jurisdiction to do so under Part 2, Jurisdiction,
- 11558 or federal law.

11559 Section 307. Section **81-11-309**, which is renumbered from Section 78B-13-309 is renumbered

11560 and amended to read:

11561 **~~[78B-13-309]~~ 81-11-309 . Service of petition and order.**

11562 Except as otherwise provided in Section ~~[78B-13-311]~~ 81-11-311, the petition and order

11563 shall be served, by any method authorized by the law of this state, upon respondent and any

11564 person who has physical custody of the minor child.

11565 Section 308. Section **81-11-310**, which is renumbered from Section 78B-13-310 is renumbered

11566 and amended to read:

11567 **~~[78B-13-310]~~ 81-11-310 . Hearing and order.**

11568 (1) Unless the court enters a temporary emergency order ~~[pursuant to Section 78B-13-204]~~

11569 in accordance with Section 81-11-204, upon a finding that a petitioner is entitled to the

11570 physical custody of the minor child immediately, the court shall order the minor child

11571 delivered to the petitioner unless the respondent establishes that:

11572 (a) the child custody determination has not been registered and confirmed under Section [

11573 ~~78B-13-305]~~ 81-11-305, and that:

11574 (i) the issuing court did not have jurisdiction under Part 2, Jurisdiction;

11575 (ii) the child custody determination for which enforcement is sought has been

11576 vacated, stayed, or modified by a court of a state having jurisdiction to do so

11577 under Part 2, Jurisdiction, or federal law; or

11578 (iii) the respondent was entitled to notice, but notice was not given in accordance

11579 with the standards of Section ~~[78B-13-108]~~ 81-11-107 in the proceedings before

11580 the court that issued the order for which enforcement is sought; or

11581 (b) the child custody determination for which enforcement is sought was registered and

11582 confirmed under Section ~~[78B-13-305]~~ 81-11-305, but has been vacated, stayed, or

11583 modified by a court of a state having jurisdiction to do so under Part 2, Jurisdiction,

11584 or federal law.

(2) The court shall award the fees, costs, and expenses authorized under Section [78B-13-312] 81-11-312 and may grant additional relief, including a request for the assistance of law enforcement officials, and set a further hearing to determine whether additional relief is appropriate.

(3) If a party called to testify refuses to answer on the ground that the testimony may be self-incriminating, the court may draw an adverse inference from the refusal.

(4) A privilege against disclosure of communications between spouses and a defense of immunity based on the relationship of husband and wife or parent and minor child may not be invoked in a proceeding under this chapter.

Section 309. Section **81-11-311**, which is renumbered from Section 78B-13-311 is renumbered and amended to read:

[78B-13-311] 81-11-311 . Writ to take physical custody of child.

(1) Upon the filing of a petition seeking enforcement of a child custody determination, the petitioner may file a verified application for the issuance of a writ of assistance to take physical custody of the minor child if the minor child is likely to suffer serious imminent physical harm or removal from this state.

(2)(a) If the court, upon the testimony of the petitioner or other witness, finds that the minor child is likely to suffer serious imminent physical harm or be imminently removed from this state, [it] the court may issue a writ of assistance to take physical custody of the minor child.

(b) The petition shall be heard within 72 hours after the writ is executed.

(c) The writ shall include the statements required by Subsection [78B-13-308(2)] 81-11-308(2).

(3) A writ to take physical custody of a minor child shall:

(a) recite the facts upon which a conclusion of serious imminent physical harm or removal from the jurisdiction is based;

(b) direct law enforcement officers to take physical custody of the minor child immediately; and

(c) provide for the placement of the minor child pending final relief.

(4) The respondent shall be served with the petition, writ, and order immediately after the minor child is taken into physical custody.

(5)(a) A writ of assistance to take physical custody of a minor child is enforceable throughout this state.

(b) If the court finds on the basis of the testimony of the petitioner or other witness that a

less intrusive remedy is not effective, [it] the court may authorize law enforcement officers to enter private property to take physical custody of the minor child.

(c) If required by the exigency of the case, the court may authorize law enforcement officers to make a forcible entry at any hour.

(6) The court may impose conditions upon placement of a minor child to ensure the appearance of the minor child and the minor child's custodian.

Section 310. Section **81-11-312**, which is renumbered from Section 78B-13-312 is renumbered and amended to read:

[78B-13-312] 81-11-312 . Costs, fees, and expenses.

(1) The court shall award the prevailing party, including a state, necessary and reasonable expenses incurred by or on behalf of the party, including costs, communication expenses, attorney fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from whom fees or expenses are sought establishes that the award would be clearly inappropriate.

(2) The court may not assess fees, costs, or expenses against a state except as otherwise provided by law other than this chapter.

Section 311. Section **81-11-313**, which is renumbered from Section 78B-13-313 is renumbered and amended to read:

[78B-13-313] 81-11-313 . Recognition and enforcement.

A court of this state shall accord full faith and credit to an order made consistently with this chapter which enforces a child custody determination by a court of another state unless the order has been vacated, stayed, or modified by a court authorized to do so under Part 2, Jurisdiction.

Section 312. Section **81-11-314**, which is renumbered from Section 78B-13-314 is renumbered and amended to read:

[78B-13-314] 81-11-314 . Appeals.

(1) An appeal may be taken from an order in a proceeding under this chapter in accordance with expedited appellate procedures in other civil cases.

(2) Unless the court enters a temporary emergency order under Section [78B-13-204] 81-11-204, the enforcing court may not stay an order enforcing a child custody determination pending appeal.

Section 313. Section **81-11-315**, which is renumbered from Section 78B-13-315 is renumbered and amended to read:

[78B-13-315] 81-11-315 . Role of prosecutor or attorney general.

(1) In a case arising under this chapter or involving the Hague Convention on the Civil Aspects of International Child Abduction, the prosecutor or ~~[Attorney General]~~ attorney general may take any lawful action, including resort to a proceeding under this chapter or any other available civil proceeding to locate a minor child, obtain the return of a minor child, or enforce a child custody determination if there is:

- (a) an existing child custody determination;
- (b) a request from a court in a pending child custody case;
- (c) a reasonable belief that a criminal statute has been violated; or
- (d) a reasonable belief that the minor child has been wrongfully removed or retained in violation of the Hague Convention on the Civil Aspects of International Child Abduction.

(2) A prosecutor or attorney general acts on behalf of the court and may not represent any party to a child custody determination.

Section 314. Section **81-11-316**, which is renumbered from Section 78B-13-316 is renumbered and amended to read:

[78B-13-316] 81-11-316 . Role of law enforcement.

At the request of a prosecutor or the attorney general acting under Section ~~[78B-13-315]~~ 81-11-315, a law enforcement officer may take any lawful action reasonably necessary to locate a minor child or a party and assist a prosecutor or attorney general with responsibilities under Section ~~[78B-13-315]~~ 81-11-315.

Section 315. Section **81-11-317**, which is renumbered from Section 78B-13-317 is renumbered and amended to read:

[78B-13-317] 81-11-317 . Costs and expenses.

If the respondent is not the prevailing party, the court may assess against the respondent all direct expenses and costs incurred by the prosecutor or attorney general and law enforcement officers under Section ~~[78B-13-315 or 78B-13-316]~~ 81-11-315 or 81-11-316.

Section 316. Section **81-11-318**, which is renumbered from Section 78B-13-318 is renumbered and amended to read:

[78B-13-318] 81-11-318 . Transitional provision.

A motion or other request for relief made in a child custody or enforcement proceeding [~~which~~] that was commenced before ~~[the effective date of this chapter]~~ July 1, 2000, is governed by the law in effect at the time the motion or other request was made.

Section 317. Section **81-12-101**, which is renumbered from Section 78B-16-102 is renumbered and amended to read:

CHAPTER 12. UNIFORM CHILD ABDUCTION PREVENTION ACT

[78B-16-102] 81-12-101 . Definitions for chapter.

[In] As used in this chapter:

(1) "Abduction" means the wrongful removal or wrongful retention of a minor child.

~~[(2) "Child" means an unemancipated individual who is less than 18 years of age.]~~

~~[(3)] (2)(a) "Child custody determination" means a judgment, decree, or other order of a court providing for the legal custody, physical custody, or visitation with respect to a minor child.~~[-The term]~~~~

~~(b) "Child custody determination" includes a permanent, temporary, initial, and modification order.~~

~~[(4)] (3)(a) "Child custody proceeding" means a proceeding in which legal custody, physical custody, visitation, or parent-time with respect to a minor child is at issue. [~~The term~~]~~

~~(b) "Child custody proceeding" includes a proceeding for divorce, dissolution of marriage, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, or protection from domestic violence.~~

~~[(5)] (4) "Court" means an entity authorized under the law of a state to establish, enforce, or modify a child custody determination.~~

~~[(6)] (5) "Petition" includes a motion or [its] the motion's equivalent.~~

~~[(7)] (6) "Record" means information inscribed on a tangible medium or stored in an electronic or other medium and is retrievable in perceivable form.~~

~~[(8)] (7)(a) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.~~[-The term]~~~~

~~(b) "State" includes a federally recognized Indian tribe or nation.~~

~~[(9)] (8)(a) "Travel document" means records relating to a travel itinerary, including travel tickets, passes, reservations for transportation, or accommodations. [~~The term~~]~~

~~(b) "Travel document" does not include a passport or visa.~~

~~[(10)] (9) "Wrongful removal" means the taking of a minor child that breaches rights of custody, visitation, or parent-time given or recognized under the law of this state.~~

~~[(11)] (10) "Wrongful retention" means the keeping or concealing of a minor child that breaches rights of custody, visitation, or parent-time given or recognized under the law of this state.~~

Section 318. Section **81-12-102**, which is renumbered from Section 78B-16-103 is renumbered

and amended to read:

[78B-16-103] 81-12-102 . Cooperation and communication among courts.

Sections [78B-13-110, 78B-13-111, and 78B-13-112] 81-11-109, 81-11-110, and 81-11-111 apply to cooperation and communications among courts in proceedings under this chapter.

Section 319. Section **81-12-103**, which is renumbered from Section 78B-16-104 is renumbered and amended to read:

[78B-16-104] 81-12-103 . Actions for abduction prevention measures.

- (1) A court on [its] the court's own motion may order abduction prevention measures in a child custody proceeding if the court finds that the evidence establishes a credible risk of abduction of the minor child.
- (2) A party to a child custody determination or another individual or entity having a right under the law of this state or any other state to seek a child custody determination for the minor child may file a petition seeking abduction prevention measures to protect the minor child under this chapter.
- (3) A prosecutor or public authority designated under Section [78B-13-315] 81-11-315 may seek a warrant to take physical custody of a minor child under Section [78B-16-109] 81-12-108 or other appropriate prevention measures.

Section 320. Section **81-12-104**, which is renumbered from Section 78B-16-105 is renumbered and amended to read:

[78B-16-105] 81-12-104 . Jurisdiction.

- (1) A petition under this chapter may be filed only in a court that has jurisdiction to make a child custody determination with respect to the minor child at issue under [~~Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act~~] Chapter 11, Uniform Child Custody Jurisdiction and Enforcement Act.
- (2) A court of this state has temporary emergency jurisdiction under Section [78B-13-204] 81-11-204 if the court finds a credible risk of abduction.

Section 321. Section **81-12-105**, which is renumbered from Section 78B-16-106 is renumbered and amended to read:

[78B-16-106] 81-12-105 . Contents of petition.

- (1)(a) A petition under this chapter must be verified and include a copy of any existing child custody determination, if available.
- (b) The petition must specify the risk factors for abduction, including the relevant factors described in Section [78B-16-107] 81-12-106.

- 11755 (2) Subject to Subsection [78B-13-209(5)] 81-11-209(5), if reasonably ascertainable, the
11756 petition must contain:
- 11757 (a) the name, date of birth, and gender of the minor child;
 - 11758 (b) the customary address and current physical location of the minor child;
 - 11759 (c) the identity, customary address, and current physical location of the respondent;
 - 11760 (d) a statement of whether a prior action to prevent abduction or domestic violence has
11761 been filed by a party or other individual or entity having custody of the minor child,
11762 and the date, location, and disposition of the action;
 - 11763 (e) a statement of whether a party to the proceeding has been arrested for a crime related
11764 to domestic violence, stalking, or child abuse or neglect, and the date, location, and
11765 disposition of the case; and
 - 11766 (f) any other information required to be submitted to the court for a child custody
11767 determination under Section [78B-13-209] 81-11-209.

11768 Section 322. Section **81-12-106**, which is renumbered from Section 78B-16-107 is renumbered
11769 and amended to read:

11770 **[78B-16-107] 81-12-106 . Factors to determine risk of abduction.**

- 11771 (1) In determining whether there is a credible risk of abduction of a minor child, the court
11772 shall consider any evidence that the petitioner or respondent:
- 11773 (a) has previously abducted or attempted to abduct the minor child;
 - 11774 (b) has threatened to abduct the minor child;
 - 11775 (c) has recently engaged in activities that may indicate a planned abduction, including:
 - 11776 (i) abandoning employment;
 - 11777 (ii) selling a primary residence;
 - 11778 (iii) terminating a lease;
 - 11779 (iv) closing bank or other financial management accounts, liquidating assets, hiding
11780 or destroying financial documents, or conducting any unusual financial activities;
 - 11781 (v) applying for a passport or visa or obtaining travel documents for the respondent, a
11782 family member, or the minor child; or
 - 11783 (vi) seeking to obtain the minor child's birth certificate or school or medical records;
 - 11784 (d) has engaged in domestic violence, stalking, or child abuse or neglect;
 - 11785 (e) has refused to follow a child custody determination;
 - 11786 (f) lacks strong familial, financial, emotional, or cultural ties to the state or the United
11787 States;
 - 11788 (g) has strong familial, financial, emotional, or cultural ties to another state or country;

- 11789 (h) is likely to take the minor child to a country that:
- 11790 (i) is not a party to the Hague Convention on the Civil Aspects of International Child
- 11791 Abduction and does not provide for the extradition of an abducting parent or for
- 11792 the return of an abducted minor child;
- 11793 (ii) is a party to the Hague Convention on the Civil Aspects of International Child
- 11794 Abduction but:
- 11795 (A) the Hague Convention on the Civil Aspects of International Child Abduction
- 11796 is not in force between the United States and that country;
- 11797 (B) is noncompliant according to the most recent compliance report issued by the
- 11798 United States Department of State; or
- 11799 (C) lacks legal mechanisms for immediately and effectively enforcing a return
- 11800 order under the Hague Convention on the Civil Aspects of International Child
- 11801 Abduction;
- 11802 (iii) poses a risk that the minor child's physical or emotional health or safety would be
- 11803 endangered in the country because of specific circumstances relating to the minor
- 11804 child or because of human rights violations committed against [~~children~~] a minor
- 11805 child;
- 11806 (iv) has laws or practices that would:
- 11807 (A) enable the respondent, without due cause, to prevent the petitioner from
- 11808 contacting the minor child;
- 11809 (B) restrict the petitioner from freely traveling to or exiting from the country
- 11810 because of the petitioner's gender, nationality, marital status, or religion; or
- 11811 (C) restrict the minor child's ability legally to leave the country after the minor
- 11812 child reaches the age of majority because of a minor child's gender, nationality,
- 11813 or religion;
- 11814 (v) is included by the United States Department of State on a current list of state
- 11815 sponsors of terrorism;
- 11816 (vi) does not have an official United States diplomatic presence in the country; or
- 11817 (vii) is engaged in active military action or war, including a civil war, to which the
- 11818 minor child may be exposed;
- 11819 (i) is undergoing a change in immigration or citizenship status that would adversely
- 11820 affect the respondent's ability to remain in the United States legally;
- 11821 (j) has had an application for United States citizenship denied;
- 11822 (k) has forged or presented misleading or false evidence on government forms or

supporting documents to obtain or attempt to obtain a passport, a visa, travel documents, a [~~Social Security~~] social security card, a driver license, or other government-issued identification card or has made a misrepresentation to the United States government;

(l) has used multiple names to attempt to mislead or defraud; or

(m) has engaged in any other conduct the court considers relevant to the risk of abduction.

(2) In the hearing on a petition under this chapter, the court shall consider any evidence that the respondent believed in good faith that the respondent's conduct was necessary to avoid imminent harm to the minor child or respondent and any other evidence that may be relevant to whether the respondent may be permitted to remove or retain the minor child.

Section 323. Section **81-12-107**, which is renumbered from Section 78B-16-108 is renumbered and amended to read:

[78B-16-108] 81-12-107 . Provisions and measures to prevent abduction.

(1) If a petition is filed under this chapter, the court may enter an order [~~which~~] that must include:

(a) the basis for the court's exercise of jurisdiction;

(b) the manner in which notice and opportunity to be heard were given to the persons entitled to notice of the proceeding;

(c) a detailed description of each party's custody and visitation rights and residential arrangements for the minor child;

(d) a provision stating that a violation of the order may subject the party in violation to civil and criminal penalties; and

(e) identification of the minor child's country of habitual residence at the time of the issuance of the order.

(2)(a) If, at a hearing on a petition under this chapter or on the court's own motion, the court after reviewing the evidence finds a credible risk of abduction of the minor child, the court shall enter an abduction prevention order.

(b) The order must include the provisions required by Subsection (1) and measures and conditions, including those in Subsections (3), (4), and (5), that are reasonably calculated to prevent abduction of the minor child, giving due consideration to the custody, visitation, and parent-time rights of the parties.

(c) The court shall consider the age of the minor child, the potential harm to the minor

child from an abduction, the legal and practical difficulties of returning the minor child to the jurisdiction if abducted, and the reasons for the potential abduction, including evidence of domestic violence, stalking, or child abuse or neglect.

(3) An abduction prevention order may include one or more of the following:

(a) an imposition of travel restrictions that require that a party traveling with the minor child outside a designated geographical area provide the other party with the following:

(i) the travel itinerary of the minor child;

(ii) a list of physical addresses and telephone numbers at which the minor child can be reached at specified times; and

(iii) copies of all travel documents;

(b) a prohibition of the respondent directly or indirectly:

(i) removing the minor child from this state, the United States, or another geographic area without permission of the court or the petitioner's written consent;

(ii) removing or retaining the minor child in violation of a child custody determination;

(iii) removing the minor child from school or a child-care or similar facility; or

(iv) approaching the minor child at any location other than a site designated for supervised visitation;

(c) a requirement that a party to register the order in another state as a prerequisite to allowing the child to travel to that state;

(d) with regard to the minor child's passport:

(i) a direction that the petitioner place the minor child's name in the United States Department of State's Child Passport Issuance Alert Program;

(ii) a requirement that the respondent surrender to the court or the petitioner's attorney any United States or foreign passport issued in the minor child's name, including a passport issued in the name of both the parent and the minor child; and

(iii) a prohibition upon the respondent from applying on behalf of the minor child for a new or replacement passport or visa;

(e) as a prerequisite to exercising custody, visitation, or parent-time, a requirement that the respondent provide:

(i) to the United States Department of State Office of Children's Issues and the relevant foreign consulate or embassy, an authenticated copy of the order detailing passport and travel restrictions for the minor child;

(ii) to the court:

(A) proof that the respondent has provided the information in Subsection (3)(e)(i);

and

(B) an acknowledgment in a record from the relevant foreign consulate or

embassy that no passport application has been made, or passport issued, on

behalf of the minor child;

(iii) to the petitioner, proof of registration with the United States Embassy or other

United States diplomatic presence in the destination country and with the Central

Authority for the Hague Convention on the Civil Aspects of International Child

Abduction, if that convention is in effect between the United States and the

destination country, unless one of the parties objects; and

(iv) a written waiver under the Privacy Act, 5 U.S.C. Section 552a, with respect to

any document, application, or other information pertaining to the minor child

authorizing its disclosure to the court and the petitioner; and

(f) upon the petitioner's request, a requirement that the respondent obtain an order from

the relevant foreign country containing terms identical to the child custody

determination issued in the United States.

(4) In an abduction prevention order, the court may impose conditions on the exercise of custody or visitation that:

(a) limit visitation or require that visitation with the minor child by the respondent be supervised until the court finds that supervision is no longer necessary and order the respondent to pay the costs of supervision;

(b) require the respondent to post a bond or provide other security in an amount sufficient to serve as a financial deterrent to abduction, the proceeds of which may be used to pay for the reasonable expenses of recovery of the minor child, including reasonable attorney fees and costs if there is an abduction; and

(c) require the respondent to obtain education on the potentially harmful effects to the minor child from abduction.

(5) To prevent imminent abduction of a minor child, a court may:

(a) issue a warrant to take physical custody of the minor child under Section [~~78B-16-109~~ 81-12-108 or the law of this state other than this chapter;

(b) direct the use of law enforcement to take any action reasonably necessary to locate the minor child, obtain return of the minor child, or enforce a custody determination under this chapter or the law of this state other than this chapter; or

(c) grant any other relief allowed under the law of this state other than this chapter.

(6) The remedies provided in this chapter are cumulative and do not affect the availability of other remedies to prevent abduction.

Section 324. Section **81-12-108**, which is renumbered from Section 78B-16-109 is renumbered and amended to read:

[78B-16-109] 81-12-108 . Warrant to take physical custody of a minor child.

(1) If a petition under this chapter contains allegations, and the court finds that there is a credible risk that the minor child is imminently likely to be wrongfully removed, the court may issue an ex parte warrant to take physical custody of the minor child.

(2)(a) The respondent on a petition under Subsection (1) must be afforded an opportunity to be heard at the earliest possible time after the ex parte warrant is executed, but not later than the next judicial day unless a hearing on that date is impossible.

(b) In that event, the court shall hold the hearing on the first judicial day possible.

(3) An ex parte warrant under Subsection (1) to take physical custody of a minor child must:

(a) recite the facts upon which a determination of a credible risk of imminent wrongful removal of the minor child is based;

(b) direct law enforcement officers to take physical custody of the minor child immediately;

(c) state the date and time for the hearing on the petition; and

(d) provide for the safe interim placement of the minor child pending further order of the court.

(4) If feasible, before issuing a warrant and before determining the placement of the minor child after the warrant is executed, the court may order a search of the relevant databases of the National Crime Information Center system and similar state databases to determine if either the petitioner or respondent has a history of domestic violence, stalking, or child abuse or neglect.

(5) The petition and warrant must be served on the respondent when or immediately after the minor child is taken into physical custody.

(6)(a) A warrant to take physical custody of a minor child, issued by this state or another state, is enforceable throughout this state.

(b) If the court finds that a less intrusive remedy will not be effective, [it] the court may authorize law enforcement officers to enter private property to take physical custody of the minor child.

(c) If required by exigent circumstances, the court may authorize law enforcement officers to make a forcible entry at any hour.

- (7) If the court finds, after a hearing, that a petitioner sought an ex parte warrant under Subsection (1) for the purpose of harassment or in bad faith, the court may award the respondent reasonable attorney fees, costs, and other reasonable expenses and losses arising out of the issuance of the ex parte warrant.
- (8) This chapter does not affect the availability of relief allowed under the law of this state other than this chapter.

Section 325. Section **81-12-109**, which is renumbered from Section 78B-16-110 is renumbered and amended to read:

[78B-16-110] 81-12-109 . Duration of abduction prevention order.

An abduction prevention order remains in effect until the earliest of:

- (1) the time stated in the order;
- (2) the emancipation of the minor child;
- (3) the minor child's attaining 18 years ~~[of age]~~ old; or
- (4) the time the order is modified, revoked, vacated, or superseded by a court with jurisdiction under Sections ~~[78B-13-201 through 78B-13-203]~~ 81-11-201 through 81-11-203.

Section 326. Section **81-12-110**, which is renumbered from Section 78B-16-111 is renumbered and amended to read:

[78B-16-111] 81-12-110 . Uniformity of application and construction.

- (1) This chapter is a uniform act.
- (2) In applying and construing ~~[it]~~ this chapter, consideration must be given to the need to promote uniformity of the law with respect to ~~[its]~~ this uniform law's subject matter among states that enact ~~[it]~~ this uniform law.

Section 327. Section **81-12-111**, which is renumbered from Section 78B-16-112 is renumbered and amended to read:

[78B-16-112] 81-12-111 . Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001, et seq., but does not modify, limit, or supersede Section 101(c) of the act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

Section 328. Section **81-13-101**, which is renumbered from Section 78B-6-103 is renumbered

and amended to read:

CHAPTER 13. ADOPTION

Part 1. General Provisions

~~[78B-6-103]~~ **81-13-101 . Definitions for chapter.**

As used in this ~~[part]~~ chapter:

~~[(1) "Adoptee" means a person who:]~~

~~[(a) is the subject of an adoption proceeding; or]~~

~~[(b) has been legally adopted.]~~

(1) "Adoptee" means:

(a) a child adoptee; or

(b) an adult adoptee.

(2) "Adoption" means ~~[the judicial act that]~~ the process by which an individual seeks to:

(a) ~~[creates the]~~ create the legal relationship of parent and child where ~~[it]~~ the relationship did not previously exist; and

(b) except as provided in Subsections ~~[78B-6-138(2) and (4), terminates]~~ 81-13-220(2) and (4) and Subsections 81-13-306(2) and (4), terminate the parental rights of any other ~~[person]~~ individual with respect to the child.

