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Corporal Punishment in Schools Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Keith Grover

House Sponsor:

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LONG TITLE**General Description:**

This bill modifies provisions related to corporal punishment.

Highlighted Provisions:

This bill:

- defines terms related to corporal punishment and physical discipline;
- modifies the definition of corporal punishment in the public education code;
- creates criminal penalties for using certain implements to inflict physical discipline;
- coordinates child welfare code definitions with new criminal provisions;
- establishes exceptions for specified circumstances; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-8-301, as renumbered and amended by Laws of Utah 2018, Chapter 3

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

ENACTS:

76-5-109.5, Utah Code Annotated 1953

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

Section 1. Section **53G-8-301** is amended to read:

53G-8-301 . Definitions.

As used in this part:

(1) "Corporal punishment" means:

(a) the intentional infliction of physical pain upon the body of a student as a disciplinary

31 measure[-] ; or
 32 (b) the use of any object or implement, as defined in Section 76-5-109.5, to strike, hit, or
 33 inflict physical pain upon a student for disciplinary purposes.

34 (2) "Physical escort" means a temporary touching or holding of the hand, wrist, arm,
 35 shoulder, or back for the purpose of guiding a student to another location.

36 (3) "Physical restraint" means a personal restriction that immobilizes or significantly
 37 reduces the ability of a student to move the student's arms, legs, body, or head freely.

38 (4) "School" means a public or private elementary school, secondary school, or preschool.

39 (5) "Student" means an individual who is:

40 (a) under [~~the age of~~] 19 years old and receiving educational services; or

41 (b) under [~~the age of~~] 23 years old and receiving educational services as an individual
 42 with a disability.

43 Section 2. Section **76-5-109.5** is enacted to read:

44 **76-5-109.5 . Unlawful use of implements in physical discipline of a minor.**

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

46 (i) "Implement" means any object or device used to inflict physical pain for
 47 disciplinary purposes, including:

48 (A) a paddle;

49 (B) a belt when used as a striking implement; or

50 (C) similar objects intended to cause physical pain.

51 (ii) "Minor" means an individual younger than 18 years old.

52 (b) Terms defined in Section 76-1-101.5 apply to this section.

53 (2) Under circumstances not amounting to offense described in Section 76-5-109, an actor
 54 commits unlawful use of implements in physical discipline of a minor if the actor
 55 intentionally or knowingly:

56 (a) uses an implement on a minor; and

57 (b) as a result of the action described in Subsection (2)(a), causes bodily injury to the
 58 minor.

59 (3) A violation of Subsection (2) is a class B misdemeanor.

60 (4) This section does not prohibit reasonable and necessary force used to protect any person
 61 from imminent bodily injury.

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

63 **80-1-102 . Juvenile Code definitions.**

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

- 65 (1)(a) "Abuse" means:
- 66 (i)(A) nonaccidental harm of a child;
- 67 (B) threatened harm of a child;
- 68 (C) sexual exploitation;
- 69 (D) sexual abuse;[-ør]
- 70 (E) human trafficking of a child in violation of Section 76-5-308.5; or
- 71 (F) an offense described in Section 76-5-109.5; or
- 72 (ii) that a child's natural parent:
- 73 (A) intentionally, knowingly, or recklessly causes the death of another parent of
- 74 the child;
- 75 (B) is identified by a law enforcement agency as the primary suspect in an
- 76 investigation for intentionally, knowingly, or recklessly causing the death of
- 77 another parent of the child; or
- 78 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or
- 79 recklessly causing the death of another parent of the child.
- 80 (b) "Abuse" does not include:
- 81 (i) reasonable discipline or management of a child, including withholding privileges;
- 82 (ii) conduct described in Section 76-2-401; or
- 83 (iii) the use of reasonable and necessary physical restraint or force on a child:
- 84 (A) in self-defense;
- 85 (B) in defense of others;
- 86 (C) to protect the child; or
- 87 (D) to remove a weapon in the possession of a child for any of the reasons
- 88 described in Subsections (1)(b)(iii)(A) through (C).
- 89 (2) "Abused child" means a child who has been subjected to abuse.
- 90 (3)(a) "Adjudication" means, except as provided in Subsection (3)(b):
- 91 (i) for a delinquency petition or criminal information under Chapter 6, Juvenile
- 92 Justice:
- 93 (A) a finding by the juvenile court that the facts alleged in a delinquency petition
- 94 or criminal information alleging that a minor committed an offense have been
- 95 proved;
- 96 (B) an admission by a minor in the juvenile court as described in Section 80-6-306;
- 97 or
- 98 (C) a plea of no contest by minor in the juvenile court; or

