

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

Child Welfare Changes
2026 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: Karianne Lisonbee
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill addresses guardians ad litem and consideration of a minor's best interest.

Highlighted Provisions:

This bill:

- ▶ makes modifications to the Guardian ad Litem Oversight Committee;
- ▶ modifies the responsibilities of the director of the Office of Guardian ad Litem;
- ▶ requires an attorney guardian ad litem to inform the court at each hearing:
 - whether the minor expressed a desire to attend the hearing; and
 - of the date of the attorney guardian ad litem's last interaction with the minor;
- ▶ addresses when a guardian ad litem is appointed;
- ▶ adjusts the responsibilities and obligations of an attorney guardian ad litem;
- ▶ directs a court to consider the best interest of a minor within the context of the principles and provisions in Sections 80-2a-201 and 80-4-104;
- ▶ clarifies that the report provided to the Child Welfare Legislative Oversight Panel and the chairs of the Health and Human Services Interim Committee by the fatality review committee within the Division of Continuous Quality and Improvement should not be fully redacted; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

28 **26B-1-506**, as last amended by Laws of Utah 2024, Chapter 288
 29 **26B-1-507**, as last amended by Laws of Utah 2024, Chapter 288
 30 **78A-2-104**, as last amended by Laws of Utah 2023, Chapter 394
 31 **78A-2-702**, as last amended by Laws of Utah 2021, Chapter 262
 32 **78A-2-704**, as last amended by Laws of Utah 2022, Chapter 335
 33 **78A-2-801**, as last amended by Laws of Utah 2022, Chapter 334
 34 **78A-2-802**, as last amended by Laws of Utah 2023, Chapter 394
 35 **78A-2-803**, as last amended by Laws of Utah 2023, Chapter 280
 36 **80-1-102**, as last amended by Laws of Utah 2025, Chapter 426
 37 **80-2-102**, as last amended by Laws of Utah 2025, Chapter 48
 38 **80-2a-101**, as last amended by Laws of Utah 2025, Chapter 426
 39 **80-3-102**, as last amended by Laws of Utah 2025, Chapter 426
 40 **80-3-104**, as last amended by Laws of Utah 2022, Chapter 334
 41 **80-4-102**, as last amended by Laws of Utah 2022, Chapter 335
 42 **81-13-202**, as renumbered and amended by Laws of Utah 2025, Chapter 426

43 ENACTS:

44 **78A-2-104.5**, Utah Code Annotated 1953

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

47 Section 1. Section **26B-1-506** is amended to read:

48 **26B-1-506 . Fatality review committee report -- Response to report.**

49 (1) Within 20 days after the day on which the committee proceedings described in Section
 50 26B-1-505 end, the committee shall submit:

51 (a) a written report to the executive director that includes:

52 (i) the advisory opinions made under Subsection 26B-1-505(6); and

53 (ii) any recommendations regarding action that should be taken in relation to an
 54 employee of the department or a person who contracts with the department; and

55 (b) a copy of the report described in Subsection (1)(a) to:

56 (i) the director, or the director's designee, of the office or division to which the near
 57 fatality or the death relates; and

58 (ii) the regional director, or the regional director's designee, of the region to which
 59 the near fatality or the death relates.

60 (2)(a) Within 60 days after the day on which the director described in Subsection

61 (1)(b)(i) receives a copy of the report described in Subsection (1)(a), the department

62 shall provide a written response~~[- with only identifying information redacted,]~~ to the
63 Office of Legislative Research and General Counsel, if the report:

- 64 ~~[(a)]~~ (i) indicates that a law, rule, policy, or procedure was not complied with;
65 ~~[(b)]~~ (ii) indicates that the near fatality or the death was not responded to properly;
66 ~~[(c)]~~ (iii) recommends that a law, rule, policy, or procedure be changed; or
67 ~~[(d)]~~ (iv) indicates that additional training is needed.

68 (b) Only the following information in the report shall be redacted:

- 69 (i) identifying information of a referent; and
70 (ii) the surname and address of an individual that is not described in Subsection
71 (2)(b)(i).

72 (3) The response described in Subsection (2) shall include:

- 73 (a) a plan of action to implement any recommended improvements within the
74 department; and
75 (b) the approval of the executive director or the executive director's designee for the plan
76 described in Subsection (3)(a).

