

# SB0177S02 compared with SB0177

{Omitted text} shows text that was in SB0177 but was omitted in SB0177S02

inserted text shows text that was not in SB0177 but was inserted into SB0177S02

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## Child Welfare Amendments

2025 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Wayne A. Harper**

House Sponsor: Christine F. Watkins

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### LONG TITLE

#### General Description:

This bill amends provisions related to child safety and welfare.

#### Highlighted Provisions:

This bill:

- creates a process by which a child in the state's custody may use a Division of Child and Family Services' address for purposes of a driver license;

- amends definitions for the Juvenile Code;

- amends provisions regarding the time and circumstances under which a person may seek review of certain child abuse or neglect findings;

- addresses the evidence that a juvenile court shall hear at a shelter hearing;

- addresses what a juvenile court considers when determining whether reunification services are appropriate; and

- makes technical and conforming changes.

#### Money Appropriated in this Bill:

None

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19 None

22 AMENDS:

23 **26B-1-211** , as renumbered and amended by Laws of Utah 2022, Chapter 255 , as renumbered and  
amended by Laws of Utah 2022, Chapter 255

24 **26B-2-120** , as last amended by Laws of Utah 2024, Chapter 234 , as last amended by Laws of Utah  
2024, Chapter 234

25 **26B-2-121** , as renumbered and amended by Laws of Utah 2023, Chapter 305 , as renumbered and  
amended by Laws of Utah 2023, Chapter 305

26 **26B-2-240** , as last amended by Laws of Utah 2024, Chapter 310 , as last amended by Laws of Utah  
2024, Chapter 310

27 **53-2d-410** , as last amended by Laws of Utah 2024, Chapter 147 , as last amended by Laws of Utah  
2024, Chapter 147

28 **53-3-104 , as last amended by Laws of Utah 2024, Chapter 106 , as last amended by Laws of  
Utah 2024, Chapter 106**

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29 **78A-6-103** , as last amended by Laws of Utah 2024, Chapter 366 , as last amended by Laws of Utah  
2024, Chapter 366

30 **80-1-102** , as last amended by Laws of Utah 2024, Chapter 256 , as last amended by Laws of Utah  
2024, Chapter 256

31 **80-2-707** , as renumbered and amended by Laws of Utah 2022, Chapter 334 , as renumbered and  
amended by Laws of Utah 2022, Chapter 334

32 **80-2-708** , as renumbered and amended by Laws of Utah 2022, Chapter 334 , as renumbered and  
amended by Laws of Utah 2022, Chapter 334

33 **80-2-1002** , as last amended by Laws of Utah 2024, Chapter 147 , as last amended by Laws of Utah  
2024, Chapter 147

34 **80-2-1003** , as renumbered and amended by Laws of Utah 2022, Chapter 334 , as renumbered and  
amended by Laws of Utah 2022, Chapter 334

35 **80-2-1004** , as last amended by Laws of Utah 2023, Chapter 184 , as last amended by Laws of Utah  
2023, Chapter 184

36 **80-3-301** , as last amended by Laws of Utah 2023, Chapter 309 , as last amended by Laws of Utah  
2023, Chapter 309

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**80-3-404** , as last amended by Laws of Utah 2023, Chapters 310, 330 , as last amended by Laws of Utah 2023, Chapters 310, 330

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

**80-3-504** , as last amended by Laws of Utah 2023, Chapters 310, 330 , as last amended by Laws of Utah 2023, Chapters 310, 330

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

Section 1. Section **26B-1-211** is amended to read:

**26B-1-211. Background checks for employees -- Access to abuse and neglect information to screen employees and volunteers.**

(1) As used in this section, "bureau" means the Bureau of Criminal Identification created in Section 53-10-201.

(2) Beginning July 1, 2018, the department may require a fingerprint-based local, regional, and national criminal history background check and ongoing monitoring of:

(a) all staff, contracted employees, and volunteers who:

(i) have access to protected health information or personal identifying information;

(ii) have direct access to patients, children, or vulnerable adults as defined in Section 26B-2-101;

(iii) work in areas of privacy and data security;

(iv) handle financial information, including receipt of funds, reviewing invoices, making payments, and other types of financial information; and

(v) perform audit functions, whether internal or external, on behalf of the department; and

(b) job applicants who have been offered a position with the department and the job requirements include those described in Subsection (2)(a).

(3) Beginning July 1, 2022, for the purposes described in Subsection (2), the department may also access:

(a) the department's Management Information System created in Section 80-2-1001;

(b) the department's Licensing Information System created in Section 80-2-1002;

(c) the statewide database of the Division of Aging and Adult Services created by Section 26B-6-210; and

(d) juvenile court records under Subsection 80-3-404(4) or 80-3-504(6).

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- 64 (4) Each individual in a position listed in Subsection (2) shall provide a completed fingerprint card to  
the department upon request.
- 66 (5) The department shall require that an individual required to submit to a background check under  
Subsection (4) provide a signed waiver on a form provided by the department that meets the  
requirements of Subsection 53-10-108(4).
- 69 (6) For a noncriminal justice background search and registration in accordance with Subsection  
53-10-108(13), the department shall submit to the bureau:
- 71 (a) the applicant's personal identifying information and fingerprints for a criminal history search of  
applicable local, regional, and national databases; and
- 73 (b) a request for all information received as a result of the local, regional, and nationwide background  
check.
- 75 (7) The department is responsible for the payment of all fees required by Subsection 53-10-108(15) and  
any fees required to be submitted to the Federal Bureau of Investigation by the bureau.
- 78 (8) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative  
Rulemaking Act, that:
- 80 (a) determine how the department will assess the employment status of an individual upon receipt of  
background information;
- 82 (b) determine when an individual would be disqualified from holding a position based on:
- 84 (i) the type of crimes and the severity of those crimes; or
- 85 (ii) one or more substantiated or supported findings of abuse, neglect, or exploitation; and
- 87 (c) identify the appropriate privacy risk mitigation strategy to be used in accordance with Subsection  
53-10-108(13)(b).
- 92 Section 2. Section **26B-2-120** is amended to read:
- 93 **26B-2-120. Background check -- Direct access to children or vulnerable adults.**
- 91 (1) As used in this section:
- 92 (a)
- . (i) "Applicant" means an individual who is associated with a certification, contract, or licensee with the  
department under this part and has direct access, including:
- 95 (A) an adoptive parent or prospective adoptive parent, including an applicant for an adoption in  
accordance with Section 78B-6-128;
- 97 (B) a foster parent or prospective foster parent;

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- 98 (C) an individual who provides respite care to a foster parent or an adoptive parent on more than  
one occasion;
- 100 (D) an individual who transports a child for a youth transportation company;
- 101 (E) an individual who provides certified peer support, as defined in Section 26B-5-610;
- 103 (F) an individual who provides peer supports, has a disability or a family member with a disability,  
or is in recovery from a mental illness or a substance use disorder;
- 106 (G) an individual who has lived experience with the services provided by the department, and  
uses that lived experience to provide support, guidance, or services to promote resiliency and  
recovery;
- 109 (H) an individual who is identified as a mental health professional, licensed under Title 58, Chapter  
60, Mental Health Professional Practice Act, and engaged in the practice of mental health  
therapy, as defined in Section 58-60-102;
- 112 (I) an individual, other than the child or vulnerable adult receiving the service, who is 12 years old  
or older and resides in a home, that is licensed or certified by the division;
- 115 (J) an individual who is 12 years old or older and is associated with a certification, contract, or  
licensee with the department under this part and has or will likely have direct access;
- 118 (K) a foster home licensee that submits an application for an annual background screening as  
required by Subsection 26B-2-105(4)(d)(iii); or
- 120 (L) a short-term relief care provider.
- 121 (ii) "Applicant" does not include:
- 122 (A) an individual who is in the custody of the Division of Child and Family Services or the Division of  
Juvenile Justice and Youth Services;
- 124 (B) an individual who applies for employment with, or is employed by, the Department of Health and  
Human Services;
- 126 (C) a parent of a person receiving services from the Division of Services for People with Disabilities, if  
the parent provides direct care to and resides with the person, including if the parent provides direct  
care to and resides with the person pursuant to a court order; or
- 130 (D) an individual or a department contractor who provides services in an adults only substance use  
disorder program, as defined by rule adopted by the Department of Health and Human Services  
in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and who is not a  
program director or a member, as defined by Section 26B-2-105, of the program.

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- 135 (b) "Application" means a background check application to the office.
- 136 (c) "Bureau" means the Bureau of Criminal Identification within the Department of Public Safety,  
created in Section 53-10-201.
- 138 (d) "Criminal finding" means a record of:
- 139 (i) an arrest for a criminal offense;
- 140 (ii) a warrant for a criminal arrest;
- 141 (iii) charges for a criminal offense; or
- 142 (iv) a criminal conviction.
- 143 (e) "Direct access" means that an individual has, or likely will have:
- 144 (i) contact with or access to a child or vulnerable adult by which the individual will have the  
opportunity for personal communication or touch with the child or vulnerable adult; or
- 147 (ii) an opportunity to view medical, financial, or other confidential personal identifying information of  
the child, the child's parent or legal guardian, or the vulnerable adult.
- 150 (f)
- . (i) "Direct access qualified" means that the applicant has an eligible determination by the office within  
the license and renewal time period; and
- 152 (ii) no more than 180 days have passed since the date on which the applicant's association with a  
certification, contract, or licensee with the department expires.
- 154 (g) "Incidental care" means occasional care, not in excess of five hours per week and never overnight,  
for a foster child.
- 156 (h) "Licensee" means an individual or a human services program licensed by the division.
- 158 (i) "Non-criminal finding" means a record maintained in:
- 159 (i) the Division of Child and Family Services' Management Information System described in Section  
80-2-1001;
- 161 (ii) the Division of Child and Family Services' Licensing Information System described in Section  
80-2-1002;
- 163 (iii) the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database  
described in Section 26B-6-210;
- 165 (iv) juvenile court arrest, adjudication, and disposition records;
- 166 (v) the Sex, Kidnap, and Child Abuse Offender Registry described in Title 77, Chapter 41, Sex, Kidnap,  
and Child Abuse Offender Registry, or a national sex offender registry; or

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- 169 (vi) a state child abuse or neglect registry.
- 170 (j) "Office" means the Office of Background Processing within the department.
- 171 (k) "Personal identifying information" means:
- 172 (i) current name, former names, nicknames, and aliases;
- 173 (ii) date of birth;
- 174 (iii) physical address and email address;
- 175 (iv) telephone number;
- 176 (v) driver license or other government-issued identification;
- 177 (vi) social security number;
- 178 (vii) only for applicants who are 18 years old or older, fingerprints, in a form specified by the office;  
and
- 180 (viii) other information specified by the office by rule made in accordance with Title 63G, Chapter 3,  
Utah Administrative Rulemaking Act.
- 182 (2) Except as provided in Subsection (12), an applicant or a representative shall submit the following to  
the office:
- 184 (a) personal identifying information;
- 185 (b) a fee established by the office under Section 63J-1-504;
- 186 (c) a disclosure form, specified by the office, for consent for:
- 187 (i) an initial background check upon association with a certification, contract, or licensee with the  
department;
- 189 (ii) ongoing monitoring of fingerprints and registries until no longer associated with a certification,  
contract, or licensee with the department for 180 days;
- 191 (iii) a background check when the office determines that reasonable cause exists; and
- 192 (iv) retention of personal identifying information, including fingerprints, for monitoring and notification  
as described in Subsections (3)(c) and (4);
- 194 (d) if an applicant resided outside of the United States and its territories during the five years  
immediately preceding the day on which the information described in Subsections (2)(a) through  
(c) is submitted to the office, documentation establishing whether the applicant was convicted of a  
crime during the time that the applicant resided outside of the United States or its territories; and
- 199 (e) an application showing an applicant's association with a certification, contract, or a licensee with  
the department, for the purpose of the office tracking the direct access qualified status of the

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applicant, which expires 180 days after the date on which the applicant is no longer associated with a certification, contract, or a licensee with the department.

- 204 (3) The office:
- 205 (a) shall perform the following duties as part of a background check of an applicant before the office grants or denies direct access qualified status to an applicant:
- 207 (i) check state and regional criminal background databases for the applicant's criminal history by:
- 209 (A) submitting personal identifying information to the bureau for a search; or
- 210 (B) using the applicant's personal identifying information to search state and regional criminal background databases as authorized under Section 53-10-108;
- 212 (ii) submit the applicant's personal identifying information and fingerprints to the bureau for a criminal history search of applicable national criminal background databases;
- 215 (iii) search the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002;
- 217 (iv) search the Sex, Kidnap, and Child Abuse Offender Registry described in Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex offender registry for an applicant 18 years old or older;
- 220 (v) if the applicant is associated with a licensee for a prospective foster or adoptive parent, search the Division of Child and Family Services' Management Information System described in Section 80-2-1001;
- 223 (vi) search the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;
- 225 (vii) search the juvenile court records for substantiated findings of severe child abuse or neglect described in Section 80-3-404 or 80-3-504; and
- 227 (viii) search the juvenile court arrest, adjudication, and disposition records, as provided under Section 78A-6-209;
- 229 (b) may conduct all or portions of a background check in connection with determining whether an applicant is direct access qualified, as provided by rule, made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- 232 (i) for an annual renewal; or
- 233 (ii) when the office determines that reasonable cause exists;
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- (c) may submit an applicant's personal identifying information, including fingerprints, to the bureau for checking, retaining, and monitoring of state and national criminal background databases and for notifying the office of new criminal activity associated with the applicant;
- 238 (d) shall track the status of an applicant under this section to ensure that the applicant is not required to duplicate the submission of the applicant's fingerprints if the applicant is associated with more than one certification, contract, or licensee with the department;
- 242 (e) shall notify the bureau when a direct access qualified individual has not been associated with a certification, contract, or licensee with the department for a period of 180 days;
- 245 (f) shall adopt measures to strictly limit access to personal identifying information solely to the individuals responsible for processing and entering the applications for background checks and to protect the security of the personal identifying information the office reviews under this Subsection (3);
- 249 (g) as necessary to comply with the federal requirement to check a state's child abuse and neglect registry regarding any applicant working in a congregate care program, shall:
- 252 (i) search the Division of Child and Family Services' Licensing Information System described in Section 80-2-1002; and
- 254 (ii) require the child abuse and neglect registry be checked in each state where an applicant resided at any time during the five years immediately preceding the day on which the application is submitted to the office; and
- 257 (h) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this Subsection (3) relating to background checks.
- 260 (4)
- . (a) With the personal identifying information the office submits to the bureau under Subsection (3), the bureau shall check against state and regional criminal background databases for the applicant's criminal history.
- 263 (b) With the personal identifying information and fingerprints the office submits to the bureau under Subsection (3), the bureau shall check against national criminal background databases for the applicant's criminal history.
- 266 (c) Upon direction from the office, and with the personal identifying information and fingerprints the office submits to the bureau under Subsection (3)(c), the bureau shall:
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- (i) maintain a separate file of the fingerprints for search by future submissions to the local and regional criminal records databases, including latent prints; and
- 270 (ii) monitor state and regional criminal background databases and identify criminal activity associated with the applicant.
- 272 (d) The bureau is authorized to submit the fingerprints to the Federal Bureau of Investigation Next Generation Identification System, to be retained in the Federal Bureau of Investigation Next Generation Identification System for the purpose of:
  - 275 (i) being searched by future submissions to the national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System and latent prints; and
  - 278 (ii) monitoring national criminal background databases and identifying criminal activity associated with the applicant.
- 280 (e) The [Bureau] bureau shall notify and release to the office all information of criminal activity associated with the applicant.
- 282 (f) Upon notice that an individual who has direct access qualified status will no longer be associated with a certification, contract, or licensee with the department, the bureau shall:
  - 285 (i) discard and destroy any retained fingerprints; and
  - 286 (ii) notify the Federal Bureau of Investigation when the license has expired or an individual's direct access to a child or a vulnerable adult has ceased, so that the Federal Bureau of Investigation will discard and destroy the retained fingerprints from the Federal Bureau of Investigation Next Generation Identification System.
- 290 (5)
  - . (a) Except as provided in Subsection (5)(b), the office shall deny direct access qualified status to an applicant who, within three years from the date on which the office conducts the background check, was convicted of:
    - 293 (i) a felony or misdemeanor involving conduct that constitutes any of the following:
      - 294 (A) an offense identified as domestic violence, lewdness, voyeurism, battery, cruelty to animals, or bestiality;
      - 296 (B) a violation of any pornography law, including sexual exploitation of a minor or aggravated sexual exploitation of a minor;
      - 298 (C) sexual solicitation or prostitution;
      - 299 (D) a violent offense committed in the presence of a child, as described in Section 76-3-203.10;