(3) "Adoption document" means an adoption-related document filed with the office, a petition for adoption, a decree of adoption, an original birth certificate, or evidence submitted in support of a supplementary birth certificate.

(4) "Adoption proceeding" means any proceeding under this ~~[part]~~ chapter.

(5) "Adoption service provider" means:

(a) a child-placing agency;

(b) a licensed counselor who has at least one year of experience providing professional social work services to:

(i) adoptive parents;

(ii) prospective adoptive parents; or

(iii) birth parents; or

(c) the Office of Licensing within the Department of Health and Human Services.

(6) "Adoptive parent" means an individual who has legally adopted an adoptee.

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

~~[(8) "Adult adoptee" means an adoptee who is 18 years old or older and was adopted as a minor.]~~

- 12026 (8) "Adult adoptee" means an individual:
12027 (a) who is an adult and is the subject of an adoption proceeding; or
12028 (b) who was adopted when the individual was an adult.
- 12029 (9) "Adult sibling" means [an] an individual:
12030 (a) who is a child adoptee's brother or sister[;] ;
12031 (b) who is 18 years old or older; and
12032 (c) whose birth [mother or father] parent is the same as that of the child adoptee.
- 12033 [~~(10) "Birth mother" means the biological mother of a child.~~]
12034 (10) "Birth mother" means the same as that term is defined in Section 81-5-102.
- 12035 (11) "Birth parent" means:
12036 [(a) ~~a birth mother;~~]
12037 [(b) ~~a man whose paternity of a child is established;~~]
12038 (a) an individual that has a parent-child relationship with an adoptee as described in
12039 Section 81-5-201;
12040 [(e)] (b) a man who:
12041 (i) has been identified as the father of [a child by the child's] an adoptee by the
12042 adoptee's birth mother; and
12043 (ii) has not denied paternity; or
12044 [(d)] (c) an unmarried biological father.
- 12045 (12) "Child adoptee" means an individual:
12046 (a) who is a minor child and is the subject of an adoption proceeding; or
12047 (b) who was adopted when the individual was a minor child.
- 12048 [~~(12)] (13) "Child-placing agency" means an agency licensed to place [children] a minor~~
12049 child for adoption under Title 26B, Chapter 2, Part 1, Human Services Programs and
12050 Facilities.
- 12051 [~~(13)] (14) "Cohabiting" means residing with another [person] individual and being involved~~
12052 in a sexual relationship with that [person] individual.
- 12053 [~~(14)] (15) "Division" means the Division of Child and Family Services, within the~~
12054 Department of Health and Human Services, created in Section 80-2-201.
- 12055 [~~(15)] (16) "Extra-jurisdictional child-placing agency" means an agency licensed to place~~
12056 children for adoption by a district, territory, or state of the United States, other than Utah.
- 12057 [~~(16)] (17) "Genetic and social history" means a comprehensive report, when obtainable,~~
12058 that contains the following information on an adoptee's birth parents, aunts, uncles, and
12059 grandparents:

- (a) medical history;
- (b) health status;
- (c) cause of and age at death;
- (d) height, weight, and eye and hair color;
- (e) ethnic origins;
- (f) where appropriate, levels of education and professional achievement; and
- (g) religion, if any.

~~[(17)]~~ (18) "Health history" means a comprehensive report of the adoptee's health status at the time of placement for adoption, and medical history, including neonatal, psychological, physiological, and medical care history.

~~[(18)]~~ (19) "Identifying information" means information that is in the possession of the office and that contains:

- (a) the name and address of:
 - (i) a pre-existing parent~~[or an adult adoptee, or]~~ ; or
 - (ii) a child adoptee who is 18 years old or older; or
- (b) other specific information that by itself or in reasonable conjunction with other information may be used to identify a pre-existing parent or ~~[an adult adoptee]~~ child adoptee, including information on a birth certificate or in an adoption document.

~~[(19)]~~ (20) "Licensed counselor" means an individual who is licensed by the state, or another state, district, or territory of the United States as a:

- (a) certified social worker;
- (b) clinical social worker;
- (c) psychologist;
- (d) marriage and family therapist;
- (e) clinical mental health counselor; or
- (f) an equivalent licensed professional of another state, district, or territory of the United States.

~~[(20)]~~ (21) "Man" means a male individual~~[, regardless of]~~ of any age.

~~[(21) "Mature adoptee" means an adoptee who is adopted when the adoptee is an adult.]~~

(22) "Office" means the Office of Vital Records and Statistics within the Department of Health and Human Services operating under Title 26B, Chapter 8, Part 1, Vital Statistics.

~~[(23) "Parent," for purposes of Subsection 78B-6-112(6) and Section 78B-6-119, means any person described in Subsections 78B-6-120(1)(b) through (f) from whom consent for adoption or relinquishment for adoption is required under Sections 78B-6-120 through~~

12094 ~~78B-6-122.]~~

12095 [(24)] (23) "Potential birth father" means a man who:

12096 (a) is identified by a birth mother as a potential biological father of the birth mother's

12097 minor child, but whose genetic paternity has not been established; and

12098 (b) was not married to the [biological] birth mother of the minor child described in

12099 Subsection [(24)(a)] (23)(a) at the time of the minor child's conception or birth.

12100 [(25) "Pre-existing parent" means:]

12101 [(a) a ~~birth parent~~; or]

12102 [(b) an individual who, before an adoption decree is entered, is, due to an earlier

12103 adoption decree, legally the parent of the child being adopted.]

12104 (24)(a) "Pre-existing parent" means an individual who is an adoptee's birth parent before
12105 an adoption decree is entered for the adoptee.

12106 (b) "Pre-existing parent" includes an individual who is legally the parent of the adoptee,

12107 due to an earlier adoption decree, before an adoption decree is entered for the adoptee.

12108 [(26)] (25) "Prospective adoptive parent" means an individual who seeks to adopt an
12109 adoptee.

12110 [(27)] (26) "Relative" means:

12111 (a) an adult who is a grandparent, great grandparent, aunt, great aunt, uncle, great uncle,

12112 brother-in-law, sister-in-law, stepparent, first cousin, stepsibling, sibling of a minor

12113 child, or first cousin of a minor child's parent; ~~[and]~~ or

12114 (b) in the case of ~~[a child defined as]~~ a minor child who is an "Indian child" under the

12115 Indian Child Welfare Act, 25 U.S.C. Sec. 1903, an "extended family member" as

12116 defined by that statute.

12117 [(28)] (27) "Unmarried biological father" means a man who:

12118 (a) is the biological father of a minor child; and

12119 (b) was not married to the [biological] birth mother of the minor child described in

12120 Subsection [(28)(a)] (27)(a) at the time of the minor child's conception or birth.

12121 (28) "Vulnerable adult" means:

12122 (a) an individual who is 65 years old or older; or

12123 (b) an adult who has a mental or physical impairment that substantially affects that

12124 adult's ability to:

12125 (i) provide personal protection;

12126 (ii) provide necessities such as food, shelter, clothing, or medical or other health care;

12127 (iii) obtain services necessary for health, safety, or welfare;

- (iv) carry out the activities of daily living;
- (v) manage the adult's own resources; or
- (vi) comprehend the nature and consequences of remaining in a situation of abuse,
neglect, or exploitation.

Section 329. Section **81-13-102**, which is renumbered from Section 78B-6-105 is renumbered and amended to read:

[78B-6-105] 81-13-102 . Venue for an adoption proceeding.

(1) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, a person shall bring an adoption proceeding in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration:

- (a) in the [county] judicial district where the prospective adoptive parent resides;
- (b) if the prospective adoptive parent is not a resident of this state, in the [county] judicial district where:
 - (i) the adoptee was born;
 - (ii) the adoptee resides on the day on which the petition is filed; or
 - (iii) a parent of the proposed adoptee resides on the day on which the petition is filed if the proposed adoptee is a minor child; or
- (c) if the adoption proceeding is brought in the juvenile court, as described in Subsection 78A-6-103(2)(a)(xiv) or (xv), in accordance with Section 78A-6-350.

(2) All orders, decrees, agreements, and notices in an adoption proceeding shall be filed with the clerk of the court where the adoption proceeding is commenced under Subsection (1).

~~[(3) A petition for adoption:]~~

- ~~[(a) may be filed before the birth of a child;]~~
- ~~[(b) may be filed before or after the adoptee is placed in the home of the petitioner for the purpose of adoption; and]~~
- ~~[(c) shall be filed no later than 30 days after the day on which the adoptee is placed in the home of the petitioners for the purpose of adoption, unless:]~~
 - ~~[(i) the time for filing has been extended by the court; or]~~
 - ~~[(ii) the adoption is arranged by a child-placing agency in which case the agency may extend the filing time.]~~

~~[(4)]~~ (3)(a) If a person whose consent for the adoption is required under Section [~~78B-6-120 or 78B-6-121~~] 81-13-212 or 81-13-213 cannot be found within the state, the fact of the [minor's] adoptee's presence within the state shall confer jurisdiction on

the court in proceedings under this chapter as to such absent person~~[, provided that]~~ if
due notice has been given in accordance with the Utah Rules of Civil Procedure.

(b) The notice may not include the name of:

(i) a prospective adoptive parent; or

(ii) an unmarried birth mother without [her] the unmarried birth mother's consent.

~~[(5) Service of notice described in Subsection (6) shall vest the court with jurisdiction over
the person served in the same manner and to the same extent as if the person served was
served personally within the state.]~~

~~[(6)]~~ (4)(a) In the case of service outside the state, service completed not less than five
days before the time set in the notice for appearance of the person served is sufficient
to confer jurisdiction.

(b) Service of notice described in Subsection (4)(a) shall vest the court with jurisdiction
over the person served in the same manner and to the same extent as if the person
served was served personally within the state.

~~[(7)]~~ (5) Computation of periods of time not otherwise ~~[set forth]~~ described in this section
shall be made in accordance with the Utah Rules of Civil Procedure.

The following section is affected by a coordination clause at the end of this bill.

Section 330. Section **81-13-103**, which is renumbered from Section 78B-6-141 is renumbered
and amended to read:

**[78B-6-141] 81-13-103 . Court hearings -- Adoption documents -- Motion to
intervene.**

(1)(a) Notwithstanding Section 80-4-106, ~~[court hearings in adoption cases may be
closed to the public]~~ the court may close to the public any court hearing regarding an
adoption upon the request of a party to the [adoption petition and upon court approval]
petition for adoption.

(b) In a closed hearing, the court may only admit the following individuals~~[may be
admitted]~~:

(i) a party to the proceeding;

(ii) the adoptee;

(iii) a representative of an agency having custody of the adoptee;

(iv) in a hearing to relinquish parental rights, the individual whose rights are to be
relinquished and invitees of that individual to provide emotional support;

(v) in a hearing on the termination of parental rights, the individual whose rights may
be terminated;

- 12196 (vi) in a hearing on a petition to intervene, the proposed intervenor;
12197 (vii) in a hearing to finalize an adoption, invitees of the petitioner; and
12198 (viii) other individuals for good cause, upon order of the court.
- 12199 (2) ~~[An]~~ Except as provided in Subsections (3) through (6), an adoption document and any
12200 other documents filed in connection with a petition for adoption are sealed.
- 12201 (3) A person may only inspect and copy the documents described in Subsection (2):
12202 (a) if the adoption proceeding is pending and the person is a party to the adoption
12203 proceeding;
12204 (b) within 180 days after the day on which the final decree of adoption is entered if the
12205 person is a party to the adoption proceeding;
12206 (c) if the court enters an order expressly permitting the inspection or copying the
12207 documents after the person filed a motion to intervene and the motion to intervene
12208 was granted on appeal;
12209 (d) if the court enters an order expressly permitting the inspection or copying of the
12210 documents after good cause is shown;
12211 (e) if the office is permitted to release the documents to the person as described in
12212 Section 81-13-504;
12213 (f) when the documents becomes public 100 years after the day on which the final
12214 decree of adoption was entered;
12215 (g) when the birth certificate becomes public 100 years after the day on which the
12216 adoptee was born; or
12217 (h) if the person is permitted access to the documents under Subsection (6)(a) or (7).
- 12218 (4) A person who files a motion to intervene in an adoption proceeding:
12219 (a) is not a party to the adoption proceeding, unless the motion to intervene is granted;
12220 and
12221 (b) subject to Subsection (5), may not be granted access to the documents described in
12222 Subsection (2), unless the motion to intervene is granted.
- 12223 (5) If the court enters an order under Subsection (3)(c) or a potential birth father is made a
12224 party to the adoption proceeding upon a motion to intervene, the court shall:
12225 (a) prohibit the person described in Subsection (3)(c) or the potential birth father from
12226 inspecting a document described in Subsection (2) that contains identifying
12227 information of an adoptive or prospective adoptive parent; and
12228 (b) permit the person described in Subsection (3)(c) or the potential birth father to
12229 review a copy of the document described in Subsection (5)(a) after the identifying

information of the adoptive or prospective adoptive parent is redacted from the document.

- ~~[(3) The documents described in Subsection (2) may only be open to inspection and copying;]~~
- ~~[(a) in accordance with Subsection (5)(a), by a party to the adoption proceeding;]~~
- ~~[(i) while the proceeding is pending; or]~~
- ~~[(ii) within six months after the day on which the adoption decree is entered;]~~
- ~~[(b) subject to Subsection (5)(b), if a court enters an order permitting access to the documents by an individual who has appealed the denial of that individual's motion to intervene;]~~
- ~~[(c) upon order of the court expressly permitting inspection or copying, after good cause has been shown;]~~
- ~~[(d) as provided under Section 78B-6-144;]~~
- ~~[(e) when the adoption document becomes public on the one hundredth anniversary of the date the final decree of adoption was entered;]~~
- ~~[(f) when the birth certificate becomes public on the one hundredth anniversary of the date of birth;]~~
- ~~[(g) to a mature adoptee or a parent who adopted the mature adoptee, without a court order, unless the final decree of adoption is entered by the juvenile court under Subsection 78B-6-115(3)(b); or]~~
- ~~[(h) to an adult adoptee, to the extent permitted under Subsection (4).]~~
- ~~[(4)] (6)[(a) An adult adoptee that was born in the state may access an adoption document associated with the adult adoptee's adoption without a court order;]~~
- ~~[(i) to the extent that a birth parent consents under Subsection (4)(b); or]~~
- ~~[(ii) if the birth parents listed on the original birth certificate are deceased.]~~
- (a) A child adoptee may access an adoption document associated with the child adoptee's adoption without a court order if:
- (i) the child adoptee is 18 years old or older;
- (ii) the child adoptee was born in this state; and
- (iii)(A) a pre-existing parent consents as described in Subsection (6)(b); or
- (B) the pre-existing parents listed on the original birth certificate are deceased.
- (b) A [birth] pre-existing parent may:
- (i) provide consent to allow the access described in Subsection [(4)(a)] (6)(a) by electing, electronically or on a written form provided by the office, allowing the [

- 12264 birth] pre-existing parent to elect to:
- 12265 (A) allow the office to provide the [adult] child adoptee with the contact
- 12266 information of the [birth] pre-existing parent that the [birth] pre-existing parent
- 12267 indicates;
- 12268 (B) allow the office to provide the [adult] child adoptee with the contact
- 12269 information of an intermediary that the [birth] pre-existing parent indicates;
- 12270 (C) prohibit the office from providing any contact information to the [adult] child
- 12271 adoptee; or
- 12272 (D) allow the office to provide the [adult] child adoptee with a noncertified copy of
- 12273 the original birth certificate; and
- 12274 (ii) at any time, file, electronically or on a written document with the office, to:
- 12275 (A) change the election described in Subsection [(4)(b)] (6)(b); or
- 12276 (B) elect to make other information about the birth parent, including an updated
- 12277 medical history, available for inspection by [an adult] a child adoptee.
- 12278 [(e) A birth parent may not access any identifying information or an adoption document
- 12279 under this Subsection (4).]
- 12280 [(d)] (c) If two [birth] pre-existing parents are listed on the original birth certificate and
- 12281 only one [birth] pre-existing parent consents under Subsection [(4)(b)] (6)(a) or is
- 12282 deceased, the office may redact the name of the other [birth] pre-existing parent.
- 12283 (7) An adult adoptee, or the adoptive parent of the adult adoptee, may inspect an adoption
- 12284 document associated with the adult adoptee's adoption without a court order, unless the
- 12285 final decree of adoption is entered by the juvenile court.
- 12286 (8) A pre-existing parent may not access the documents described in Subsection (2) or any
- 12287 identifying information under Subsection (6).
- 12288 [(5)(a) An individual who files a motion to intervene in an adoption proceeding:]
- 12289 [(i) is not a party to the adoption proceeding, unless the motion to intervene is
- 12290 granted; and]
- 12291 [(ii) may not be granted access to the documents described in Subsection (2), unless
- 12292 the motion to intervene is granted.]
- 12293 [(b) An order described in Subsection (3)(b) shall:]
- 12294 [(i) prohibit the individual described in Subsection (3)(b) from inspecting a document
- 12295 described in Subsection (2) that contains identifying information of the adoptive
- 12296 or prospective adoptive parent; and]
- 12297 [(ii) permit the individual described in Subsection (5)(b)(i) to review a copy of a

document described in Subsection (5)(b)(i) after the identifying information described in Subsection (5)(b)(i) is redacted from the document.]

Section 331. Section **81-13-104**, which is renumbered from Section 78B-6-106 is renumbered and amended to read:

[78B-6-106] 81-13-104 . Responsibility for own actions -- Fraud or misrepresentation.

(1) Each parent of ~~[a child]~~ an adoptee conceived or born outside of marriage is responsible for ~~[his or her]~~ the parent's own actions and is not excused from strict compliance with the provisions of this [-]chapter based upon any action, statement, or omission of the other parent or third parties.

(2)(a) Any person injured by fraudulent representations or actions in connection with an adoption is entitled to pursue civil or criminal penalties in accordance with existing law.

(b) A fraudulent representation is not a defense to strict compliance with the requirements of this chapter and is not a basis for dismissal of a petition for adoption, vacation of an adoption decree, or an automatic grant of custody to the offended party.

(c) ~~[Custody determinations]~~ For a child adoptee, a custody determination shall be based on the best interests of the ~~[child,]~~ child adoptee in accordance with the provisions of Section ~~[78B-6-133]~~ 81-13-215.

(3) A child-placing agency and the employees of a child-placing agency may not:

(a) employ any device, scheme, or artifice to defraud;

(b) engage in any act, practice, or course of business that operates or would operate as a fraud or deceit upon any person;

(c) materially and intentionally misrepresent facts or information; or

(d) request or require a prospective adoptive parent to grant, as a condition of or in connection with entering into an agreement with a child-placing agency, a release of either the prospective adoptive parent's claims or the ~~[adoptive child's]~~ adoptee's claims against the child-placing agency regarding any of the following:

(i) criminal misconduct;

(ii) ethical violations, as established by the Office of Licensing's administrative rules;

(iii) bad faith;

(iv) intentional torts;

(v) fraud;

(vi) gross negligence associated with care of the [child] adoptee, as described in

Subsection [78B-6-134(3)] 81-13-210(2);

(vii) future misconduct that may arise before the adoption is finalized;

(viii) breach of contract; or

(ix) gross negligence.

- (4) Subsection (3) does not prohibit a release of claims against a child-placing agency or a child-placing agency's employees for liability arising from the acts or the failure to act of a third party.

Section 332. Section **81-13-105**, which is renumbered from Section 78B-6-142 is renumbered and amended to read:

[78B-6-142] 81-13-105 . Adoption order from foreign country.

- (1) Except as otherwise provided by federal law, an adoption order rendered to a resident of this state that is made by a foreign country shall be recognized by the courts of this state and enforced as if the order were rendered by a court in this state.
- (2) [A person] An individual who adopts [a child] an adoptee in a foreign country may register the order in this state.
- (3) A petition for registration of a foreign adoption order may be combined with a petition for a name change.
- (4) If the court finds that the foreign adoption order meets the requirements of Subsection (1), the court shall order the [state registrar] office to:
- (a) file the order[pursuant to Section 78B-6-137]; and
- (b) file a certificate of birth for the [child pursuant to] adoptee in accordance with Section 26B-8-131.
- [(3)] (5) If a clerk of the court is unable to establish the fact, time, and place of birth from the documentation provided, a person holding a direct, tangible, and legitimate interest as described in Subsection 26B-8-125(3)(a) or (b) may petition for a court order establishing the fact, time, and place of a birth [pursuant to] in accordance with Subsection 26B-8-119(1).

Section 333. Section **81-13-106**, which is renumbered from Section 78B-6-121.5 is renumbered and amended to read:

[78B-6-121.5] 81-13-106 . Compact for Interstate Sharing of Putative Father Registry Information -- Severability clause.

OF PUTATIVE FATHER REGISTRY INFORMATION

This compact enables the sharing of putative father registry information collected by a

state that is a party to the compact with all other parties to the compact.

(1) "Putative father" means a man who may be the biological father of a child because the man had a sexual relationship with a woman to whom he is not married.

(2) "Putative father registry" mean a registry of putative fathers maintained and used by a state as part of its legal process for protecting a putative father's rights.

(3) "State" includes a state, territory, or the District of Columbia.

(1) A state is a party to this compact upon enactment of this compact by the state into state law.

(2) Upon providing at least 60 days' notice of withdrawal from this compact to each party to the compact and repealing the compact from state law, a state is no longer party to this compact.

(3) This compact is amended upon enactment of the amendment into state law by each party to the compact.

(1) A party to this compact shall communicate information in its putative father registry about a specific putative father to any other party to this compact in a timely manner upon request by the other party.

(2) A party to this compact is not required to have a putative father registry in order to request putative father registry information from another party to the compact.

(3) Putative father registry information requested by a party to this compact from another party to this compact is subject to the laws of the requesting party governing the privacy, retention, and authorized uses of putative father information or, if the requesting party does not have a putative father registry, the laws of the party supplying the information governing the privacy, retention, and authorized uses of putative father information.

(4) Notwithstanding Article IV, Subsection (3) of this compact, the request for or receipt of putative father registry information by a party to this compact from another party to this compact does not affect the application of the requesting party's laws, including laws regarding adoption or the protection of a putative father's rights, except as explicitly provided by the requesting party's laws.

(5) Failure by a party to this compact to provide accurate putative father registry information in a timely manner to another party to this compact upon request does not affect application of the requesting party's laws, including laws governing adoption and the protection of a putative father's rights, except as explicitly provided by the requesting party's laws.

(6) Each party to this compact shall work with every other party to this compact to

facilitate the timely communication of putative father registry information between compact parties upon request.

SEVERABILITY

The provisions of this compact are severable. If any provision of this compact or the application of any provision of this compact to any person or circumstance is held invalid by a final decision of a court of competent jurisdiction for a state that is a member of this compact, the remainder of this compact shall be given effect within that state without the invalid provision or application. If a provision of this compact is severed in one or more states as a result of one or more court decisions, the provision shall remain in force in all other states that are parties to this compact.

The following section is affected by a coordination clause at the end of this bill.

Section 334. Section **81-13-201** is enacted to read:

Part 2. Adoption of a Minor Child

81-13-201 . Definitions for part.

As used in this part, "sexual offense" means:

- (1) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses; or
- (2) an offense under the laws of the state where the minor child was conceived that is substantially similar to an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses.

Section 335. Section **81-13-202**, which is renumbered from Section 78B-6-102 is renumbered and amended to read:

[78B-6-102] 81-13-202 . Legislative intent and findings -- Best interest of the minor child -- Interests of each party.

- (1) It is the intent and desire of the Legislature that in every adoption of a minor child that the best interest of the minor child should govern and be of foremost concern in the court's determination.
- (2) The court shall make a specific finding regarding the best interest of the [child] minor child, taking into consideration information provided to the court pursuant to the requirements of this chapter relating to the health, safety, and welfare of the minor child and the moral climate of the potential adoptive placement.
- (3) The Legislature finds that the rights and interests of all parties affected by an adoption proceeding must be considered and balanced in determining what constitutional protections and processes are necessary and appropriate.
- (4)(a) The Legislature specifically finds that it is not in a minor child's best interest to be adopted by a person or persons who are cohabiting in a relationship that is not a

legally valid and binding marriage under the laws of this state.

(b) Nothing in this section limits or prohibits the court's placement of a minor child with a single adult who is not cohabiting or a person who is a relative of the minor child or a recognized placement under the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et seq.

(5) The Legislature also finds that:

- (a) the state has a compelling interest in providing a stable and permanent [homes for adoptive children] home for a child adoptee in a prompt manner, in preventing the disruption of [~~adoptive placements~~] an adoptive placement, and in holding parents accountable for meeting the needs of [~~children~~] a child adoptee;
- (b) an unmarried birth mother, faced with the responsibility of making crucial decisions about the future of a newborn child, is entitled to privacy, and has the right to make timely and appropriate decisions regarding her future and the future of the newborn child, and is entitled to assurance regarding the permanence of an adoptive placement;
- (c) [~~adoptive children have~~] a child adoptee has a right to permanence and stability in [~~adoptive placements~~] an adoptive placement;
- (d) adoptive parents have a constitutionally protected liberty and privacy interest in retaining custody of [~~an adopted child~~] a child adoptee;
- (e) an unmarried biological father has an inchoate interest that acquires constitutional protection only when [~~he~~] the unmarried biological father demonstrates a timely and full commitment to the responsibilities of parenthood, both during pregnancy and upon the [~~child's~~] child adoptee's birth; and
- (f) the state has a compelling interest in requiring [~~unmarried biological fathers~~] an unmarried biological father to demonstrate commitment by providing appropriate medical care and financial support and by establishing legal [~~paternity,~~] parentage in accordance with the requirements of this chapter.