77 (4) A report described in Subsection (1) and the response described in Subsection (2) is a
78 protected record.

79 (5)(a) As used in this Subsection (5), "fatality review document" means any document
80 created in connection with, or as a result of, a formal review of a near fatality or a
81 death, or a decision whether to conduct a formal review of a near fatality or a death,
82 including:

- 83 (i) a report described in Subsection (1);
84 (ii) a response described in Subsection (2);
85 (iii) a recommendation regarding whether a formal review should be conducted;
86 (iv) a decision to conduct a formal review;
87 (v) notes of a person who participates in a formal review;
88 (vi) notes of a person who reviews a formal review report;
89 (vii) minutes of a formal review;
90 (viii) minutes of a meeting where a formal review report is reviewed; and
91 (ix) minutes of, documents received in relation to, and documents generated in
92 relation to, the portion of a meeting of the Health and Human Services Interim
93 Committee or the Child Welfare Legislative Oversight Panel that a formal review
94 report or a document described in this Subsection (5)(a) is reviewed or discussed.

95 (b) A fatality review document is not subject to discovery, subpoena, or similar

96 compulsory process in any civil, judicial, or administrative proceeding, nor shall any
 97 individual or organization with lawful access to the data be compelled to testify with
 98 regard to a report described in Subsection (1) or a response described in Subsection
 99 (2).

100 (c) The following are not admissible as evidence in a civil, judicial, or administrative
 101 proceeding:

102 (i) a fatality review document; and

103 (ii) an executive summary described in Subsection 26B-1-507(4).

104 Section 2. Section **26B-1-507** is amended to read:

105 **26B-1-507 . Reporting to, and review by, legislative committees.**

106 (1)(a) On or before September 1 of each year, the department shall provide~~[, with only~~
 107 ~~identifying information redacted,]~~ a copy of the report described in Subsection [
 108 ~~26B-1-506(1)(b),]~~ 26B-1-506(1) and the response described in Subsection
 109 26B-1-506(2) to the Office of Legislative Research and General Counsel and the
 110 chairs of:

111 ~~[(a)]~~ (i) the Health and Human Services Interim Committee; ~~[or]~~ and

112 ~~[(b)]~~ (ii) ~~[if the qualified individual who is the subject of the report is an individual~~
 113 ~~described in Subsection 26B-1-501(7)(c), (d), or (h),]~~ the Child Welfare
 114 Legislative Oversight Panel, if the individual who is the subject of the report is a
 115 qualified individual described in Subsection 26B-1-501(7)(c), (d), or (h).

116 (b) Only the following information in the report shall be redacted:

117 (i) identifying information of a referent; and

118 (ii) the surname and address of an individual that is not described in Subsection
 119 (1)(b)(i).

120 (2)(a) The Health and Human Services Interim Committee may, in a closed meeting,
 121 review a report described in Subsection [~~26B-1-506(1)(b)]~~ 26B-1-506(1).

122 (b) The Child Welfare Legislative Oversight Panel shall, in a closed meeting, review a
 123 report described in Subsection [~~(1)(b)]~~ 26B-1-506(1).

124 (3)(a) The Health and Human Services Interim Committee and the Child Welfare
 125 Legislative Oversight Panel may not interfere with, or make recommendations
 126 regarding, the resolution of a particular case.

127 (b) The purpose of a review described in Subsection (2) is to assist a committee or panel
 128 described in Subsection (2) in determining whether to recommend a change in the
 129 law.