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- 301 (E) an offense included in Title 76, Chapter 4, Part 4, Enticement of a Minor;
- 302 (F) an offense included in Title 76, Chapter 5, Offenses Against the Individual;
- 303 (G) an offense included in Title 76, Chapter 5b, Sexual Exploitation Act;
- 304 (H) an offense included in Title 76, Chapter 7, Offenses Against the Family;
- 305 (I) an offense included in Title 76, Chapter 9, Part 4, Offenses Against Privacy;
- 306 (J) an offense included in Title 76, Chapter 10, Part 4, Weapons of Mass Destruction;
- 308 (K) an offense included in Title 78B, Chapter 7, Protective Orders and Stalking Injunctions;
- 310 (L) aggravated arson, as described in Section 76-6-103;
- 311 (M) aggravated burglary, as described in Section 76-6-203;
- 312 (N) aggravated exploitation of prostitution, as described in Section 76-10-1306;
- 313 (O) aggravated robbery, as described in Section 76-6-302;
- 314 (P) endangering persons in a human services program, as described in Section 26B-2-113;
- 316 (Q) failure to report, as described in Section 80-2-609;
- 317 (R) identity fraud crime, as described in Section 76-6-1102;
- 318 (S) leaving a child unattended in a motor vehicle, as described in Section 76-10-2202;
- 320 (T) riot, as described in Section 76-9-101;
- 321 (U) sexual battery, as described in Section 76-9-702.1; or
- 322 (V) threatening with or using a dangerous weapon in a fight or quarrel, as described in Section  
76-10-506; or
- 324 (ii) a felony or misdemeanor offense committed outside of the state that, if committed in the state,  
would constitute a violation of an offense described in Subsection (5)(a)(i).
- 327 (b)
  - . (i) Subsection (5)(a) does not apply to an applicant who is seeking a position as a peer support provider  
or a mental health professional, if the applicant provides services in a program that serves only  
adults with a primary mental health diagnosis, with or without a co-occurring substance use  
disorder.
  - 331 (ii) The office shall conduct a comprehensive review of an applicant described in Subsection (5)(b)(i) in  
accordance with Subsection (7).
  - 333 (c) The office shall deny direct access qualified status to an applicant if the office finds that a court  
order prohibits the applicant from having direct access to a child or vulnerable adult.

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- (6) The office shall conduct a comprehensive review of an applicant's background check if the applicant:
- 338 (a) has a felony or class A misdemeanor conviction that is more than three years from the date on which the office conducts the background check, for an offense described in Subsection (5)(a);
  - 341 (b) has a felony charge or conviction that is no more than 10 years from the date on which the office conducts the background check for an offense not described in Subsection (5)(a);
  - 344 (c) has a felony charge or conviction that is more than 10 years from the date on which the office conducts the background check, for an offense not described in Subsection (5)(a), with criminal or non-criminal findings after the date of the felony charge or conviction;
  - 348 (d) has a class B misdemeanor or class C misdemeanor conviction that is more than three years and no more than 10 years from the date on which the office conducts the background check for an offense described in Subsection (5)(a);
  - 351 (e) has a class B misdemeanor or class C misdemeanor conviction that is more than 10 years from the date on which the office conducts the background check, for an offense described in Subsection (5)(a), with criminal or non-criminal findings after the date of conviction;
  - 355 (f) has a misdemeanor charge or conviction that is no more than three years from the date on which the office conducts the background check for an offense not described in Subsection (5)(a);
  - 358 (g) has a misdemeanor charge or conviction that is more than three years from the date on which the office conducts the background check, for an offense not described in Subsection (5)(a), with criminal or non-criminal findings after the date of charge or conviction;
  - 362 (h) is currently subject to a plea in abeyance or diversion agreement for an offense described in Subsection (5)(a);
  - 364 (i) appears on the Sex, Kidnap, and Child Abuse Offender Registry described in Title 77, Chapter 41, Sex, Kidnap, and Child Abuse Offender Registry, or a national sex offender registry;
  - 367 (j) has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or misdemeanor, if the applicant is:
    - 369 (i) under 28 years old; or
    - 370 (ii) 28 years old or older and has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or a misdemeanor offense described in Subsection (5)(a);
  - 373 (k) has a pending charge for an offense described in Subsection (5)(a);

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- 374 (l) has a listing that occurred no more than 15 years from the date on which the office conducts the  
background check in the Division of Child and Family Services' Licensing Information System  
described in Section 80-2-1002;
- 377 (m) has a listing that occurred more than 15 years from the date on which the office conducts the  
background check in the Division of Child and Family Services' Licensing Information System  
described in Section 80-2-1002, with criminal or non-criminal findings after the date of the listing;
- 381 (n) has a listing that occurred no more than 15 years from the date on which the office conducts the  
background check in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or  
exploitation database described in Section 26B-6-210;
- 385 (o) has a listing that occurred more than 15 years from the date on which the office conducts the  
background check in the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or  
exploitation database described in Section 26B-6-210, with criminal or non-criminal findings after  
the date of the listing;
- 389 (p) has a substantiated finding that occurred no more than 15 years from the date on which the  
office conducts the background check of severe child abuse or neglect under Section 80-3-404 or  
80-3-504[-]; or
- 392 (q) has a substantiated finding that occurred more than 15 years from the date on which the office  
conducts the background check of severe child abuse or neglect under Section 80-3-404 or  
80-3-504, with criminal or non-criminal findings after the date of the listing.
- 396 (7)
- . (a) The comprehensive review shall include an examination of:
- 397 (i) the date of the offense or incident;
- 398 (ii) the nature and seriousness of the offense or incident;
- 399 (iii) the circumstances under which the offense or incident occurred;
- 400 (iv) the age of the perpetrator when the offense or incident occurred;
- 401 (v) whether the offense or incident was an isolated or repeated incident;
- 402 (vi) whether the offense or incident directly relates to abuse of a child or vulnerable adult,  
including:
- 404 (A) actual or threatened, nonaccidental physical, mental, or financial harm;
- 405 (B) sexual abuse;
- 406 (C) sexual exploitation; or

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- 407 (D) negligent treatment;
- 408 (vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric treatment  
received, or additional academic or vocational schooling completed;
- 410 (viii) the applicant's risk of harm to clientele in the program or in the capacity for which the  
applicant is applying; and
- 412 (ix) if the background check of an applicant is being conducted for the purpose of giving direct  
access qualified status to an applicant seeking a position in a congregate care program or to  
become a prospective foster or adoptive parent, any listing in the Division of Child and Family  
Services' Management Information System described in Section 80-2-1001.
- 417 (b) At the conclusion of the comprehensive review, the office shall deny direct access qualified status  
to an applicant if the office finds the approval would likely create a risk of harm to a child or  
vulnerable adult.
- 420 (8) The office shall grant direct access qualified status to an applicant who is not denied under this  
section.
- 422 (9)
- . (a) The office may conditionally grant direct access qualified status to an applicant, for a maximum of  
60 days after the day on which the office sends written notice, without requiring that the applicant  
be directly supervised, if the office:
- 425 (i) is awaiting the results of the criminal history search of national criminal background databases;  
and
- 427 (ii) would otherwise grant direct access qualified status to the applicant under this section.
- 429 (b) The office may conditionally grant direct access qualified status to an applicant, for a maximum of  
one year after the day on which the office sends written notice, without requiring that the applicant  
be directly supervised if the office:
- 432 (i) is awaiting the results of an out-of-state registry for providers other than foster and adoptive parents;  
and
- 434 (ii) would otherwise grant direct access qualified status to the applicant under this section.
- 436 (c) Upon receiving the results of the criminal history search of a national criminal background database,  
the office shall grant or deny direct access qualified status to the applicant in accordance with this  
section.
- 439 (10)

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- . (a) Each time an applicant is associated with a licensee, the department shall review the current status of the applicant's background check to ensure the applicant is still eligible for direct access qualified status in accordance with this section.
- 442 (b) A licensee may not permit an individual to have direct access to a child or a vulnerable adult without being directly supervised unless:
- 444 (i) the individual is the parent or guardian of the child, or the guardian of the vulnerable adult;
- 446 (ii) the individual is approved by the parent or guardian of the child, or the guardian of the vulnerable adult, to have direct access to the child or the vulnerable adult;
- 448 (iii) the individual is only permitted to have direct access to a vulnerable adult who voluntarily invites the individual to visit; or
- 450 (iv) the individual only provides incidental care for a foster child on behalf of a foster parent who has used reasonable and prudent judgment to select the individual to provide the incidental care for the foster child.
- 453 (c) Notwithstanding any other provision of this section, an applicant who is denied direct access qualified status shall not have direct access to a child or vulnerable adult unless the office grants direct access qualified status to the applicant through a subsequent application in accordance with this section.
- 457 (11) If the office denies direct access qualified status to an applicant, the applicant may request a hearing in the department's Office of Administrative Hearings to challenge the office's decision.
- 460 (12)
- . (a) This Subsection (12) applies to an applicant associated with a certification, contract, or licensee serving adults only.
- 462 (b) A program director or a member, as defined in Section 26B-2-105, of the licensee shall comply with this section.
- 464 (c) The office shall conduct a comprehensive review for an applicant if:
- 465 (i) the applicant is seeking a position:
- 466 (A) as a peer support provider;
- 467 (B) as a mental health professional; or
- 468 (C) in a program that serves only adults with a primary mental health diagnosis, with or without a co-occurring substance use disorder; and
- 470

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- (ii) within three years from the date on which the office conducts the background check, the applicant has a felony or misdemeanor charge or conviction or a non-criminal finding.

473 (13)

- (a) This Subsection (13) applies to an applicant seeking a position in a congregate care program, an applicant seeking to provide a prospective foster home, an applicant seeking to provide a prospective adoptive home, and each adult living in the home of the prospective foster or prospective adoptive home.

477 (b) As federally required, the office shall:

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

483 (ii) except for applicants seeking a position in a congregate care program, check the child abuse and neglect registry in each state where each adult living in the home of the prospective foster or adoptive home resided in the five years immediately preceding the day on which the applicant applied to be a foster 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.

489 (c) The requirements described in Subsection (13)(b) do not apply to the extent that:

490 (i) federal law or rule permits otherwise; or

491 (ii) the requirements would prohibit the Division of Child and Family Services or a court from placing a child with:

493 (A) a noncustodial parent under Section 80-2a-301, 80-3-302, or 80-3-303; or

494 (B) a relative, other than a noncustodial parent, under Section 80-2a-301, 80-3-302, or 80-3-303, pending completion of the background check described in Subsections (5), (6), and (7).

497 (d) Notwithstanding Subsections (5) through (10), the office shall deny direct access qualified status if the applicant has been convicted of:

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

500 (A) child abuse, as described in Sections 76-5-109, 76-5-109.2, and 76-5-109.3;

501 (B) commission of domestic violence in the presence of a child, as described in Section 76-5-114;

503 (C) abuse or neglect of a child with a disability, as described in Section 76-5-110;

504 (D) intentional aggravated abuse of a vulnerable adult, as described in Section 76-5-111;



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- 506 (E) endangerment of a child or vulnerable adult, as described in Section 76-5-112.5;
- 508 (F) aggravated murder, as described in Section 76-5-202;
- 509 (G) murder, as described in Section 76-5-203;
- 510 (H) manslaughter, as described in Section 76-5-205;
- 511 (I) child abuse homicide, as described in Section 76-5-208;
- 512 (J) homicide by assault, as described in Section 76-5-209;
- 513 (K) kidnapping, as described in Section 76-5-301;
- 514 (L) child kidnapping, as described in Section 76-5-301.1;
- 515 (M) aggravated kidnapping, as described in Section 76-5-302;
- 516 (N) human trafficking of a child, as described in Section 76-5-308.5;
- 517 (O) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;
- 518 (P) sexual exploitation of a minor, as described in Title 76, Chapter 5b, Sexual Exploitation Act;
- 520 (Q) aggravated exploitation of a minor, as described in Section 76-5b-201.1;
- 521 (R) aggravated arson, as described in Section 76-6-103;
- 522 (S) aggravated burglary, as described in Section 76-6-203;
- 523 (T) aggravated robbery, as described in Section 76-6-302;
- 524 (U) lewdness involving a child, as described in Section 76-9-702.5;
- 525 (V) incest, as described in Section 76-7-102; or
- 526 (W) domestic violence, as described in Section 77-36-1; or
- 527 (ii) an offense committed outside the state that, if committed in the state, would constitute a violation of  
an offense described in Subsection (13)(d)(i).
- 529 (e) Notwithstanding Subsections (5) through (10), the office shall deny direct access qualified status  
to an applicant if, within the five years from the date on which the office conducts the background  
check, the applicant was convicted of a felony involving conduct that constitutes a violation of any  
of the following:
  - 533 (i) aggravated assault, as described in Section 76-5-103;
  - 534 (ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;
  - 535 (iii) mayhem, as described in Section 76-5-105;
  - 536 (iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;
  - 537 (v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
  - 538 (vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances Act;