(6)(a) In enacting this chapter, the Legislature has prescribed the conditions for

determining whether an unmarried biological father's action is sufficiently prompt and substantial to require constitutional protection.

- (b) If an unmarried biological father fails to grasp the opportunities to establish a relationship with [~~his child~~] the child adoptee that are available to [~~him, his biological~~] the unmarried biological father, the unmarried biological father's parental interest may be lost entirely, or greatly diminished in constitutional significance by [~~his~~] the unmarried biological father's failure to timely exercise [~~it~~] the unmarried biological

father's parental interest, or by [his] the unmarried biological father's failure to strictly comply with the available legal steps to substantiate [it] the parental interest.

(c)(i) A certain degree of finality is necessary in order to facilitate the state's compelling interest.

(ii) The Legislature finds that the interests of the state, the birth mother, the child adoptee, and the adoptive parents described in this section outweigh the interest of an unmarried biological father who does not timely grasp the opportunity to establish and demonstrate a relationship with [his-child] the child adoptee in accordance with the requirements of this chapter.

(d)(i) The Legislature finds no practical way to remove all risk of fraud or misrepresentation in adoption proceedings, and has provided a method for absolute protection of an unmarried biological father's rights by compliance with the provisions of this chapter.

(ii) In balancing the rights and interests of the state, and of all parties affected by fraud, specifically the child adoptee, the adoptive parents, and the unmarried biological father, the Legislature has determined that the unmarried biological father is in the best position to prevent or ameliorate the effects of fraud and that, therefore, the burden of fraud shall be borne by [him] the unmarried biological father.

(e) An unmarried biological father has the primary responsibility to protect [his] the unmarried biological father's rights.

(f) An unmarried biological father is presumed to know that the child adoptee may be adopted without [his] the unmarried biological father's consent unless [he] the unmarried biological father strictly complies with the provisions of this chapter, manifests a prompt and full commitment to [his] the unmarried biological father's parental responsibilities, and establishes paternity.

(7) The Legislature finds that an unmarried birth mother has:

(a) a right of privacy with regard to [her] the unmarried birth mother's pregnancy and adoption plan[, and therefore has] ;

(b) no legal obligation to disclose the identity of an unmarried biological father [prior to] before or during an adoption proceeding[, and has] ; and

(c) no obligation to volunteer information to the court with respect to the father.

Section 336. Section **81-13-203**, which is renumbered from Section 78B-6-117 is renumbered and amended to read:

[78B-6-117] 81-13-203 . Who may adopt -- Adoption of a minor child.

- [~~(1)~~ A minor child may be adopted by an adult individual, in accordance with this section and this part.]
- (1) An adult may adopt a minor child in accordance with this section and this chapter.
- (2) [A] Except as otherwise provided in this section and subject to the placement requirements described in Section 81-13-403, a minor child may be adopted by:
- (a) adults who are legally married to each other in accordance with the laws of this state, including adoption by a stepparent; or
- (b) [subject to Subsections (3) and (4), a single adult] an adult who is not married.
- (3) [~~A child may not be adopted by an individual who~~] If an adult is cohabiting in a relationship that is not a legally valid and binding marriage under the laws of this state, the adult may not adopt a minor child unless the individual is a relative of the minor child or a recognized placement under the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et seq.
- [~~(4)~~ To provide a child who is in the custody of the division with the most beneficial family structure, when a child in the custody of the division is placed for adoption, the division or child-placing agency shall place the child with a married couple, unless:]
- [~~(a)~~ there are no qualified married couples who:]
- [~~(i)~~ have applied to adopt a child;]
- [~~(ii)~~ are willing to adopt the child; and]
- [~~(iii)~~ are an appropriate placement for the child;]
- [~~(b)~~ the child is placed with a relative of the child;]
- [~~(c)~~ the child is placed with an individual who has already developed a substantial relationship with the child;]
- [~~(d)~~ the child is placed with an individual who:]
- [~~(i)~~ is selected by a parent or former parent of the child, if the parent or former parent consented to the adoption of the child; and]
- [~~(ii)~~ the parent or former parent described in Subsection (4)(d)(i):]
- [~~(A)~~ knew the individual with whom the child is placed before the parent consented to the adoption; or]
- [~~(B)~~ became aware of the individual with whom the child is placed through a source other than the division or the child-placing agency that assists with the adoption of the child; or]
- [~~(e)~~ it is in the best interests of the child to place the child with a single adult.]

- (4) A married adult who is lawfully separated from the married adult's spouse may not adopt a minor child without the consent of the married adult's spouse if the spouse is capable of giving consent.
- (5) An adult may not adopt a minor child unless:
- (a) the adult is at least 10 years older than the minor child; or
 - (b) at least one adult of a married couple is at least 10 years older than the minor child if a married couple is adopting the minor child.
- ~~[(5)]~~ (6) Except as provided in Subsection ~~[(6)]~~ (7), an adult may not adopt a minor child if, before adoption is finalized, the adult has been convicted of, pleaded guilty to, or pleaded no contest to a felony or attempted felony involving conduct that constitutes
any of the following]:
- (a) child abuse, as described in Section 76-5-109;
 - (b) child abuse homicide, as described in Section 76-5-208;
 - (c) child kidnapping, as described in Section 76-5-301.1;
 - (d) human trafficking of a child, as described in Section 76-5-308.5;
 - (e) sexual abuse of a minor, as described in Section 76-5-401.1;
 - (f) rape of a child, as described in Section 76-5-402.1;
 - (g) object rape of a child, as described in Section 76-5-402.3;
 - (h) sodomy on a child, as described in Section 76-5-403.1;
 - (i) sexual abuse of a child, as described in Section 76-5-404.1~~[-or]~~ ;
 - (j) aggravated sexual abuse of a child, as described in Section 76-5-404.3;
 - ~~[(j)]~~ (k) sexual exploitation of a minor, as described in Section 76-5b-201;
 - ~~[(k)]~~ (l) aggravated sexual exploitation of a minor, as described in Section 76-5b-201.1;
 - ~~[(l)]~~ (m) aggravated child abuse, as described in Section 76-5-109.2;
 - ~~[(m)]~~ (n) child abandonment, as described in Section 76-5-109.3;
 - ~~[(n)]~~ (o) commission of domestic violence in the presence of a child, as described in Section 76-5-114; or
 - ~~[(o)]~~ (p) an offense in another state that, if committed in this state, would constitute an offense described in this Subsection ~~[(5)]~~ (6).
- ~~[(6)]~~ (7)(a) ~~[For purpose of]~~ As used in this Subsection ~~[(6)]~~ (7), "disqualifying offense"
means an offense listed in Subsection ~~[(5)]~~ (6) that prevents a court from considering [
an individual] an adult for adoption of a minor child except as provided in this
Subsection ~~[(6)]~~ (7).
- (b) An ~~[individual]~~ adult described in Subsection ~~[(5)]~~ (6) may only be considered for

- 12581 adoption of a minor child if the following criteria are met by clear and convincing
12582 evidence:
- 12583 (i) at least 10 years have elapsed from the day on which the [~~individual~~] adult is
12584 successfully released from prison, jail, parole, or probation related to a
12585 disqualifying offense;
- 12586 (ii) during the 10 years before the day on which the [~~individual~~] adult files a petition
12587 with the court seeking adoption, the [~~individual~~] adult has not been convicted,
12588 pleaded guilty, or pleaded no contest to an offense greater than an infraction or
12589 traffic violation that would likely impact the health, safety, or well-being of the
12590 minor child;
- 12591 (iii) the [~~individual~~] adult can provide evidence of successful treatment or
12592 rehabilitation directly related to the disqualifying offense;
- 12593 (iv) the court determines that the risk related to the disqualifying offense is unlikely
12594 to cause harm, as defined in Section 80-1-102, or potential harm to the minor child
12595 currently or at any time in the future when considering all of the following:
- 12596 (A) the minor child's age;
- 12597 (B) the minor child's gender;
- 12598 (C) the minor child's development;
- 12599 (D) the nature and seriousness of the disqualifying offense;
- 12600 (E) the preferences of a minor child who is 12 years old or older;
- 12601 (F) any available assessments, including custody evaluations, home studies,
12602 pre-placement adoptive evaluations, parenting assessments, psychological or
12603 mental health assessments, and bonding assessments; and
- 12604 (G) any other relevant information;
- 12605 (v) the [~~individual~~] adult can provide evidence of all of the following:
- 12606 (A) the relationship with the minor child is of long duration;
- 12607 (B) that an emotional bond exists with the minor child; and
- 12608 (C) that adoption by the individual who has committed the disqualifying offense
12609 ensures the best interests of the minor child are met; and
- 12610 (vi) the adoption is by:
- 12611 (A) a stepparent whose spouse is the adoptee's parent and consents to the
12612 adoption; or
- 12613 (B) subject to Subsection [~~(6)(d)~~] (7)(d), a relative of the minor child, as defined in
12614 Section 80-3-102, and there is not another relative without a disqualifying

offense filing an adoption petition.

(c) The ~~[individual]~~ adult with the disqualifying offense bears the burden of proof regarding why adoption with that ~~[individual]~~ adult is in the best interest of the minor child over another responsible relative or equally situated ~~[individual]~~ adult who does not have a disqualifying offense.

(d) If there is an alternative responsible relative who does not have a disqualifying offense filing an adoption petition~~[-, the following applies]:~~

(i) preference for adoption shall be given to a relative who does not have a disqualifying offense; and

(ii) before the court may grant adoption to the ~~[individual]~~ adult who has the disqualifying offense over another responsible, willing, and able relative:

(A) an impartial custody evaluation shall be completed; and

(B) a guardian ad litem shall be assigned.

~~[(7)]~~ (8) Subsections ~~[(5) and (6)]~~ (6) and (7) apply to a case pending on March 25, 2017, for which a final decision on adoption has not been made and to a case filed on or after March 25, 2017.

The following section is affected by a coordination clause at the end of this bill.

Section 337. Section **81-13-204** is enacted to read:

81-13-204 . Petition for adoption of a minor child.

(1) A person may bring a petition for adoption of a minor child:

(a) before the birth of the minor child; or

(b) before or after the minor child is placed in the home of the adoptive parent for the purpose of adoption.

(2)(a) Except as provided in Subsection (2)(c), a petition for adoption of a minor child shall state whether the minor child was born in another state.

(b) If the minor child was born in another state, the petition and the court's final decree of adoption shall state that the requirements of Title 80, Chapter 2, Part 9, Interstate Compact on Placement of Children, have been complied with.

(c) This Subsection (2) does not apply if the prospective adoptive parent is not required to complete a preplacement adoptive evaluation under Section 81-13-404.

(3) In any adoption proceeding involving an "Indian child," as defined in 25 U.S.C. Sec. 1903, a child-placing agency and a petitioner shall comply with the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et seq.

Section 338. Section **81-13-205**, which is renumbered from Section 78B-6-112 is renumbered

and amended to read:

[78B-6-112] 81-13-205 . Petition to terminate parental rights of a minor child.

- (1) A party may bring a petition seeking to terminate parental rights ~~[in the child]~~ of a minor child for the purpose of facilitating the adoption of the minor child in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration.
- (2) A petition to terminate parental rights under this section may be:
 - (a) joined with a proceeding on an adoption petition; or
 - (b) filed as a separate proceeding before or after a petition to adopt the minor child is filed.
- (3) A court may enter a final order terminating parental rights before a final decree of adoption is entered.
- (4)(a) Nothing in this section limits the jurisdiction of a juvenile court relating to proceedings to terminate parental rights as described in Section 78A-6-103.
- (b) A court may not terminate parental rights ~~[in a]~~ of a minor child if the minor child is under the jurisdiction of the juvenile court in a pending abuse, neglect, dependency, or termination of parental rights proceeding.
- (5) The court may terminate an individual's parental rights ~~[in a]~~ of a minor child if:
 - (a) the individual executes a voluntary consent to adoption, or relinquishment for adoption, of the minor child, in accordance with:
 - (i) the requirements of this chapter; or
 - (ii) the laws of another state or country, if the consent is valid and irrevocable;
 - (b) the individual is an unmarried biological father who is not entitled to consent to adoption, or relinquishment for adoption, under Section ~~[78B-6-120 or 78B-6-121]~~ 81-13-212 or 81-13-213;
 - (c) the individual:
 - (i) received notice of the adoption proceeding relating to the minor child under Section ~~[78B-6-110]~~ 81-13-207; and
 - (ii) failed to file a motion for relief, under Subsection ~~[78B-6-110(6)]~~ 81-13-207(6), within 30 days after the day on which the individual was served with notice of the adoption proceeding;
 - (d) the court finds, under Section ~~[78B-15-607]~~ 81-5-607, that the individual is not a parent of the minor child; or
 - (e) the individual's parental rights are terminated on grounds described in Title 80, Chapter 4, Termination and Restoration of Parental Rights, and termination is in the

best interests of the minor child.

(6) The court shall appoint an indigent defense service provider in accordance with Title 78B, Chapter 22, Indigent Defense Act, to represent a parent, as defined in Section 81-13-211, who faces any action initiated by a private party under Title 80, Chapter 4, Termination and Restoration of Parental Rights, or whose parental rights are subject to termination under this section.

(7) If a county incurs expenses in providing indigent defense services to an indigent individual facing any action initiated by a private party under Title 80, Chapter 4, Termination and Restoration of Parental Rights, or termination of parental rights under this section, the county may apply for reimbursement from the Utah Indigent Defense Commission in accordance with Section 78B-22-406.

(8) A petition filed under this section is subject to the procedural requirements of this chapter.

Section 339. Section **81-13-206**, which is renumbered from Section 78B-6-109 is renumbered and amended to read:

[78B-6-109] 81-13-206 . Determination of rights in an adoption proceeding for a minor child.

(1)(a) Any interested person may petition a court ~~[having]~~ with jurisdiction over [~~adoption proceedings~~] an adoption proceeding of a minor child for a determination of the rights and interests of any person who may claim an interest in ~~[a child under this part]~~ the minor child under this part.

(b) The petition described in Subsection (1) may be filed at any time before the finalization of the adoption, including before:

- (i) the minor child's birth;
- (ii) a petition for adoption is filed; or
- (iii) a petition to terminate parental rights is filed.

(2) If a petition for adoption or a petition to terminate parental rights has been filed ~~[in district court]~~ in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, the petitioner or any interested person may, without filing a separate petition, move the court for a determination of the rights and interests of any person who may claim an interest in ~~[a child under this part]~~ the minor child under this chapter.

Section 340. Section **81-13-207**, which is renumbered from Section 78B-6-110 is renumbered and amended to read:

[78B-6-110] 81-13-207 . Notice of an adoption proceeding for a minor child.

- 12717 [(1)(a) ~~An unmarried biological father, by virtue of the fact that he has engaged in a~~
12718 ~~sexual relationship with a woman;~~]
12719 [(i) ~~is considered to be on notice that a pregnancy and an adoption proceeding~~
12720 ~~regarding the child may occur; and~~
12721 [(ii) ~~has a duty to protect his own rights and interests.~~]
12722 [(b) ~~An unmarried biological father is entitled to actual notice of a birth or an adoption~~
12723 ~~proceeding with regard to his child only as provided in this section or Section~~
12724 ~~78B-6-110.5.~~]
12725 [(2)] (1) [Notice of an adoption proceeding shall be served] A petitioner in an adoption
12726 proceeding described in Section 81-13-204, 81-13-205, or 81-13-206 shall serve a notice
12727 of the adoption proceeding on each of the following persons:
12728 (a) any person or agency whose consent or relinquishment is required under Section [
12729 ~~78B-6-120 or 78B-6-121~~] 81-13-212 or 81-13-213, unless that right has been
12730 terminated by:
12731 (i) waiver;
12732 (ii) relinquishment;
12733 (iii) actual or implied consent; or
12734 (iv) judicial action;
12735 (b) any person who has initiated a [~~paternity~~] parentage proceeding and filed notice of
12736 that action with the [~~state registrar of vital statistics within the Department of Health~~
12737 ~~and Human Services,~~] the office in accordance with Subsection (3);
12738 (c) any legally appointed custodian or guardian of the child adoptee;
12739 (d) the petitioner's spouse~~[, if any, only if]~~ if the petitioner is married and the petitioner's
12740 spouse has not joined in the petition;
12741 (e) the child adoptee's spouse~~[, if any]~~ if the child adoptee is married;
12742 (f) any [~~person who, prior to~~] individual who, before the time the birth mother executes [
12743 her] the birth mother's consent for adoption or relinquishes the child adoptee for
12744 adoption, is recorded on the birth certificate as the [child's father] child adoptee's
12745 parent, with the knowledge and consent of the birth mother;
12746 (g) [~~a person~~] any individual who is:
12747 (i) openly living in the same household with the child adoptee at the time the consent
12748 is executed or relinquishment made; and
12749 (ii) holding [~~himself~~] the individual out to be the [~~child's father~~] child adoptee's parent;
12750 and

(h) ~~[any person]~~ an individual who is married to the ~~[child's]~~ child adoptee's birth mother at the time ~~[she]~~ the birth mother executes ~~[her]~~ the birth mother's consent to the adoption or relinquishes the child adoptee for adoption, unless the court finds that the mother's spouse is not the ~~[child's father]~~ child adoptee's parent under Section [78B-15-607] 81-5-607.

(2)(a) Except as provided in Subsections (2)(b) and (c), the petitioner may serve the notice described in Subsection (1) at any time after the petition for the adoption proceeding is filed.

(b) The petitioner may not serve the notice described in Subsection (2)(a) on a birth mother before the birth mother has given birth to the minor child who is the subject of the petition.

(c) The petitioner shall serve the notice described in Subsection (1) at least 30 days prior to the final dispositional hearing.

(3)(a) An unmarried biological father, by virtue of the fact that the unmarried biological father has engaged in a sexual relationship with a woman:

(i) is considered to be on notice that a pregnancy and an adoption proceeding regarding a minor child may occur; and

(ii) has a duty to protect the unmarried biological father's own rights and interests.

(b) An unmarried biological father is entitled to actual notice of a birth or an adoption proceeding with regard to the unmarried biological father's minor child only as provided in this section or Section 81-13-209.

~~[(a)]~~ (c) In order to preserve any right to notice, an unmarried biological father shall, consistent with Subsection ~~[(3)(d)]~~ (3)(f):

(i) initiate proceedings in a ~~[district court of Utah to establish paternity under Title 78B, Chapter 15, Utah Uniform Parentage Act]~~ court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to establish parentage under Chapter 5, Uniform Parentage Act; and

(ii) file a notice of commencement of the proceedings described in Subsection [~~(3)(a)(i) with the office of vital statistics within the Department of Health and Human Services~~ (3)(c)(i) with the office.

~~[(b) If the unmarried, biological father does not know the county in which the birth mother resides, he may initiate his action in any county, subject to a change in trial pursuant to Section 78B-3a-201.]~~

(d) Notwithstanding Section 81-13-102 or Title 78B, Chapter 3a, Venue for Civil

Actions, an unmarried biological father may initiate an action described in Subsection (3)(c) in any county if the unmarried biological father does not know the county in which the birth mother resides.

~~[(e)]~~ (e) The Department of Health and Human Services shall provide forms for the purpose of filing the notice described in Subsection ~~[(3)(a)(ii)]~~ (3)(c)(ii), and make those forms available in the office of the county health department in each county.

~~[(d)]~~ (f) When the ~~[state registrar of vital statistics]~~ office receives a completed form, the ~~[registrar]~~ office shall:

(i) record the date and time the form was received; and

(ii) immediately enter the information provided by the unmarried biological father in the confidential registry ~~[established by Subsection 78B-6-121(3)(e)]~~ described in Subsection 81-13-213(4)(c).

~~[(e)]~~ (g) ~~[The action and notice described in Subsection (3)(a):]~~

(i) ~~[may be filed]~~ An unmarried biological father may file the action and notice described in Subsection (3)(c) before or after the minor child's birth[; and] .

(ii) ~~[shall be filed prior to]~~ An unmarried biological father shall file the action and notice described in Subsection (3)(c) before the mother's:

(A) execution of consent to adoption of the minor child; or

(B) relinquishment of the minor child for adoption.

(h) Notwithstanding Subsection (2)(b), an unmarried biological father is not entitled to notice of an adoption proceeding in a case where it is shown that the minor child was conceived as a result of conduct that constitutes a sexual offense, regardless of whether the unmarried biological father is formally charged with or convicted of the sexual offense.

(4) Notice provided in accordance with this section need not disclose the name of the birth mother of the minor child who is the subject of an adoption proceeding.

(5) The notice required by this section:

~~[(a) may be served at any time after the petition for adoption is filed, but may not be served on a birth mother before she has given birth to the child who is the subject of the petition for adoption;]~~

~~[(b) shall be served at least 30 days prior to the final dispositional hearing;]~~

~~[(e)]~~ (a) shall specifically state that the person served shall fulfill the requirements of Subsection (6)(a) within 30 days after the day on which the person receives service if the person intends to intervene in or contest the adoption;

~~[(d)]~~ (b) shall state the consequences, described in Subsection (6)(b), for failure of a person to file a motion for relief within 30 days after the day on which the person is served with notice of an adoption proceeding;

~~[(e)]~~ (c) is not required to include, ~~[nor]~~ or be accompanied by, a summons or a copy of the petition for adoption;

~~[(f)]~~ (d) shall state where the person may obtain a copy of the petition for adoption; and

~~[(g)]~~ (e) shall indicate the right to the appointment of counsel for a party whom the court determines is indigent and at risk of losing the party's parental rights.

(6)(a) A person who has been served with notice of an adoption proceeding and who wishes to contest the adoption shall file a motion to intervene in the adoption proceeding:

(i) within 30 days after the day on which the person was served with notice of the adoption proceeding;

(ii) setting forth specific relief sought; and

(iii) accompanied by a memorandum specifying the factual and legal grounds upon which the motion is based.

(b) A person who fails to fully and strictly comply with all of the requirements described in Subsection (6)(a) within 30 days after the day on which the person was served with notice of the adoption proceeding:

(i) waives any right to further notice in connection with the adoption;

(ii) forfeits all rights in relation to the adoptee; and

(iii) is barred from thereafter bringing or maintaining any action to assert any interest in the adoptee.

(7) ~~[Service of notice under this section shall be made as follows:]~~

(a)(i) Subject to Subsection ~~[(5)(e), service on]~~ (5)(c), the petitioner shall serve a person whose consent is necessary under Section ~~[78B-6-120 or 78B-6-121 shall be]~~ 81-13-212 or 81-13-213 in accordance with ~~[the provisions of]~~ the Utah Rules of Civil Procedure.

(ii) If service of a person described in Subsection (7)(a)(i) is by publication, the court shall designate the content of the notice regarding the identity of the parties.

(iii) The notice described in this Subsection (7)(a) may not include the name of a person seeking to adopt the adoptee.

(b)(i) Except as provided in Subsection (7)(b)(ii) to any other person for whom notice is required under this section, service by certified mail, return receipt requested, is

12853 sufficient.

12854 (ii) If the service described in Subsection (7)(b)(i) cannot be completed after two
12855 attempts, the court may issue an order providing for service by publication,
12856 posting, or by any other manner of service.

12857 (c) Notice to ~~[a person]~~ an individual, who has initiated a ~~[paternity]~~ parentage
12858 proceeding and filed notice of that action with the ~~[state registrar of vital statistics in~~
12859 ~~the Department of Health and Human Services]~~ office in accordance with the
12860 requirements of Subsection (3), shall be served by certified mail, return receipt
12861 requested, at the last address filed with the ~~[registrar]~~ office.

12862 (8) The notice required by this section may be waived in writing by the person entitled to
12863 receive notice.

12864 (9) Proof of service of notice on all persons for whom notice is required by this section
12865 shall be filed with the court before the final dispositional hearing on the adoption.

12866 (10) Notwithstanding any other provision of law, neither the notice of an adoption
12867 proceeding nor any process in that proceeding is required to contain the name of the
12868 person or persons seeking to adopt the child adoptee.

12869 (11) Except as to those persons whose consent to an adoption is required under Section [
12870 ~~78B-6-120 or 78B-6-121]~~ 81-13-212 or 81-13-213, the sole purpose of notice under this
12871 section is to enable the person served to:

12872 (a) intervene in the adoption; and

12873 (b) present evidence to the court relevant to the best interest of the child adoptee.

12874 Section 341. Section **81-13-208**, which is renumbered from Section 78B-6-110.1 is renumbered
12875 and amended to read:

12876 **[78B-6-110.1] 81-13-208 . Prebirth notice to birth father of intent to place a**
12877 **minor child for adoption.**

12878 (1) As used in this section, "birth father" means:

12879 (a) a potential ~~[biological]~~ birth father; or

12880 (b) an unmarried biological father.