- 99 (ii) for all other proceedings under this title, a finding by the juvenile court that the
100 facts alleged in the petition have been proved.
- 101 (b) "Adjudication" does not include:
- 102 (i) an admission by a minor described in Section 80-6-306 until the juvenile court
103 enters the minor's admission; or
- 104 (ii) a finding of not competent to proceed in accordance with Section 80-6-402.
- 105 (4)(a) "Adult" means an individual who is 18 years old or older.
- 106 (b) "Adult" does not include an individual:
- 107 (i) who is 18 years old or older; and
- 108 (ii) who is a minor.
- 109 (5) "Attorney guardian ad litem" means the same as that term is defined in Section
110 78A-2-801.
- 111 (6) "Board" means the Board of Juvenile Court Judges.
- 112 (7) "Child" means, except as provided in Section 80-2-905, an individual who is under 18
113 years old.
- 114 (8) "Child and family plan" means a written agreement between a child's parents or
115 guardian and the Division of Child and Family Services as described in Section 80-3-307.
- 116 (9) "Child placing" means the same as that term is defined in Section 26B-2-101.
- 117 (10) "Child-placing agency" means the same as that term is defined in Section 26B-2-101.
- 118 (11) "Child protection team" means a team consisting of:
- 119 (a) the child welfare caseworker assigned to the case;
- 120 (b) if applicable, the child welfare caseworker who made the decision to remove the
121 child;
- 122 (c) a representative of the school or school district where the child attends school;
- 123 (d) if applicable, the law enforcement officer who removed the child from the home;
- 124 (e) a representative of the appropriate Children's Justice Center, if one is established
125 within the county where the child resides;
- 126 (f) if appropriate, and known to the division, a therapist or counselor who is familiar
127 with the child's circumstances;
- 128 (g) if appropriate, a representative of law enforcement selected by the chief of police or
129 sheriff in the city or county where the child resides; and
- 130 (h) any other individuals determined appropriate and necessary by the team coordinator
131 and chair.
- 132 (12)(a) "Chronic abuse" means repeated or patterned abuse.

- 133 (b) "Chronic abuse" does not mean an isolated incident of abuse.
- 134 (13)(a) "Chronic neglect" means repeated or patterned neglect.
- 135 (b) "Chronic neglect" does not mean an isolated incident of neglect.
- 136 (14) "Clandestine laboratory operation" means the same as that term is defined in Section
137 58-37d-3.
- 138 (15) "Commit" or "committed" means, unless specified otherwise:
- 139 (a) with respect to a child, to transfer legal custody; and
- 140 (b) with respect to a minor who is at least 18 years old, to transfer custody.
- 141 (16) "Community-based program" means a nonsecure residential or nonresidential program,
142 designated to supervise and rehabilitate juvenile offenders, that prioritizes the least
143 restrictive setting, consistent with public safety, and operated by or under contract with
144 the Division of Juvenile Justice and Youth Services.
- 145 (17) "Community placement" means placement of a minor in a community-based program
146 described in Section 80-5-402.
- 147 (18) "Correctional facility" means:
- 148 (a) a county jail; or
- 149 (b) a secure correctional facility as defined in Section 64-13-1.
- 150 (19) "Criminogenic risk factors" means evidence-based factors that are associated with a
151 minor's likelihood of reoffending.
- 152 (20) "Department" means the Department of Health and Human Services created in Section
153 26B-1-201.
- 154 (21) "Dependent child" or "dependency" means a child who is without proper care through
155 no fault of the child's parent, guardian, or custodian.
- 156 (22) "Deprivation of custody" means transfer of legal custody by the juvenile court from a
157 parent or a previous custodian to another person, agency, or institution.
- 158 (23) "Detention" means home detention or secure detention.
- 159 (24) "Detention facility" means a facility, established by the Division of Juvenile Justice
160 and Youth Services in accordance with Section 80-5-501, for minors held in detention.
- 161 (25) "Detention risk assessment tool" means an evidence-based tool established under
162 Section 80-5-203 that:
- 163 (a) assesses a minor's risk of failing to appear in court or reoffending before
164 adjudication; and
- 165 (b) is designed to assist in making a determination of whether a minor shall be held in
166 detention.