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- 540 (vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or  
542 (viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.
- 543 (f) In addition to the circumstances described in Subsection (6), the office shall conduct a  
comprehensive review of an applicant's background check under this section if the applicant:
- 546 (i) has an offense described in Subsection (5)(a);  
547 (ii) has an infraction conviction entered on a date that is no more than three years before the date on  
which the office conducts the background check;
- 549 (iii) has a listing in the Division of Child and Family Services' Licensing Information System described  
in Section 80-2-1002;
- 551 (iv) has a listing in the Division of Aging and Adult Services' vulnerable adult, neglect, or exploitation  
database described in Section 26B-2-210;
- 553 (v) has a substantiated finding of severe child abuse or neglect under Section 80-3-404 or 80-3-504; or  
555 (vi) has a listing on the registry check described in Subsection (13)(b) as having a substantiated or  
supported finding of a severe type of child abuse or neglect, as defined in Section 80-1-102.
- 558 (14) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may  
make rules, consistent with this part, to:
- 560 (a) establish procedures for, and information to be examined in, the comprehensive review described in  
Subsections (6), (7), and (13); and
- 562 (b) determine whether to consider an offense or incident that occurred while an individual was in the  
custody of the Division of Child and Family Services or the Division of Juvenile Justice and Youth  
Services for purposes of granting or denying direct access qualified status to an applicant.
- 569 Section 3. Section **26B-2-121** is amended to read:
- 570 **26B-2-121. Access to abuse and neglect information.**
- 568 (1) As used in this section:
- 569 (a) "Direct service worker" means the same as that term is defined in Section 26B-6-401.  
570 (b) "Personal care attendant" means the same as that term is defined in Section 26B-6-401.
- 572 (2) With respect to a licensee, a direct service worker, or a personal care attendant, the department may  
access only the Licensing Information System of the Division of Child and Family Services created  
by Section 80-2-1002 and juvenile court records under Subsection 80-3-404(4) or 80-3-504(6), for  
the purpose of:
- 576 (a)

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- . (i) determining whether a person associated with a licensee, with direct access to children:
  - 578 (A) is listed in the Licensing Information System; or
  - 579 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under  
[Subsections 80-3-404(1) and (2)] Section 80-3-404 or 80-3-504; and
  - 582 (ii) informing a licensee that a person associated with the licensee:
    - 583 (A) is listed in the Licensing Information System; or
    - 584 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under  
[Subsections 80-3-404(1) and (2)] Section 80-3-404 or 80-3-504;
    - 587 (b)
  - . (i) determining whether a direct service worker:
    - 588 (A) is listed in the Licensing Information System; or
    - 589 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under  
[Subsections 80-3-404(1) and (2)] Section 80-3-404 or 80-3-504; and
    - 592 (ii) informing a direct service worker or the direct service worker's employer that the direct service  
worker:
      - 594 (A) is listed in the Licensing Information System; or
      - 595 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under  
[Subsections 80-3-404(1) and (2)] Section 80-3-404 or 80-3-504; or
      - 598 (c)
    - . (i) determining whether a personal care attendant:
      - 599 (A) is listed in the Licensing Information System; or
      - 600 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under  
[Subsections 80-3-404(1) and (2)] Section 80-3-404 or 80-3-504; and
      - 603 (ii) informing a person described in Subsections 26B-6-101(9)(a)(i) through (iv) that a personal care  
attendant:
        - 605 (A) is listed in the Licensing Information System; or
        - 606 (B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under  
[Subsections 80-3-404(1) and (2)] Section 80-3-404 or 80-3-504.
        - 609 (3) Notwithstanding Subsection (2), the department may access the Division of Child and Family  
Services' Management Information System under Section 80-2-1001:
        - 611 (a) for the purpose of licensing and monitoring foster parents;

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- 612 (b) for the purposes described in Subsection 80-2-1001(5)(b)(iii); and  
613 (c) for the purpose described in Section 26B-1-211.
- 614 (4) The department shall receive and process personal identifying information under Subsection  
26B-2-120(1) for the purposes described in Subsection (2).
- 616 (5) The department shall adopt rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
consistent with this part, defining the circumstances under which a person may have direct access or  
provide services to children when:
- 619 (a) the person is listed in the Licensing Information System of the Division of Child and Family  
Services created by Section 80-2-1002; or
- 621 (b) juvenile court records show that a court made a substantiated finding under Section 80-3-404 or  
80-3-504, that the person committed a severe type of child abuse or neglect.
- 627 Section 4. Section **26B-2-240** is amended to read:
- 628 **26B-2-240. Department authorized to grant, deny, or revoke clearance -- Department may  
limit direct patient access -- Clearance.**
- 627 (1) The definitions in Section 26B-2-238 apply to this section.
- 628 (2)
- . (a) As provided in this section, the department may grant, deny, or revoke certification for direct patient  
access for an individual, including a covered individual.
- 630 (b) The department may limit the circumstances under which a covered individual granted certification  
for direct patient access may have direct patient access, based on the relationship factors under  
Subsection (4) and other mitigating factors related to patient and resident protection.
- 634 (c) The department shall determine whether to grant certification for direct patient access for each  
applicant for whom it receives:
- 636 (i) the personal identification information specified by the department under Subsection (4)(b); and  
638 (ii) any fees established by the department under Subsection (9).
- 639 (d) The department shall:
- 640 (i) establish a procedure for obtaining and evaluating relevant information concerning covered  
individuals, including fingerprinting the applicant and submitting the prints to the Criminal  
Investigations and Technical Services Division of the Department of Public Safety for checking  
against applicable state, regional, and national criminal records files; and

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- (ii) require that a certification for direct patient access include a fingerprint-based criminal history background check in the databases described under Subsection (3)(a), including the inclusion of the individual's fingerprints in a rap back system.

648 (3) The department may review the following sources to determine whether an individual should be granted or retain certification for direct patient access, which may include:

- 650 (a) Department of Public Safety arrest, conviction, and disposition records described in Title 53, Chapter 10, Criminal Investigations and Technical Services Act, including information in state, regional, and national records files;
- 653 (b) juvenile court arrest, adjudication, and disposition records, as allowed under Section 78A-6-209;
- 655 (c) federal criminal background databases available to the state;
- 656 (d) the Division of Child and Family Services Licensing Information System described in Section 80-2-1002;
- 658 (e) child abuse or neglect findings described in Section 80-3-404 or 80-3-504;
- 659 (f) the Division of Aging and Adult Services vulnerable adult abuse, neglect, or exploitation database described in Section 26B-6-210;
- 661 (g) registries of nurse aids described in 42 C.F.R. Sec. 483.156;
- 662 (h) licensing and certification records of individuals licensed or certified by the Division of Professional Licensing under Title 58, Occupations and Professions; and
- 664 (i) the List of Excluded Individuals and Entities database maintained by the United States Department of Health and Human Services' Office of Inspector General.
- 666 (4) The department shall adopt rules that:
- 667 (a) specify the criteria the department will use to determine whether an individual is granted or retains certification for direct patient access:
- 669 (i) based on an initial evaluation and ongoing review of information under Subsection (3); and
- 671 (ii) including consideration of the relationship the following may have to patient and resident protection:
- 673 (A) warrants for arrest;
- 674 (B) arrests;
- 675 (C) convictions, including pleas in abeyance;
- 676 (D) pending diversion agreements;
- 677

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(E) adjudications by a juvenile court under Section 80-6-701 if the individual is over 28 years old and has been convicted, has pleaded no contest, or is subject to a plea in abeyance or diversion agreement for a felony or misdemeanor, or the individual is under 28 years old; and

681 (F) any other findings under Subsection (3); and

682 (b) specify the personal identification information that must be submitted by an individual or covered body with an application for certification for direct patient access, including:

685 (i) the applicant's [~~Social Security~~] social security number; and

686 (ii) fingerprints.

687 (5) For purposes of Subsection (4)(a), the department shall classify a crime committed in another state according to the closest matching crime under Utah law, regardless of how the crime is classified in the state where the crime was committed.

690 (6) The Department of Public Safety, the Administrative Office of the Courts, the Division of Professional Licensing, and any other state agency or political subdivision of the state:

692 (a) shall allow the department to review the information the department may review under Subsection (3); and

694 (b) except for the Department of Public Safety, may not charge the department for access to the information.

696 (7) The department shall adopt measures to protect the security of the information it reviews under Subsection (3) and strictly limit access to the information to department employees responsible for processing an application for certification for direct patient access.

700 (8) The department may disclose personal identification information specified under Subsection (4)(b) to other divisions and offices within the department to verify that the subject of the information is not identified as a perpetrator or offender in the information sources described in Subsections (3)(d) through (f).

704 (9) The department may establish fees, in accordance with Section 63J-1-504, for an application for certification for direct patient access, which may include:

706 (a) the cost of obtaining and reviewing information under Subsection (3);

707 (b) a portion of the cost of creating and maintaining the Direct Access Clearance System database under Section 26B-2-241; and

709

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- (c) other department costs related to the processing of the application and the ongoing review of information pursuant to Subsection (4)(a) to determine whether certification for direct patient access should be retained.

715       Section 5. Section **53-2d-410** is amended to read:

716       **53-2d-410. Background clearance for emergency medical service personnel.**

714       (1) Subject to Section 53-2d-410.5, the bureau shall determine whether to grant background clearance for an individual seeking licensure or certification under Section 53-2d-402 from whom the bureau receives:

717       (a) the individual's social security number, fingerprints, and other personal identification information specified by the department under Subsection (4); and

719       (b) any fees established by the department under Subsection (10).

720       (2) The bureau shall determine whether to deny or revoke background clearance for individuals for whom the department has previously granted background clearance.

722       (3) The bureau shall determine whether to grant, deny, or revoke background clearance for an individual based on an initial and ongoing evaluation of information the bureau obtains under Subsections (5) and (11), which, at a minimum, shall include an initial criminal background check of state, regional, and national databases using the individual's fingerprints.

727       (4) The bureau shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that specify:

729       (a) the criteria the bureau will use under Subsection (3) to determine whether to grant, deny, or revoke background clearance; and

731       (b) the other personal identification information an individual seeking licensure or certification under Section 53-2d-402 must submit under Subsection (1).

733       (5) To determine whether to grant, deny, or revoke background clearance, the bureau may access and evaluate any of the following:

735       (a) Department of Public Safety arrest, conviction, and disposition records described in Chapter 10, Criminal Investigations and Technical Services Act, including information in state, regional, and national records files;

738       (b) adjudications by a juvenile court of committing an act that if committed by an adult would be a felony or misdemeanor, if:

740       (i) the applicant is under 28 years old; or

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- 741 (ii) the applicant:
- 742 (A) is over 28 years old; and
- 743 (B) has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or  
diversion agreement for a felony or misdemeanor;
- 745 (c) juvenile court arrest, adjudication, and disposition records, other than those under Subsection (5)(b),  
as allowed under Section 78A-6-209;
- 747 (d) child abuse or neglect findings described in Section 80-3-404 or 80-3-504;
- 748 (e) the department's Licensing Information System described in Section 80-2-1002;
- 749 (f) the department's database of reports of vulnerable adult abuse, neglect, or exploitation, described in  
Section 26B-6-210;
- 751 (g) Division of Professional Licensing records of licensing and certification under Title 58, Occupations  
and Professions;
- 753 (h) records in other federal criminal background databases available to the state; and
- 754 (i) any other records of arrests, warrants for arrest, convictions, pleas in abeyance, pending diversion  
agreements, or dispositions.
- 756 (6) Except for the Department of Public Safety, an agency may not charge the bureau for information  
accessed under Subsection (5).
- 758 (7) When evaluating information under Subsection (3), the bureau shall classify a crime committed in  
another state according to the closest matching crime under Utah law, regardless of how the crime is  
classified in the state where the crime was committed.
- 761 (8) The bureau shall adopt measures to protect the security of information the department accesses  
under Subsection (5), which shall include limiting access by department employees to those  
responsible for acquiring, evaluating, or otherwise processing the information.
- 765 (9) The bureau may disclose personal identification information the bureau receives under Subsection  
(1) to the department to verify that the subject of the information is not identified as a perpetrator or  
offender in the information sources described in Subsections (5)(d) through (f).
- 769 (10) The bureau may charge fees, in accordance with Section 63J-1-504, to pay for:
- 770 (a) the cost of obtaining, storing, and evaluating information needed under Subsection (3), both initially  
and on an ongoing basis, to determine whether to grant, deny, or revoke background clearance; and
- 773 (b) other bureau costs related to granting, denying, or revoking background clearance.
- 774



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(11) The Criminal Investigations and Technical Services Division within the Department of Public Safety shall:

- 776 (a) retain, separate from other division records, personal information under Subsection (1), including  
any fingerprints sent to it by the department; and
- 778 (b) notify the bureau upon receiving notice that an individual for whom personal information has been  
retained is the subject of:
- 780 (i) a warrant for arrest;
- 781 (ii) an arrest;
- 782 (iii) a conviction, including a plea in abeyance; or
- 783 (iv) a pending diversion agreement.
- 784 (12) Clearance granted for an individual licensed or certified under Section 53-2d-402 is valid until two  
years after the day on which the individual is no longer licensed or certified in Utah as emergency  
medical service personnel.

790 Section 6. Section 53-3-104 is amended to read:

791 **53-3-104. Division duties.**

The division shall:

- 793 (1) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules:
- 795 (a) for examining applicants for a license, as necessary for the safety and welfare of the traveling  
public;
- 797 (b) for acceptable documentation of an applicant's identity, Social Security number, Utah resident  
status, Utah residence address, proof of legal presence, proof of citizenship in the United States,  
honorable or general discharge from the United States military, and other proof or documentation  
required under this chapter;
- 801 (c) for acceptable documentation to verify that an individual is in the state's legal custody as verified by  
the Division of Child and Family Services within the Department of Health and Human Services, for  
purposes of residency and address verification;
- 805 (d) to allow an individual who is verified to be in the legal custody of the state pursuant to Subsection  
(1)(c) to use the address of a local Division of Child and Family Services office as the individual's  
residence address;

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~~[(e)]~~ (e) for acceptable documentation to verify that an individual is homeless as verified by the Department of Workforce Services, for purposes of residency, address verification, and obtaining a fee waiver;

811 ~~[(d)]~~ (f) regarding the restrictions to be imposed on an individual driving a motor vehicle with a temporary learner permit or learner permit;

813 ~~[(e)]~~ (g) for exemptions from licensing requirements as authorized in this chapter;

814 ~~[(f)]~~ (h) establishing procedures for the storage and maintenance of applicant information provided in accordance with Section 53-3-205, 53-3-410, or 53-3-804; and

816 ~~[(g)]~~ (i) to provide educational information to each applicant for a license, which information shall be based on data provided by the Division of Air Quality, including:

818 (i) ways drivers can improve air quality; and

819 (ii) the harmful effects of vehicle emissions;

820 (2) examine each applicant according to the class of license applied for;

821 (3) license motor vehicle drivers;

822 (4) file every application for a license received by the division and shall maintain indices containing:

824 (a) all applications denied and the reason each was denied;

825 (b) all applications granted; and

826 (c) the name of every licensee whose license has been suspended, disqualified, or revoked by the division and the reasons for the action;

828 (5) suspend, revoke, disqualify, cancel, or deny any license issued in accordance with this chapter;

830 (6) file all accident reports and abstracts of court records of convictions received by the division under state law;

832 (7) maintain a record of each licensee showing the licensee's convictions and the traffic accidents in which the licensee has been involved where a conviction has resulted;

834 (8) consider the record of a licensee upon an application for renewal of a license and at other appropriate times;

836 (9) search the license files, compile, and furnish a report on the driving record of any individual licensed in the state in accordance with Section 53-3-109;

838 (10) develop and implement a record system as required by Section 41-6a-604;

839 (11) in accordance with Section 53G-10-507, establish:

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(a) procedures and standards to certify teachers of driver education classes to administer knowledge and skills tests;

842 (b) minimal standards for the tests; and

843 (c) procedures to enable school districts to administer or process any tests for students to receive a class D operator's license;

845 (12) in accordance with Section 53-3-510, establish:

846 (a) procedures and standards to certify licensed instructors of commercial driver training school courses to administer the skills test;

848 (b) minimal standards for the test; and

849 (c) procedures to enable licensed commercial driver training schools to administer or process skills tests for students to receive a class D operator's license;

851 (13) provide administrative support to the Driver License Medical Advisory Board created in Section 53-3-303;

853 (14) upon request by the lieutenant governor, provide the lieutenant governor with a digital copy of the driver license or identification card signature of an individual who is an applicant for voter registration under Section 20A-2-206;

856 (15) in accordance with Section 53-3-407.1, establish:

857 (a) procedures and standards to license a commercial driver license third party tester or commercial driver license third party examiner to administer the commercial driver license skills tests;

860 (b) minimum standards for the commercial driver license skills test; and

861 (c) procedures to enable a licensed commercial driver license third party tester or commercial driver license third party examiner to administer a commercial driver license skills test for an applicant to receive a commercial driver license; and

864 (16) receive from the Department of Health and Human Services a result from a blood or urine test of an individual arrested for driving under the influence and use the blood or urine test result in an administrative hearing or agency review involving the individual who is the subject of the blood or urine test as described in Section 53-3-111.