12881 (2) Before the birth of a minor child, the following ~~[individuals]~~ persons may notify a birth
12882 father of the minor child that the birth mother of the minor child is considering an
12883 adoptive placement for the minor child:

12884 (a) the minor child's birth mother;

12885 (b) a licensed child-placing agency;

12886 (c) an attorney representing a prospective adoptive parent of the minor child; or

- (d) an attorney representing the birth mother of the minor child.
- (3) Providing a birth father with notice under Subsection (2) does not obligate the birth mother of the minor child to proceed with an adoptive placement of the minor child.
- (4) The notice described in Subsection (2) shall include the name, address, and telephone number of the person providing the notice~~[-and shall include]~~ and the following information:
- (a) the birth mother's intent to place the minor child for adoption;
- (b) that the birth mother has named the person receiving this notice as a potential birth father of ~~[her child]~~ the minor child;
- (c) the requirements to contest the adoption, including taking the following steps within 30 days after the day on which the notice is served:
- (i) initiating proceedings to establish or assert paternity in a ~~[district court of Utah]~~ court with jurisdiction under Title 78A, Judiciary and Judicial Administration, within 30 days after the day on which notice is served, including filing an affidavit stating:
- (A) that the birth father is fully able and willing to have full custody of the minor child;
- (B) the birth father's plans to care for the minor child; and
- (C) that the birth father agrees to pay for child support and expenses incurred in connection with the pregnancy and birth of the minor child; and
- (ii) filing a notice of commencement of ~~[paternity]~~ parentage proceedings with the ~~[state registrar of vital statistics within the Utah Department of Health]~~ office;
- (d) the consequences for failure to comply with Subsection (4)(c), including that:
- (i) the birth father's ability to assert the right, if any, to consent or refuse to consent to the adoption is irrevocably lost;
- (ii) the birth father will lose the ability to assert the right to contest any future adoption of the minor child; and
- (iii) the birth father will lose the right, if any, to notice of any adoption proceedings related to the minor child;
- (e) that the birth father may consent to the adoption, if any, within 30 days after the day on which the notice is received, and that ~~[his]~~ the birth father's consent is irrevocable; and
- (f) that no communication between the birth mother of the minor child and the birth father changes the rights and responsibilities of the birth father described in the notice.

- 12921 (5) If ~~[the recipient of the notice described in Subsection (2)]~~ a birth father does not fully
12922 and strictly comply with the requirements of Subsection (4)(c) within 30 days after the
12923 day on which [he] the birth father receives the notice, [he] the birth father will lose:
12924 (a) the ability to assert the right to consent or refuse to consent to an adoption of the
12925 minor child described in the notice;
12926 (b) the ability to assert the right to contest any future adoption of the minor child
12927 described in the notice; and
12928 (c) the right to notice of any adoption proceedings relating to the minor child described
12929 in the notice.
- 12930 (6) If ~~[an individual]~~ a person described in Subsection (2) chooses to notify a birth father
12931 under this section, the notice shall be served on a birth father in a manner consistent with
12932 the Utah Rules of Civil Procedure or by certified mail.

12933 Section 342. Section **81-13-209**, which is renumbered from Section 78B-6-110.5 is renumbered
12934 and amended to read:

12935 **[78B-6-110.5] 81-13-209 . Declaration regarding each potential birth father for**
12936 **out-of-state birth mother and adoptive parents-- Putative father registry -- Notice to**
12937 **potential birth father.**

- 12938 (1) The procedural and substantive requirements of this section ~~[shall be]~~ are required
12939 only to the extent that ~~[they]~~ the requirements do not exceed the requirements of the state
12940 of conception or the birth mother's state of residence.

12941 ~~[(1)(a) For a child who is six months of age or less at the time the child is placed with~~
12942 ~~prospective adoptive parents, the birth mother shall sign, and the adoptive parents~~
12943 ~~shall file with the court, a declaration regarding each potential birth father, in~~
12944 ~~accordance with this section, before or at the time a petition for adoption is filed with~~
12945 ~~the court, if, at any point during the time period beginning at the conception of the~~
12946 ~~child and ending at the time the mother executes consent to adoption or~~
12947 ~~relinquishment of the child for adoption, neither the birth mother nor at least one of~~
12948 ~~the adoptive parents has resided in the state for 90 total days or more, as described in~~
12949 ~~Subsection (1)(c).]~~

- 12950 (2)(a) For a child adoptee who is six months old or younger at the time that the child
12951 adoptee is placed with the prospective adoptive parents and subject to the rights of a
12952 birth mother described in Subsection 81-13-202(7), the birth mother shall sign, and
12953 the prospective adoptive parents shall file with the court, a declaration regarding each
12954 potential birth father before or at the time a petition for adoption is filed with the

12955 court.

12956 (b) A declaration is not required under Subsection (2)(a) if the birth mother or one of the
12957 adoptive parents has resided in the state for 90 total days or more at any point during
12958 the time period beginning at the conception of the child adoptee and ending at the
12959 time that the birth mother executes consent to the adoption or relinquishment of the
12960 child adoptee for adoption.

12961 ~~[(b)]~~ (3) The child-placing agency or prospective adoptive parents shall search the putative
12962 father registry of each state where the birth mother believes the child adoptee may have
12963 been conceived and each state where the birth mother lived during her pregnancy, if the
12964 state has a putative father registry, to determine whether a potential birth father
12965 registered with the state's putative father registry.

12966 ~~[(e)]~~ (4) In determining whether the 90-day requirement described in Subsection (2) is
12967 satisfied, the following apply:

12968 ~~[(i)]~~ (a) the 90 days are not required to be consecutive;

12969 ~~[(ii)]~~ (b) no absence from the state may be for more than seven consecutive days;

12970 ~~[(iii)]~~ (c) any day on which the individual is absent from the state does not count toward
12971 the total 90-day period; and

12972 ~~[(iv)]~~ (d) the 90-day period begins and ends during a period that is no more than 120
12973 consecutive days.

12974 ~~[(2)]~~ (5) The declaration filed under Subsection ~~[(1)]~~ (2) regarding a potential birth father
12975 shall include, for each potential birth father, the following information:

12976 (a) if known, the potential birth father's name, date of birth, social security number, and
12977 address;

12978 (b) with regard to a state's putative father registry in each state described in Subsection [
12979 ~~(1)(b)]~~ (3):

12980 (i) whether the state has a putative father registry; and

12981 (ii) for each state that has a putative father registry, with the declaration, a certificate
12982 or written statement from the state's putative father registry that a search of the
12983 state's putative father registry was made and disclosing the results of the search;

12984 (c) whether the potential birth father was notified of:

12985 (i) the birth mother's pregnancy;

12986 (ii) the fact that he is a potential birth father; or

12987 (iii) the fact that the birth mother intends to consent to adoption or relinquishment of
12988 the child adoptee for adoption[;] in Utah;

- 12989 (d) each state where the birth mother lived during the pregnancy;
- 12990 (e) if known, the state in which the child adoptee was conceived;
- 12991 (f) whether the birth mother informed the potential birth father that she was traveling to
- 12992 or planning to reside in Utah;
- 12993 (g) whether the birth mother has contacted the potential birth father while she was
- 12994 located in Utah;
- 12995 (h) whether, and for how long, the potential birth father has ever lived with the child
- 12996 adoptee;
- 12997 (i) whether the potential birth father has given the birth mother money or offered to pay
- 12998 for any of [her] the birth mother's expenses during pregnancy or the [child's] child
- 12999 adoptee's birth;
- 13000 (j) whether the potential birth father has offered to pay child support;
- 13001 (k) if known, whether the potential birth father has taken any legal action to establish
- 13002 paternity of the child adoptee, either in Utah or in any other state, and, if known,
- 13003 what action [he] the potential birth father has taken; and
- 13004 (l) whether the birth mother has ever been involved in a domestic violence matter with
- 13005 the potential birth father.
- 13006 [(3)] (6) Except as provided in Subsection [(5)] (8), based on the declaration regarding the
- 13007 potential birth father, the court shall order the birth mother to serve a potential birth
- 13008 father notice that she intends to consent or has consented to adoption or relinquishment
- 13009 of the child adoptee for adoption, if the court finds that the potential birth father:
- 13010 (a) has taken sufficient action to demonstrate an interest in the child adoptee;
- 13011 (b) has taken sufficient action to attempt to preserve [his] the potential birth father's legal
- 13012 rights as a birth father, including by filing a legal action to establish [paternity]
- 13013 parentage or filing with a state's putative father registry; or
- 13014 (c) does not know, and does not have a reason to know, that:
- 13015 (i) the mother or child adoptee are present in Utah;
- 13016 (ii) the mother intended to give birth to the child adoptee in Utah;
- 13017 (iii) the child adoptee was born in Utah; or
- 13018 (iv) the mother intends to consent to adoption or relinquishment of the child adoptee
- 13019 for adoption in Utah.

13020 [(4)] (7) Notice under this section shall be made in accordance with Subsections [
 13021 ~~78B-6-110(7) through (11);~~ 81-13-207(7) through (11).

13022 [(5)] (8) A court may only order the notice requirements in Subsection [(3)] (6) to the extent

that they do not exceed the notice requirements of:

(a) the state of conception; or

(b) the birth mother's state of residence.

Section 343. Section **81-13-210**, which is renumbered from Section 78B-6-134 is renumbered and amended to read:

[78B-6-134] 81-13-210 . Custody pending final decree.

~~[(1)(a) A licensed child-placing agency, or a petitioner if the petition for adoption is filed before a child's birth, may seek an order establishing that the agency or petitioner shall have temporary custody of the child from the time of birth.]~~

~~[(b) The court shall grant an order for temporary custody under Subsection (1)(a) upon determining that:]~~

~~[(i) the birth mother or both birth parents consent to the order;]~~

~~[(ii) the agency or petitioner is willing and able to take custody of the child; and]~~

~~[(iii) an order will be in the best interest of the child.]~~

~~[(e) The court shall vacate an order if, prior to the child's birth, the birth mother or birth parents withdraw their consent.]~~

~~[(2)] (1)~~ Except as otherwise provided by the court, once a petitioner has received the adoptee into ~~[his]~~ the petitioner's home and a petition for adoption has been filed, the petitioner is entitled to the custody and control of the child adoptee and is responsible for the care, maintenance, and support of the adoptee, including any necessary medical or surgical treatment, pending further order of the court.

~~[(3)] (2)(a)~~ Once ~~[a child]~~ a child adoptee has been placed with, relinquished to, or ordered into the custody of a child-placing agency for purposes of adoption, the agency shall have custody and control of the child adoptee and is responsible for ~~[his]~~ the child adoptee's care, maintenance, and support.

~~(b)~~ ~~[The]~~ Subject to Subsection (3)(c), the child-placing agency may delegate the responsibility for care, maintenance, and support, including any necessary medical or surgical treatment, to the petitioner once the petitioner has received the ~~[child into his home. However, until]~~ child adoptee into the petitioner's home, including a temporary place of abode for the petitioner.

~~(c)~~ Until the final decree of adoption is entered by the court, the child-placing agency has the right to the custody and control of the child adoptee.

~~(3)(a)~~ A licensed child-placing agency, or a petitioner if the petition of adoption is filed before a child adoptee's birth, may seek an order establishing that the child-placing

agency or petitioner shall have temporary custody of the child adoptee from the time of the child adoptee's birth.

(b) The court shall grant an order for temporary custody under Subsection (3)(a) upon determining that:

(i) the birth mother or both birth parents consent to the order;

(ii) the child-placing agency or petitioner is willing and able to take custody of the child adoptee; and

(iii) an order will be in the best interest of the child adoptee.

(c) The court shall vacate an order if, before the child adoptee's birth, the birth mother or both birth parents withdraw consent to the order.

Section 344. Section **81-13-211**, which is renumbered from Section 78B-6-119 is renumbered and amended to read:

[78B-6-119] 81-13-211 . Counseling for parents.

(1) As used in this section, "parent" means a person described in Subsections 81-13-212(1)(b) through (f) for whom the consent or relinquishment of a minor child for the adoption is required.

[(1)] (2) Subject to Subsection [(2)(a)] (3)(a), before relinquishing a minor child to a child-placing agency, or consenting to the adoption of a child adoptee, a parent of the child adoptee has the right to participate in, or elect to participate in, counseling:

(a) by a licensed counselor or an adoption service provider selected by the parent participating in the counseling;

(b) for up to three sessions of at least 50 minutes per session completed [~~prior to~~] before relinquishing a child adoptee or within [~~three months~~] 120 days following the relinquishment of a child adoptee; and

(c) subject to Subsection [(2)(b)] (3)(b), at the expense of the:

(i) child-placing agency; or

(ii) prospective adoptive parents.

[(2)] (3)(a) Notwithstanding Subsection [(1)] (2), a parent who has the right to participate in the counseling [~~described in this section~~] under Subsection (2) may waive that right.

(b) Notwithstanding Subsection [(1)(e)] (2)(c), the total amount required to be paid by a child-placing agency or the prospective adoptive parents for the counseling described in Subsection [(1)] (2) may not exceed \$400, unless an agreement for a greater amount is signed by:

(i) the parent who receives the counseling; and

(ii) the child-placing agency or prospective adoptive parents.

~~[(3)]~~ (4) Before a parent relinquishes a child adoptee to a child-placing agency, or consents to the adoption of a child adoptee, the parent shall be informed of the right described in Subsection (1) by the:

(a) child-placing agency;

(b) prospective adoptive parents; or

(c) representative of a person described in Subsection ~~[(3)(a)]~~ (4)(a) or (b).

~~[(4)]~~ (5) If the parent who is entitled to the counseling as described in Subsection (1) elects to attend one or more counseling sessions following the relinquishment of a child adoptee:

(a) the parent of the child adoptee shall inform the child-placing agency or prospective adoptive parents of this election prior to relinquishing the child adoptee to a child-placing agency or consenting to the adoption of the child adoptee; and

(b) the parent of the child adoptee and the child-placing agency or attorney representing a prospective adoptive parent of the child adoptee shall enter into an agreement to pay for the counseling in accordance with this section.

~~[(5)]~~ (6)(a) Subject to Subsections ~~[(3)(b)]~~ (4)(b) and (c), before the day on which a final decree of adoption is entered, a statement shall be filed with the court that:

(i) is signed by each parent who:

(A) relinquishes the parent's parental rights; or

(B) consents to the adoption; and

(ii) states that, before the parent took the action described in Subsection ~~[(5)(a)(i)(A)]~~ (6)(a)(i)(A) or (B), the parent was advised of the parent's right to participate in the counseling described in this section at the expense of the:

(A) child-placing agency; or

(B) prospective adoptive parents.

(b) The statement described in Subsection ~~[(5)(a)]~~ (6)(a) may be included in the document that:

(i) relinquishes the parent's parental rights; or

(ii) consents to the adoption.

(c) Failure by a person to give the notice described in Subsection ~~[(3)]~~ (4), or pay for the counseling described in this section:

(i) shall not constitute grounds for invalidating a:

(A) relinquishment of parental rights; or

- (B) consent to adoption; and
- (ii) shall give rise to a cause of action for the recovery of damages suffered, if any, by the parent or guardian who took the action described in Subsection [(5)(c)(i)(A)] (6)(c)(i)(A) or (B) against the person required to:
- (A) give the notice described in Subsection [(3)] (4); or
- (B) pay for the counseling described in this section.

Section 345. Section **81-13-212**, which is renumbered from Section 78B-6-120 is renumbered and amended to read:

[78B-6-120] 81-13-212 . Necessary consent to adoption or relinquishment for adoption of a minor child -- Implied consent.

- (1) Except as provided in Subsection [(2), consent to adoption of a child, or relinquishment of a child for adoption, is required from] (2), the following persons are required to consent to an adoption of a minor child, or to relinquishment of a minor child, before an adoption of the minor child is granted:
- (a) [the adoptee, if the adoptee is more than 12 years old,] if the child adoptee is 12 years old or older, the child adoptee unless the child adoptee does not have the mental capacity to consent;
- (b) a man or woman who:
- (i) by operation of law under Section [78B-15-204] 81-5-204, is recognized as the father or mother of the proposed adoptee, unless:
- (A) the presumption is rebutted under Section [78B-15-607] 81-5-607;
- (B) at the time of the marriage, the man or woman knew or reasonably should have known that the marriage to the mother of the proposed child adoptee was or could be declared invalid; or
- (C) the man or woman was not married to the mother of the proposed child adoptee until after the mother consented to adoption, or relinquishment for adoption, of the proposed child adoptee; or
- (ii) is the [father] parent of the child adoptee by a previous legal adoption;
- (c) the birth mother of the child adoptee;
- (d) [a biological parent] an individual who has been adjudicated to be the [child's biological father by a court of competent jurisdiction prior to the] child adoptee's parent by a court with jurisdiction before the birth mother's execution of consent to adoption or [her] the birth mother's relinquishment of the child adoptee for adoption;
- (e) consistent with Subsection (3), [a biological parent] an individual who has executed

and filed a voluntary declaration of paternity with the ~~[state registrar of vital statistics within the Department of Health in accordance with Title 78B, Chapter 15, Utah Uniform Parentage Act, prior to the]~~ office in accordance with Chapter 5, Uniform Parentage Act, before the birth mother's execution of consent to adoption or ~~[her]~~ the birth mother's relinquishment of the child adoptee for adoption;

(f) an unmarried biological father~~[- of an]~~ of the child adoptee, whose consent is not required under Subsection (1)(d) or (1)(e), ~~[only if he]~~ only if the unmarried biological father fully and strictly complies with the requirements of ~~[Sections 78B-6-121 and 78B-6-122]~~ Section 81-13-213; and

(g) the person or agency to whom an adoptee has been relinquished and that is placing the child adoptee for adoption.

(2)~~[(a) The consent of a person described in Subsections (1)(b) through (g) is not required if the adoptee is 18 years old or older.]~~

~~[(b)]~~ The consent or relinquishment of [a person] an individual described in Subsections ~~[(1)(b) through (f)]~~ (1)(b) through (f) is not required if the ~~[person's]~~ individual's parental rights relating to the child adoptee have been terminated by a court.

(3) For purposes of Subsection (1)(e), a voluntary declaration of paternity is considered filed when ~~[it]~~ the voluntary declaration is entered into a database that:

(a) can be accessed by the Department of Health and Human Services; and

(b) is designated by the ~~[state registrar of vital statistics]~~ office as the official database for voluntary declarations of paternity.

~~(4)(a)~~ Except as provided in Subsection (4)(b), a person described in Subsection (1) may execute a consent or relinquishment at any time, including before the birth of the child adoptee.

~~(b)~~ A birth mother may not consent to the adoption of the child adoptee, or relinquish control or custody of the child adoptee, until at least 24 hours after the birth of the child adoptee.

~~(c)~~ A child adoptee may not execute a consent to an adoption until the child adoptee is at least 12 years old.

~~(5)(a)~~ A birth parent who is younger than 18 years old has the power to:

(i) consent to the adoption of the birth parent's minor child; and

(ii) relinquish the birth parent's control or custody of the minor child for adoption.

~~(b)~~ The consent or relinquishment described in Subsection (5)(a) is valid and has the same force and effect as a consent or relinquishment executed by a birth parent who

13193 is an adult.

13194 (c) A birth parent, who is younger than 18 years old and has executed a consent or
13195 relinquishment, cannot revoke that consent or relinquishment upon reaching 18 years
13196 old or otherwise becoming emancipated.

13197 (6) A consent or relinquishment is effective when the consent or relinquishment is signed
13198 and may not be revoked.

13199 (7)(a) As used in this Subsection (7):

13200 (i) "Abandonment" means failure of a birth parent, with reasonable knowledge of the
13201 pregnancy, to offer and provide financial and emotional support to the birth
13202 mother for a period of 180 days before the day on which the child adoptee is born.

13203 (ii) "Emotional support" means a pattern of statements or actions that indicate to a
13204 reasonable person that a birth parent intends to provide for the physical and
13205 emotional well-being of an unborn child adoptee.

13206 (b) A consent or relinquishment required by Subsection (1) may be implied by any of
13207 the following acts:

13208 (i) abandonment;

13209 (ii) leaving the child adoptee with a third party for 30 consecutive days without
13210 providing the third party with the birth parent's identification;

13211 (iii) knowingly leaving the child adoptee with another person for 180 consecutive
13212 days without providing for support, communicating, or otherwise maintaining a
13213 substantial relationship with the child adoptee; or

13214 (iv) receiving notification of a pending adoption proceeding as described in Section
13215 81-13-207, or of a termination proceeding described in Section 81-13-205, and
13216 failing to respond as required.

13217 (c) For purposes of this Subsection (7), a court may not:

13218 (i) determine that a birth parent abandoned the birth mother if the birth parent failed
13219 to provide financial or emotional support because the birth mother refused to
13220 accept support; or

13221 (ii) find that the birth parent failed to provide emotional support if the individual's
13222 failure was due to impossibility of performance.

13223 (d) Implied consent under this Subsection (7) may not be withdrawn.

13224 (e) Nothing in this Subsection (7) negates the requirements of Section 81-13-213 for an
13225 unmarried biological father.

13226 Section 346. Section **81-13-213**, which is renumbered from Section 78B-6-121 is renumbered

and amended to read:

[78B-6-121] 81-13-213 . Consent of unmarried biological father.

(1) As used in this section, "qualifying circumstance" means that, at any point during the time period beginning at the conception of the child adoptee and ending at the time that the birth mother executes a consent to adoption or relinquishment of the child adoptee for adoption:

(a) the child adoptee or the child adoptee's birth mother resided on a permanent basis, or a temporary basis of no less than 30 consecutive days, in the state;

(b) the birth mother intended to give birth to the child adoptee in the state;

(c) the child adoptee was born in the state; or

(d) the birth mother intended to execute a consent to adoption or relinquishment of the child adoptee for adoption in the state or under the laws of the state.

~~[(4)] (2) Except as provided in [Subsections (2)(a) and 78B-6-122(1)] Subsections (3)(a) and (8), and subject to Subsections [(5) and (6), with regard to a child who is placed with prospective adoptive parents more than six months after birth,] (6) and (7), the consent of an unmarried biological father to the adoption of a child adoptee, who is placed with prospective adoptive parents more than 180 days after birth, is not required unless the unmarried biological father:~~

~~(a)(i) developed a substantial relationship with the child adoptee by:~~

~~(A) visiting the child adoptee monthly, unless the unmarried biological father was physically or financially unable to visit the child adoptee on a monthly basis; or~~

~~(B) engaging in regular communication with the child adoptee or with the person or authorized agency that has lawful custody of the child adoptee;~~

~~(ii) took some measure of responsibility for the child adoptee and the [child's] child adoptee's future; and~~

~~(iii) demonstrated a full commitment to the responsibilities of parenthood by financial support of the child adoptee of a fair and reasonable sum in accordance with the unmarried biological father's ability; or~~

~~(b)(i) if the child adoptee is younger than one year old, openly lived with the child adoptee immediately preceding placement of the child adoptee with the~~

~~prospective adoptive parents for a period of at least 180 days during the period of time beginning on the day on which the child adoptee is born and ending on the day on which the child adoptee is placed with prospective adoptive parents;~~

~~(ii) if the child adoptee is one year old or older, openly lived with the child adoptee~~

13261 immediately preceding placement of the child adoptee with the prospective
13262 adoptive parents for a period of at least 180 days during the one-year period
13263 immediately preceding the day on which the child adoptee is placed with
13264 prospective adoptive parents; or
13265 (iii) openly held himself out to be the father of the child adoptee during the 180-day
13266 period described in Subsection (2)(b)(i) or (ii).
13267 ~~[(b)(i) openly lived with the child:]~~
13268 ~~[(A)(I) if the child is one year old or older, for a period of at least six months~~
13269 ~~during the one-year period immediately preceding the day on which the~~
13270 ~~child is placed with prospective adoptive parents; or]~~
13271 ~~[(H) if the child is less than one year old, for a period of at least six months~~
13272 ~~during the period of time beginning on the day on which the child is born~~
13273 ~~and ending on the day on which the child is placed with prospective~~
13274 ~~adoptive parents; and]~~
13275 ~~[(B) immediately preceding placement of the child with prospective adoptive~~
13276 ~~parents; and]~~
13277 ~~[(ii) openly held himself out to be the father of the child during the six-month period~~
13278 ~~described in Subsection (1)(b)(i)(A).]~~
13279 ~~[(2)]~~ (3)(a) If an unmarried biological father was prevented from complying with [a
13280 ~~requirement of Subsection (1)]~~ a requirement described in Subsection (2) by the
13281 person or authorized agency having lawful custody of the child adoptee, the
13282 unmarried biological father is not required to comply with that requirement.
13283 (b) The subjective intent of an unmarried biological father, whether expressed or
13284 otherwise, that is unsupported by evidence that the requirements in Subsection ~~[(1)]~~
13285 (2) have been met, shall not preclude a determination that the unmarried biological
13286 father failed to meet the requirements of Subsection ~~[(1)]~~ (2).
13287 ~~[(3)]~~ (4) Except as provided in ~~[Subsections (6) and 78B-6-122(1)]~~ Subsections (7) and (8),
13288 and subject to Subsection ~~[(5), with regard to a child who is six months old or less at the~~
13289 time the child is placed with prospective adoptive parents,] (6), the consent of an
13290 unmarried biological father to the adoption of a child adoptee, who is 180 days old or
13291 younger at the time that the child adoptee is placed with the prospective adoptive parents,
13292 is not required unless, [prior to the time the mother executes her] before the time that the
13293 birth mother executes the birth mother's consent for adoption or relinquishes the child
13294 adoptee for adoption, the unmarried biological father:

- 13295 (a) initiates proceedings in ~~[a district court of Utah to establish paternity under Title~~
 13296 ~~78B, Chapter 15, Utah Uniform Parentage Act]~~ a court with jurisdiction under Title
 13297 78A, Judiciary and Judicial Administration, to establish parentage under Chapter 5,
 13298 Uniform Parentage Act;
- 13299 (b) files with the court that is presiding over the ~~[paternity]~~ parentage proceeding a sworn
 13300 affidavit:
- 13301 (i) stating that ~~[he]~~ the unmarried biological father is fully able and willing to have
 13302 full custody of the child adoptee;
- 13303 (ii) setting forth ~~[his]~~ the unmarried biological father's plans for care of the child
 13304 adoptee; and
- 13305 (iii) agreeing to a court order of child support and the payment of expenses incurred
 13306 in connection with the birth mother's pregnancy and the ~~[child's]~~ child adoptee's
 13307 birth;
- 13308 (c) consistent with Subsection ~~[(4)]~~ (5), files notice of the commencement of ~~[paternity~~
 13309 ~~proceedings,]~~ parentage proceedings described in Subsection ~~[(3)(a)]~~ (4)(a), with the [
 13310 ~~state registrar of vital statistics within the Department of Health and Human Services,]~~
 13311 office in a confidential registry established by the ~~[department]~~ office for that
 13312 purpose; and
- 13313 (d) offered to pay and paid, during the pregnancy and after the ~~[child's]~~ child adoptee's
 13314 birth, a fair and reasonable amount of the expenses incurred in connection with the
 13315 birth mother's pregnancy and the ~~[child's]~~ child adoptee's birth, in accordance with ~~[his]~~
 13316 the unmarried biological father's financial ability, unless:
- 13317 (i) ~~[he]~~ the unmarried biological father did not have actual knowledge of the
 13318 pregnancy;
- 13319 (ii) ~~[he]~~ the unmarried biological father was prevented from paying the expenses by
 13320 the person or authorized agency having lawful custody of the child adoptee; or
- 13321 (iii) the birth mother refused to accept the unmarried biological father's offer to pay
 13322 the expenses described in this Subsection ~~[(3)(d)]~~ (4)(d).
- 13323 ~~[(4)]~~ (5)(a) The notice described in Subsection ~~[(3)(e)]~~ (4)(c) is considered filed when
 13324 received by the ~~[state registrar of vital statistics]~~ office.
- 13325 (b) If the unmarried biological father fully complies with the requirements of Subsection [
 13326 ~~(3)]~~ (4), and an adoption of the child adoptee is not completed, the unmarried
 13327 biological father shall, without any order of the court, be legally obligated for a
 13328 reasonable amount of child support, pregnancy expenses, and child birth expenses, in

13329 accordance with ~~[his]~~ the unmarried biological father's financial ability.