- 167 (26) "Developmental immaturity" means incomplete development in one or more domains
168 that manifests as a functional limitation in the minor's present ability to:
- 169 (a) consult with counsel with a reasonable degree of rational understanding; and
 - 170 (b) have a rational as well as factual understanding of the proceedings.
- 171 (27) "Disposition" means an order by a juvenile court, after the adjudication of a minor,
172 under Section 80-3-405 or 80-4-305 or Chapter 6, Part 7, Adjudication and Disposition.
- 173 (28) "Educational neglect" means that, after receiving a notice of compulsory education
174 violation under Section 53G-6-202, the parent or guardian fails to make a good faith
175 effort to ensure that the child receives an appropriate education.
- 176 (29) "Educational series" means an evidence-based instructional series:
- 177 (a) obtained at a substance abuse program that is approved by the Division of Integrated
178 Healthcare in accordance with Section 26B-5-104; and
 - 179 (b) designed to prevent substance use or the onset of a mental health disorder.
- 180 (30) "Emancipated" means the same as that term is defined in Section 80-7-102.
- 181 (31) "Evidence-based" means a program or practice that has had multiple randomized
182 control studies or a meta-analysis demonstrating that the program or practice is effective
183 for a specific population or has been rated as effective by a standardized program
184 evaluation tool.
- 185 (32) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.
- 186 (33) "Formal probation" means a minor is:
- 187 (a) supervised in the community by, and reports to, a juvenile probation officer or an
188 agency designated by the juvenile court; and
 - 189 (b) subject to return to the juvenile court in accordance with Section 80-6-607.
- 190 (34) "Group rehabilitation therapy" means psychological and social counseling of one or
191 more individuals in the group, depending upon the recommendation of the therapist.
- 192 (35) "Guardian" means a person appointed by a court to make decisions regarding a minor,
193 including the authority to consent to:
- 194 (a) marriage;
 - 195 (b) enlistment in the armed forces;
 - 196 (c) major medical, surgical, or psychiatric treatment; or
 - 197 (d) legal custody, if legal custody is not vested in another individual, agency, or
198 institution.
- 199 (36) "Guardian ad litem" means the same as that term is defined in Section 78A-2-801.
- 200 (37) "Harm" means:

- 201 (a) physical or developmental injury or damage;
- 202 (b) emotional damage that results in a serious impairment in the child's growth,
203 development, behavior, or psychological functioning;
- 204 (c) sexual abuse; or
- 205 (d) sexual exploitation.
- 206 (38) "Home detention" means placement of a minor:
- 207 (a) if prior to a disposition, in the minor's home, or in a surrogate home with the consent
208 of the minor's parent, guardian, or custodian, under terms and conditions established
209 by the Division of Juvenile Justice and Youth Services or the juvenile court; or
- 210 (b) if after a disposition, and in accordance with Section 78A-6-353 or 80-6-704, in the
211 minor's home, or in a surrogate home with the consent of the minor's parent,
212 guardian, or custodian, under terms and conditions established by the Division of
213 Juvenile Justice and Youth Services or the juvenile court.
- 214 (39)(a) "Incest" means engaging in sexual intercourse with an individual whom the
215 perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle,
216 aunt, nephew, niece, or first cousin.
- 217 (b) "Incest" includes:
- 218 (i) blood relationships of the whole or half blood, regardless of whether the
219 relationship is legally recognized;
- 220 (ii) relationships of parent and child by adoption; and
- 221 (iii) relationships of stepparent and stepchild while the marriage creating the
222 relationship of a stepparent and stepchild exists.
- 223 (40) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.
- 224 (41) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.
- 225 (42) "Indigent defense service provider" means the same as that term is defined in Section
226 78B-22-102.
- 227 (43) "Indigent defense services" means the same as that term is defined in Section
228 78B-22-102.
- 229 (44) "Indigent individual" means the same as that term is defined in Section 78B-22-102.
- 230 (45)(a) "Intake probation" means a minor is:
- 231 (i) monitored by a juvenile probation officer; and
- 232 (ii) subject to return to the juvenile court in accordance with Section 80-6-607.
- 233 (b) "Intake probation" does not include formal probation.
- 234 (46) "Intellectual disability" means a significant subaverage general intellectual functioning

- 235 existing concurrently with deficits in adaptive behavior that constitutes a substantial
236 limitation to the individual's ability to function in society.
- 237 (47) "Juvenile offender" means:
- 238 (a) a serious youth offender; or
239 (b) a youth offender.
- 240 (48) "Juvenile probation officer" means a probation officer appointed under Section
241 78A-6-205.
- 242 (49) "Juvenile receiving center" means a nonsecure, nonresidential program established by
243 the Division of Juvenile Justice and Youth Services, or under contract with the Division
244 of Juvenile Justice and Youth Services, that is responsible for minors taken into
245 temporary custody under Section 80-6-201.
- 246 (50) "Legal custody" means a relationship embodying:
- 247 (a) the right to physical custody of the minor;
248 (b) the right and duty to protect, train, and discipline the minor;
249 (c) the duty to provide the minor with food, clothing, shelter, education, and ordinary
250 medical care;
251 (d) the right to determine where and with whom the minor shall live; and
252 (e) the right, in an emergency, to authorize surgery or other extraordinary care.
- 253 (51) "Licensing Information System" means the Licensing Information System maintained
254 by the Division of Child and Family Services under Section 80-2-1002.
- 255 (52) "Management Information System" means the Management Information System
256 developed by the Division of Child and Family Services under Section 80-2-1001.
- 257 (53) "Mental illness" means:
- 258 (a) a psychiatric disorder that substantially impairs an individual's mental, emotional,
259 behavioral, or related functioning; or
260 (b) the same as that term is defined in:
- 261 (i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders
262 published by the American Psychiatric Association; or
263 (ii) the current edition of the International Statistical Classification of Diseases and
264 Related Health Problems.
- 265 (54) "Minor" means, except as provided in Sections 80-6-501, 80-6-901, and 80-7-102:
- 266 (a) a child; or
267 (b) an individual:
268 (i)(A) who is at least 18 years old and younger than 21 years old; and