868 Section 7. Section **78A-6-103** is amended to read:

869 **78A-6-103. Original jurisdiction of the juvenile court -- Magistrate functions -- Findings -- Transfer of a case from another court.**

790 (1) Except as provided in Subsection (3), the juvenile court has original jurisdiction over:

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- 791 (a) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal, state, or federal  
law, that was committed by a child;
- 793 (b) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal, state, or federal  
law, that was committed by an individual:
- 795 (i) who is under 21 years old at the time of all court proceedings; and
- 796 (ii) who was under 18 years old at the time the offense was committed; and
- 797 (c) a misdemeanor, infraction, or violation of an ordinance, under municipal or state law, that was  
committed:
- 799 (i) by an individual:
- 800 (A) who was 18 years old and enrolled in high school at the time of the offense; and
- 802 (B) who is under 21 years old at the time of all court proceedings; and
- 803 (ii) on school property where the individual was enrolled:
- 804 (A) when school was in session; or
- 805 (B) during a school-sponsored activity, as defined in Section 53G-8-211.
- 806 (2) The juvenile court has original jurisdiction over:
- 807 (a) any proceeding concerning:
- 808 (i) a child who is an abused child, neglected child, or dependent child;
- 809 (ii) a protective order for a child in accordance with Title 78B, Chapter 7, Part 2, Child Protective  
Orders;
- 811 (iii) the appointment of a guardian of the individual or other guardian of a minor who comes within the  
court's jurisdiction under other provisions of this section;
- 813 (iv) the emancipation of a minor in accordance with Title 80, Chapter 7, Emancipation;
- 815 (v) the termination of parental rights in accordance with Title 80, Chapter 4, Termination and  
Restoration of Parental Rights, including termination of residual parental rights and duties;
- 818 (vi) the treatment or commitment of a minor who has an intellectual disability;
- 819 (vii) the judicial consent to the marriage of a minor who is 16 or 17 years old in accordance with  
Section 81-2-304;
- 821 (viii) an order for a parent or a guardian of a child under Subsection 80-6-705(3);
- 822 (ix) a minor under Title 80, Chapter 6, Part 11, Interstate Compact for Juveniles;
- 823 (x) the treatment or commitment of a child with a mental illness;
- 824

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- (xi) the commitment of a child to a secure drug or alcohol facility in accordance with Section 26B-5-204;
- 826 (xii) a minor found not competent to proceed in accordance with Title 80, Chapter 6, Part 4, Competency;
- 828 (xiii) de novo review of final agency actions resulting from an informal adjudicative proceeding as provided in Section 63G-4-402;
- 830 (xiv) adoptions conducted in accordance with the procedures described in Title 78B, Chapter 6, Part 1, Utah Adoption Act, if the juvenile court has previously entered an order terminating the rights of a parent and finds that adoption is in the best interest of the child;
- 834 (xv) an ungovernable or runaway child who is referred to the juvenile court by the Division of Juvenile Justice and Youth Services if, despite earnest and persistent efforts by the Division of Juvenile Justice and Youth Services, the child has demonstrated that the child:
  - 838 (A) is beyond the control of the child's parent, guardian, or custodian to the extent that the child's behavior or condition endangers the child's own welfare or the welfare of others; or
  - 841 (B) has run away from home; and
- 842 (xvi) a criminal information filed under Part 4a, Adult Criminal Proceedings, for an adult alleged to have committed an offense under Subsection 78A-6-352(4)(b) for failure to comply with a promise to appear and bring a child to the juvenile court;
- 845 (b) a petition for expungement under Title 80, Chapter 6, Part 10, Juvenile Records and Expungement;
- 847 (c) the extension of a nonjudicial adjustment under Section 80-6-304;
- 848 (d) a petition for special findings under Section 80-3-305; and
- 849 (e) a referral of a minor for being a habitual truant as defined in Section 53G-8-211.
- 850 (3) The juvenile court does not have original jurisdiction over an offense committed by a minor as described in Subsection (1) if:
  - 852 (a) the district court has original jurisdiction over the offense under Section 78A-5-102.5;
  - 853 (b) the district court has original jurisdiction over the offense under Subsection 78A-5-102(8), unless the juvenile court has exclusive jurisdiction over the offense under Section 78A-6-103.5; or
  - 856 (c) the justice court has original jurisdiction over the offense under Subsection 78A-7-106(2), unless the juvenile court has exclusive jurisdiction over the offense under Section 78A-6-103.5.
- 859 (4) It is not necessary for a minor to be adjudicated for an offense or violation of the law under Section 80-6-701 for the juvenile court to exercise jurisdiction under Subsection (2)(a)(xvi), (b), or (c).

## SB0177 compared with SB0177S02

- 862 (5) This section does not restrict the right of access to the juvenile court by private agencies or other  
persons.
- 864 (6) The juvenile court has jurisdiction of all magistrate functions relative to cases arising under Title 80,  
Chapter 6, Part 5, Transfer to District Court.
- 866 (7) The juvenile court has jurisdiction to make a finding of substantiated, unsubstantiated, or without  
merit, in accordance with Section 80-3-404 or 80-3-504.
- 868 (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.
- 870 (9) The juvenile court has jurisdiction to enforce foreign protection orders as described in Subsection  
78B-7-303(8).
- 953 Section 8. Section **80-1-102** is amended to read:
- 954 **80-1-102. Juvenile Code definitions.**
- Except as provided in Section 80-6-1103, as used in this title:
- 875 (1)
- . (a) "Abuse" means:
- 876 (i)
- . (A) nonaccidental harm of a child;
- 877 (B) threatened harm of a child;
- 878 (C) sexual exploitation;
- 879 (D) sexual abuse; or
- 880 (E) human trafficking of a child in violation of Section 76-5-308.5; or
- 881 (ii) that a child's natural parent:
- 882 (A) intentionally, knowingly, or recklessly causes the death of another parent of the child;
- 884 (B) is identified by a law enforcement agency as the primary suspect in an investigation for  
intentionally, knowingly, or recklessly causing the death of another parent of the child; or
- 887 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the  
death of another parent of the child.
- 889 (b) "Abuse" does not include:
- 890 (i) reasonable discipline or management of a child, including withholding privileges;
- 891 (ii) conduct described in Section 76-2-401; or
- 892 (iii) the use of reasonable and necessary physical restraint or force on a child:

## **SB0177 compared with SB0177S02**

- 893 (A) in self-defense;  
894 (B) in defense of others;  
895 (C) to protect the child; or  
896 (D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (1)  
(b)(iii)(A) through (C).
- 898 (2) "Abused child" means a child who has been subjected to abuse.  
899 (3)  
. (a) "Adjudication" means, except as provided in Subsection (3)(b):  
900 (i) for a delinquency petition or criminal information under Chapter 6, Juvenile Justice:  
902 (A) a finding by the juvenile court that the facts alleged in a delinquency petition or criminal  
information alleging that a minor committed an offense have been proved;  
905 (B) an admission by a minor in the juvenile court as described in Section 80-6-306; or  
907 (C) a plea of no contest by minor in the juvenile court; or  
908 (ii) for all other proceedings under this title, a finding by the juvenile court that the facts alleged in  
the petition have been proved.
- 910 (b) "Adjudication" does not include:  
911 (i) an admission by a minor described in Section 80-6-306 until the juvenile court enters the minor's  
admission; or  
913 (ii) a finding of not competent to proceed in accordance with Section 80-6-402.  
914 (4)  
. (a) "Adult" means an individual who is 18 years old or older.  
915 (b) "Adult" does not include an individual:  
916 (i) who is 18 years old or older; and  
917 (ii) who is a minor.
- 918 (5) "Attorney guardian ad litem" means the same as that term is defined in Section 78A-2-801.  
920 (6) "Board" means the Board of Juvenile Court Judges.  
921 (7) "Child" means, except as provided in Section 80-2-905, an individual who is under 18 years old.  
923 (8) "Child and family plan" means a written agreement between a child's parents or guardian and the  
Division of Child and Family Services as described in Section 80-3-307.  
925 (9) "Child placing" means the same as that term is defined in Section 26B-2-101.  
926 (10) "Child-placing agency" means the same as that term is defined in Section 26B-2-101.

## **SB0177 compared with SB0177S02**

- 927 (11) "Child protection team" means a team consisting of:
- 928 (a) the child welfare caseworker assigned to the case;
- 929 (b) if applicable, the child welfare caseworker who made the decision to remove the child;
- 931 (c) a representative of the school or school district where the child attends school;
- 932 (d) if applicable, the law enforcement officer who removed the child from the home;
- 933 (e) a representative of the appropriate Children's Justice Center, if one is established within the county  
where the child resides;
- 935 (f) if appropriate, and known to the division, a therapist or counselor who is familiar with the child's  
circumstances;
- 937 (g) if appropriate, a representative of law enforcement selected by the chief of police or sheriff in the  
city or county where the child resides; and
- 939 (h) any other individuals determined appropriate and necessary by the team coordinator and chair.
- 941 (12)
- . (a) "Chronic abuse" means repeated or patterned abuse.
- 942 (b) "Chronic abuse" does not mean an isolated incident of abuse.
- 943 (13)
- . (a) "Chronic neglect" means repeated or patterned neglect.
- 944 (b) "Chronic neglect" does not mean an isolated incident of neglect.
- 945 (14) "Clandestine laboratory operation" means the same as that term is defined in Section 58-37d-3.
- 947 (15) "Commit" or "committed" means, unless specified otherwise:
- 948 (a) with respect to a child, to transfer legal custody; and
- 949 (b) with respect to a minor who is at least 18 years old, to transfer custody.
- 950 (16) "Community-based program" means a nonsecure residential or nonresidential program, designated  
to supervise and rehabilitate juvenile offenders, that prioritizes the least restrictive setting, consistent  
with public safety, and operated by or under contract with the Division of Juvenile Justice and  
Youth Services.
- 954 (17) "Community placement" means placement of a minor in a community-based program described in  
Section 80-5-402.
- 956 (18) "Correctional facility" means:
- 957 (a) a county jail; or
- 958 (b) a secure correctional facility as defined in Section 64-13-1.



## **SB0177 compared with SB0177S02**

- 959 (19) "Criminogenic risk factors" means evidence-based factors that are associated with a minor's  
likelihood of reoffending.
- 961 (20) "Department" means the Department of Health and Human Services created in Section 26B-1-201.
- 963 (21) "Dependent child" or "dependency" means a child who is without proper care through no fault of  
the child's parent, guardian, or custodian.
- 965 (22) "Deprivation of custody" means transfer of legal custody by the juvenile court from a parent or a  
previous custodian to another person, agency, or institution.
- 967 (23) "Detention" means home detention or secure detention.
- 968 (24) "Detention facility" means a facility, established by the Division of Juvenile Justice and Youth  
Services in accordance with Section 80-5-501, for minors held in detention.
- 970 (25) "Detention risk assessment tool" means an evidence-based tool established under Section 80-5-203  
that:
- 972 (a) assesses a minor's risk of failing to appear in court or reoffending before adjudication; and
- 974 (b) is designed to assist in making a determination of whether a minor shall be held in detention.
- 976 (26) "Developmental immaturity" means incomplete development in one or more domains that  
manifests as a functional limitation in the minor's present ability to:
- 978 (a) consult with counsel with a reasonable degree of rational understanding; and
- 979 (b) have a rational as well as factual understanding of the proceedings.
- 980 (27) "Disposition" means an order by a juvenile court, after the adjudication of a minor, under Section  
80-3-405 or 80-4-305 or Chapter 6, Part 7, Adjudication and Disposition.
- 982 (28) "Educational neglect" means that, after receiving a notice of compulsory education violation under  
Section 53G-6-202, the parent or guardian fails to make a good faith effort to ensure that the child  
receives an appropriate education.
- 985 (29) "Educational series" means an evidence-based instructional series:
- 986 (a) obtained at a substance abuse program that is approved by the Division of Integrated Healthcare in  
accordance with Section 26B-5-104; and
- 988 (b) designed to prevent substance use or the onset of a mental health disorder.
- 989 (30) "Emancipated" means the same as that term is defined in Section 80-7-102.
- 990 (31) "Evidence-based" means a program or practice that has had multiple randomized control studies or  
a meta-analysis demonstrating that the program or practice is effective for a specific population or  
has been rated as effective by a standardized program evaluation tool.

## **SB0177 compared with SB0177S02**

- 994 (32) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.
- 995 (33) "Formal probation" means a minor is:
- 996 (a) supervised in the community by, and reports to, a juvenile probation officer or an agency designated  
by the juvenile court; and
- 998 (b) subject to return to the juvenile court in accordance with Section 80-6-607.
- 999 (34) "Group rehabilitation therapy" means psychological and social counseling of one or more  
individuals in the group, depending upon the recommendation of the therapist.
- 1001 (35) "Guardian" means a person appointed by a court to make decisions regarding a minor, including  
the authority to consent to:
- 1003 (a) marriage;
- 1004 (b) enlistment in the armed forces;
- 1005 (c) major medical, surgical, or psychiatric treatment; or
- 1006 (d) legal custody, if legal custody is not vested in another individual, agency, or institution.
- 1008 (36) "Guardian ad litem" means the same as that term is defined in Section 78A-2-801.
- 1009 (37) "Harm" means:
- 1010 (a) physical or developmental injury or damage;
- 1011 (b) emotional damage that results in a serious impairment in the child's growth, development, behavior,  
or psychological functioning;
- 1013 (c) sexual abuse; or
- 1014 (d) sexual exploitation.
- 1015 (38) "Home detention" means placement of a minor:
- 1016 (a) if prior to a disposition, in the minor's home, or in a surrogate home with the consent of the minor's  
parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile  
Justice and Youth Services or the juvenile court; or
- 1019 (b) if after a disposition, and in accordance with Section 78A-6-353 or 80-6-704, in the minor's home,  
or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms  
and conditions established by the Division of Juvenile Justice and Youth Services or the juvenile  
court.
- 1023 (39)
- . (a) "Incest" means engaging in sexual intercourse with an individual whom the perpetrator knows to be  
the perpetrator's ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin.