- 130 (c) Any recommendation, described in Subsection (3)(b), by a committee or panel for a
131 change in the law shall be made in an open meeting.
- 132 (4) On or before September 1 of each year, the department shall provide an executive
133 summary of all formal review reports for the preceding state fiscal year to:
- 134 (a) the Office of Legislative Research and General Counsel;
135 (b) the Health and Human Services Interim Committee; and
136 (c) the Child Welfare Legislative Oversight Panel.
- 137 (5) The executive summary described in Subsection (4):
- 138 (a) may not include any names or identifying information;
139 (b) shall include:
- 140 (i) all recommendations regarding changes to the law that were made during the
141 preceding fiscal year under Subsection 26B-1-505(6);
- 142 (ii) all changes made, or in the process of being made, to a law, rule, policy, or
143 procedure in response to a formal review that occurred during the preceding fiscal
144 year;
- 145 (iii) a description of the training that has been completed in response to a formal
146 review that occurred during the preceding fiscal year;
- 147 (iv) statistics for the preceding fiscal year regarding:
- 148 (A) the number of qualified individuals and the type of deaths and near fatalities
149 that are known to the department;
- 150 (B) the number of formal reviews conducted;
- 151 (C) the categories described in Subsection 26B-1-501(7) of qualified individuals;
- 152 (D) the gender, age, race, and other significant categories of qualified individuals;
153 and
- 154 (E) the number of fatalities of qualified individuals known to the department that
155 are identified as suicides; and
- 156 (v) action taken by the Division of Licensing and Background Checks in response to
157 the near fatality or the death of a qualified individual; and
- 158 (c) is a public document.
- 159 (6) The Division of Child and Family Services shall, to the extent required by the federal
160 Child Abuse Prevention and Treatment Act of 1988, Pub. L. No. 93-247, as amended,
161 allow public disclosure of the findings or information relating to a case of child abuse or
162 neglect that results in a child fatality or a near fatality.
- 163 Section 3. Section **78A-2-104** is amended to read:

164 **78A-2-104 . Judicial Council -- Creation -- Members -- Terms and election --**
165 **Responsibilities -- Reports.**

- 166 (1) The Judicial Council is composed of:
- 167 (a) the chief justice of the Supreme Court;
- 168 (b) one member elected by the justices of the Supreme Court;
- 169 (c) one member elected by the judges of the Court of Appeals;
- 170 (d) one member elected by the judges of the Business and Chancery Court;
- 171 (e) six members elected by the judges of the district courts;
- 172 (f) three members elected by the judges of the juvenile courts;
- 173 (g) three members elected by the justice court judges; and
- 174 (h) a member or ex officio member of the Board of Commissioners of the Utah State Bar
175 who is an active member of the Utah State Bar in good standing at the time of
176 election by the Board of Commissioners.
- 177 (2) The Judicial Council shall have a seal.
- 178 (3)(a) The chief justice of the Supreme Court shall act as presiding officer of the Judicial
179 Council and chief administrative officer for the courts.
- 180 (b) The chief justice shall vote only in the case of a tie.
- 181 (4)(a) All members of the Judicial Council shall serve for three-year terms.
- 182 (b) If a Judicial Council member should die, resign, retire, or otherwise fail to complete
183 a term of office, the appropriate constituent group shall elect a member to complete
184 the term of office.
- 185 (c) In courts having more than one member, the members shall be elected to staggered
186 terms.
- 187 (d) The individual elected by the Board of Commissioners under Subsection (1)(h) may
188 complete a three-year term of office on the Judicial Council even though the
189 individual ceases to be a member or ex officio member of the Board of
190 Commissioners.
- 191 (e) The individual elected by the Board of Commissioners under Subsection (1)(h) shall
192 be an active member of the Utah State Bar in good standing for the entire term of the
193 Judicial Council.
- 194 (f) Elections are held under rules made by the Judicial Council.
- 195 (5)(a) The Judicial Council is responsible for the development of uniform administrative
196 policy for the courts throughout the state.
- 197 (b) The presiding officer of the Judicial Council is responsible for the implementation of