- 269 (B) for whom the Division of Child and Family Services has been specifically
270 ordered by the juvenile court to provide services because the individual was an
271 abused, neglected, or dependent child or because the individual was
272 adjudicated for an offense;
- 273 (ii)(A) who is at least 18 years old and younger than 25 years old; and
274 (B) whose case is under the jurisdiction of the juvenile court in accordance with
275 Subsection 78A-6-103(1)(b); or
- 276 (iii)(A) who is at least 18 years old and younger than 21 years old; and
277 (B) whose case is under the jurisdiction of the juvenile court in accordance with
278 Subsection 78A-6-103(1)(c).
- 279 (55) "Mobile crisis outreach team" means the same as that term is defined in Section
280 26B-5-101.
- 281 (56) "Molestation" means that an individual, with the intent to arouse or gratify the sexual
282 desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child,
283 or the breast of a female child, or takes indecent liberties with a child as defined in
284 Section 76-5-401.1.
- 285 (57)(a) "Natural parent" means, except as provided in Section 80-3-302, a minor's
286 biological or adoptive parent.
- 287 (b) "Natural parent" includes the minor's noncustodial parent.
- 288 (58)(a) "Neglect" means action or inaction causing:
- 289 (i) abandonment of a child, except as provided in Chapter 4, Part 5, Safe
290 Relinquishment of a Newborn Child;
- 291 (ii) lack of proper parental care of a child by reason of the fault or habits of the
292 parent, guardian, or custodian;
- 293 (iii) failure or refusal of a parent, guardian, or custodian to provide proper or
294 necessary subsistence or medical care, or any other care necessary for the child's
295 health, safety, morals, or well-being;
- 296 (iv) a child to be at risk of being neglected or abused because another child in the
297 same home is neglected or abused;
- 298 (v) abandonment of a child through an unregulated child custody transfer under
299 Section 78B-24-203; or
- 300 (vi) educational neglect.
- 301 (b) "Neglect" does not include:
- 302 (i) a parent or guardian legitimately practicing religious beliefs and who, for that

- 303 reason, does not provide specified medical treatment for a child;
- 304 (ii) a health care decision made for a child by the child's parent or guardian, unless
- 305 the state or other party to a proceeding shows, by clear and convincing evidence,
- 306 that the health care decision is not reasonable and informed;
- 307 (iii) a parent or guardian exercising the right described in Section 80-3-304; or
- 308 (iv) permitting a child, whose basic needs are met and who is of sufficient age and
- 309 maturity to avoid harm or unreasonable risk of harm, to engage in independent
- 310 activities, including:
- 311 (A) traveling to and from school, including by walking, running, or bicycling;
- 312 (B) traveling to and from nearby commercial or recreational facilities;
- 313 (C) engaging in outdoor play;
- 314 (D) remaining in a vehicle unattended, except under the conditions described in
- 315 Subsection 76-10-2202(2);
- 316 (E) remaining at home unattended; or
- 317 (F) engaging in a similar independent activity.
- 318 (59) "Neglected child" means a child who has been subjected to neglect.
- 319 (60) "Nonjudicial adjustment" means closure of the case by the assigned juvenile probation
- 320 officer, without an adjudication of the minor's case under Section 80-6-701, upon the
- 321 consent in writing of:
- 322 (a) the assigned juvenile probation officer; and
- 323 (b)(i) the minor; or
- 324 (ii) the minor and the minor's parent, guardian, or custodian.
- 325 (61) "Not competent to proceed" means that a minor, due to a mental illness, intellectual
- 326 disability or related condition, or developmental immaturity, lacks the ability to:
- 327 (a) understand the nature of the proceedings against the minor or of the potential
- 328 disposition for the offense charged; or
- 329 (b) consult with counsel and participate in the proceedings against the minor with a
- 330 reasonable degree of rational understanding.
- 331 (62) "Parole" means a conditional release of a juvenile offender from residency in secure
- 332 care to live outside of secure care under the supervision of the Division of Juvenile
- 333 Justice and Youth Services, or another person designated by the Division of Juvenile
- 334 Justice and Youth Services.
- 335 (63) "Physical abuse" means abuse that results in physical injury or damage to a child.
- 336 (64)(a) "Probation" means a legal status created by court order, following an