## **SB0177 compared with SB0177S02**

- 1026 (b) "Incest" includes:
- 1027 (i) blood relationships of the whole or half blood, regardless of whether the relationship is legally  
recognized;
- 1029 (ii) relationships of parent and child by adoption; and
- 1030 (iii) relationships of stepparent and stepchild while the marriage creating the relationship of a stepparent  
and stepchild exists.
- 1032 (40) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.
- 1033 (41) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.
- 1034 (42) "Indigent defense service provider" means the same as that term is defined in Section 78B-22-102.
- 1036 (43) "Indigent defense services" means the same as that term is defined in Section 78B-22-102.
- 1038 (44) "Indigent individual" means the same as that term is defined in Section 78B-22-102.
- 1039 (45)
- . (a) "Intake probation" means a minor is:
- 1040 (i) monitored by a juvenile probation officer; and
- 1041 (ii) subject to return to the juvenile court in accordance with Section 80-6-607.
- 1042 (b) "Intake probation" does not include formal probation.
- 1043 (46) "Intellectual disability" means a significant subaverage general intellectual functioning existing  
concurrently with deficits in adaptive behavior that constitutes a substantial limitation to the  
individual's ability to function in society.
- 1046 (47) "Juvenile offender" means:
- 1047 (a) a serious youth offender; or
- 1048 (b) a youth offender.
- 1049 (48) "Juvenile probation officer" means a probation officer appointed under Section 78A-6-205.
- 1051 (49) "Juvenile receiving center" means a nonsecure, nonresidential program established by the Division  
of Juvenile Justice and Youth Services, or under contract with the Division of Juvenile Justice and  
Youth Services, that is responsible for minors taken into temporary custody under Section 80-6-201.
- 1055 (50) "Legal custody" means a relationship embodying:
- 1056 (a) the right to physical custody of the minor;
- 1057 (b) the right and duty to protect, train, and discipline the minor;
- 1058 (c) the duty to provide the minor with food, clothing, shelter, education, and ordinary medical care;
- 1060 (d) the right to determine where and with whom the minor shall live; and

## **SB0177 compared with SB0177S02**

- 1061 (e) the right, in an emergency, to authorize surgery or other extraordinary care.
- 1062 (51) "Licensing Information System" means the Licensing Information System maintained by the  
Division of Child and Family Services under Section 80-2-1002.
- 1064 (52) "Management Information System" means the Management Information System developed by the  
Division of Child and Family Services under Section 80-2-1001.
- 1066 (53) "Mental illness" means:
- 1067 (a) a psychiatric disorder that substantially impairs an individual's mental, emotional, behavioral, or  
related functioning; or
- 1069 (b) the same as that term is defined in:
- 1070 (i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the  
American Psychiatric Association; or
- 1072 (ii) the current edition of the International Statistical Classification of Diseases and Related Health  
Problems.
- 1074 (54) "Minor" means, except as provided in Sections 80-6-501, 80-6-901, and 80-7-102:
- 1075 (a) a child; or
- 1076 (b) an individual:
- 1077 (i)
- . (A) who is at least 18 years old and younger than 21 years old; and
- 1078 (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;
- 1082 (ii)
- . (A) who is at least 18 years old and younger than 25 years old; and
- 1083 (B) whose case is under the jurisdiction of the juvenile court in accordance with Subsection  
78A-6-103(1)(b); or
- 1085 (iii)
- . (A) who is at least 18 years old and younger than 21 years old; and
- 1086 (B) whose case is under the jurisdiction of the juvenile court in accordance with Subsection  
78A-6-103(1)(c).
- 1088 (55) "Mobile crisis outreach team" means the same as that term is defined in Section 26B-5-101.
- 1090

## **SB0177 compared with SB0177S02**

(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.

1094 (57)

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

1096 (b) "Natural parent" includes the minor's noncustodial parent.

1097 (58)

. (a) "Neglect" means action or inaction causing:

1098 (i) abandonment of a child, except as provided in Chapter 4, Part 5, Safe Relinquishment of a Newborn Child;

1100 (ii) lack of proper parental care of a child by reason of the fault or habits of the parent, guardian, or custodian;

1102 (iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary subsistence or medical care, or any other care necessary for the child's health, safety, morals, or well-being;

1105 (iv) a child to be at risk of being neglected or abused because another child in the same home is neglected or abused;

1107 (v) abandonment of a child through an unregulated child custody transfer under Section 78B-24-203; or

1109 (vi) educational neglect.

1110 (b) "Neglect" does not include:

1111 (i) a parent or guardian legitimately practicing religious beliefs and who, for that reason, does not provide specified medical treatment for a child;

1113 (ii) a health care decision made for a child by the child's parent or guardian, unless the state or other party to a proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed;

1116 (iii) a parent or guardian exercising the right described in Section 80-3-304; or

1117 (iv) permitting a child, whose basic needs are met and who is of sufficient age and maturity to avoid harm or unreasonable risk of harm, to engage in independent activities, including:

1120 (A) traveling to and from school, including by walking, running, or bicycling;

1121 (B) traveling to and from nearby commercial or recreational facilities;

## **SB0177 compared with SB0177S02**

- 1122 (C) engaging in outdoor play;
- 1123 (D) remaining in a vehicle unattended, except under the conditions described in Subsection  
76-10-2202(2);
- 1125 (E) remaining at home unattended; or
- 1126 (F) engaging in a similar independent activity.
- 1127 (59) "Neglected child" means a child who has been subjected to neglect.
- 1128 (60) "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:
- 1131 (a) the assigned juvenile probation officer; and
- 1132 (b)
- . (i) the minor; or
- 1133 (ii) the minor and the minor's parent, guardian, or custodian.
- 1134 (61) "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:
- 1136 (a) understand the nature of the proceedings against the minor or of the potential disposition for the  
offense charged; or
- 1138 (b) consult with counsel and participate in the proceedings against the minor with a reasonable degree  
of rational understanding.
- 1140 (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.
- 1144 (63) "Physical abuse" means abuse that results in physical injury or damage to a child.
- 1145 (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.
- 1148 (b) "Probation" includes intake probation or formal probation.
- 1149 (65) "Prosecuting attorney" means:
- 1150 (a) the attorney general and any assistant attorney general;
- 1151 (b) any district attorney or deputy district attorney;
- 1152 (c) any county attorney or assistant county attorney; and

## **SB0177 compared with SB0177S02**

- 1153 (d) any other attorney authorized to commence an action on behalf of the state.
- 1154 (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:
- 1156 (a) the day on which the shelter hearing is held under Section 80-3-301; or
- 1157 (b) the day on which the child is returned home.
- 1158 (67) "Protective services" means expedited services that are provided:
- 1159 (a) in response to evidence of neglect, abuse, or dependency of a child;
- 1160 (b) to a cohabitant who is neglecting or abusing a child, in order to:
- 1161 (i) help the cohabitant develop recognition of the cohabitant's duty of care and of the causes of neglect  
or abuse; and
- 1163 (ii) strengthen the cohabitant's ability to provide safe and acceptable care; and
- 1164 (c) in cases where the child's welfare is endangered:
- 1165 (i) to bring the situation to the attention of the appropriate juvenile court and law enforcement agency;
- 1167 (ii) to cause a protective order to be issued for the protection of the child, when appropriate; and
- 1169 (iii) to protect the child from the circumstances that endanger the child's welfare including, when  
appropriate:
- 1171 (A) removal from the child's home;
- 1172 (B) placement in substitute care; and
- 1173 (C) petitioning the court for termination of parental rights.
- 1174 (68) "Protective supervision" means a legal status created by court order, following an adjudication on  
the ground of abuse, neglect, or dependency, whereby:
- 1176 (a) the minor is permitted to remain in the minor's home; and
- 1177 (b) supervision and assistance to correct the abuse, neglect, or dependency is provided by an agency  
designated by the juvenile court.
- 1179 (69)
- . (a) "Related condition" means a condition that:
- 1180 (i) is found to be closely related to intellectual disability;
- 1181 (ii) results in impairment of general intellectual functioning or adaptive behavior similar to that of  
an intellectually disabled individual;
- 1183 (iii) is likely to continue indefinitely; and
- 1184 (iv) constitutes a substantial limitation to the individual's ability to function in society.

## **SB0177 compared with SB0177S02**

- 1185 (b) "Related condition" does not include mental illness, psychiatric impairment, or serious emotional or  
behavioral disturbance.
- 1187 (70)
- . (a) "Residual parental rights and duties" means the rights and duties remaining with a parent after legal  
custody or guardianship, or both, have been vested in another person or agency, including:
- 1190 (i) the responsibility for support;
- 1191 (ii) the right to consent to adoption;
- 1192 (iii) the right to determine the child's religious affiliation; and
- 1193 (iv) the right to reasonable parent-time unless restricted by the court.
- 1194 (b) If no guardian has been appointed, "residual parental rights and duties" includes the right to consent  
to:
- 1196 (i) marriage;
- 1197 (ii) enlistment; and
- 1198 (iii) major medical, surgical, or psychiatric treatment.
- 1199 (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.
- 1202 (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.
- 1206 (73) "Secure care facility" means a facility, established in accordance with Section 80-5-503, for  
juvenile offenders in secure care.
- 1208 (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:
- 1211 (a) before disposition of an offense that is alleged to have been committed by the minor; or
- 1213 (b) under Section 80-6-704.
- 1214 (75) "Serious youth offender" means an individual who:
- 1215 (a) is at least 14 years old, but under 25 years old;
- 1216



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- (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
- 1219 (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.
- 1221 (76) "Severe abuse" means abuse that causes or threatens to cause serious harm to a child.
- 1222 (77) "Severe neglect" means neglect that causes or threatens to cause serious harm to a child.
- 1224 (78)
- . (a) "Severe type of child abuse or neglect" means, except as provided in Subsection (78)(b):
- 1226 (i) if committed by an individual who is 18 years old or older:
- 1227 (A) chronic abuse;
- 1228 (B) severe abuse;
- 1229 (C) sexual abuse;
- 1230 (D) sexual exploitation;
- 1231 (E) abandonment;
- 1232 (F) chronic neglect; or
- 1233 (G) severe neglect; or
- 1234 (ii) if committed by an individual who is under 18 years old:
- 1235 (A) causing serious physical injury, as defined in Subsection 76-5-109(1), to another child that indicates a significant risk to other children; or
- 1237 (B) sexual behavior with or upon another child that indicates a significant risk to other children.
- 1239 (b) "Severe type of child abuse or neglect" does not include:
- 1240 (i) the use of reasonable and necessary physical restraint by an educator in accordance with Subsection 53G-8-302(2) or Section 76-2-401;
- 1242 (ii) an individual's conduct that is justified under Section 76-2-401 or constitutes the use of reasonable and necessary physical restraint or force in self-defense or otherwise appropriate to the circumstances to obtain possession of a weapon or other dangerous object in the possession or under the control of a child or to protect the child or another individual from physical injury; or
- 1247 (iii) a health care decision made for a child by a child's parent or guardian, unless, subject to Subsection (78)(c), the state or other party to the proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed.

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- 1251 (c) Subsection (78)(b)(iii) does not prohibit a parent or guardian from exercising the right to obtain a  
second health care opinion.
- 1253 (79) "Sexual abuse" means:
- 1254 (a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an adult directed  
towards a child;
- 1256 (b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation committed by a child  
towards another child if:
- 1258 (i) there is an indication of force or coercion;
- 1259 (ii) the children are related, as described in Subsection (39), including siblings by marriage while the  
marriage exists or by adoption; or
- 1261 (iii) the act or attempted act constitutes unlawful sexual activity as described in Section 76-5-401.3.
- 1263 ~~[(iii) there have been repeated incidents of sexual contact between the two children, unless the children  
are 14 years old or older; or]~~
- 1265 ~~[(iv) there is a disparity in chronological age of four or more years between the two children;]~~
- 1267 (c) engaging in any conduct with a child that would constitute an offense under any of the following,  
regardless of whether the individual who engages in the conduct is actually charged with, or  
convicted of, the offense:
- 1270 (i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the alleged perpetrator  
of an offense described in Section 76-5-401 is a minor;
- 1272 (ii) child bigamy, Section 76-7-101.5;
- 1273 (iii) incest, Section 76-7-102;
- 1274 (iv) lewdness, Section 76-9-702;
- 1275 (v) sexual battery, Section 76-9-702.1;
- 1276 (vi) lewdness involving a child, Section 76-9-702.5; or
- 1277 (vii) voyeurism, Section 76-9-702.7; or
- 1278 (d) subjecting a child to participate in or threatening to subject a child to participate in a sexual  
relationship, regardless of whether that sexual relationship is part of a legal or cultural marriage.
- 1281 (80) "Sexual exploitation" means knowingly:
- 1282 (a) employing, using, persuading, inducing, enticing, or coercing any child to:
- 1283 (i) pose in the nude for the purpose of sexual arousal of any individual; or
- 1284

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- (ii) engage in any sexual or simulated sexual conduct for the purpose of photographing, filming, recording, or displaying in any way the sexual or simulated sexual conduct;
- 1287 (b) displaying, distributing, possessing for the purpose of distribution, or selling material depicting a child:
- 1289 (i) in the nude, for the purpose of sexual arousal of any individual; or
- 1290 (ii) engaging in sexual or simulated sexual conduct; or
- 1291 (c) engaging in any conduct that would constitute an offense under Section 76-5b-201, sexual exploitation of a minor, or Section 76-5b-201.1, aggravated sexual exploitation of a minor, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense.
- 1295 (81) "Shelter" means the temporary care of a child in a physically unrestricted facility pending a disposition or transfer to another jurisdiction.
- 1297 (82) "Shelter facility" means a nonsecure facility that provides shelter for a minor.
- 1298 (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:
- 1302 (a) age;
- 1303 (b) social factors;
- 1304 (c) emotional factors;
- 1305 (d) sexual factors;
- 1306 (e) intellectual factors;
- 1307 (f) family risk factors; and
- 1308 (g) other related considerations.
- 1309 (84) "Single criminal episode" means the same as that term is defined in Section 76-1-401.
- 1310 (85) "Status offense" means an offense that would not be an offense but for the age of the offender.
- 1312 (86) "Substance abuse" means, except as provided in Section 80-2-603, the misuse or excessive use of alcohol or other drugs or substances.
- 1314 (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 .
- 1317 (88) "Substitute care" means:

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- 1318 (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;
- 1322 (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
- 1325 (c) the licensing and supervision of a substitute care facility.
- 1326 (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.
- 1330 (90) "Termination of parental rights" means the permanent elimination of all parental rights and duties,  
including residual parental rights and duties, by court order.
- 1332 (91) "Therapist" means:
- 1333 (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
- 1336 (b) any other individual licensed or approved by the state for the purpose of conducting psychological  
treatment and counseling.
- 1338 (92) "Threatened harm" means actions, inactions, or credible verbal threats, indicating that the child is  
at an unreasonable risk of harm or neglect.
- 1340 (93) "Torture" means:
- 1341 (a) the infliction of a serious injury upon a child in an exceptionally cruel or exceptionally depraved  
manner that causes the child to experience extreme physical or psychological pain or anguish; or
- 1344 (b) the infliction of a serious injury, or more than one serious injury, upon a child as part of a course of  
conduct or over a prolonged period of time.
- 1346 [~~(93)~~] (94) "Ungovernable" means a child in conflict with a parent or guardian, and the conflict:
- 1348 (a) results in behavior that is beyond the control or ability of the child, or the parent or guardian, to  
manage effectively;
- 1350 (b) poses a threat to the safety or well-being of the child, the child's family, or others; or
- 1351 (c) results in the situations described in Subsections [~~(93)~~](a) (94)(a) and (b).