13330 ~~[(5)] (6)~~ Unless ~~[his]~~ the unmarried biological father's ability to assert the right to consent
13331 has been lost for failure to comply with Section ~~[78B-6-110.1]~~ 81-13-208, or lost under
13332 another provision of Utah law, an unmarried biological father shall have at least one
13333 business day after the ~~[child's]~~ child adoptee's birth to fully and strictly comply with the
13334 requirements of Subsection ~~[(3)]~~ (4).

13335 ~~[(6)] (7)~~ ~~[Consent]~~ The consent of an unmarried biological father to the adoption of a child
13336 adoptee is not required under this section if:

13337 (a) the court determines, in accordance with the requirements and procedures of Title 80,
13338 Chapter 4, Termination and Restoration of Parental Rights, that the unmarried
13339 biological father's rights should be terminated, based on the petition of any interested
13340 party;

13341 (b)(i) a voluntary declaration of paternity declaring the unmarried biological father to
13342 be the father of the child adoptee is rescinded under Section ~~[78B-15-306]~~ 81-5-306;
13343 and

13344 (ii) the unmarried biological father fails to comply with Subsection ~~[(3)]~~ (4) within 10
13345 business days after the day that notice of the rescission described in Subsection [
13346 ~~(6)(b)(i)]~~ (7)(b)(i) is mailed by the ~~[Office of Vital Records within the Department~~
13347 ~~of Health and Human Services]~~ office as provided in Section ~~[78B-15-306]~~
13348 81-5-306; or

13349 (c) the unmarried biological father is notified under Section ~~[78B-6-110.1]~~ 81-13-208
13350 and fails to preserve ~~[his]~~ the unmarried biological father's rights in accordance with
13351 the requirements of ~~[that section]~~ Section 81-13-208.

13352 ~~(8)~~ Notwithstanding Subsections (2) and (4), the consent of an unmarried biological father
13353 to the adoption of a child adoptee is required if:

13354 (a)(i) the unmarried biological father did not know, and through the exercise of
13355 reasonable diligence could not have known, before the time the birth mother
13356 executed a consent to adoption or relinquishment of the child adoptee for adoption
13357 that a qualifying circumstance existed;

13358 (ii) before the birth mother executed a consent to adoption or relinquishment of the
13359 child adoptee for adoption, the unmarried biological father fully complied with the
13360 requirements to establish parental rights and duties in the child adoptee, and to
13361 preserve the right to notice of a proceeding in connection with the adoption of the
13362 child adoptee, imposed by:

- 13363 (A) the last state where the unmarried biological father knew, or through the
13364 exercise of reasonable diligence should have known, that the birth mother
13365 resided in before the birth mother executed the consent to adoption or
13366 relinquishment of the child adoptee for adoption; or
13367 (B) the state where the child adoptee was conceived; and
13368 (iii) the unmarried biological father has demonstrated, based on the totality of the
13369 circumstances, a full commitment to the unmarried biological father's parental
13370 responsibilities as described in Subsection (9); or
13371 (b)(i) the unmarried biological father knew, or through the exercise of reasonable
13372 diligence should have known, before the time the birth mother executed a consent
13373 to adoption or relinquishment of the child adoptee for adoption that a qualifying
13374 circumstance existed; and
13375 (ii) the unmarried biological father complied with the requirements of Subsections (2)
13376 through (7) before the later of:
13377 (A) 20 days after the day that the unmarried biological father knew, or through the
13378 exercise of reasonable diligence should have known, that a qualifying
13379 circumstance existed; or
13380 (B) the time that the birth mother executed a consent to adoption or
13381 relinquishment of the child adoptee for adoption.
13382 (9) When determining whether an unmarried biological father has demonstrated a full
13383 commitment to the unmarried biological father's parental responsibilities for purposes of
13384 Subsection (8)(a)(iii), a court shall consider the totality of the circumstances, including,
13385 if applicable:
13386 (a) the efforts the unmarried biological father has taken to discover the location of the
13387 child adoptee or the child adoptee's birth mother;
13388 (b) whether the unmarried biological father has expressed and demonstrated an interest
13389 in taking responsibility for the child adoptee;
13390 (c) whether, and to what extent, the unmarried biological father has developed, or
13391 attempted to develop, a relationship with the child adoptee;
13392 (d) whether the unmarried biological father offered to provide and, unless the offer was
13393 rejected, did provide, financial support for the child adoptee or the child adoptee's
13394 birth mother;
13395 (e) whether, and to what extent, the unmarried biological father has communicated, or
13396 attempted to communicate, with the child adoptee or the child adoptee's birth mother;

- (f) whether the unmarried biological father has timely filed legal proceedings to establish the unmarried biological father's parentage of, and take responsibility for, the child adoptee; and
- (g) whether the unmarried biological father has timely filed a notice with a public official or agency relating to:
- (i) the unmarried biological father's parentage of the child adoptee;
- (ii) legal proceedings to establish the unmarried biological father's parentage of the child adoptee; or
- (iii) other evidence that shows whether the unmarried biological father has demonstrated a full commitment to the unmarried biological father's parental responsibilities.

(10) An unmarried biological father who does not fully and strictly comply with the requirements of this section is considered to have waived and surrendered any right in relation to the child adoptee, including the right to:

- (a) notice of any judicial proceeding in connection with the adoption of the child adoptee; and
- (b) consent, or refuse to consent, to the adoption of the child adoptee.

(11) Notwithstanding any other provision of this section, the consent of an unmarried biological father is not required in a case where it is shown that the child adoptee was conceived as a result of conduct that constitutes a sexual offense, regardless of whether the unmarried biological father is formally charged with or convicted of the sexual offense.

~~[(7)]~~ (12) Unless the child adoptee is conceived or born within a marriage, the petitioner in an adoption proceeding shall, ~~[prior to]~~ before entrance of a final decree of adoption, file with the court a certificate from the ~~[state registrar of vital statistics within the Department of Health and Human Services]~~ office, stating:

- (a) that a diligent search has been made of the registry of notices from unmarried biological fathers described in Subsection ~~[(3)(d)]~~ (4)(c); and
- (b)(i) that no filing has been found pertaining to the unmarried biological father of the child adoptee in question; or
- (ii) if a filing is found, the name of the ~~[putative]~~ unmarried biological father and the time and date of filing.

(13) Unless an individual who is an unmarried biological father has fully and strictly complied with the requirements of this section and Section 81-13-212, an out-of-state

order that adjudicates parentage, or an out-of-state declaration or acknowledgment of paternity:

(a) only has the effect of establishing that the individual is an unmarried biological father of the child adoptee to whom the order, declaration, or acknowledgment relates; and

(b) does not entitle the individual to:

(i) notice of any judicial proceeding related to the adoption of the child adoptee;

(ii) the right to consent, or refuse to consent, to the adoption of the child adoptee; or

(iii) the right to custody of, control over, or visitation with the child adoptee.

Section 347. Section **81-13-214**, which is renumbered from Section 78B-6-124 is renumbered and amended to read:

[78B-6-124] 81-13-214 . Persons who may take consents and relinquishments.

(1) ~~[A consent or relinquishment by a birth mother or an adoptee shall be signed before]~~ A birth mother shall sign a consent or relinquishment, or a child adoptee shall sign a consent, before:

(a) a judge of any court that has jurisdiction over adoption proceedings;

(b) subject to Subsection (6), a person appointed by the judge described in Subsection (1)(a) to take consents or relinquishments; or

(c) subject to Subsection (6), a person who is authorized by a child-placing agency to take consents or relinquishments[;] if the consent or relinquishment grants legal custody of the child adoptee to a child-placing agency or an extra-jurisdictional child-placing agency.

(2) If the consent or relinquishment of a birth mother or child adoptee is taken out of state[~~it shall be signed~~] , the birth mother or child adoptee shall sign the consent or relinquishment before:

(a) subject to Subsection (6), a person who is authorized by a child-placing agency to take consents or relinquishments[;] if the consent or relinquishment grants legal custody of the child adoptee to a child-placing agency or an extra-jurisdictional child-placing agency;

(b) subject to Subsection (6), a person authorized or appointed to take consents or relinquishments by a court of this state that has jurisdiction over adoption proceedings;

(c) a court that has jurisdiction over adoption proceedings in the state where the consent or relinquishment is taken; or

(d) a person authorized~~[, under the laws of the state where the consent or relinquishment is taken,]~~ to take consents or relinquishments of a birth mother or child adoptee under the laws of the state where the consent or relinquishment is taken.

(3) ~~[The]~~ A person described in Subsection 81-13-211(1) that is not the birth mother or the child adoptee may sign a consent or relinquishment [of any other person or agency as required by Section 78B-6-120 may be signed before a Notary Public] before a notary public or any person authorized to take a consent or relinquishment under Subsection (1) or (2).

(4) A person, authorized by Subsection (1) or (2) to take consents or relinquishments, shall certify to the best of ~~[his]~~ the person's information and belief that the person executing the consent or relinquishment has read and understands the consent or relinquishment and has signed ~~[it]~~ the consent or relinquishment freely and voluntarily.

(5) A person executing a consent or relinquishment is entitled to receive a copy of the consent or relinquishment.

(6) A signature described in Subsection (1)(b), (1)(c), (2)(a), or (2)(b), shall be:

(a) notarized; or

(b) witnessed by two individuals who are not members of the birth mother's or the child adoptee's immediate family.

(7) Except as provided in Subsection 26B-2-127(2), a transfer of relinquishment from one child-placing agency to another child-placing agency shall be signed before a ~~[Notary Public]~~ notary public.

Section 348. Section **81-13-215**, which is renumbered from Section 78B-6-133 is renumbered and amended to read:

[78B-6-133] 81-13-215 . Contested adoption of a minor child -- Rights of parties -- Determination of custody.

(1) If ~~[a person]~~ an individual whose consent for an adoption of a minor child is required ~~[pursuant to Subsection 78B-6-120(1)(b)]~~ as described in Subsection 81-13-212(1)(b), (c), (d), (e), or (f) refused to consent, the court shall determine whether proper grounds exist for the termination of that [person's rights pursuant to the provisions of] individual's rights in accordance with this chapter or Title 80, Chapter 4, Termination and Restoration of Parental Rights.

(2)(a) If there are proper grounds to terminate the ~~[person's]~~ individual's parental rights, the court shall order that the ~~[person's]~~ individual's rights be terminated.

(b) If there are not proper grounds to terminate the ~~[person's]~~ individual's parental rights,

the court shall:

(i) dismiss the adoption petition;

(ii) conduct an evidentiary hearing to determine who should have custody of the minor child; and

(iii) award custody of the minor child in accordance with the minor child's best interest.

(c) Termination of [a person's] an individual's parental rights does not terminate the right of a relative of the parent to seek adoption of the minor child.

(3) Evidence considered at the custody hearing may include:

(a) evidence of psychological or emotional bonds that the minor child has formed with a third person, including the prospective adoptive parent; and

(b) any detriment that a change in custody may cause the minor child.

(4) If the court dismisses the adoption petition, the fact that [a person] an individual relinquished a minor child for adoption or consented to the adoption may not be considered as evidence in a custody proceeding described in this section, or in any subsequent custody proceeding, that it is not in the minor child's best interest for custody to be awarded to such person or that:

(a) the [person] individual is unfit or incompetent to be a parent;

(b) the [person] individual has neglected or abandoned the minor child;

(c) the [person] individual is not interested in having custody of the minor child; or

(d) the [person] individual has forfeited the [person's] individual's parental presumption.

(5) Any custody order entered [~~pursuant to~~] under this section may also:

(a) include provisions for:

(i) parent-time; or

(ii) visitation by an interested third party, including the prospective adoptive parent; and

(b) provide for the financial support of the minor child.

(6)(a) If a person [~~or entity~~] whose consent is required for an adoption under Subsection [78B-6-120(1)(a)] 81-13-212(1)(a) or (g) refuses to consent, the court shall proceed with an evidentiary hearing and award custody as [~~set forth~~] described in Subsection (2).

(b) The court may also finalize the adoption if doing so is in the best interest of the minor child.

(7)(a) A person may not contest an adoption after the final decree of adoption is entered,

13533 if that person:

13534 (i) was a party to the adoption proceeding;

13535 (ii) was served with notice of the adoption proceeding; or

13536 (iii) executed a consent to the adoption or relinquishment for adoption.

13537 (b) No person may contest an adoption after one year from the day on which the final
13538 decree of adoption is entered.

13539 (c) The limitations on contesting an adoption action, described in this Subsection (7),
13540 apply to all attempts to contest an adoption:

13541 (i) regardless of whether the adoption is contested directly or collaterally; and

13542 (ii) regardless of the basis for contesting the adoption, including claims of fraud,
13543 duress, undue influence, lack of capacity or competency, mistake of law or fact, or
13544 lack of jurisdiction.

13545 (d) The limitations on contesting an adoption action, described in this Subsection (7), do
13546 not prohibit a timely appeal of:

13547 (i) a final decree of adoption; or

13548 (ii) a decision in an action challenging an adoption, if the action was brought within
13549 the time limitations described in Subsections (7)(a) and (b).

13550 (8) A court that has jurisdiction over a minor child for whom more than one petition for
13551 adoption is filed shall grant a hearing only under the following circumstances:

13552 (a) to a petitioner:

13553 (i) with whom the minor child is placed;

13554 (ii) who has custody or guardianship of the minor child;

13555 (iii) who has filed a written statement with the court within ~~[eight months]~~ 240 days
13556 after the day on which the shelter hearing is held:

13557 (A) requesting immediate placement of the minor child with the petitioner; and

13558 (B) expressing the petitioner's intention of adopting the minor child;

13559 (iv) who is a relative with whom the minor child has a significant and substantial
13560 relationship and who was unaware, within ~~[the first eight months]~~ 240 days after
13561 the day on which the shelter hearing is held, of the minor child's removal from the
13562 minor child's parent; or

13563 (v) who is a relative with whom the minor child has a significant and substantial
13564 relationship and, in a case where the minor child is not placed with a relative or is
13565 placed with a relative that is unable or unwilling to adopt the minor child:

13566 (A) was actively involved in the minor child's child welfare case with the division

- 13567 or the juvenile court while the minor child's parent engaged in reunification
13568 services; and
- 13569 (B) filed a written statement with the court that includes the information described
13570 in Subsections (8)(a)(iii)(A) and (B) within 30 days after the day on which the
13571 court terminated reunification services; or
- 13572 (b) if the minor child:
- 13573 (i) has been in the current placement for less than 180 days before the day on which
13574 the petitioner files the petition for adoption; or
- 13575 (ii) is placed with, or is in the custody or guardianship of, an individual who
13576 previously informed the division or the court that the individual is unwilling or
13577 unable to adopt the minor child.
- 13578 (9)(a) If the court grants a hearing on more than one petition for adoption, there is a
13579 rebuttable presumption that it is in the best interest of a minor child to be placed for
13580 adoption with a petitioner:
- 13581 (i) who has fulfilled the requirements [~~described in Title 78B, Chapter 6, Part 1, Utah~~
13582 ~~Adoption Act~~] of this chapter; and
- 13583 (ii)(A) with whom the minor child has continuously resided for [~~six months~~] 180
13584 days;
- 13585 (B) who has filed a written statement with the court within [~~eight months~~] 240 days
13586 after the day on which the shelter hearing is held, as described in Subsection
13587 (8)(a)(iii); or
- 13588 (C) who is a relative described in Subsection (8)(a)(iv).
- 13589 (b) The court may consider other factors relevant to the best interest of the minor child
13590 to determine whether the presumption is rebutted.
- 13591 (c) The court shall weigh the best interest of the minor child uniformly between
13592 petitioners if more than one petitioner satisfies a rebuttable presumption condition
13593 described in Subsection (9)(a).
- 13594 (10) Nothing in this section shall be construed to prevent the division or the minor child's
13595 guardian ad litem from appearing or participating in any proceeding for a petition for
13596 adoption.
- 13597 (11) The division shall use best efforts to provide a known relative with timely information
13598 relating to the relative's rights or duties under this section.
- 13599 Section 349. Section **81-13-216**, which is renumbered from Section 78B-6-146 is renumbered
13600 and amended to read:

[78B-6-146] 81-13-216 . Postadoption contact agreement.

- (1) As used in this section:
- (a) "Postadoption contact agreement" means a document, agreed upon prior to the finalization of an adoption of a minor child in the custody of the division, that outlines the relationship between an adoptive parent, birth parent, or other birth relative, and ~~[an-adopted-child]~~ the minor child after the finalization of adoption.
- (b) "Other birth relative" means a grandparent, stepparent, sibling, stepsibling, aunt, or uncle of the ~~[prospective adoptive child]~~ child adoptee.
- (2)(a) Notwithstanding any other provision in this chapter, if a child adoptee in the custody of the division is placed for adoption, the prospective adoptive parent and birth parent, or other birth relative, may enter into a postadoption contact agreement as provided in this section.
- (b) A birth parent is not required to be a party to a postadoption contact agreement in order to permit an open adoption agreement between a prospective adoptive parent and another birth relative of the child adoptee.
- (3) In order to be legally enforceable, a postadoption contact agreement shall be:
- (a) approved by the court before the finalization of the adoption, with the court making a specific finding that the agreement is in the best interest of the child adoptee;
- (b) signed by each party claiming a right or obligation in the agreement; and
- (c) if the ~~[adopted-child]~~ child adoptee is 12 years old or older, approved by the child adoptee.
- (4) A postadoption contact agreement shall:
- (a) describe:
- (i) visits, if any, that shall take place between the birth parent, other birth relative, adoptive parent, and ~~[adopted-child]~~ child adoptee;
- (ii) the degree of supervision, if any, that shall be required during a visit between a birth parent, other birth relative, and ~~[adopted-child]~~ child adoptee;
- (iii) the information, if any, that shall be provided to a birth parent, or other birth relative, about the ~~[adopted-child]~~ child adoptee and how often that information shall be provided;
- (iv) the grounds, if any, on which the adoptive parent may:
- (A) decline to permit visits, described in Subsection (4)(a)(i), between the birth parent, or other birth relative, and ~~[adopted-child]~~ child adoptee; or
- (B) cease providing the information described in Subsection (4)(a)(iii) to the birth

- 13635 parent or other birth relative; and
- 13636 (b) state that following the adoption, the court shall presume that the adoptive parent's
- 13637 judgment about the best interest of the child adoptive is correct in any action seeking
- 13638 to enforce, modify, or terminate the agreement.
- 13639 (5) A postadoption contact agreement may not limit the adoptive parent's ability to move
- 13640 out of state.
- 13641 (6) A postadoption contact agreement may only be modified with the consent of the
- 13642 adoptive parent.
- 13643 (7) In an action seeking enforcement of a postadoption contact agreement:
- 13644 (a) an adoptive parent's judgment about the best interest of the child adoptive is entitled
- 13645 to a presumption of correctness;
- 13646 (b) if the party seeking to enforce the postadoption contact agreement successfully
- 13647 rebuts the presumption described in Subsection (7)(a), the court shall consider
- 13648 whether:
- 13649 (i) the parties performed the duties outlined in the open adoption agreement in good
- 13650 faith;
- 13651 (ii) there is a reasonable alternative that fulfills the spirit of the open adoption
- 13652 agreement without ordering mandatory compliance with the open adoption
- 13653 agreement; and
- 13654 (iii) enforcement of the open adoption agreement is in the best interest of the [
- 13655 ~~adopted child~~] child adoptive; and
- 13656 (c) the court shall order the parties to attend mediation, if the presumption in Subsection
- 13657 (7)(a) is successfully rebutted and mediation is in the [~~child's~~] child adoptive's best
- 13658 interest.
- 13659 (8) An open adoption agreement that has been found not to be in the best interest of the [
- 13660 ~~adopted child~~] child adoptive shall not be enforced.
- 13661 (9) Violation of an open adoption agreement is not grounds:
- 13662 (a) to set aside an adoption; or
- 13663 (b) for an award of money damages.
- 13664 (10) Nothing in this section shall be construed to mean that an open adoption agreement is
- 13665 required before an adoption may be finalized.
- 13666 (11) Refusal or failure to agree to a postadoption contact agreement is not admissible in any
- 13667 adoption proceeding.
- 13668 (12) The court that approves a postadoption contact agreement retains jurisdiction over

modification, termination, and enforcement of an approved postadoption contact agreement.

Section 350. Section **81-13-217**, which is renumbered from Section 78B-6-140 is renumbered and amended to read:

[78B-6-140] 81-13-217 . Affidavit regarding fees and expenses before final decree of adoption of a minor child.