- 337 adjudication under Section 80-6-701, whereby the minor is permitted to remain in the
338 minor's home under prescribed conditions.
- 339 (b) "Probation" includes intake probation or formal probation.
- 340 (65) "Prosecuting attorney" means:
- 341 (a) the attorney general and any assistant attorney general;
- 342 (b) any district attorney or deputy district attorney;
- 343 (c) any county attorney or assistant county attorney; and
- 344 (d) any other attorney authorized to commence an action on behalf of the state.
- 345 (66) "Protective custody" means the shelter of a child by the Division of Child and Family
346 Services from the time the child is removed from the home until the earlier of:
- 347 (a) the day on which the shelter hearing is held under Section 80-3-301; or
- 348 (b) the day on which the child is returned home.
- 349 (67) "Protective services" means expedited services that are provided:
- 350 (a) in response to evidence of neglect, abuse, or dependency of a child;
- 351 (b) to a cohabitant who is neglecting or abusing a child, in order to:
- 352 (i) help the cohabitant develop recognition of the cohabitant's duty of care and of the
353 causes of neglect or abuse; and
- 354 (ii) strengthen the cohabitant's ability to provide safe and acceptable care; and
- 355 (c) in cases where the child's welfare is endangered:
- 356 (i) to bring the situation to the attention of the appropriate juvenile court and law
357 enforcement agency;
- 358 (ii) to cause a protective order to be issued for the protection of the child, when
359 appropriate; and
- 360 (iii) to protect the child from the circumstances that endanger the child's welfare
361 including, when appropriate:
- 362 (A) removal from the child's home;
- 363 (B) placement in substitute care; and
- 364 (C) petitioning the court for termination of parental rights.
- 365 (68) "Protective supervision" means a legal status created by court order, following an
366 adjudication on the ground of abuse, neglect, or dependency, whereby:
- 367 (a) the minor is permitted to remain in the minor's home; and
- 368 (b) supervision and assistance to correct the abuse, neglect, or dependency is provided
369 by an agency designated by the juvenile court.
- 370 (69)(a) "Related condition" means a condition that:

- 371 (i) is found to be closely related to intellectual disability;
- 372 (ii) results in impairment of general intellectual functioning or adaptive behavior
- 373 similar to that of an intellectually disabled individual;
- 374 (iii) is likely to continue indefinitely; and
- 375 (iv) constitutes a substantial limitation to the individual's ability to function in society.
- 376 (b) "Related condition" does not include mental illness, psychiatric impairment, or
- 377 serious emotional or behavioral disturbance.
- 378 (70)(a) "Residual parental rights and duties" means the rights and duties remaining with
- 379 a parent after legal custody or guardianship, or both, have been vested in another
- 380 person or agency, including:
- 381 (i) the responsibility for support;
- 382 (ii) the right to consent to adoption;
- 383 (iii) the right to determine the child's religious affiliation; and
- 384 (iv) the right to reasonable parent-time unless restricted by the court.
- 385 (b) If no guardian has been appointed, "residual parental rights and duties" includes the
- 386 right to consent to:
- 387 (i) marriage;
- 388 (ii) enlistment; and
- 389 (iii) major medical, surgical, or psychiatric treatment.
- 390 (71) "Runaway" means a child, other than an emancipated child, who willfully leaves the
- 391 home of the child's parent or guardian, or the lawfully prescribed residence of the child,
- 392 without permission.
- 393 (72) "Secure care" means placement of a minor, who is committed to the Division of
- 394 Juvenile Justice and Youth Services for rehabilitation, in a facility operated by, or under
- 395 contract with, the Division of Juvenile Justice and Youth Services, that provides 24-hour
- 396 supervision and confinement of the minor.
- 397 (73) "Secure care facility" means a facility, established in accordance with Section 80-5-503,
- 398 for juvenile offenders in secure care.
- 399 (74) "Secure detention" means temporary care of a minor who requires secure custody in a
- 400 physically restricting facility operated by, or under contract with, the Division of
- 401 Juvenile Justice and Youth Services:
- 402 (a) before disposition of an offense that is alleged to have been committed by the minor;
- 403 or
- 404 (b) under Section 80-6-704.