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- 1352    ~~[(94)]~~ (95) "Unsubstantiated" means a judicial finding that there is insufficient evidence to conclude  
that abuse, neglect, or dependency occurred.
- 1354    ~~[(95)]~~ (96) "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.
- 1359    ~~[(96)]~~ (97) "Validated risk and needs assessment" means an evidence-based tool that assesses a minor's  
risk of reoffending and a minor's criminogenic needs.
- 1361    ~~[(97)]~~ (98) "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.
- 1365    ~~[(98)]~~ (99) "Youth offender" means an individual who is:
- 1366    (a) at least 12 years old, but under 21 years old; and
- 1367    (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.
- 1450    Section 9. Section **80-2-707** is amended to read:
- 1451    **80-2-707. Supported finding of child abuse or neglect after division investigation -- Notice to  
alleged perpetrator -- Rights of alleged perpetrator -- Administrative review -- Joinder in juvenile  
court.**
- 1373    (1)
- . (a) Except as provided in Subsection (2), if, after investigation, the division makes a supported finding,  
the division shall send a notice of agency action to the alleged perpetrator.
- 1376    (b) If the alleged perpetrator described in Subsection (1)(a) is under 18 years old, the division shall:
- 1378    (i) make reasonable efforts to identify the alleged perpetrator's parent or guardian; and
- 1379    (ii) send a notice to each parent or guardian identified under Subsection (1)(b)(i) that lives at a different  
address, unless there is good cause, as defined by rule, made in accordance with Title 63G, Chapter  
3, Utah Administrative Rulemaking Act, for not sending a notice to the parent or guardian.
- 1383    (c) This section does not affect:
- 1384    (i) the manner in which the division conducts an investigation; or
- 1385    (ii) the use or effect, in any other setting, of a supported finding by the division at the completion of an  
investigation for any purpose other than for notification under Subsection (1) (a) or (b).

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- 1388 (2) Subsection (1) does not apply to an alleged perpetrator who is served with notice under Section  
80-2-708.
- 1390 (3) The notice described in Subsection (1) shall state that:
- 1391 (a) the division conducted an investigation regarding alleged abuse, neglect, or dependency;
- 1393 (b) the division made a supported finding of abuse, neglect, or dependency;
- 1394 (c) facts gathered by the division support the supported finding;
- 1395 (d) the alleged perpetrator has the right to request:
- 1396 (i) a copy of the report; and
- 1397 (ii) an opportunity to challenge the supported finding by the division; and
- 1398 (e) failure to request an opportunity to challenge the supported finding within 30 days after the day on  
which the notice is received will result in an unappealable supported finding of abuse, neglect, or  
dependency unless the alleged perpetrator can show good cause for why compliance within the 30-  
day requirement is virtually impossible or unreasonably burdensome.
- 1403 (4)
- . (a) Except as provided in Subsection (7), an alleged perpetrator may make a request to challenge a  
supported finding within 30 days after the day on which the alleged perpetrator receives a notice  
under this section.
- 1406 (b) Upon receipt of a request under Subsection (4)(a), the Office of Administrative Hearings shall hold  
an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act.
- 1409 (5)
- . (a) In an adjudicative proceeding held under this section, the division has the burden of proving, by a  
preponderance of the evidence, that abuse, neglect, or dependency occurred and that the alleged  
perpetrator is substantially responsible for the abuse or neglect that occurred.
- 1413 (b) Any party has the right of judicial review of final agency action, in accordance with Title 63G,  
Chapter 4, Administrative Procedures Act.
- 1415 (c) A proceeding for judicial review of a final agency action under this section shall be closed to the  
public.
- 1417 (d) The Judicial Council shall make rules that ensure the confidentiality of the proceeding described in  
Subsection (5)(c) and the records related to the proceedings.
- 1419 (6) Except as otherwise provided in this chapter, an alleged perpetrator who, after receiving notice, fails  
to challenge a supported finding in accordance with this section:

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- 1421 (a) may not further challenge the finding; and  
1422 (b) shall have no right to:  
1423 (i) agency review of the finding;  
1424 (ii) an adjudicative hearing on the finding; or  
1425 (iii) judicial review of the finding.  
1426 (7)  
. (a) Except as provided in Subsection (7)(b), an alleged perpetrator may not make a request under Subsection (4) to challenge a supported finding if a court of competent jurisdiction entered a finding, in a proceeding in which the alleged perpetrator was a party, that the alleged perpetrator is substantially responsible for the abuse, neglect, or dependency that is the subject of the supported finding.
- 1431 (b) Subsection (7)(a) does not apply to pleas in abeyance or diversion agreements.  
1432 (c) An adjudicative proceeding under Subsection (5) may be stayed during the time a judicial action or an active criminal investigation on the same matter is pending.
- 1434 (8) Under Section 80-3-404, an adjudicative proceeding on a supported finding of a type of abuse or neglect that does not constitute a severe type of child abuse or neglect may be joined in the juvenile court with an adjudication on a supported finding of a severe type of child abuse or neglect.
- 1519 Section 10. Section **80-2-708** is amended to read:  
1520 **80-2-708. Supported finding of a severe type of child abuse or neglect after division investigation -- Notation in Licensing Information System -- Juvenile court petition or notice to alleged perpetrator -- Rights of alleged perpetrator.**
- 1442 (1) If, after investigation, the division makes a supported finding that an individual committed a severe type of child abuse or neglect, the division shall:  
1444 (a) serve notice of the supported finding on the alleged perpetrator in accordance with Subsection (4);  
1446 (b) enter the information described in Subsections 80-2-1002(2)(a) and (b) into the Licensing Information System; and  
1448 (c) if the division considers it advisable, file a petition for substantiation in accordance with Section 80-3-504 within [~~one year~~] 30 days after the day on which the division makes the supported finding.
- 1451 (2) The notice described in Subsection (1)(a):  
1452 (a) shall state that:  
1453 (i) the division conducted an investigation regarding alleged abuse or neglect;

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- 1454 (ii) the division made a supported finding that the alleged perpetrator described in Subsection (1)  
committed a severe type of child abuse or neglect;
- 1456 (iii) facts gathered by the division support the supported finding;
- 1457 (iv) as a result of the supported finding, the alleged perpetrator's name and other identifying information  
have been listed in the Licensing Information System in accordance with Subsection (1)(b);
- 1460 (v) the alleged perpetrator may be disqualified from adopting a child, receiving state funds as a child  
care provider, or being licensed by:
- 1462 (A) the department;
- 1463 (B) a human services licensee;
- 1464 (C) a child care provider or program; or
- 1465 (D) a covered health care facility;
- 1466 (vi) the alleged perpetrator has the rights described in Subsection (3); and
- 1467 (vii) failure to take the action described in Subsection (3)(a) within ~~[one-year]~~ 30 days after the day on  
which the notice is served will result in the action described in Subsection (3)(b);
- 1470 (b) shall include a general statement of the nature of the supported finding; and
- 1471 (c) may not include:
- 1472 (i) the name of a victim or witness; or
- 1473 (ii) any privacy information related to the victim or a witness.
- 1474 (3)
- . (a) ~~[Upon receipt of]~~ Within 30 days after the day on which the alleged perpetrator receives the notice  
described in [Subsection (2)] Subsections (1)(a) and (2), the alleged perpetrator has the right to:
- 1477 (i) file a written request asking the division to review the supported finding made under Subsection  
(1);
- 1479 (ii) except as provided in Subsection (3)(b), ~~[immediately]~~ petition the juvenile court ~~[under~~  
Section 80-3-404] for a finding of unsubstantiated or without merit in accordance with Section  
80-3-504; or
- 1482 (iii) sign a written consent to:
- 1483 (A) the supported finding made under Subsection (1); and
- 1484 (B) entry into the Licensing Information System of the alleged perpetrator's name and other information  
regarding the supported finding made under Subsection (1).
- 1487



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(b) The alleged perpetrator has no right to petition the juvenile court under Subsection (3)(a)(ii) [~~if the juvenile court previously held a hearing on the same alleged incident of abuse or neglect after the filing of an abuse, neglect, or dependency petition, as defined in Section 80-3-102, by another party~~] if the alleged perpetrator:

1491 (i) files the petition more than 30 days after the day on which the alleged perpetrator receives the notice described in Subsections (1)(a) and (2); or

1493 (ii) has been the subject of any of the following court determinations with respect to the alleged incident of abuse or neglect:

1495 (A) conviction;

1496 (B) adjudication under Section 80-3-402 or 80-6-701;

1497 (C) plea of guilty;

1498 (D) plea of guilty with a mental condition; or

1499 (E) plea of no contest.

1500 (c) The child's parent or guardian shall give the consent for a child under Subsection (3)(a)(iii).

1502 (4) Service of the notice described in Subsections (1)(a) and (2):

1503 (a) shall be personal service in accordance with Utah Rules of Civil Procedure, Rule 4; and

1505 (b) does not preclude civil or criminal action against the alleged perpetrator.

1587 Section 11. Section **80-2-1002** is amended to read:

1588 **80-2-1002. Licensing Information System -- Contents -- Classification of records -- Access -- Unlawful release -- Penalty.**

1509 (1)

. (a) The division shall maintain a sub-part of the Management Information System as the Licensing Information System to be used:

1511 (i) for licensing purposes; or

1512 (ii) as otherwise provided by law.

1513 (b) Notwithstanding Subsection (1)(a), the department's access to information in the Management Information System for the licensure and monitoring of a foster parent is governed by Sections 80-2-1001 and 26B-2-121.

1516 (2) The Licensing Information System shall include only the following information:

1517 (a) the name and other identifying information of the alleged perpetrator in a supported finding, without identifying the alleged perpetrator as a perpetrator or alleged perpetrator;

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- 1520 (b) a notation to the effect that an investigation regarding the alleged perpetrator described in  
Subsection (2)(a) is pending;
- 1522 (c) the information described in Subsection (3);
- 1523 (d) consented-to supported findings by an alleged perpetrator under Subsection 80-2-708(3)(a)(iii);
- 1525 (e) a finding from the juvenile court under Section 80-3-404 or 80-3-504; and
- 1526 (f) the information in the licensing part of the division's Management Information System as of May 6,  
2002.
- 1528 (3) Subject to Section 80-2-1003, upon receipt of a finding from the juvenile court under Section  
80-3-404 or 80-3-504, the division shall:
- 1530 (a) promptly amend the Licensing Information System to include the finding; and
- 1531 (b) enter the finding in the Management Information System.
- 1532 (4) Information or a record contained in the Licensing Information System is:
- 1533 (a) a protected record under Title 63G, Chapter 2, Government Records Access and Management Act;  
and
- 1535 (b) notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act,  
accessible only:
- 1537 (i) to the Division of Licensing and Background Checks created in Section 26B-2-103:
- 1538 (A) for licensing purposes; or
- 1539 (B) as otherwise specifically provided for by law;
- 1540 (ii) to the division to:
- 1541 (A) screen an individual at the request of the Office of Guardian Ad Litem at the time the individual  
seeks a paid or voluntary position with the Office of Guardian Ad Litem and annually throughout  
the time that the individual remains with the Office of Guardian Ad Litem; and
- 1545 (B) respond to a request for information from an individual whose name is listed in the Licensing  
Information System;
- 1547 (iii) to a person designated by the Department of Health and Human Services, only for the following  
purposes:
- 1549 (A) licensing a child care program or provider; or
- 1550 (B) determining whether an individual associated with a child care facility, program, or provider, who  
is exempt from being licensed or certified by the Department of Health and Human Services under

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Title 26B, Chapter 2, Part 4, Child Care Licensing, has a supported finding of a severe type of child abuse or neglect;

- 1555 (iv) to a person designated by the Department of Workforce Services and approved by the Department  
of Health and Human Services for the purpose of qualifying a child care provider under Section  
35A-3-310.5;
- 1558 (v) to the Bureau of Emergency Medical Services, within the Department of Public Safety, in  
determining whether an individual who is seeking an emergency medical services license has a  
supported finding of a severe type of child abuse or neglect;
- 1562 (vi) as provided in Section 26B-2-121; or
- 1563 (vii) to the department or another person, as provided in this chapter.
- 1564 (5) A person designated by the Department of Health and Human Services, the Department of  
Workforce Services, or the Bureau of Emergency Medical Services under Subsection (4) shall adopt  
measures to:
- 1567 (a) protect the security of the Licensing Information System; and
- 1568 (b) strictly limit access to the Licensing Information System to persons allowed access by statute.
- 1570 (6) The department shall approve a person allowed access by statute to information or a record  
contained in the Licensing Information System and provide training to the person with respect to:
- 1573 (a) accessing the Licensing Information System;
- 1574 (b) maintaining strict security; and
- 1575 (c) the criminal provisions of Sections 63G-2-801 and 80-2-1005 pertaining to the improper release of  
information.
- 1577 (7)
- . (a) Except as authorized by this chapter, a person may not request another person to obtain or release  
any other information in the Licensing Information System to screen for potential perpetrators of  
abuse or neglect.
- 1580 (b) A person who requests information knowing that the request is a violation of this Subsection (7) is  
subject to the criminal penalties described in Sections 63G-2-801 and 80-2-1005.
- 1664 Section 12. Section **80-2-1003** is amended to read:
- 1665 **80-2-1003. Deletion, expungement, or notation of information or reports in Management  
Information System or Licensing Information System.**
- 1586 (1)

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- . (a) The division shall delete any reference in the Management Information System or Licensing Information System to a report that:
- 1588 (i) the division determines is without merit, if no subsequent report involving the same alleged perpetrator occurs within one year after the day on which the division makes the determination; or
- 1591 (ii) a court of competent jurisdiction determines is unsubstantiated or without merit, if no subsequent report involving the same alleged perpetrator occurs within five years after the day on which the juvenile court makes the determination.
- 1594 (b) Except as provided in Subsection (1)(c), the information described in Subsections 80-2-1002(2)(a) and (b) shall remain in the Licensing Information System:
- 1596 (i) if the alleged perpetrator fails to take the action described in Subsection 80-2-708(3)(a) within [~~one year~~] 30 days after the day on which the notice described in Subsections 80-2-708(1)(a) and (2) is served;
- 1599 (ii) during the time that the division awaits a response from the alleged perpetrator under Subsection 80-2-708(3)(a); and
- 1601 (iii) until a juvenile court determines that the severe type of child abuse or neglect upon which the Licensing Information System entry was based is unsubstantiated or without merit.
- 1604 (c) Regardless of whether an appeal on the matter is pending:
- 1605 (i) the division shall remove the information described in Subsections 80-2-1002(2)(a) and (b) from the Licensing Information System if the severe type of child abuse or neglect upon which the Licensing Information System entry is based:
- 1608 (A) is found to be unsubstantiated or without merit by the juvenile court under Section 80-3-404 or 80-3-504; or
- 1610 (B) is found to be substantiated, but is subsequently reversed on appeal; and
- 1611 (ii) the division shall place back on the Licensing Information System an alleged perpetrator's name and information that is removed from the Licensing Information System under Subsection (1)(c)(i) if the court action that was the basis for removing the alleged perpetrator's name and information is subsequently reversed on appeal.
- 1616 (2)
- . (a) The division shall maintain a separation of reports as follows:
- 1617 (i) those that are supported;