- (1)(a) Except as provided in Subsection (5), before the date that a final decree of adoption for a child adoptee is entered, a prospective adoptive parent or, if the child adoptee was placed by a child-placing agency, the person or agency placing the child adoptee shall file with the court an affidavit regarding fees and expenses on a form prescribed by the Judicial Council in accordance with Subsection (2).
- (b) An affidavit filed pursuant to Subsection (1)(a) shall be signed by each prospective adoptive parent and, if the child adoptee was placed by a child-placing agency, the person or agency placing the child adoptee.
- (c) The court shall review an affidavit filed under this section for completeness and compliance with the requirements of this section.
- (d) The results of the court's review under Subsection (1)(c) shall be noted in the court's record.
- (2)(a) The Judicial Council shall prescribe a uniform form for the affidavit described in Subsection (1).
- (b) The uniform affidavit form shall require itemization of the following items in connection with the adoption:
- (i) all legal expenses that have been or will be paid to or on behalf of the preexisting parents of the child adoptee, including the source of payment;
 - (ii) all maternity expenses that have been or will be paid to or on behalf of the preexisting parents of the child adoptee, including the source of payment;
 - (iii) all medical or hospital expenses that have been or will be paid to or on behalf of the preexisting parents of the child adoptee, including the source of payment;
 - (iv) all living expenses that have been or will be paid to or on behalf of the preexisting parents of the child adoptee, including the source of payment;
 - (v) fees paid by the prospective adoptive parent or parents in connection with the adoption;
 - (vi) all gifts, property, or other items that have been or will be provided to the preexisting parents, including the source and approximate value of the gifts,

- 13703 property, or other items;
- 13704 (vii) all public funds used for any medical or hospital costs in connection with the:
- 13705 (A) pregnancy;
- 13706 (B) delivery of the child adoptee; or
- 13707 (C) care of the child adoptee; and
- 13708 (viii) if a child-placing agency placed the child adoptee:
- 13709 (A) a description of services provided to the prospective adoptive parents or
- 13710 preexisting parents in connection with the adoption;
- 13711 (B) all expenses associated with matching the prospective adoptive parent or
- 13712 parents and the birth mother;
- 13713 (C) all expenses associated with advertising; and
- 13714 (D) any other agency fees or expenses paid by an adoptive parent that are not
- 13715 itemized under one of the other categories described in this Subsection (2)(b),
- 13716 including a description of the reason for the fee or expense.
- 13717 (c) The uniform affidavit form shall require:
- 13718 (i) a statement of the state of residence of the:
- 13719 (A) birth mother or the preexisting parents; and
- 13720 (B) prospective adoptive parent or parents;
- 13721 (ii) a declaration that Section 76-7-203 has not been violated; and
- 13722 (iii) if the affidavit includes an itemized amount for both of the categories described
- 13723 in Subsections (2)(b)(iii) and (vii), a statement explaining why certain medical or
- 13724 hospital expenses were paid by a source other than public funds.
- 13725 (d) To satisfy the requirement of Subsection (1)(a), the court shall accept an affidavit
- 13726 that is submitted in a form accepted by the Office of Licensing within the Department
- 13727 of Health and Human Services if the affidavit contains the same information and is in
- 13728 a reasonably equivalent format as the uniform affidavit form prescribed by the
- 13729 Judicial Council.
- 13730 (3)(a) If a child-placing agency, that is licensed by this state, placed the child adoptee,
- 13731 the child-placing agency shall provide a copy of the affidavit described in Subsection
- 13732 (1) to the Office of Licensing within the Department of Health and Human Services.
- 13733 (b) Before August 30 of each even-numbered year, the Office of Licensing within the
- 13734 Department of Health and Human Services shall provide a written report to the
- 13735 Health and Human Services Interim Committee and to the Judicial Council regarding
- 13736 the cost of adoptions in the state that includes:

- 13737 (i) the total number of affidavits provided to the Office of Licensing during the
13738 previous year;
- 13739 (ii) for each of the categories described in Subsection (2)(b):
- 13740 (A) the average amount disclosed on affidavits submitted during the previous
13741 year; and
- 13742 (B) the range of amounts disclosed on affidavits submitted during the previous
13743 year;
- 13744 (iii) the average total amount disclosed on affidavits submitted during the previous
13745 year;
- 13746 (iv) the range of total amounts disclosed on affidavits submitted during the previous
13747 year; and
- 13748 (v) any recommended legislation that may help reduce the cost of adoptions.
- 13749 (c) The Health and Human Services Interim Committee shall, based on information in
13750 reports provided under Subsection (3)(b) and in consultation with a consortium
13751 described in Subsection 26B-2-127(8), consider:
- 13752 (i) what constitutes reasonable fees and expenses related to adoption; and
- 13753 (ii) the standards that may be used to determine whether fees and expenses related to
13754 adoption are reasonable in a specific case.
- 13755 (4) The Judicial Council shall make a copy of each report provided by the Office of
13756 Licensing under Subsection (3)(b) available to each court that may be required to review
13757 an affidavit under Subsection (1)(c).
- 13758 (5) This section does not apply if the prospective adoptive parent is the legal spouse of a
13759 preexisting parent.
- 13760 Section 351. Section **81-13-218**, which is renumbered from Section 78B-6-136 is renumbered
13761 and amended to read:
- 13762 **[78B-6-136] 81-13-218 . Final decree of adoption of a minor child -- Agreement**
13763 **by adoptive parent or parents.**
- 13764 (1)(a) Before entering a final decree of adoption, the court shall examine separately each
13765 person appearing before the court in accordance with this chapter.
- 13766 (b) If the court is satisfied that the interests of the child adoptee will be promoted by the
13767 adoption, the court shall enter a final decree of adoption in accordance with Section
13768 81-13-219 declaring that:
- 13769 (i) the child adoptee is adopted by the adoptive parent or parents; and
13770 (ii) the child adoptee is regarded and treated in all respects as the child of the

- adoptive parent or parents.
- [(1)] (2) Except as provided in Subsection [(2)] (3), before the court enters a final decree of adoption of a child adoptee:
- (a) the prospective adoptive parent or parents and the child adoptee being adopted shall appear before the appropriate court; and
- (b) the prospective adoptive parent or parents shall execute an agreement stating that the child adoptee shall be adopted and treated in all respects as the adoptive parent's or parents' own lawful child.
- [(2)] (3) [~~Except as provided in Subsection 78B-6-115(4), a~~] The court may waive the requirement [-]described in Subsection [(1)(a)] (2)(a) if:
- (a) the adoption is not contested;
- (b) the prospective adoptive parent or parents:
- (i) execute an agreement stating that the child adoptee shall be adopted and treated in all respects as the parent's or parents' own lawful child;
- (ii) have the agreement described in Subsection [(2)(b)(i)] (3)(b)(i) notarized; and
- (iii) file the agreement described in Subsection [(2)(b)(i)] (3)(b)(i) with the court; and
- (c) all requirements of this chapter to obtain a final decree of adoption are otherwise complied with.
- (4) At the time that a final decree of adoption is entered, the child adoptee may take the family name of the adoptive parent or parents.
- (5) After a final decree of adoption is entered, the adoptive parent or parents and the child adoptee shall:
- (a) sustain the legal relationship of a parent and child; and
- (b) have all the rights and be subject to all the duties of a parent-child relationship.
- Section 352. Section **81-13-219**, which is renumbered from Section 78B-6-136.5 is renumbered and amended to read:
- [78B-6-136.5] 81-13-219 . Timing of entry of final decree of adoption of a minor child -- Posthumous adoption of a minor child.**
- (1)(a) Except as provided in Subsection (1)(b) or (2), [~~a final decree of adoption may not be entered~~] the court may not enter a final decree of adoption for a child adoptee until the earlier of:
- [(a)] (i) when the child adoptee has lived in the home of the prospective adoptive parent for [~~three months~~] 90 days; or
- [(b)] (ii) when the child adoptee has been placed for adoption with the prospective

- 13805 adoptive parent for ~~[three months]~~ 90 days.
- 13806 (b) Notwithstanding Subsection (1)(a), the court may enter a final decree of adoption at
- 13807 an earlier or later time than described in Subsection (1) if the court finds that there is
- 13808 good cause.
- 13809 (2)(a) If the prospective adoptive parent is the spouse of the pre-existing parent, ~~[a final~~
- 13810 ~~decree of adoption may not be entered until the child]~~ the court may not enter a final
- 13811 decree of adoption for a child adoptee until the child adoptee has lived in the home of
- 13812 that prospective adoptive parent for [six months, unless, based on a finding of good
- 13813 cause, the court orders that the final decree of adoption may be entered at an earlier
- 13814 time] 180 days.
- 13815 (b) Notwithstanding Subsection (2)(a), the court may enter a final decree of adoption at
- 13816 an earlier time than described in Subsection (2)(a) if the court finds that there is good
- 13817 cause.
- 13818 ~~[(b) The court may, based on a finding of good cause, order that the final decree of~~
- 13819 ~~adoption be entered at a later time than described in Subsection (1).]~~
- 13820 (3) The court ~~[has authority to]~~ may enter a final decree of adoption for a child adoptee after [
- 13821 ~~a child's]~~ the child adoptee's death upon the request of the prospective adoptive parent or
- 13822 parents of the child adoptee if:
- 13823 (a) the child adoptee dies during the time that the child adoptee is placed in the home of
- 13824 a prospective adoptive parent or parents for the purpose of adoption; or
- 13825 (b) the prospective adoptive parent is the spouse of a preexisting parent of the child
- 13826 adoptee and the child adoptee lived with the prospective adoptive parent before the [
- 13827 ~~child's]~~ child adoptee's death.
- 13828 (4) The court may enter a final decree of adoption for a child adoptee declaring that ~~[a child]~~
- 13829 the child adoptee is adopted by:
- 13830 (a) both a deceased and a surviving adoptive parent if after the child adoptee is placed in
- 13831 the home of the ~~[child's]~~ child adoptee's prospective adoptive parents:
- 13832 (i) one of the prospective adoptive parents dies;
- 13833 (ii) the surviving prospective adoptive parent requests that the court enter the decree;
- 13834 and
- 13835 (iii) the decree is entered after the child adoptee has lived in the home of the
- 13836 surviving prospective adoptive parent for at least ~~[three months]~~ 180 days; or
- 13837 (b) a spouse of a preexisting parent if after the child adoptee has lived with the spouse of
- 13838 the preexisting parent:

- (i) the preexisting parent, or the spouse of the preexisting parent, dies;
- (ii) the preexisting parent, or the spouse of the preexisting parent, requests that the court enter the decree; and
- (iii) the child adoptee has lived in the same home as the spouse of the preexisting parent for at least ~~[six months]~~ 180 days.

- (5) Upon request of a surviving preexisting parent, or a surviving parent for whom adoption of a child adoptee has been finalized, the court may enter a final decree of adoption declaring that a child adoptee is adopted by a deceased adoptive parent who was the spouse of the surviving parent at the time of the prospective adoptive parent's death.
- (6) The court may enter a final decree of adoption declaring that a child adoptee is adopted by both deceased prospective adoptive parents if:
 - (a) both of the prospective adoptive parents die after the child adoptee is placed in the prospective adoptive parents' home; and
 - (b) it is in the best interests of the child adoptee to enter the decree.
- (7) Nothing in this section shall be construed to grant any rights to the pre-existing parents of a child adoptee to assert any interest in the child adoptee during the ~~[three-month or six-month]~~ time periods described in this section.

Section 353. Section **81-13-220**, which is renumbered from Section 78B-6-138 is renumbered and amended to read:

~~[78B-6-138]~~ 81-13-220 . Effect of adoption of a minor child on pre-existing parent.

- (1) A pre-existing parent of ~~[an adopted child]~~ a child adoptee:
 - (a) is released from all parental rights and duties toward and all responsibilities for the ~~[adopted child]~~ child adoptee, including residual parental rights and duties, as defined in Section 80-1-102~~[, and]~~ ; and
 - (b) has no further parental rights or duties with regard to ~~[that adopted child]~~ the child adoptee at the earlier of:
 - ~~[(a)]~~ (i) the time the pre-existing parent's parental rights are terminated; or
 - ~~[(b)]~~ (ii) except as provided in Subsection (2), and subject to Subsections (3) and (4), the time the final decree of adoption is entered.
- (2) The parental rights and duties of a pre-existing parent who, at the time the child adoptee is adopted, is lawfully married to the ~~[person adopting the child]~~ individual adopting the child adoptee are not released under Subsection (1)(b).
- (3) The parental rights and duties of a pre-existing parent who, at the time the child adoptee is adopted, is not lawfully married to the ~~[person adopting the child]~~ individual adopting

the child adoptee are released under Subsection (1)(b).

(4)(a) Notwithstanding the provisions of this section, the court may allow a prospective adoptive parent to adopt a child adoptee without releasing the pre-existing parent from parental rights and duties under Subsection (1)(b), if:

(i) the pre-existing parent and the prospective adoptive parent were lawfully married at some time during the [child's] child adoptee's life;

(ii) the pre-existing parent consents to the prospective adoptive parent's adoption of the [child,] child adoptee or is unable to consent because the pre-existing parent is deceased or incapacitated;

(iii) notice of the adoption proceeding is provided in accordance with Section [78B-6-110] 81-13-207;

(iv) consent to the adoption is provided in accordance with [Section 78B-6-120] Section 81-13-212; and

(v) the court finds that it is in the best interest of the child adoptee to grant the adoption without releasing the pre-existing parent from parental rights and duties.

(b) This Subsection (4) does not permit a child adoptee to have more than two [natural parents, as that term is defined in Section 80-1-102] parents.

(5) This section may not be construed as terminating any child support obligation of a parent incurred before the adoption.

Section 354. Section **81-13-301** is enacted to read:

Part 3. Adoption of an Adult

81-13-301 . Definitions for part.

Reserved.

Section 355. Section **81-13-302**, which is renumbered from Section 78B-6-115 is renumbered and amended to read:

[78B-6-115] 81-13-302 . Who may adopt an adult.

[(1) As used in this section, "vulnerable adult" means:]

[(a) an individual who is 65 years old or older; or]

[(b) an adult who is 18 years old or older, and who has a mental or physical impairment that substantially affects that adult's ability to:]

[(i) provide personal protection;]

[(ii) provide necessities such as food, shelter, clothing, or medical or other health care;]

[(iii) obtain services necessary for health, safety, or welfare;]

[(iv) carry out the activities of daily living;]

13907 [(v) manage the adult's own resources; or]

13908 [(vi) comprehend the nature and consequences of remaining in a situation of abuse,
13909 neglect, or exploitation.]

13910 [(2) Subject to this section and Section 78B-6-117, any adult may be adopted by another
13911 adult.]

13912 [(3) The following provisions of this part apply to the adoption of an adult just as though
13913 the individual being adopted were a minor:]

13914 [(a)(i) Section 78B-6-108;]

13915 [(ii) Section 78B-6-114;]

13916 [(iii) Section 78B-6-116;]

13917 [(iv) Section 78B-6-118;]

13918 [(v) Section 78B-6-124;]

13919 [(vi) Section 78B-6-136;]

13920 [(vii) Section 78B-6-137;]

13921 [(viii) Section 78B-6-138;]

13922 [(ix) Section 78B-6-139;]

13923 [(x) Section 78B-6-141; and]

13924 [(xi) Section 78B-6-142;]

13925 [(b) Subsections 78B-6-105(1)(a), (1)(b)(i), (1)(b)(ii), (2), and (7), except that the
13926 juvenile court does not have jurisdiction over a proceeding for adoption of an adult,
13927 unless the adoption arises from a case where the juvenile court has continuing
13928 jurisdiction over the mature adoptee; and]

13929 [(c) if the mature adoptee is a vulnerable adult, Sections 78B-6-128 through 78B-6-131,
13930 regardless of whether the mature adoptee resides, or will reside, with the adopters,
13931 unless the court, based on a finding of good cause, waives the requirements of those
13932 sections.]

13933 [(4) Before a court enters a final decree of adoption of a mature adoptee, the mature adoptee
13934 and the prospective adoptive parent or parents shall appear before the court presiding
13935 over the adoption proceeding and execute consent to the adoption.]

13936 [(5) No provision of this part, other than those listed or described in this section or Section
13937 78B-6-117, apply to the adoption of an adult.]

13938 (1) Except as provided in Subsections (2) and (3), an adult may adopt another adult.

13939 (2) A married adult who is lawfully separated from the married adult's spouse may not
13940 adopt another adult without the consent of the married adult's spouse if the spouse is

capable of giving consent.

(3) An individual adopting an adult may not adopt the adult unless:

(a) the individual is at least 10 years older than the adult; or

(b) at least one individual of a married couple is at least 10 years older than the adult if a married couple is adopting the adult.

(4) The placement requirements described in Part 4, Placement of a Minor Child or Vulnerable Adult for Adoption, apply to an adult adoptee that is a vulnerable adult regardless of whether the adult adoptee resides, or will reside, with the adoptive parents, unless the court waives the placement requirements upon a finding of good cause.

Section 356. Section **81-13-303**, which is renumbered from Section 78B-6-116 is renumbered and amended to read:

[78B-6-116] 81-13-303 . Notice of adoption of an adult.

~~[(1)(a) Consent to the adoption of an adult is required from:]~~

~~[(i) the mature adoptee;]~~

~~[(ii) any person who is adopting the adult;]~~

~~[(iii) the spouse of a person adopting the adult; and]~~

~~[(iv) any legally appointed guardian or custodian of the adult adoptee.]~~

~~[(b) No person, other than a person described in Subsection (1)(a), may consent, or withhold consent, to the adoption of an adult.]~~

~~[(2)] (1)(a) Except as provided in Subsection [(2)(b), notice of a proceeding for the adoption of an adult shall be served on each person described in Subsection (1)(a) and the spouse of the mature adoptee:] (1)(c), a petitioner in an adoption proceeding shall serve notice of the proceeding on:~~

~~(i) the adult adoptee;~~

~~(ii) the spouse of the petitioner if the petitioner is married;~~

~~(iii) any legally appointed guardian or custodian of the adult adoptee; and~~

~~(iv) the spouse of the adult adoptee if the adult adoptee is married.~~

~~(b) The petitioner shall serve the notice described in Subsection (1)(a) at least 30 days before the day on which the adoption is finalized.~~

~~[(b)] (c) The notice described in Subsection [(2)(a)] (1)(a) may be waived, in writing, by the person entitled to receive notice.~~

~~[(3)] (2) The notice described in Subsection [(2)] (1):~~

~~[(a) shall be served at least 30 days before the day on which the adoption is finalized;]~~

~~[(b)] (a) shall specifically state that the person served must respond to the petition within~~

13975 30 days of service if the person intends to intervene in the adoption proceeding;
13976 ~~[(e)]~~ ~~(b)~~ shall state the name of the ~~[person to be adopted]~~ adult adoptee;
13977 ~~[(d)]~~ ~~(c)~~ may not state the name of a person adopting the ~~[mature]~~ adult adoptee, unless
13978 the person consents, in writing, to disclosure of the person's name;
13979 ~~[(e)]~~ ~~(d)~~ with regard to a person described in Subsection (1)(a):
13980 (i) except as provided in Subsection ~~[(2)(b)]~~ ~~(2)(a)~~, shall be in accordance with the
13981 provisions of the Utah Rules of Civil Procedure; and
13982 (ii) may not be made by publication; and
13983 ~~[(f)]~~ ~~(e)~~ with regard to the spouse of the ~~[mature]~~ adult adoptee, may be made:
13984 (i) in accordance with the provisions of the Utah Rules of Civil Procedure;
13985 (ii) by certified mail, return receipt requested; or
13986 (iii) by publication, posting, or other means if:
13987 (A) the service described in Subsection ~~[(3)(f)(ii)]~~ ~~(2)(e)(ii)~~ cannot be completed
13988 after two attempts; and
13989 (B) the court issues an order providing for service by publication, posting, or other
13990 means.
13991 ~~[(4)]~~ ~~(3)~~ Proof of service of the notice on each person to whom notice is required by this
13992 section shall be filed with the court before the adoption is finalized.
13993 ~~[(5)]~~ ~~(4)(a)~~ Any person who is served with notice of a proceeding for the adoption of an
13994 adult adoptee and who wishes to intervene in the adoption shall file a motion in the
13995 adoption proceeding:
13996 (i) within 30 days after the day on which the person is served with notice of the
13997 adoption proceeding;
13998 (ii) that sets forth the specific relief sought; and
13999 (iii) that is accompanied by a memorandum specifying the factual and legal grounds
14000 upon which the motion is made.
14001 (b) A person who fails to file the motion described in Subsection ~~[(5)(a)]~~ ~~(4)(a)~~ within
14002 the time described in Subsection ~~[(5)(a)(i)]~~ ~~(4)(a)(i)~~:
14003 (i) waives any right to further notice of the adoption proceeding; and
14004 (ii) is barred from intervening in, or bringing or maintaining any action challenging,
14005 the adoption proceeding.
14006 ~~[(6)]~~ ~~(5)~~ Except as provided in Subsection ~~[(7)]~~ ~~(6)~~, after a court enters a final decree of
14007 adoption of an adult adoptee, the ~~[mature]~~ adult adoptee shall:
14008 (a) serve notice of the finalization of the adoption, ~~[pursuant to]~~ in accordance with the

Utah Rules of Civil Procedure, on each person who was a legal parent of the adult adoptee before the final decree of adoption described in this Subsection [(6)] (5) was entered; and

(b) file with the court proof of service of the notice described in Subsection [(6)(a)] (5)(a). [(7)] (6) A court may[, based on a finding of good cause,] waive the notification requirement described in Subsection [(6)] (5) upon a finding of good cause.

Section 357. Section **81-13-304** is enacted to read:

81-13-304 . Necessary consent to adoption of an adult -- Persons who may take consents.

(1) The following persons are required to consent to an adoption of an adult adoptee before the adoption is granted:

(a) the adult adoptee;

(b) any individual who is adopting the adult adoptee;

(c) the spouse of the individual adopting the adult adoptee if the individual is married; and

(d) any legally appointed guardian or custodian of the adult adoptee.

(2) An adult adoptee shall sign a consent before:

(a) the court with jurisdiction over the adoption proceeding; or

(b) a person appointed by the court to take the consent.

(3) If the consent of the adult adoptee is taken out of state, the adult adoptee shall sign the consent before:

(a) a person authorized or appointed to take a consent by a court of this state that has jurisdiction over adoption proceedings;

(b) a court that has jurisdiction over adoption proceedings in the state where the consent is taken; or

(c) a person authorized, under the laws of the state where the consent is taken, to take a consent of the adult adoptee.

(4) A person other than the adult adoptee may sign the consent before a notary or any person authorized to take the consent as described in Subsection (2) or (3).

(5) A person authorized by Subsection (2) or (3) to take a consent shall certify to the best of the person's information and belief that the person executing the consent has read and understands the consent and has signed the consent freely and voluntarily.

(6) A person executing a consent is entitled to receive a copy of the consent.

(7) A signature described in Subsection (2)(b) or (3)(a), shall be:

(a) notarized; or

(b) witnessed by two individuals who are not members of the adult adoptee's immediate family.

Section 358. Section **81-13-305** is enacted to read:

81-13-305 . Final decree of adoption of an adult -- Agreement by adoptive parent or parents.

(1) Before entering a final decree of adoption of an adult adoptee, the court shall examine separately each person appearing before the court in accordance with this chapter.

(2) If the court is satisfied that the interests of the adult adoptee will be promoted by the adoption, the court shall enter a final decree of adoption declaring that:

(a) the adult adoptee is adopted by the adoptive parent or parents; and

(b) the adult adoptee is regarded and treated in all respects as the child of the adoptive parent or parents.

(3) Before the court enters a final decree of adoption of an adult adoptee, the prospective adoptive parent or parents and the adult adoptee shall:

(a) appear before the court;

(b) execute a consent to the adoption as described in Section 81-13-304; and

(c) execute an agreement stating that the adult adoptee shall be adopted and treated in all respects as the adoptive parent's or parents' own lawful child.

(4) When a final decree of adoption is entered, the adult adoptee may take the family name of the adoptive parent or parents.

(5) After a final decree of adoption is entered, the adoptive parent or parents and the adult adoptee shall:

(a) sustain the legal relationship of a parent and child; and

(b) have all the rights and be subject to all the duties of a parent-child relationship.

Section 359. Section **81-13-306** is enacted to read:

81-13-306 . Effect of adoption of an adult on pre-existing parent.

(1) A pre-existing parent of an adult adoptee:

(a) is released from all parental rights and duties toward and all responsibilities for the adult adoptee, including residual parental rights and duties, as defined in Section 80-1-102; and

(b) has no further parental rights or duties with regard to the adult adoptee at the earlier of:

(i) the time the pre-existing parent's parental rights are terminated; or

(ii) except as provided in Subsection (2), and subject to Subsections (3) and (4), the time the final decree of adoption is entered.

(2) The parental rights and duties of a pre-existing parent who, at the time the adult adoptee is adopted, is lawfully married to the individual adopting the adult adoptee are not released under Subsection (1)(b).

(3) The parental rights and duties of a pre-existing parent who, at the time the adult adoptee is adopted, is not lawfully married to the individual adopting the adult adoptee are released under Subsection (1)(b).

(4)(a) Notwithstanding the provisions of this section, the court may allow a prospective adoptive parent to adopt an adult adoptee without releasing the pre-existing parent from parental rights and duties under Subsection (1)(b) if:

(i) the pre-existing parent and the prospective adoptive parent were lawfully married at some time during the adult adoptee's life;

(ii) the pre-existing parent consents to the prospective adoptive parent's adoption of the adult adoptee or is unable to consent because the pre-existing parent is deceased or incapacitated;

(iii) notice of the adoption proceeding is provided in accordance with Section 81-13-303;

(iv) consent to the adoption is provided in accordance with Section 81-13-304; and

(v) the court finds that it is in the best interest of the adult adoptee to grant the adoption without releasing the pre-existing parent from parental rights and duties.

(b) This Subsection (4) does not permit an adult adoptee to have more than two parents.

(5) This section may not be construed as terminating any child support obligation of a parent incurred before the adoption.

Section 360. Section **81-13-401** is enacted to read:

Part 4. Placement of a Minor Child or Vulnerable Adult for Adoption

81-13-401 . Definitions for part.

Reserved.

Section 361. Section **81-13-402**, which is renumbered from Section 78B-6-131 is renumbered and amended to read:

[78B-6-131] 81-13-402 . Placement of an adoptee in custody of state -- Priority placement.