- 405 (75) "Serious youth offender" means an individual who:
- 406 (a) is at least 14 years old, but under 25 years old;
- 407 (b) committed a felony listed in Subsection 80-6-503(1) and the continuing jurisdiction
- 408 of the juvenile court was extended over the individual's case until the individual was
- 409 25 years old in accordance with Section 80-6-605; and
- 410 (c) is committed by the juvenile court to the Division of Juvenile Justice and Youth
- 411 Services for secure care under Sections 80-6-703 and 80-6-705.
- 412 (76) "Severe abuse" means abuse that causes or threatens to cause serious harm to a child.
- 413 (77) "Severe neglect" means neglect that causes or threatens to cause serious harm to a
- 414 child.
- 415 (78)(a) "Severe type of child abuse or neglect" means, except as provided in Subsection
- 416 (78)(b):
- 417 (i) if committed by an individual who is 18 years old or older:
- 418 (A) chronic abuse;
- 419 (B) severe abuse;
- 420 (C) sexual abuse;
- 421 (D) sexual exploitation;
- 422 (E) abandonment;
- 423 (F) chronic neglect; or
- 424 (G) severe neglect; or
- 425 (ii) if committed by an individual who is under 18 years old:
- 426 (A) causing serious physical injury, as defined in Subsection 76-5-109(1), to
- 427 another child that indicates a significant risk to other children; or
- 428 (B) sexual behavior with or upon another child that indicates a significant risk to
- 429 other children.
- 430 (b) "Severe type of child abuse or neglect" does not include:
- 431 (i) the use of reasonable and necessary physical restraint by an educator in
- 432 accordance with Subsection 53G-8-302(2) or Section 76-2-401;
- 433 (ii) an individual's conduct that is justified under Section 76-2-401 or constitutes the
- 434 use of reasonable and necessary physical restraint or force in self-defense or
- 435 otherwise appropriate to the circumstances to obtain possession of a weapon or
- 436 other dangerous object in the possession or under the control of a child or to
- 437 protect the child or another individual from physical injury; or
- 438 (iii) a health care decision made for a child by a child's parent or guardian, unless,

439 subject to Subsection (78)(c), the state or other party to the proceeding shows, by
440 clear and convincing evidence, that the health care decision is not reasonable and
441 informed.

442 (c) Subsection (78)(b)(iii) does not prohibit a parent or guardian from exercising the
443 right to obtain a second health care opinion.

444 (79) "Sexual abuse" means:

445 (a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an
446 adult directed towards a child;

447 (b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation
448 committed by a child towards another child if:

449 (i) there is an indication of force or coercion;

450 (ii) the children are related, as described in Subsection (39), including siblings by
451 marriage while the marriage exists or by adoption;

452 (iii) there have been repeated incidents of sexual contact between the two children,
453 unless the children are 14 years old or older; or

454 (iv) there is a disparity in chronological age of four or more years between the two
455 children;

456 (c) engaging in any conduct with a child that would constitute an offense under any of
457 the following, regardless of whether the individual who engages in the conduct is
458 actually charged with, or convicted of, the offense:

459 (i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the
460 alleged perpetrator of an offense described in Section 76-5-401 is a minor;

461 (ii) child bigamy, Section 76-7-101.5;

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

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

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

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

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

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

470 (80) "Sexual exploitation" means knowingly:

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

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

- 473 (ii) engage in any sexual or simulated sexual conduct for the purpose of
474 photographing, filming, recording, or displaying in any way the sexual or
475 simulated sexual conduct;
- 476 (b) displaying, distributing, possessing for the purpose of distribution, or selling material
477 depicting a child:
- 478 (i) in the nude, for the purpose of sexual arousal of any individual; or
479 (ii) engaging in sexual or simulated sexual conduct; or
- 480 (c) engaging in any conduct that would constitute an offense under Section 76-5b-201,
481 sexual exploitation of a minor, or Section 76-5b-201.1, aggravated sexual
482 exploitation of a minor, regardless of whether the individual who engages in the
483 conduct is actually charged with, or convicted of, the offense.
- 484 (81) "Shelter" means the temporary care of a child in a physically unrestricted facility
485 pending a disposition or transfer to another jurisdiction.
- 486 (82) "Shelter facility" means a nonsecure facility that provides shelter for a minor.
- 487 (83) "Significant risk" means a risk of harm that is determined to be significant in
488 accordance with risk assessment tools and rules established by the Division of Child and
489 Family Services in accordance with Title 63G, Chapter 3, Utah Administrative
490 Rulemaking Act, that focus on:
- 491 (a) age;
492 (b) social factors;
493 (c) emotional factors;
494 (d) sexual factors;
495 (e) intellectual factors;
496 (f) family risk factors; and
497 (g) other related considerations.
- 498 (84) "Single criminal episode" means the same as that term is defined in Section 76-1-401.
- 499 (85) "Status offense" means an offense that would not be an offense but for the age of the
500 offender.
- 501 (86) "Substance abuse" means, except as provided in Section 80-2-603, the misuse or
502 excessive use of alcohol or other drugs or substances.
- 503 (87) "Substantiated" or "substantiation" means a judicial finding based on a preponderance
504 of the evidence, and separate consideration of each allegation made or identified in the
505 case, that abuse, neglect, or dependency occurred .
- 506 (88) "Substitute care" means:

- 507 (a) the placement of a minor in a family home, group care facility, or other placement
508 outside the minor's own home, either at the request of a parent or other responsible
509 relative, or upon court order, when it is determined that continuation of care in the
510 minor's own home would be contrary to the minor's welfare;
- 511 (b) services provided for a minor in the protective custody of the Division of Child and
512 Family Services, or a minor in the temporary custody or custody of the Division of
513 Child and Family Services, as those terms are defined in Section 80-2-102; or
- 514 (c) the licensing and supervision of a substitute care facility.
- 515 (89) "Supported" means a finding by the Division of Child and Family Services based on
516 the evidence available at the completion of an investigation, and separate consideration
517 of each allegation made or identified during the investigation, that there is a reasonable
518 basis to conclude that abuse, neglect, or dependency occurred.
- 519 (90) "Termination of parental rights" means the permanent elimination of all parental rights
520 and duties, including residual parental rights and duties, by court order.
- 521 (91) "Therapist" means:
- 522 (a) an individual employed by a state division or agency for the purpose of conducting
523 psychological treatment and counseling of a minor in the division's or agency's
524 custody; or
- 525 (b) any other individual licensed or approved by the state for the purpose of conducting
526 psychological treatment and counseling.
- 527 (92) "Threatened harm" means actions, inactions, or credible verbal threats, indicating that
528 the child is at an unreasonable risk of harm or neglect.
- 529 (93) "Ungovernable" means a child in conflict with a parent or guardian, and the conflict:
- 530 (a) results in behavior that is beyond the control or ability of the child, or the parent or
531 guardian, to manage effectively;
- 532 (b) poses a threat to the safety or well-being of the child, the child's family, or others; or
- 533 (c) results in the situations described in Subsections (93)(a) and (b).
- 534 (94) "Unsubstantiated" means a judicial finding that there is insufficient evidence to
535 conclude that abuse, neglect, or dependency occurred.
- 536 (95) "Unsupported" means a finding by the Division of Child and Family Services at the
537 completion of an investigation, after the day on which the Division of Child and Family
538 Services concludes the alleged abuse, neglect, or dependency is not without merit, that
539 there is insufficient evidence to conclude that abuse, neglect, or dependency occurred.
- 540 (96) "Validated risk and needs assessment" means an evidence-based tool that assesses a

541 minor's risk of reoffending and a minor's criminogenic needs.

542 (97) "Without merit" means a finding at the completion of an investigation by the Division
543 of Child and Family Services, or a judicial finding, that the alleged abuse, neglect, or
544 dependency did not occur, or that the alleged perpetrator was not responsible for the
545 abuse, neglect, or dependency.

546 (98) "Youth offender" means an individual who is:

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

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

550 Section 4. **Effective Date.**

551 This bill takes effect on May 7, 2025.