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- 1618 (ii) those that are unsupported;
- 1619 (iii) those that are without merit;
- 1620 (iv) those that are unsubstantiated under the law in effect before May 6, 2002;
- 1621 (v) those that are substantiated under the law in effect before May 6, 2002; and
- 1622 (vi) those that are consented-to supported findings under Subsection 80-2-708(3)(a)(iii).
- 1624 (b) Only a person with statutory authority may access the information contained in a report described in Subsection (2)(a).
- 1626 (3) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the expungement of supported reports or unsupported reports in the Management Information System and the Licensing Information System that:
- 1630 (a) in relation to an unsupported report or a supported report, identify the types of child abuse or neglect reports that the division:
- 1632 (i) shall expunge within five years after the last date on which the individual's name is placed in the information system, without requiring the subject of the report to request expungement;
- 1635 (ii) shall expunge within 10 years after the last date on which the individual's name is placed in the information system, without requiring the subject of the report to request expungement;
- 1638 (iii) may expunge following an individual's request for expungement in accordance with Subsection (4); and
- 1640 (iv) may not expunge due to the serious nature of the specified types of child abuse or neglect;
- 1642 (b) establish an administrative process and a standard of review for the subject of a report to make an expungement request; and
- 1644 (c) define the term "expunge" or "expungement" to clarify the administrative process for removing a record from the information system.
- 1646 (4)
- . (a) If an individual's name is in the Management Information System or Licensing Information System for a type of child abuse or neglect report identified under Subsection (3)(a)(iii), the individual may request to have the report expunged 10 years after the last date on which the individual's name is placed in the information system for a supported or unsupported report.
- 1651 (b) If an individual's expungement request is denied, the individual shall wait at least one year after the day on which the denial is issued before the individual may again request to have the individual's report expunged.

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1735 Section 13. Section **80-2-1004** is amended to read:

1736 **80-2-1004. Request for division removal of name from Licensing Information System --**  
**Petition for evidentiary hearing or substantiation.**

1657 (1) Except as provided in Subsection (2), an individual whose name [~~is~~] was listed on the Licensing  
Information System [~~as of~~] before May 6, 2002, may[~~at any time~~]:

1659 (a) request, in writing, a review by the division of the individual's case and removal of the individual's  
name from the Licensing Information System under Subsection (3); or

1661 (b) file a petition for substantiation and a request for a finding of unsubstantiated or without merit in  
accordance with Section 80-3-504.

1663 (2) Subsection [~~(1)~~] (1)(b) does not apply to an individual who has been the subject of any of the  
following court determinations with respect to the alleged incident of abuse or neglect:

1666 (a) conviction;

1667 (b) adjudication under Section 80-3-402 or 80-6-701;

1668 (c) plea of guilty;

1669 (d) plea of guilty with a mental condition; or

1670 (e) plea of no contest.

1671 (3) If an alleged perpetrator whose name was listed on the Licensing Information System before May  
6, 2002, requests removal of the alleged perpetrator's name from the Licensing Information System,  
the division shall, within 30 days after the day on which the written request is made:

1675 (a)

. (i) review the case to determine whether the incident of alleged abuse or neglect qualifies as:

1677 (A) a severe type of child abuse or neglect;

1678 (B) chronic abuse; or

1679 (C) chronic neglect; and

1680 (ii) if the alleged abuse or neglect does not qualify as a type of abuse or neglect described in  
Subsections (3)(a)(i)(A) through (C), remove the alleged perpetrator's name from the Licensing  
Information System; or

1683 (b) determine whether to file a petition for substantiation in accordance with Section 80-3-504.

1766 Section 14. Section **80-3-301** is amended to read:

1767 **80-3-301. Shelter hearing -- Court considerations.**

1687

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- (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:
- 1690 (a) removal of the child from the child's home by the division;
  - 1691 (b) placement of the child in protective custody;
  - 1692 (c) emergency placement under Subsection 80-2a-202(5);
  - 1693 (d) as an alternative to removal of the child, a parent enters a domestic violence shelter at the request of the division; or
  - 1695 (e) a motion for expedited placement in temporary custody is filed under Section 80-3-203.
- 1697 (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:
- 1699 (a) the name and address of the individual to whom the notice is directed;
  - 1700 (b) the date, time, and place of the shelter hearing;
  - 1701 (c) the name of the child on whose behalf an abuse, neglect, or dependency petition is brought;
  - 1703 (d) a concise statement regarding:
    - 1704 (i) the reasons for removal or other action of the division under Subsection (1); and
    - 1705 (ii) the allegations and code sections under which the proceeding is instituted;
  - 1706 (e) a statement that the parent or guardian to whom notice is given, and the child, are entitled to have an attorney present at the shelter hearing, and that if the parent or guardian is an indigent individual and cannot afford an attorney, and desires to be represented by an attorney, one will be provided in accordance with Title 78B, Chapter 22, Indigent Defense Act; and
  - 1711 (f) a statement that the parent or guardian is liable for the cost of support of the child in the protective custody, temporary custody, and custody of the division, and the cost for legal counsel appointed for the parent or guardian under Subsection (2)(e), according to the financial ability of the parent or guardian.
- 1715 (3) The notice described in Subsection (2) shall be personally served as soon as possible, but no later than one business day after the day on which the child is removed from the child's home, or the day on which a motion for expedited placement in temporary custody under Section 80-3-203 is filed, on:
- 1719 (a) the appropriate guardian ad litem; and
  - 1720 (b) both parents and any guardian of the child, unless the parents or guardians cannot be located.
  - 1722 (4) Notwithstanding Section 80-3-104, the following individuals shall be present at the shelter hearing:

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- 1724 (a) the child, unless it would be detrimental for the child;  
1725 (b) the child's parents or guardian, unless the parents or guardian cannot be located, or fail to appear in  
response to the notice;  
1727 (c) counsel for the parents, if one is requested;  
1728 (d) the child's guardian ad litem;  
1729 (e) the child welfare caseworker from the division who is assigned to the case; and  
1730 (f) the attorney from the attorney general's office who is representing the division.  
1731 (5)  
. (a) At the shelter hearing, the juvenile court shall:  
1732 (i) provide an opportunity to provide relevant testimony to:  
1733 (A) the child's parent or guardian, if present; and  
1734 (B) any other individual with relevant knowledge;  
1735 (ii) subject to Section 80-3-108, provide an opportunity for the child to testify; and  
1736 (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.  
1738 (b) The juvenile court:  
1739 (i) may consider all relevant evidence, in accordance with the Utah Rules of Juvenile Procedure;  
1741 (ii) shall hear relevant evidence presented by the child, the child's parent or guardian, the requesting  
party, or the requesting party's counsel, including relevant evidence regarding harm the child has  
suffered or will suffer due to the separation or continued separation from the child's parent or  
guardian; and  
1745 (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.  
1747 (6) If the child is in protective custody, the division shall report to the juvenile court:  
1748 (a) the reason why the child was removed from the parent's or guardian's custody;  
1749 (b) any services provided to the child and the child's family in an effort to prevent removal;  
1751 (c) the need, if any, for continued shelter;  
1752 (d) the available services that could facilitate the return of the child to the custody of the child's parent  
or guardian; and  
1754 (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.



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- 1757 (7) The juvenile court shall consider all relevant evidence provided by an individual or entity authorized  
to present relevant evidence under this section.
- 1759 (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.
- 1762 (b) A juvenile court shall honor, as nearly as practicable, the request by a parent or guardian for a  
continuance under Subsection (8)(a).
- 1764 (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.
- 1768 (9)
- . (a) If the child is in protective custody, the juvenile court shall order that the child be returned to  
the custody of the parent or guardian unless the juvenile court finds, by a preponderance of the  
evidence, consistent with the protections and requirements provided in Subsection 80-2a-201(1),  
that any one of the following exists:
- 1772 (i) subject to Subsection (9)(b)(i), there is a serious danger to the physical health or safety of the  
child and the child's physical health or safety may not be protected without removing the child  
from the custody of the child's parent;
- 1775 (ii)
- . (A) the child is suffering emotional damage that results in a serious impairment in the child's growth,  
development, behavior, or psychological functioning;
- 1777 (B) the parent or guardian is unwilling or unable to make reasonable changes that would sufficiently  
prevent future damage; and
- 1779 (C) there are no reasonable means available by which the child's emotional health may be protected  
without removing the child from the custody of the child's parent or guardian;
- 1782 (iii) there is a substantial risk that the child will suffer abuse or neglect if the child is not removed  
from the custody of the child's parent or guardian;
- 1784 (iv) subject to Subsection (9)(b)(ii), the child or a minor residing in the same household has been, or  
is considered to be at substantial risk of being, physically abused, sexually abused, or sexually  
exploited by:
- 1787 (A) a parent or guardian;

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- 1788 (B) a member of the parent's household or the guardian's household; or  
1789 (C) an individual known to the parent or guardian;  
1790 (v) the parent or guardian is unwilling to have physical custody of the child;  
1791 (vi) the parent or guardian is unable to have physical custody of the child;  
1792 (vii) the child is without any provision for the child's support;  
1793 (viii) a parent who is incarcerated or institutionalized has not or cannot arrange for safe and  
appropriate care for the child;  
1795 (ix)  
. (A) a relative or other adult custodian with whom the child is left by the parent or guardian is unwilling  
or unable to provide care or support for the child;  
1797 (B) the whereabouts of the parent or guardian are unknown; and  
1798 (C) reasonable efforts to locate the parent or guardian are unsuccessful;  
1799 (x) subject to Subsection 80-1-102(58)(b)(i) and Sections 80-3-109 and 80-3-304, the child is in  
immediate need of medical care;  
1801 (xi)  
. (A) the physical environment or the fact that the child is left unattended beyond a reasonable period of  
time poses a threat to the child's health or safety; and  
1804 (B) the parent or guardian is unwilling or unable to make reasonable changes that would remove the  
threat;  
1806 (xii)  
. (A) the child or a minor residing in the same household has been neglected; and  
1808 (B) the parent or guardian is unwilling or unable to make reasonable changes that would prevent the  
neglect;  
1810 (xiii) the parent, guardian, or an adult residing in the same household as the parent or guardian,  
is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act, and any  
clandestine laboratory operation was located in the residence or on the property where the child  
resided;  
1814 (xiv)  
. (A) the child's welfare is substantially endangered; and  
1815 (B) the parent or guardian is unwilling or unable to make reasonable changes that would remove the  
danger; or

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- 1817 (xv) the child's natural parent:
- 1818 (A) intentionally, knowingly, or recklessly causes the death of another parent of the child;
- 1820 (B) is identified by a law enforcement agency as the primary suspect in an investigation for  
intentionally, knowingly, or recklessly causing the death of another parent of the child; or
- 1823 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the  
death of another parent of the child.
- 1825 (b)
- . (i) Prima facie evidence of the finding described in Subsection (9)(a)(i) is established if:
- 1827 (A) a court previously adjudicated that the child suffered abuse, neglect, or dependency involving  
the parent; and
- 1829 (B) a subsequent incident of abuse, neglect, or dependency involving the parent occurs.
- 1831 (ii) For purposes of Subsection (9)(a)(iv), if the juvenile court finds that the parent knowingly allowed  
the child to be in the physical care of an individual after the parent received actual notice that the  
individual physically abused, sexually abused, or sexually exploited the child, that fact is prima  
facie evidence that there is a substantial risk that the child will be physically abused, sexually  
abused, or sexually exploited.
- 1837 (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.
- 1841 (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.
- 1845 (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).
- 1849 (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.

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- 1853 (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.
- 1858 (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.
- 1860 (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.
- 1862 (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.
- 1864 (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:
- 1867 (a) any error in the initial removal of the child;
- 1868 (b) the failure of a party to comply with notice provisions; or
- 1869 (c) any other procedural requirement of this chapter, Chapter 2, Child Welfare Services, or Chapter 2a,  
Removal and Protective Custody of a Child.
- 1952 Section 15. Section **80-3-404** is amended to read:
- 1953 **80-3-404. Finding of severe child abuse or neglect -- Order delivered to division -- Court  
records.**
- 1874 (1) If an abuse, neglect, or dependency petition [is-]filed with the juvenile court [that] pursuant to  
Section 80-3-201 informs the juvenile court that the division has made a supported finding that an  
individual committed a severe type of child abuse or neglect, the juvenile court shall:
- 1878 (a) make a finding of substantiated, unsubstantiated, or without merit;
- 1879 (b) include the finding described in Subsection (1)(a) in a written order; and
- 1880 (c) deliver a certified copy of the order described in Subsection (1)(b) to the division.
- 1881 (2) The juvenile court shall make the finding described in Subsection (1):
- 1882 (a) as part of the adjudication hearing;
- 1883 (b) at the conclusion of the adjudication hearing; or
- 1884 (c) as part of a court order entered under a written stipulation of the parties.