(1) To provide a minor child, who is in the legal custody of the division, with the most beneficial family structure when the minor child is placed for adoption, the division or

child-placing agency shall place the minor child with a married couple, unless:

(a) there are no qualified married couples who:

(i) have applied to adopt a minor child;

(ii) are willing to adopt the minor child; and

(iii) are an appropriate placement for the minor child;

(b) the minor child is placed with a relative of the minor child;

(c) the minor child is placed with an individual who has already developed a substantial relationship with the minor child;

(d) the minor child is placed with an individual who:

(i) is selected by a birth parent of the minor child, or a parent whose parental rights to the minor child have been terminated, if the parent consented to the adoption of the minor child; and

(ii) the parent described in Subsection (1)(d)(i):

(A) knew the individual with whom the minor child is placed before the parent consented to the adoption; or

(B) became aware of the individual with whom the minor child is placed through a source other than the division or the child-placing agency that assists with the adoption of the minor child; or

(iii) it is in the best interests of the minor child to place the minor child with a single adult.

[(1)] (2) Notwithstanding Sections ~~[78B-6-128 through 78B-6-130]~~ 81-13-403 through 81-13-405, and except as provided in Subsection [(2), a child] (3), an adoptee, who is a minor child or vulnerable adult in the legal custody of the state, may not be placed with a prospective foster parent or a prospective adoptive parent, unless, before the [child] adoptee is placed with the prospective foster parent or the prospective adoptive parent:

(a) a fingerprint based ~~[FBI]~~ Federal Bureau of Investigation national criminal history records check is conducted on the prospective foster parent, prospective adoptive parent, and any other adult residing in the household;

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

of child abuse or neglect;

(c) the Department of Health and Human Services conducts a check of the child abuse and neglect registry of each state where each adult living in the home of the prospective foster parent or prospective adoptive parent described in Subsection [(1)(b)] (2)(b) resided in the five years immediately preceding the day on which the prospective foster parent or prospective adoptive parent applied to be a foster parent or adoptive parent, to determine whether the adult is listed in the registry as having a substantiated or supported finding of child abuse or neglect; and

(d) each person required to undergo a background check described in this section passes the background check, pursuant to the provisions of Section 26B-2-120.

[(2)] (3) The requirements under Subsection [(1)] (2) do not apply to the extent that:

(a) federal law or rule permits otherwise; or

(b) the requirements would prohibit the division or a court from placing [a-child] an adoptee, who is a minor child or vulnerable adult in the legal custody of the state, with:

(i) a noncustodial parent, under Section 80-2a-301, 80-3-302, or 80-3-303; or

(ii) a relative, under Section 80-2a-301, 80-3-302, or 80-3-303, pending completion of the background check described in Subsection [(1)] (2).

(4) When an adoption petition is to be finalized in this state with regard to any prospective adoptive parent who is not a resident of this state at the time an adoptee, who is a minor child or vulnerable adult, is placed in the prospective adoptive parent's home, the prospective adoptive parent shall comply with Sections 81-13-403 through 81-13-405.

The following section is affected by a coordination clause at the end of this bill.

Section 362. Section **81-13-403**, which is renumbered from Section 78B-6-128 is renumbered and amended to read:

[78B-6-128] 81-13-403 . Preplacement adoptive evaluations -- Exceptions.

(1)(a) Except as otherwise provided in this section, [a-child] an adoptee, who is a minor child or vulnerable adult, may not be placed in an adoptive home until a preplacement adoptive evaluation, assessing the prospective adoptive parent and the prospective adoptive home, has been conducted in accordance with the requirements of this section.

(b) Except as provided in Section [78B-6-131] 81-13-402, the court may, at any time, authorize temporary placement of [a-child] an adoptee, who is a minor child or vulnerable adult, in a prospective adoptive home pending completion of a

preplacement adoptive evaluation described in this section.

(c)(i) Subsection (1)(a) does not apply if a ~~[pre-existing parent]~~ birth parent has legal custody of the ~~[child to be adopted]~~ adoptee and the prospective adoptive parent is related to ~~[that child]~~ the adoptee or the ~~[pre-existing parent]~~ birth parent as a stepparent, sibling by half or whole blood or by adoption, grandparent, aunt, uncle, or first cousin, unless the court otherwise requests the preplacement adoption.

(ii) The prospective adoptive parent described in this Subsection (1)(c) shall obtain the information described in Subsections (2)(a) and (b), and file that documentation with the court prior to finalization of the adoption.

(d)(i) The preplacement adoptive evaluation shall be completed or updated within the 12-month period immediately preceding the placement of ~~[a child]~~ the adoptee with the prospective adoptive parent.

(ii) If the prospective adoptive parent has previously received custody of ~~[a child]~~ an adoptee, who is a minor child or vulnerable adult, for the purpose of adoption, the preplacement adoptive evaluation shall be completed or updated within the 12-month period immediately preceding the placement of ~~[a child]~~ an adoptee, who is a minor child or vulnerable adult, with the prospective adoptive parent and after the placement of the previous ~~[child]~~ adoptee with the prospective adoptive parent.

(2) The preplacement adoptive evaluation shall include:

(a) a criminal history background check regarding each prospective adoptive parent and any other adult living in the prospective home, prepared no earlier than 18 months immediately preceding placement of the ~~[child]~~ adoptee in accordance with the following:

(i) if the ~~[child]~~ adoptee is in state custody, each prospective adoptive parent and any other adult living in the prospective home shall submit fingerprints to the Department of Health and Human Services, which shall perform a criminal history background check in accordance with Section 26B-2-120; or

(ii) subject to Subsection (3), if the ~~[child]~~ adoptee is not in state custody, an adoption service provider or an attorney representing a prospective adoptive parent shall submit fingerprints from the prospective adoptive parent and any other adult living in the prospective home to:

(A) [-]the [Criminal and Technical Services Division of Public Safety] Bureau of

- 14213 Criminal Identification within the Department of Public Safety for a regional
14214 and nationwide background check~~[, to]~~ ;
- 14215 (B) the Office of Background Processing within the Department of Health and
14216 Human Services for a background check in accordance with Section 26B-2-120[
14217 ~~, or to~~] ; or
- 14218 (C) the Federal Bureau of Investigation;
- 14219 (b) a report containing all information regarding reports and investigations of child
14220 abuse, neglect, and dependency, with respect to each prospective adoptive parent and
14221 any other adult living in the prospective home, obtained no earlier than 18 months
14222 immediately preceding the day on which the ~~[child]~~ adoptee is placed in the
14223 prospective home, pursuant to waivers executed by each prospective adoptive parent
14224 and any other adult living in the prospective home, that:
- 14225 (i) if the prospective adoptive parent or the adult living in the prospective adoptive
14226 parent's home is a resident of Utah, is prepared by the Department of Health and
14227 Human Services from the records of the Department of Health and Human
14228 Services; or
- 14229 (ii) if the prospective adoptive parent or the adult living in the prospective adoptive
14230 parent's home is not a resident of Utah, prepared by the Department of Health and
14231 Human Services, or a similar agency in another state, district, or territory of the
14232 United States, where each prospective adoptive parent and any other adult living
14233 in the prospective home resided in the five years immediately preceding the day
14234 on which the ~~[child]~~ adoptee is placed in the prospective adoptive home;
- 14235 (c) in accordance with Subsection (6), a home study conducted by an adoption service
14236 provider that is:
- 14237 (i) an expert in family relations approved by the court;
- 14238 (ii) a certified social worker;
- 14239 (iii) a clinical social worker;
- 14240 (iv) a marriage and family therapist;
- 14241 (v) a psychologist;
- 14242 (vi) a social service worker, if supervised by a certified or clinical social worker;
- 14243 (vii) a clinical mental health counselor; or
- 14244 (viii) an Office of Licensing employee within the Department of Health and Human
14245 Services who is trained to perform a home study; and
- 14246 (d) in accordance with Subsection (7), if the ~~[child to be adopted is a child who]~~ adoptee

is in the custody of any public child welfare agency[, and is a child who] and has a special need as defined in Section 80-2-801, the preplacement adoptive evaluation shall be conducted by the Department of Health and Human Services or a child-placing agency that has entered into a contract with the department to conduct the preplacement adoptive evaluations for ~~[children]~~ adoptees with special needs.

(3) For purposes of Subsection (2)(a)(ii), subject to Subsection (4), the criminal history background check described in Subsection (2)(a)(ii) shall be submitted in a manner acceptable to the court that will:

(a) preserve the chain of custody of the results; and

(b) not permit tampering with the results by a prospective adoptive parent or other interested party.

(4) In order to comply with Subsection (3), the manner in which the criminal history background check is submitted shall be approved by the court.

(5) Except as provided in Subsection ~~[78B-6-131(2)]~~ 81-13-402(3), and in addition to the other requirements of this section, ~~[before a child in state custody is placed with a prospective foster parent or a prospective adoptive parent,]~~ the Department of Health and Human Services shall comply with Section ~~[78B-6-131]~~ 81-13-402 before an adoptee, who is a minor child or vulnerable adult in state custody, is placed with a prospective foster parent or a prospective adoptive parent.

(6)(a) An individual described in Subsections (2)(c)(i) through (vii) shall be licensed to practice under the laws of:

(i) this state; or

(ii) the state, district, or territory of the United States where the prospective adoptive parent or other person living in the prospective adoptive home resides.

(b) ~~[Neither the]~~ The Department of Health and Human Services~~[-nor]~~ , or any of the department's divisions, may not proscribe who qualifies as an expert in family relations or who may conduct a home study under Subsection (2)(c).

(c) The home study described in Subsection (2)(c) shall be a written document that contains the following:

(i) a recommendation to the court regarding the suitability of the prospective adoptive parent for placement of ~~[a child]~~ an adoptee who is a minor child or vulnerable adult;

(ii) a description of in-person interviews with the prospective adoptive parent, the prospective adoptive parent's children, and other individuals living in the home;

- 14281 (iii) a description of character and suitability references from at least two individuals
14282 who are not related to the prospective adoptive parent and with at least one
14283 individual who is related to the prospective adoptive parent;
- 14284 (iv) a medical history and a doctor's report, based upon a doctor's physical
14285 examination of the prospective adoptive parent, made within two years before the
14286 date of the application; and
- 14287 (v) a description of an inspection of the home to determine whether sufficient space
14288 and facilities exist to meet the needs of the [child] adoptee and whether basic
14289 health and safety standards are maintained.
- 14290 (7) Any fee assessed by the evaluating agency described in Subsection (2)(d) is the
14291 responsibility of the adopting parent.
- 14292 (8) The person conducting the preplacement adoptive evaluation shall, in connection with
14293 the preplacement adoptive evaluation, provide the prospective adoptive parent with
14294 literature approved by the [~~Division of Child and Family Services~~] division relating to
14295 adoption, including information relating to:
- 14296 (a) the adoption process;
14297 (b) developmental issues that may require early intervention; and
14298 (c) community resources that are available to the prospective adoptive parent.
- 14299 (9) A copy of the preplacement adoptive evaluation shall be filed with the court.
- 14300 (10) A home study completed for the purposes of foster care licensing in accordance with
14301 Title 80, Chapter 2, Part 3, Division Responsibilities, shall be accepted by the court for a
14302 proceeding under this part.
- 14303 Section 363. Section ~~81-13-404~~, which is renumbered from Section 78B-6-129 is renumbered
14304 and amended to read:
- 14305 **[78B-6-129] 81-13-404 . Postplacement adoptive evaluations.**
- 14306 (1) Except as provided in Subsections (2) and (3), a postplacement evaluation shall be
14307 conducted and submitted to the court [~~prior to~~] before the final hearing in an adoption
14308 proceeding for a minor child or a vulnerable adult.
- 14309 (2) The postplacement evaluation under Subsection (1) shall include:
- 14310 (a) verification of the allegations of fact contained in the petition for adoption;
14311 (b) an evaluation of the progress of the [child's] adoptee's placement in the adoptive
14312 home; and
14313 (c) a recommendation regarding whether the adoption is in the best interest of the [child]
14314 adoptee.

[~~(2)~~] (3) The exemptions from and requirements for evaluations, described in Subsections [78B-6-128(~~1~~)(~~e~~)] 81-13-403(1)(c), (2)(c), (6), and (8), also apply to postplacement adoptive evaluations.

[~~(3)~~] (4) Upon the request of the petitioner, the court may waive the postplacement adoptive evaluation, unless [it] the court determines that it is in the best interest of the [child] adoptivee to require the postplacement evaluation.

Section 364. Section **81-13-405**, which is renumbered from Section 78B-6-130 is renumbered and amended to read:

**[78B-6-130] 81-13-405 . Preplacement and postplacement adoptive evaluations --
Review by court.**

(1)(a) If the person conducting the preplacement adoptive evaluation or postplacement adoptive evaluation disapproves the adoptive placement, the court may dismiss the petition for adoption.

(b) Upon request by a prospective adoptive parent, the court shall:

(i) order that an additional preplacement adoptive evaluation or postplacement adoptive evaluation be conducted[~~, and shall~~] ; and

(ii) hold a hearing on the suitability of the adoption, including testimony of interested parties.

(2) Before finalization of a petition for adoption the court shall review and consider the information and recommendations contained in the preplacement adoptive evaluation and postplacement adoptive evaluation described in Sections [~~78B-6-128 and 78B-6-129~~] 81-13-403 and 81-13-404.

(3) With respect to the home study required as part of the preplacement adoptive evaluation described in Subsection [~~78B-6-128(2)(e)~~] 81-13-403(2)(c), a court may review and consider information other than the information contained in the home study described in Subsection [~~78B-6-128(6)(e)~~] 81-13-403(6)(c).

Section 365. Section **81-13-501** is enacted to read:

Part 5. Post Adoption

81-13-501 . Definitions for part.

Reserved.

Section 366. Section **81-13-502**, which is renumbered from Section 78B-6-104 is renumbered and amended to read:

[78B-6-104] 81-13-502 . Applicability of part.

(1) Sections [~~78B-6-143~~] 81-13-503 through [~~78B-6-145~~] 81-13-505 do not apply to [

adoptions] an adoption of a minor child by a stepparent whose spouse is the adoptee's parent.

(2) Sections ~~[78B-6-143]~~ 81-13-503 through ~~[78B-6-145]~~ 81-13-505 apply only to [adoptions of adoptees] an adoption of an adoptee born in this state.

Section 367. Section **81-13-503**, which is renumbered from Section 78B-6-143 is renumbered and amended to read:

[78B-6-143] 81-13-503 . Nonidentifying health history of adoptee filed with office -- Limited availability.

(1)(a) Upon finalization of an adoption in this state of a minor child, the person who proceeded on behalf of the petitioner for adoption, or a child-placing agency if an agency is involved in the adoption, shall file a report with the office, in the form established by the office.

(b) The report described in Subsection (1)(a) shall include a detailed health history, and a genetic and social history of the adoptee.

(2) The report described in Subsection (1)(a) may not contain identifying information or any information that identifies the adoptee's ~~[birth]~~ pre-existing parents or members of their families.

(3) When the report described in Subsection (1)(a) is filed, a duplicate report shall be provided to the adoptive parents.

(4) The report described in Subsection (1)(a) shall only be available upon request, and upon presentation of positive identification, to the following persons:

(a) the adoptive parents;

(b) in the event of the death of the adoptive parents, the adoptee's legal guardian;

(c) the adoptee;

(d) in the event of the death of the adoptee, the adoptee's spouse[,]; if the spouse is the parent or guardian of the adoptee's child;

(e) the adoptee's child or descendant;

(f) the adoptee's ~~[birth]~~ pre-existing parent; and

(g) the adoptee's adult sibling.

(5) No identifying information or information that identifies a ~~[birth]~~ pre-existing parent or the ~~[birth]~~ pre-existing parent's family may be disclosed under this section.

(6) The actual cost of providing information under this section shall be paid by the person requesting the information.

(7) A child-placing agency may provide a copy of the report described in Subsection (1)(a)

and information in the child-placing agency's files, except identifying information, to ~~[an adult adoptee, a birth]~~ a child adoptee who is 18 years old or older, a pre-existing parent, or an adoptive parent.

(8) Notwithstanding Subsection (7), identifying information may be released to the extent that the individual who is the subject of the information provides written authorization of the information's release.

Section 368. Section **81-13-504**, which is renumbered from Section 78B-6-144 is renumbered and amended to read:

[78B-6-144] 81-13-504 . Mutual-consent, voluntary adoption registry -- Procedures -- Fees.

(1) As used in this section, "adopted individual" means a child adoptee who is 18 years old or older.

~~[(4)]~~ (2) The office shall establish a mutual-consent, voluntary adoption registry.

(3)(a) An ~~[adult adoptee]~~ adopted individual or a ~~[birth]~~ pre-existing parent of an ~~[adult adoptee]~~ adopted individual, upon presentation of positive identification, may request identifying information from the office, in the form established by the office.

~~(b)~~ A court ~~[of competent jurisdiction]~~ or a child-placing agency may accept that request from the ~~[adult adoptee or birth]~~ adopted individual or pre-existing parent, in the form provided by the office, and transfer that request to the office.

~~(c)~~ The ~~[adult adoptee or birth]~~ adopted individual or pre-existing parent is responsible for notifying the office of any change in information contained in the request.

~~[(b)]~~ (d) Except as otherwise provided in this ~~[part]~~ chapter, the office may only release identifying information to an ~~[adult adoptee or birth]~~ adopted individual or pre-existing parent when ~~[it]~~ the office receives requests from both the ~~[adoptee and the adoptee's birth]~~ adopted individual and the adopted individual's pre-existing parent.

~~[(e)]~~ (e) After matching the request of an ~~[adult adoptee]~~ adopted individual with that of at least one of the ~~[adoptee's birth]~~ adopted individual's pre-existing parents, the office shall notify both the ~~[adult adoptee]~~ adopted individual and the ~~[birth]~~ pre-existing parent that the requests have been matched, and disclose the identifying information to those parties. ~~[However, if that adult adoptee]~~

(f) Notwithstanding Subsection (3)(c) or (d), if an adopted individual has a sibling of the same [birth] pre-existing parent who is under [the age of 18 years,] 18 years old and who was raised in the same family setting as the [adult adoptee] adopted individual, the office may not disclose the requested identifying information to that [adult

adoptee] adopted individual or the [adoptee's birth] adopted individual's pre-existing
parent.

[~~(2)~~] (4)(a) [~~Adult adoptees and adult siblings of adult adoptees~~] An adopted individual or
an adult sibling of an adopted individual, upon presentation of positive identification,
may request identifying information from the office[;] in the form established by the
office.

(b) A court [~~of competent jurisdiction~~] or a child-placing agency may accept that request
from the [adult adoptee] adopted individual or adult sibling[;] in the form provided by
the office,[-] and transfer that request to the office.

(c) The [adult adoptee] adopted individual or adult sibling is responsible for notifying the
office of any change in information contained in the request.

[~~(b)~~] (d) The office may only release identifying information to an [adult adoptee]
adopted individual or adult sibling when [it] the office receives requests from both
the [adult adoptee] adopted individual and the [adult adoptee's] adopted individual's
adult sibling.

[~~(e)~~] (e) After matching the request of an [adult adoptee] adopted individual with that of
the [adoptee's] adopted individual's adult sibling, if the office determines that the
office has sufficient information to make that match, the office shall notify both the [
adult adoptee] adopted individual and the adopted individual's adult sibling that the
requests have been matched, and disclose the identifying information to those parties.
[~~(d)~~] (5) After receiving a request for information from an [adult adoptee and a birth]
adopted individual and a pre-existing parent under this section, the office shall:

[~~(i)~~] (a) search the office's vital records for the [adult adoptee's birth] adopted individual's
pre-existing parent; and

[~~(ii)~~] (b) if the search described in Subsection [~~(2)(d)(i)~~] (5)(a) reveals that the [birth]
pre-existing parent who had requested information under this section is dead, inform
the [adult adoptee] adopted individual that the [birth] pre-existing parent is dead and
disclose the identity of the [birth] pre-existing parent.

[~~(e)~~] (6) The office shall attempt to notify an individual who requests information under this
section:

[~~(i)~~] (a) of the results of the initial search for a match; and

[~~(ii)~~] (b) if the initial search does not produce a match, that the office will keep the
request on file and will attempt to notify the individual in the event of a match.

[~~(3)~~] (7) Information registered with the office under this section is available only to a

registered ~~[adult adoptee]~~ adopted individual and the ~~[adoptee's registered birth]~~ adopted individual's pre-existing parent or registered adult sibling~~;~~ under the terms of this section.

~~[(4)]~~ (8) ~~[Except as provided in Section 78B-6-141, the]~~ The office may not disclose information regarding a ~~[birth]~~ pre-existing parent who has not registered a request with the office.

~~[(5)]~~ (9) Nothing in this section limits the disclosure of information in accordance with Section ~~[78B-6-141]~~ 81-13-103.

Section 369. Section **81-13-505**, which is renumbered from Section 78B-6-144.5 is renumbered and amended to read:

[78B-6-144.5] 81-13-505 . Adoption information -- Adoption records fees.

(1)(a) The office may not disclose information maintained or filed with the office under this chapter unless the disclosure is permitted by this chapter or by a court order.

(b) Any person who discloses information obtained from the office's voluntary adoption registry in violation of this part, or knowingly allows that information to be disclosed in violation of this chapter, is guilty of a class A misdemeanor.

~~[(1)]~~ (2)(a) The office shall, in accordance with Section 63J-1-504, establish a fee to be paid by an individual who requests information or other services under Section ~~[78B-6-141 or Section 78B-6-144]~~ 81-13-103 or 81-13-504, and to cover the costs related to providing the information, services, and improvements described in Subsection (2).

(b) The office may accept donations or grants from public or private entities to cover the costs related to providing the information, services, and improvements described in Subsection (2).

~~[(2)]~~ (3) The office shall deposit fees and donations collected under Subsection ~~[(1)]~~ (2) into the General Fund as dedicated credits and may be used only to:

(a) fund, automate, and improve the provision of services described in Sections ~~[78B-6-141 and 78B-6-144]~~ 81-13-103 and 81-13-504; or

(b) implement means of maximizing potential matches for the services described in Sections ~~[78B-6-141 and 78B-6-144]~~ 81-13-103 and 81-13-504, including the use of broad search terms and methods.

Section 370. Section **81-14-101**, which is renumbered from Section 78B-24-101 is renumbered and amended to read:

CHAPTER 14. UNIFORM UNREGULATED CHILD CUSTODY TRANSFER ACT

14485 **Part 1. General Provisions**

14486 **~~[78B-24-101]~~ 81-14-101 . Definitions.**

14487 As used in this chapter:

14488 ~~[(1) "Child" means an unemancipated individual under 18 years old.]~~

14489 ~~[(2)]~~ (1)(a) "Child-placing agency" means a person with authority under other law of this
14490 state to identify or place a minor child for adoption.

14491 (b) "Child-placing agency" does not include a parent of a minor child.

14492 ~~[(3)]~~ (2) "Custody" means the exercise of physical care and supervision of a minor child.

14493 ~~[(4)]~~ (3)(a) "Intercountry adoption" means an adoption or placement for adoption of a
14494 minor child who resides in a foreign country at the time of adoption or placement.

14495 (b) "Intercountry adoption" includes an adoption finalized in the minor child's country of
14496 residence or in a state.

14497 ~~[(5) "Parent" means an individual recognized as a parent under other law of this state.]~~

14498 ~~[(6)]~~ (4) "Person" means an individual, estate, business or nonprofit entity, public
14499 corporation, government or governmental subdivision, agency, or instrumentality, or
14500 other legal entity.

14501 ~~[(7)]~~ (5) "Record" means information:

14502 (a) inscribed on a tangible medium; or

14503 (b) stored in an electronic or other medium and retrievable in perceivable form.

14504 ~~[(8)]~~ (6)(a) "State" means a state of the United States, the District of Columbia, Puerto
14505 Rico, the United States Virgin Islands, or any other territory or possession subject to
14506 the jurisdiction of the United States.

14507 (b) "State" includes a federally recognized Indian tribe.

14508 Section 371. Section **81-14-102**, which is renumbered from Section 78B-24-102 is renumbered
14509 and amended to read:

14510 **~~[78B-24-102]~~ 81-14-102 . Limitations on applicability.**

14511 This chapter does not apply to custody of an Indian child, as defined in the Indian Child
14512 Welfare Act, 25 U.S.C. Sec. 1903, to the extent governed by the Indian Child Welfare Act, 25
14513 U.S.C. Sec. 1901 through 1963.

14514 Section 372. Section **81-14-201**, which is renumbered from Section 78B-24-201 is renumbered
14515 and amended to read:

14516 **Part 2. Prohibition of Unregulated Custody Transfer**

14517 **~~[78B-24-201]~~ 81-14-201 . Definitions for part.**

As used in this part:

- (1) "Guardian" means a person recognized as a guardian under other law of this state.
- (2) "Intermediary" means a person that assists or facilitates a transfer of custody of a minor child, whether or not for compensation.

Section 373. Section **81-14-202**, which is renumbered from Section 78B-24-202 is renumbered and amended to read:

~~[78B-24-202]~~ 81-14-202 . Applicability.