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- 1885 (3) In accordance with Section 80-2-707, a proceeding for adjudication of a supported finding of a type  
of abuse or neglect that does not constitute a severe type of child abuse or neglect may be joined in  
the juvenile court with an adjudication of a severe type of child abuse or neglect.
- 1889 (4)
- . (a) The juvenile court shall make [~~records~~] a record of the juvenile court's findings under Subsection  
(1) available only to an individual with statutory authority to access the Licensing Information  
System for the purposes of licensing under Sections 26B-1-211, 26B-2-120, and 26B-2-404, or  
for the purposes described in Sections [~~53-2d-410,~~] 26B-2-121, 26B-2-238 through 26B-2-241, or  
[~~26B-4-124~~] 53-2d-410.
- 1894 (b) An appellate court shall make [~~records~~] a record of an appeal from the juvenile court's decision  
under Subsection (1) available only to an individual with statutory authority to access the Licensing  
Information System for the purposes described in Subsection (4)(a).
- 1979 Section 16. Section **80-3-406** is amended to read:
- 1980 **80-3-406. Permanency plan -- Reunification services.**
- 1900 (1) If the juvenile court orders continued removal at the dispositional hearing under Section 80-3-402,  
and that the minor remain in the custody of the division, the juvenile court shall first:
- 1903 (a) establish a primary permanency plan and a concurrent permanency plan for the minor in accordance  
with this section; and
- 1905 (b) determine whether, in view of the primary permanency plan, reunification services are appropriate  
for the minor and the minor's family under Subsections (5) through (8).
- 1907 (2)
- . (a) The concurrent permanency plan shall include:
- 1908 (i) a representative list of the conditions under which the primary permanency plan will be  
abandoned in favor of the concurrent permanency plan; and
- 1910 (ii) an explanation of the effect of abandoning or modifying the primary permanency plan.
- 1912 (b) In determining the primary permanency plan and concurrent permanency plan, the juvenile court  
shall consider:
- 1914 (i) the preference for kinship placement over nonkinship placement, including the rebuttable  
presumption described in Subsection 80-3-302(7)(a);
- 1916 (ii) the potential for a guardianship placement if parental rights are terminated and no appropriate  
adoption placement is available; and

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- 1918 (iii) the use of an individualized permanency plan, only as a last resort.
- 1919 (3)
- . (a) The juvenile court may amend a minor's primary permanency plan before the establishment of a final permanency plan under Section 80-3-409.
- 1921 (b) The juvenile court is not limited to the terms of the concurrent permanency plan in the event that the primary permanency plan is abandoned.
- 1923 (c) If, at any time, the juvenile court determines that reunification is no longer a minor's primary permanency plan, the juvenile court shall conduct a permanency hearing in accordance with Section 80-3-409 on or before the earlier of:
- 1926 (i) 30 days after the day on which the juvenile court makes the determination described in this Subsection (3)(c); or
- 1928 (ii) the day on which the provision of reunification services, described in Section 80-3-409, ends.
- 1930 (4)
- . (a) Because of the state's interest in and responsibility to protect and provide permanency for minors who are abused, neglected, or dependent, the Legislature finds that a parent's interest in receiving reunification services is limited.
- 1933 (b) The juvenile court may determine that:
- 1934 (i) efforts to reunify a minor with the minor's family are not reasonable or appropriate, based on the individual circumstances; and
- 1936 (ii) reunification services should not be provided.
- 1937 (c) In determining reasonable efforts to be made with respect to a minor, and in making reasonable efforts, the juvenile court and the division shall consider the minor's health, safety, and welfare as the paramount concern.
- 1940 (5) There is a presumption that reunification services should not be provided to a parent if the juvenile court finds, by clear and convincing evidence, that any of the following circumstances exist:
- 1943 (a) the whereabouts of the parents are unknown, based on a verified affidavit indicating that a reasonably diligent search has failed to locate the parent;
- 1945 (b) subject to Subsection (6)(a), the parent is suffering from a mental illness of such magnitude that the mental illness renders the parent incapable of utilizing reunification services;
- 1948 (c) the minor was previously adjudicated as an abused child due to physical abuse, sexual abuse, or sexual exploitation, and following the adjudication the child:

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- 1950 (i) was removed from the custody of the minor's parent;
- 1951 (ii) was subsequently returned to the custody of the parent; and
- 1952 (iii) is being removed due to additional physical abuse, sexual abuse, or sexual exploitation;
- 1954 (d) the parent:
- 1955 (i) caused the death of another minor through abuse or neglect;
- 1956 (ii) committed, aided, abetted, attempted, conspired, or solicited to commit:
- 1957 (A) murder or manslaughter of a minor; or
- 1958 (B) child abuse homicide;
- 1959 (iii) committed sexual abuse against the minor;
- 1960 (iv) is a registered sex offender or required to register as a sex offender; or
- 1961 (v)
- . (A) intentionally, knowingly, or recklessly causes the death of another parent of the minor;
- 1963 (B) is identified by a law enforcement agency as the primary suspect in an investigation for  
intentionally, knowingly, or recklessly causing the death of another parent of the minor; or
- 1966 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the  
death of another parent of the minor;
- 1968 (e) the minor suffered severe abuse by the parent or by any individual known by the parent if the parent  
knew or reasonably should have known that the individual was abusing the minor;
- 1971 (f) the minor is adjudicated as an abused minor as a result of severe abuse by the parent, and the  
juvenile court finds that it would not benefit the minor to pursue reunification services with the  
offending parent;
- 1974 (g) the parent's rights are involuntarily terminated with regard to any other minor;
- 1975 (h) the minor was removed from the minor's home on at least two previous occasions and reunification  
services were offered or provided to the family at those times;
- 1977 (i) the parent has abandoned the minor for a period of six months or longer;
- 1978 (j) the parent permitted the minor to reside, on a permanent or temporary basis, at a location where the  
parent knew or should have known that a clandestine laboratory operation was located;
- 1981 (k) except as provided in Subsection (6)(b), with respect to a parent who is the minor's birth mother, the  
minor has fetal alcohol syndrome, fetal alcohol spectrum disorder, or was exposed to an illegal or  
prescription drug that was abused by the minor's mother while the minor was in utero, if the minor  
was taken into division custody for that reason, unless the mother agrees to enroll in, is currently

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enrolled in, or has recently and successfully completed a substance use disorder treatment program approved by the department; or

1988 (1) ~~[any other circumstance that the juvenile court determines should preclude reunification efforts or~~  
services.] the parent has subjected the minor to aggravated circumstances, including:

1991 (i) a severe type of child abuse or neglect; {or}

1992 (ii) torture{.}; or

2074 (iii) human trafficking of a child as described in Section 76-5-308.5.

1993 (6)

. (a) The juvenile court shall base the finding under Subsection (5)(b) on competent evidence from at least two medical or mental health professionals, who are not associates, establishing that, even with the provision of services, the parent is not likely to be capable of adequately caring for the minor within 12 months after the day on which the juvenile court finding is made.

1998 (b) The juvenile court may disregard the provisions of Subsection (5)(k) if the juvenile court finds, under the circumstances of the case, that the substance use disorder treatment described in Subsection (5)(k) is not warranted.

2001 (7) In determining whether reunification services are appropriate, the juvenile court shall take into consideration:

2003 (a) failure of the parent to respond to previous services or comply with a previous child and family plan;

2005 (b) the fact that the minor was abused while the parent was under the influence of drugs or alcohol;

2007 (c) any history of violent behavior directed at the minor or an immediate family member;

2008 (d) the circumstances under which the parent's rights were voluntarily terminated with regard to any other minor;

2010 ~~[(d)]~~ (e) whether a parent continues to live with an individual who abused the minor;

2011 ~~[(e)]~~ (f) any patterns of the parent's behavior that have exposed the minor to repeated abuse;

2013 ~~[(f)]~~ (g) testimony by a competent professional that the parent's behavior is unlikely to be successful;  
and

2015 ~~[(g)]~~ (h) whether the parent has expressed an interest in reunification with the minor.

2016 (8) If, under Subsections (5)(b) through (l), the juvenile court does not order reunification services, a permanency hearing shall be conducted within 30 days in accordance with Section 80-3-409.

2019 (9)



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- (a) Subject to Subsections (9)(b) through (e), if the juvenile court determines that reunification services are appropriate for the minor and the minor's family, the juvenile court shall provide for reasonable parent-time with the parent or parents from whose custody the minor was removed, unless parent-time is not in the best interest of the minor.
- 2024 (b) Parent-time is in the best interests of a minor unless the juvenile court makes a finding that it is necessary to deny parent-time in order to:
- 2026 (i) protect the physical safety of the minor;
- 2027 (ii) protect the life of the minor; or
- 2028 (iii) prevent the minor from being traumatized by contact with the parent due to the minor's fear of the parent in light of the nature of the alleged abuse or neglect.
- 2030 (c) Notwithstanding Subsection (9)(a), a juvenile court may not deny parent-time based solely on a parent's failure to:
- 2032 (i) prove that the parent has not used legal or illegal substances; or
- 2033 (ii) comply with an aspect of the child and family plan that is ordered by the juvenile court.
- 2035 (d) Parent-time shall be under the least restrictive conditions necessary to:
- 2036 (i) protect the physical safety of the child; or
- 2037 (ii) prevent the child from being traumatized by contact with the parent due to the minor's fear of the parent in light of the nature of the alleged abuse or neglect.
- 2039 (e)
- . (i) The division or the person designated by the division or a court to supervise a parent-time session may deny parent-time for the session if the division or the supervising person determines that, based on the parent's condition, it is necessary to deny parent-time to:
- 2043 (A) protect the physical safety of the child;
- 2044 (B) protect the life of the child; or
- 2045 (C) consistent with Subsection (9)(e)(ii), prevent the child from being traumatized by contact with the parent.
- 2047 (ii) In determining whether the condition of the parent described in Subsection (9)(e)(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:
- 2051 (A) the child's fear of the parent; and
- 2052 (B) the nature of the alleged abuse or neglect.

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- 2053 (10)
- . (a) If the juvenile court determines that reunification services are appropriate, the juvenile court shall order that the division make reasonable efforts to provide services to the minor and the minor's parent for the purpose of facilitating reunification of the family, for a specified period of time.
- 2057 (b) In providing the services described in Subsection (10)(a), the juvenile court and the division shall consider the minor's health, safety, and welfare as the paramount concern.
- 2060 (11) In cases where sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved:
- 2062 (a) the juvenile court does not have any duty to order reunification services; and
- 2063 (b) the division does not have a duty to make reasonable efforts to or in any other way attempt to provide reunification services or attempt to rehabilitate the offending parent or parents.
- 2066 (12)
- . (a) The juvenile court shall:
- 2067 (i) determine whether the services offered or provided by the division under the child and family plan constitute reasonable efforts on the part of the division;
- 2069 (ii) determine and define the responsibilities of the parent under the child and family plan in accordance with Subsection 80-3-307(5)(g)(iii); and
- 2071 (iii) identify verbally on the record, or in a written document provided to the parties, the responsibilities described in Subsection (12)(a)(ii), for the purpose of assisting in any future determination regarding the provision of reasonable efforts, in accordance with state and federal law.
- 2075 (b) If the parent is in a substance use disorder treatment program, other than a certified drug court program, the juvenile court may order the parent:
- 2077 (i) to submit to supplementary drug or alcohol testing, in accordance with Subsection 80-3-110(6), in addition to the testing recommended by the parent's substance use disorder program based on a finding of reasonable suspicion that the parent is abusing drugs or alcohol; and
- 2081 (ii) to provide the results of drug or alcohol testing recommended by the substance use disorder program to the juvenile court or division.
- 2083 (13)
- .

## **SB0177 compared with SB0177S02**

- (a) The time period for reunification services may not exceed 12 months from the day on which the minor was initially removed from the minor's home, unless the time period is extended under Subsection 80-3-409(7).
- 2086 (b) This section does not entitle any parent to an entire 12 months of reunification services.  
2088 (14)
- . (a) If reunification services are ordered, the juvenile court may terminate those services at any time.
- 2090 (b) If, at any time, continuation of reasonable efforts to reunify a minor is determined to be inconsistent with the final permanency plan for the minor established under Section 80-3-409, then measures shall be taken, in a timely manner, to:
- 2093 (i) place the minor in accordance with the final permanency plan; and  
2094 (ii) complete whatever steps are necessary to finalize the permanent placement of the minor.
- 2096 (15) Any physical custody of the minor by the parent or a relative during the period described in Subsections (10) through (14) does not interrupt the running of the period.  
2098 (16)
- . (a) If reunification services are ordered, the juvenile court shall conduct a permanency hearing in accordance with Section 80-3-409 before the day on which the time period for reunification services expires.
- 2101 (b) The permanency hearing shall be held no later than 12 months after the original removal of the minor.
- 2103 (c) If reunification services are not ordered, a permanency hearing shall be conducted within 30 days in accordance with Section 80-3-409.
- 2105 (17) With regard to a minor in the custody of the division whose parent or parents are ordered to receive reunification services but who have abandoned that minor for a period of six months from the day on which reunification services are ordered:
- 2108 (a) the juvenile court shall terminate reunification services; and  
2109 (b) the division shall petition the juvenile court for termination of parental rights.
- 2110 (18) When a minor is under the custody of the division and has been separated from a sibling due to foster care or adoptive placement, a juvenile court may order sibling visitation, subject to the division obtaining consent from the sibling's guardian, according to the juvenile court's determination of the best interests of the minor for whom the hearing is held.  
2115 (19)

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- . (a) If reunification services are not ordered under this section, and the whereabouts of a parent becomes known within six months after the day on which the out-of-home placement of the minor is made, the juvenile court may order the division to provide reunification services.
- 2119 (b) The time limits described in this section are not tolled by the parent's absence.
- 2120 (20)
- . (a) If a parent is incarcerated or institutionalized, the juvenile court shall order reasonable services unless the juvenile court determines that those services would be detrimental to the minor.
- 2123 (b) In making the determination described in Subsection (20)(a), the juvenile court shall consider:
- 2125 (i) the age of the minor;
- 2126 (ii) the degree of parent-child bonding;
- 2127 (iii) the length of the sentence;
- 2128 (iv) the nature of the treatment;
- 2129 (v) the nature of the crime or illness;
- 2130 (vi) the degree of detriment to the minor if services are not offered;
- 2131 (vii) for a minor who is 10 years old or older, the minor's attitude toward the implementation of family reunification services; and
- 2133 (viii) any other appropriate factors.
- 2134 (c) Reunification services for an incarcerated parent are subject to the time limitations imposed in this section.
- 2136 (d) Reunification services for an institutionalized parent are subject to the time limitations imposed in this section, unless the juvenile court determines that continued reunification services would be in the minor's best interest.
- 2221 Section 17. Section **80-3-504** is amended to read:
- 2222 **80-3-504. Petition for substantiation -- Court findings -- Expedited hearing -- Records of an appeal.**
- 2142 (1) The division or an individual may file a petition for substantiation in accordance with Section 80-2-708 or 80-2-1004.
- 2144 (2) An adjudicative proceeding on a petition for substantiation may be stayed during the time a judicial action or an active criminal investigation on the same matter is pending.
- 2146

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(3) If the division decides to file a petition for substantiation under Section 80-2-1004, the division shall file the petition ~~[no more than 14]~~ within 30 days after the day on which the division makes the decision.

2149 [(3)] (4) At the conclusion of the hearing on a petition for substantiation, the juvenile court shall:

2151 (a) make a finding of substantiated, unsubstantiated, or without merit;

2152 (b) include the finding in a written order; and

2153 (c) deliver a certified copy of the order to the division.

2154 [(4)] (5) If an individual whose name is listed on the Licensing Information System before May 6, 2002, files a petition for substantiation under Section 80-2-1004 during the time that an alleged perpetrator's application for clearance to work with children or vulnerable adults is pending, the juvenile court shall:

2158 (a) hear the matter on an expedited basis; and

2159 (b) enter a final decision no later than 60 days after the day on which the petition for substantiation is filed.

2161 [(5)] (6)

. (a) The juvenile court shall make a record of the juvenile court's findings under Subsection (4) available only to an individual with statutory authority to access the Licensing Information System for the purposes of licensing under Sections 26B-1-211, 26B-2-120, and 26B-2-404, or for the purposes described in Sections 26B-2-121, or 26B-2-238 through 26B-2-241, or 53-2d-410.

2166 (b) An appellate court shall make a record of an appeal from the juvenile court's decision under Subsection [(3)] (4) available only to an individual with statutory authority to access the Licensing Information System for the purposes ~~[of licensing under Sections 26B-1-211, 26B-2-120, 26B-2-404, or for the purposes described in Sections 53-2d-410, 26B-2-121, 26B-2-238 through 26B-2-241, or 26B-4-124]~~ described in Subsection (6)(a).

2254 Section 18. **Effective date.**

This bill takes effect on May 7, 2025.

2-13-25 1:06 PM