This part does not apply to a transfer of custody of a minor child by a parent or guardian of the minor child to:

- (1) a parent of the minor child;
- (2) a stepparent of the minor child;
- (3) an adult who is related to the minor child by blood, marriage, or adoption;
- (4) an adult who, at the time of the transfer, had a close relationship with the minor child or the parent or guardian of the minor child for a substantial period, and whom the parent or guardian reasonably believed, at the time of the transfer, to be a fit custodian of the minor child;
- (5) an Indian custodian, as defined in the Indian Child Welfare Act, 25 U.S.C. Sec. 1903, of the minor child; or
- (6) a member of the minor child's customary family unit recognized by the minor child's indigenous group.

Section 374. Section **81-14-203**, which is renumbered from Section 78B-24-203 is renumbered and amended to read:

~~[78B-24-203]~~ 81-14-203 . Prohibited custody transfer.

- (1) Except as provided in Subsection (2), a parent or guardian of a minor child, or an individual with whom a minor child has been placed for adoption, may not transfer custody of the minor child to another person with the intent, at the time of the transfer, to abandon the rights and responsibilities concerning the minor child.
- (2) A parent or guardian of a minor child or an individual with whom a minor child has been placed for adoption may transfer custody of the minor child to another person with the intent, at the time of the transfer, to abandon the rights and responsibilities concerning the minor child only through:
 - (a) adoption or guardianship;
 - (b) judicial award of custody;
 - (c) placement by or through a child-placing agency;

(d) other judicial or tribal action; or

(e) safe relinquishment under Title 80, Chapter 4, Part 5, Safe Relinquishment of a Newborn Child.

(3)(a) A person may not receive custody of a minor child, or act as an intermediary in a transfer of custody of a minor child, if the person knows or reasonably should know the transfer violates Subsection (1).

(b) This subsection does not apply if the person as soon as practicable after the transfer, notifies the Division of Child and Family Services of the transfer or takes appropriate action to establish custody under Subsection (2).

(4) A violation of this section is a class B misdemeanor.

(5) A violation of Subsection (1) is not established solely because a parent or guardian that transfers custody of a minor child does not regain custody.

Section 375. Section **81-14-204**, which is renumbered from Section 78B-24-204 is renumbered and amended to read:

[78B-24-204] 81-14-204 . Authority and responsibility of the Division of Child and Family Services.

(1) If the Division of Child and Family Services has a reasonable basis to believe that a person has transferred or will transfer custody of a minor child in violation of Subsection [78B-24-203(1)] 81-14-203(1), the Division of Child and Family Services may conduct a home visit as provided by other law of this state and take appropriate action to protect the welfare of the minor child.

(2) If the Division of Child and Family Services conducts a home visit for a minor child adopted or placed through an intercountry adoption, the Division of Child and Family Services shall:

(a) prepare a report on the welfare and plan for permanent placement of the minor child; and

(b) provide a copy of the report to the United States Department of State.

(3) This chapter does not prevent the Division of Child and Family Services from taking appropriate action under law of this state.

Section 376. Section **81-14-205**, which is renumbered from Section 78B-24-205 is renumbered and amended to read:

[78B-24-205] 81-14-205 . Prohibited soliciting or advertising.

(1) A person may not solicit or advertise to:

(a) find a person to which to make a transfer of custody in violation of Subsection [

14586 ~~78B-24-203(1)~~ 81-14-203(1);

14587 (b) identify a minor child for a transfer of custody in violation of Subsection [

14588 ~~78B-24-203(3)~~ 81-14-203(3); or

14589 (c) act as an intermediary in a transfer of custody in violation of Subsection [

14590 ~~78B-24-203(3)~~ 81-14-203(3).

14591 (2) A violation of this section is a class B misdemeanor.

14592 Section 377. Section **81-14-301**, which is renumbered from Section 78B-24-301 is renumbered
14593 and amended to read:

14594 **Part 3. Information and Guidance**

14595 **~~[78B-24-301]~~ 81-14-301 . Definitions for part.**

14596 As used in this part, "prospective adoptive parent" means an individual who has been
14597 approved or permitted under other law of this state to adopt a minor child.

14598 Section 378. Section **81-14-302**, which is renumbered from Section 78B-24-302 is renumbered
14599 and amended to read:

14600 **~~[78B-24-302]~~ 81-14-302 . Scope.**

14601 This part applies to placement for adoption of a minor child who:

- 14602 (1) has been or is in foster or institutional care;
- 14603 (2) previously has been adopted in a state;
- 14604 (3) has been or is being adopted under the law of a foreign country;
- 14605 (4) has come or is coming to a state from a foreign country to be adopted;
- 14606 (5) is not a citizen of the United States;
- 14607 (6) has an attachment or trauma-related disorder; or
- 14608 (7) suffered from prenatal exposure to alcohol or drugs.

14609 Section 379. Section **81-14-303**, which is renumbered from Section 78B-24-303 is renumbered
14610 and amended to read:

14611 **~~[78B-24-303]~~ 81-14-303 . General adoption information.**

- 14612 (1) Within a reasonable time before a child-placing agency places a minor child for
14613 adoption with a prospective adoptive parent, the child-placing agency shall provide or
14614 cause to be provided to the prospective adoptive parent general adoption information.
- 14615 (2) The information under Subsection (1) shall address:
- 14616 (a) possible physical, mental, emotional, and behavioral issues concerning:
- 14617 (i) identity, loss, and trauma that a minor child might experience before, during, or
14618 after adoption; and
- 14619 (ii) a minor child leaving familiar ties and surroundings;

- 14620 (b) the effect that access to resources, including health insurance, might have on the
14621 ability of an adoptive parent to meet the needs of a minor child;
14622 (c) causes of disruption of an adoptive placement or dissolution of an adoption and
14623 resources available to help avoid disruption or dissolution; and
14624 (d) prohibitions under Sections [~~78B-24-203 and 78B-24-205~~] 81-14-203 and 81-14-205.

14625 Section 380. Section **81-14-304**, which is renumbered from Section 78B-24-304 is renumbered
14626 and amended to read:

14627 **[~~78B-24-304~~] 81-14-304 . Information about a minor child.**

- 14628 (1)(a) Except as prohibited by other law of this state, within a reasonable time before a
14629 child-placing agency places a minor child for adoption with a prospective adoptive
14630 parent, the agency shall provide or cause to be provided to the prospective adoptive
14631 parent information specific to the minor child that is known or reasonably obtainable
14632 by the child-placing agency and material to the prospective adoptive parents
14633 informed decision to adopt the minor child.
- 14634 (b) The information under Subsection (1)(a) shall include:
- 14635 (i) the minor child's family, cultural, racial, religious, ethnic, linguistic, and
14636 educational background;
 - 14637 (ii) the minor child's physical, mental, emotional, and behavioral health;
 - 14638 (iii) circumstances that may adversely affect the minor child's physical, mental,
14639 emotional, or behavioral health;
 - 14640 (iv) the minor child's medical history, including immunizations;
 - 14641 (v) the medical history of the minor child's genetic parents and siblings;
 - 14642 (vi) the history of an adoptive or out-of-home placement of the minor child and the
14643 reason the adoption or placement ended;
 - 14644 (vii) the minor child's United States immigration status;
 - 14645 (viii) medical, therapeutic, and educational resources, including language-acquisition
14646 training, available to the adoptive parent and minor child after placement or
14647 adoption to assist in responding effectively to physical, mental, emotional, or
14648 behavioral issues; and
 - 14649 (ix) available records relevant to the information in Subsections (1)(b)(i) through
14650 (viii).
- 14651 (2) If, before an adoption is finalized, additional information under Subsection (1) that is
14652 material to a prospective adoptive parent's informed decision to adopt the minor child
14653 becomes known or reasonably obtainable by the child-placing agency, the child-placing

agency shall provide the information to the prospective adoptive parent.

- (3) If, after an adoption is finalized, additional information under Subsection (1) becomes known to the child-placing agency, the child-placing agency shall make a reasonable effort to provide the information to the adoptive parent.

Section 381. Section **81-14-305**, which is renumbered from Section 78B-24-305 is renumbered and amended to read:

[78B-24-305] 81-14-305 . Guidance and instruction.

- (1) A child-placing agency placing a minor child for adoption shall provide or cause to be provided to the prospective adoptive parent guidance and instruction specific to the minor child to help prepare the parent to respond effectively to needs of the child ~~[which]~~ that are known or reasonably ascertainable by the child-placing agency.

- (2) The guidance and instruction under Subsection (1) shall address, if applicable:

(a) the potential effect on the minor child of:

- (i) previous adoption or out-of-home placement;
- (ii) multiple previous adoptions or out-of-home placements;
- (iii) trauma, insecure attachment, fetal alcohol exposure, or malnutrition;
- (iv) neglect, abuse, drug exposure, or similar adversity;
- (v) separation from a sibling or significant caregiver; and
- (vi) a difference in ethnicity, race, or cultural identity between the minor child and the prospective adoptive parent or other minor child of the parent;

(b) information available from the federal government on the process for the child to acquire United States citizenship; and

(c) any other matter the child-placing agency considers material to the adoption.

- (3) The guidance and instruction under Subsection (1) shall be provided:

(a) for adoption of a minor child residing in the United States, a reasonable time before the adoption is finalized; or

(b) for an intercountry adoption, in accordance with federal law.

Section 382. Section **81-14-306**, which is renumbered from Section 78B-24-306 is renumbered and amended to read:

[78B-24-306] 81-14-306 . Information about financial assistance and support services.

On request of a minor child who was placed for adoption or the minor child's adoptive parent, the child-placing agency placing the minor child or the Division of Child and Family Services shall provide information about how to obtain financial assistance or support services:

(1) to assist the minor child or parent to respond effectively to adjustment, behavioral, and other challenges; and

(2) to help preserve the placement or adoption.

Section 383. Section **81-14-307**, which is renumbered from Section 78B-24-307 is renumbered and amended to read:

[78B-24-307] 81-14-307 . Child-placing agency compliance.

(1) The Division of Licensing and Background Checks, created in Section 26B-2-103, may investigate an allegation that a child-placing agency has failed to comply with this part and commence an action for injunctive or other relief or initiate administrative proceedings against the child-placing agency to enforce this part.

(2)(a) The Office of Licensing may initiate a proceeding to determine whether a child-placing agency has failed to comply with this part.

(b) If the Office of Licensing finds that the child-placing agency has failed to comply, the Office of Licensing may suspend or revoke the child-placing agency's license or take other action permitted by law of the state.

Section 384. Section **81-14-308**, which is renumbered from Section 78B-24-308 is renumbered and amended to read:

[78B-24-308] 81-14-308 . Rulemaking by Division of Licensing and Background Checks.

The Division of Licensing and Background Checks, created in Section 26B-2-103, may adopt rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement Sections [78B-24-303, 78B-24-304, 78B-24-305, and 78B-24-306] 81-14-303, 81-14-304, 81-14-305, and 81-14-306.

Section 385. Section **81-14-401**, which is renumbered from Section 78B-24-401 is renumbered and amended to read:

Part 4. Applicability and Severability Provisions

[78B-24-401] 81-14-401 . Uniformity of application and construction.

In applying and construing this [~~uniform act~~] chapter, a court shall consider the promotion of uniformity of the law among jurisdictions that enact the uniform act.

Section 386. Section **81-14-402**, which is renumbered from Section 78B-24-402 is renumbered and amended to read:

[78B-24-402] 81-14-402 . Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, or supersedes the Electronic Signatures in Global and

National Commerce Act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in 15 U.S.C. Sec. 7003(b).

Section 387. Section **81-14-403**, which is renumbered from Section 78B-24-403 is renumbered and amended to read:

[78B-24-403] 81-14-403 . Transitional provisions.

(1) Part 2, Prohibition of Unregulated Custody Transfer, applies to:

(a) a transfer of custody on or after May 4, 2022; and

(b) soliciting or advertising on or after May 4, 2022.

(2) Part 3, Information and Guidance, applies to placement of a minor child for adoption more than 60 days after May 4, 2022.

Section 388. Section **81-14-404**, which is renumbered from Section 78B-24-404 is renumbered and amended to read:

[78B-24-404] 81-14-404 . Severability.

If a provision of this chapter or the provision's application to a person or circumstance is held invalid, the invalidity does not affect another provision or application that can be given effect without the invalid provision.

Section 389. **Repealer.**

This bill repeals:

Section **78B-6-101, Title.**

Section **78B-6-107, Compliance with the Interstate Compact on Placement of Children -- Compliance with the Indian Child Welfare Act.**

Section **78B-6-108, Alien child -- Evidence of lawful admission to United States required.**

Section **78B-6-111, Criminal sexual offenses.**

Section **78B-6-113, Prospective adoptive parent not a resident -- Preplacement requirements.**

Section **78B-6-114, Adoption by married persons -- Consent.**

Section **78B-6-118, Relative ages.**

Section **78B-6-120.1, Implied consent.**

Section **78B-6-122, Qualifying circumstance.**

Section **78B-6-122.5, Effect of out-of-state paternity adjudication, declaration, or acknowledgment.**

Section **78B-6-123, Power of a minor to consent or relinquish.**

Section **78B-6-125, Time period prior to birth mother's consent.**

14756 Section **78B-6-126, When consent or relinquishment effective.**
14757 Section **78B-6-127, Parents whose rights have been terminated.**
14758 Section **78B-6-137, Decree of adoption -- Best interest of child -- Legislative findings.**
14759 Section **78B-6-139, Name and status of adopted child.**
14760 Section **78B-6-145, Restrictions on disclosure of information -- Violations -- Penalty.**
14761 Section **78B-7-101, Title.**
14762 Section **78B-13-101, Title.**
14763 Section **78B-14-101, Title.**
14764 Section **78B-15-101, Title.**
14765 Section **78B-15-105, Protection of participants.**
14766 Section **78B-15-106, Determination of maternity.**
14767 Section **78B-15-107, Effect.**
14768 Section **78B-15-108, Obligation to provide address.**
14769 Section **78B-15-109, Limitation on recovery from the obligor.**
14770 Section **78B-15-110, Duty of attorney general and county attorney.**
14771 Section **78B-15-111, Default judgment.**
14772 Section **78B-15-112, Standard of proof.**
14773 Section **78B-15-113, Parent-time rights of father.**
14774 Section **78B-15-114, Social Security number in tribunal records.**
14775 Section **78B-15-115, Settlement agreements.**
14776 Section **78B-16-101, Title.**
14777 Section **78B-20-101, Title.**
14778 Section 390. **Effective Date.**
14779 This bill takes effect on September 1, 2025.
14780 Section 391. **Coordinating S.B. 119 with H.B. 329.**
14781 If S.B. 119, Domestic Relations Recodification, and H.B. 329, Homeless Services
14782 Amendments, both pass and become law, the Legislature intends that, on September 1, 2025,
14783 the reference in Subsection 26B-2-104(1)(a)(vi) be changed from "Subsection 78B-6-106(3)"
14784 to "Section 81-13-104.".
14785 Section 392. **Coordinating S.B. 119 with H.B. 129.**
14786 If S.B. 119, Domestic Relations Recodification, and H.B. 129, Adoption Records Access
14787 Amendments, both pass and become law, the Legislature intends that, on September 1, 2025:
14788 (1) Subsection 26B-8-125(7) be amended to read:
14789 "(7) The office shall make rules in accordance with Title 63G, Chapter 3, Utah

Administrative Rulemaking Act, establishing procedures and the content of forms as follows:

(a) for the inspection of adoption documents under Subsection ~~[78B-6-141(4)]~~ 81-13-103(3);

~~[(b) for a birth parent's election to permit identifying information about the birth parent to be made available, under Section 78B-6-141;]~~

~~[(e)]~~ (b) for the release of information by the mutual-consent, voluntary adoption registry[, under Section 78B-6-144] as described in Section 81-13-504;

~~[(d)]~~ (c) for collecting fees and donations under Section ~~[78B-6-144.5]~~ 81-13-505; and

~~[(e)]~~ (d) for the review and approval of a request described in Subsection ~~[(3)(d).]~~ (3)(c).";

(2) Section 81-13-103 (renumbered from Section 78B-6-141) in S.B. 119 be amended to read:

[78B-6-141] 81-13-103. Court hearings -- Adoption documents -- Motion to intervene.

(1)(a) Notwithstanding Section 80-4-106, ~~[court hearings in adoption cases may be closed to the public]~~ the court may close to the public any court hearing regarding an adoption upon the request of a party to the [adoption petition and upon court approval] petition for adoption.

(b) In a closed hearing, the court may only admit the following individuals~~[may be admitted]~~:

(i) a party to the proceeding;

(ii) the adoptee;

(iii) a representative of an agency having custody of the adoptee;

(iv) in a hearing to relinquish parental rights, the individual whose rights are to be relinquished and invitees of that individual to provide emotional support;

(v) in a hearing on the termination of parental rights, the individual whose rights may be terminated;

(vi) in a hearing on a petition to intervene, the proposed intervenor;

(vii) in a hearing to finalize an adoption, invitees of the petitioner; and

(viii) other individuals for good cause, upon order of the court.

(2) ~~[An]~~ Except as provided in Subsections (3) through (7), an adoption document and any other documents filed in connection with a petition for adoption are sealed.

~~[(3) The documents described in Subsection (2) may only be open to inspection and copying:]~~

~~[(a) in accordance with Subsection (5)(a), by a party to the adoption proceeding:]~~

~~[(i) while the proceeding is pending; or]~~

~~[(ii) within six months after the day on which the adoption decree is entered:]~~

~~[(b) subject to Subsection (5)(b), if a court enters an order permitting access to the~~

~~documents by an individual who has appealed the denial of that individual's motion to~~

intervene;]

~~[(e) upon order of the court expressly permitting inspection or copying, after good cause has been shown;]~~

~~[(d) as provided under Section 78B-6-144;]~~

~~[(e) when the adoption document becomes public on the one hundredth anniversary of the date the final decree of adoption was entered;]~~

~~[(f) when the birth certificate becomes public on the one hundredth anniversary of the date of birth;]~~

~~[(g) to a mature adoptee or a parent who adopted the mature adoptee, without a court order, unless the final decree of adoption is entered by the juvenile court under Subsection 78B-6-115(3)(b); or]~~

~~[(h) to an adult adoptee, to the extent permitted under Subsection (4).]~~

~~[(4)(a) An adult adoptee that was born in the state may access an adoption document associated with the adult adoptee's adoption without a court order:]~~

~~[(i) to the extent that a birth parent consents under Subsection (4)(b); or]~~

~~[(ii) if the birth parents listed on the original birth certificate are deceased.]~~

~~[(b) A birth parent may:]~~

~~[(i) provide consent to allow the access described in Subsection (4)(a) by electing, electronically or on a written form provided by the office, allowing the birth parent to elect to:]~~

~~[(A) allow the office to provide the adult adoptee with the contact information of the birth parent that the birth parent indicates;]~~

~~[(B) allow the office to provide the adult adoptee with the contact information of an intermediary that the birth parent indicates;]~~

~~[(C) prohibit the office from providing any contact information to the adult adoptee;]~~

~~[(D) allow the office to provide the adult adoptee with a noncertified copy of the original birth certificate; and]~~

~~[(ii) at any time, file, electronically or on a written document with the office, to:]~~

~~[(A) change the election described in Subsection (4)(b); or]~~

~~[(B) elect to make other information about the birth parent, including an updated medical history, available for inspection by an adult adoptee.]~~

~~[(c) A birth parent may not access any identifying information or an adoption document under this Subsection (4).]~~

~~[(d) If two birth parents are listed on the original birth certificate and only one birth parent consents under Subsection (4)(b) or is deceased, the office may redact the name of the other~~

birth parent.]

[(5)(a) An individual who files a motion to intervene in an adoption proceeding:]

[(i) is not a party to the adoption proceeding, unless the motion to intervene is granted; and]

[(ii) may not be granted access to the documents described in Subsection (2), unless the motion to intervene is granted.]

[(b) An order described in Subsection (3)(b) shall:]

[(i) prohibit the individual described in Subsection (3)(b) from inspecting a document described in Subsection (2) that contains identifying information of the adoptive or prospective adoptive parent; and]

[(ii) permit the individual described in Subsection (5)(b)(i) to review a copy of a document described in Subsection (5)(b)(i) after the identifying information described in Subsection (5)(b)(i) is redacted from the document.]

(3) A person may only inspect and copy the documents described in Subsection (2):

(a) if the adoption proceeding is pending and the person is a party to the adoption proceeding;

(b) within 180 days after the day on which the final decree of adoption is entered if the person is a party to the adoption proceeding;

(c) if the court enters an order expressly permitting the inspection or copying the documents after the person filed a motion to intervene and the motion to intervene was granted on appeal;

(d) if the court enters an order expressly permitting the inspection or copying of the documents after good cause is shown;

(e) if the office is permitted to release the documents to the person as described in Section 81-13-504;

(f) when the documents becomes public 100 years after the day on which the final decree of adoption was entered;

(g) when the birth certificate becomes public 100 years after the day on which the adoptee was born; or

(h) if the person is permitted access to the documents under Subsection (6) or (7).

(4) A person who files a motion to intervene in an adoption proceeding:

(a) is not a party to the adoption proceeding, unless the motion to intervene is granted; and

(b) subject to Subsection (5), may not be granted access to the documents described in Subsection (2), unless the motion to intervene is granted.

(5) If the court enters an order under Subsection (3)(c) or a potential birth father is made a party to the adoption proceeding upon a motion to intervene, the court shall:

(a) prohibit the person described in Subsection (3)(c) or the potential birth father from inspecting a document described in Subsection (2) that contains identifying information of an adoptive or prospective adoptive parent; and

(b) permit the person described in Subsection (3)(c) or the potential birth father to review a copy of the document described in Subsection (5)(a) after the identifying information of the adoptive or prospective adoptive parent is redacted from the document.

(6) (a) A child adoptee, who is 18 years old or older, may access an adoption document associated with the child adoptee's adoption without a court order, unless there is a court order sealing the documents as described in this Subsection (6).

(b) For a birth parent of a child adoptee, the birth parent may bring a petition in a court before the child adoptee reaches 18 years old to keep the documents described in Subsection (2) sealed for 10 years after the day on which the child adoptee reaches 18 years old.

(c) If the court grants a birth parent's petition under Subsection (6)(b), the birth parent may bring a petition, every 10 years and before the court order expires, to keep the documents sealed for an additional 10 years.

(d) The court may only grant a petition under Subsection (6)(b) or (6)(c) if:

(i) access to the documents described in Subsection (2) would place the birth parent in reasonable fear of harm; or

(ii) there is good cause to prevent access to the documents described in Subsection (2) that is similar to the good cause described in Subsection (6)(d)(i).

(7) An adult adoptee, or the adoptive parent of the adult adoptee, may inspect an adoption document associated with the adult adoptee's adoption without a court order, unless the final decree of adoption is entered by the juvenile court.

(8) A pre-existing parent may not access the documents described in Subsection (2)."; and
(3) the changes to Section 78B-6-141 in H.B. 129 not be made.

Section 393. Coordinating S.B. 119 with H.B. 21.

If S.B. 119, Domestic Relations Recodification, and H.B. 21, Criminal Code Recodification and Cross References, both pass and become law, the Legislature intends that, on September 1, 2025, Section 81-13-201 in S.B. 119 be amended to read:

" 81-13-201. Definitions for part.

As used in this part:

(1) "Sexual offense" means:

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

(b) an offense under the laws of the state where the minor child was conceived that is

substantially similar to an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses.

(2) "Sexual offense" does not include:

(a) an offense described in Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420; or

(b) an offense under the laws of the state where the minor child was conceived that is substantially similar to an offense described in Section 76-5-417, 76-5-418, 76-5-419, or 76-5-420."

Section 394. Coordinating S.B. 119 with H.B. 141.

If S.B. 119, Domestic Relations Recodification, and H.B. 141, Adoption Modifications, both pass and become law, the Legislature intends that, on September 1, 2025, Subsection 81-13-403(1)(c)(i) (renumbered from Section 78B-6-128) in S.B. 119 be amended to read:

"(c)(i) Unless the court otherwise requests the preplacement adoption evaluation,

Subsection (1)(a) does not apply if:

(A) a ~~[pre-existing parent]~~ birth parent has legal custody of the ~~[child to be adopted]~~ adoptee and the prospective adoptive parent is related to ~~[that child]~~ the adoptee or the ~~[pre-existing parent]~~ birth parent as a stepparent, sibling by half or whole blood or by adoption, grandparent, aunt, uncle, or first cousin~~[- unless the court otherwise requests the preplacement adoption.];~~

(B) a birth parent has or had legal custody of the adoptee, the prospective adoptive parent was previously married to the birth parent, and the prospective adoptive parent has lived with the adoptee for at least 180 days before the day on which the petition for adoption was filed; or

(C) the adoptee has lived in the adoptive home with the prospective adoptive parent for at least one year before the day on which the petition for adoption was filed and the court finds that the adoption is in the best interest of the adoptee."

Section 395. Coordinating S.B. 119 with H.B. 283.

If S.B. 119, Domestic Relations Recodification, and H.B. 283, Child and Family Services Amendments, both pass and become law, the Legislature intends that, on September 1, 2025, Subsection 80-2-1005(1)(e) be amended to read:

"(e) the subject of the report, the ~~[natural]~~ parents of the child, an individual who has been awarded permanent custody and guardianship of the child, and the guardian ad litem;"