- 198 the policies developed by the Judicial Council and for the general management of the
199 courts, with the aid of the state court administrator.
- 200 (c) The Judicial Council has authority and responsibility to:
- 201 (i) establish and assure compliance with policies for the operation of the courts,
202 including uniform rules and forms; and
- 203 (ii) publish and submit to the governor, the chief justice of the Supreme Court, and
204 the Legislature an annual report of the operations of the courts, which shall
205 include financial and statistical data and may include suggestions and
206 recommendations for legislation.
- 207 (6) The Judicial Council shall establish standards for the operation of the courts of the state,
208 including facilities, court security, support services, and staff levels for judicial and
209 support personnel.
- 210 (7) The Judicial Council shall by rule:
- 211 (a) establish the time and manner for destroying court records, including computer
212 records; and
- 213 (b) establish retention periods for court records.
- 214 (8)(a) Consistent with the requirements of judicial office and security policies, the
215 Judicial Council shall establish procedures to govern the assignment of state vehicles
216 to public officers of the judicial branch.
- 217 (b) The vehicles shall be marked in a manner consistent with Section 41-1a-407 and may
218 be assigned for unlimited use, within the state only.
- 219 (9)(a) The Judicial Council shall:
- 220 (i) advise judicial officers and employees concerning ethical issues; and
221 (ii) establish procedures for issuing informal and formal advisory opinions on ethical
222 issues.
- 223 (b) Compliance with an informal opinion is evidence of good faith compliance with the
224 Code of Judicial Conduct.
- 225 (c) A formal opinion constitutes a binding interpretation of the Code of Judicial Conduct.
- 226 (10)(a) The Judicial Council shall establish written procedures authorizing the presiding
227 officer of the Judicial Council to appoint judges of courts of record by special or
228 general assignment to serve temporarily in another level of court in a specific court or
229 generally within that level.
- 230 (b) The appointment under Subsection (10)(a) shall be:
- 231 (i) for a specific period of time; and

- 232 (ii) reported to the Judicial Council.
- 233 (c) The Judicial Council shall develop the procedures described in this Subsection (10)
- 234 in accordance with Subsection 78A-2-107(2) regarding the temporary appointment of
- 235 judges.
- 236 (11)(a) The Judicial Council may by rule designate municipalities in addition to those
- 237 designated by statute as a location of a trial court of record.
- 238 (b) There shall be at least one court clerk's office open during regular court hours in each
- 239 county.
- 240 (c) Any trial court of record may hold court in any municipality designated as a location
- 241 of a court of record.
- 242 (12) The Judicial Council shall by rule determine whether the administration of a court is
- 243 the obligation of the Administrative Office of the Courts or whether the Administrative
- 244 Office of the Courts should contract with local government for court support services.
- 245 (13) The Judicial Council may by rule direct that a district court location be administered
- 246 from another court location within the county.
- 247 (14)~~(a)~~ The Judicial Council shall:
- 248 ~~(i)~~ (a) establish the Office of Guardian ~~[Ad]~~ ad Litem in accordance with Title 78A,
- 249 Chapter 2, Part 8, Guardian Ad Litem; and
- 250 ~~(ii)~~ (b) establish and supervise a Guardian ~~[Ad]~~ ad Litem Oversight Committee~~[-]~~ , in
- 251 accordance with Section 78A-2-104.5.
- 252 ~~(b) The Guardian Ad Litem Oversight Committee described in Subsection (14)(a)(ii)~~
- 253 ~~shall oversee the Office of Guardian Ad Litem, established under Subsection~~
- 254 ~~(14)(a)(i), and assure that the Office of Guardian Ad Litem complies with state and~~
- 255 ~~federal law, regulation, policy, and court rules.]~~
- 256 (15) The Judicial Council shall establish and maintain, in cooperation with the Office of
- 257 Recovery Services within the Department of Health and Human Services, the part of the
- 258 state case registry that contains records of each support order established or modified in
- 259 the state on or after October 1, 1998, as is necessary to comply with the Social Security
- 260 Act, 42 U.S.C. Sec. 654a.
- 261 Section 4. Section **78A-2-104.5** is enacted to read:
- 262 **78A-2-104.5 . Guardian ad Litem Oversight Committee.**
- 263 (1) There is established the Guardian ad Litem Oversight Committee, supervised by the
- 264 Judicial Council.
- 265 (2) The committee shall consist of:

- 266 (a) seven members appointed by the Judicial Council, including:
267 (i) a current or former juvenile court judge;
268 (ii) an attorney with experience representing parents in child welfare cases;
269 (iii) an attorney with experience representing the Division of Child and Family
270 Services in child welfare cases;
271 (iv) a behavioral or mental health clinical provider with experience working with
272 families involved in child welfare cases;
273 (v) an individual with experience working with or advocating for youth in foster care;
274 (vi) an individual with lived experience as a parent involved with the child welfare
275 system; and
276 (vii) an individual with lived experience as a child or youth involved with the child
277 welfare system;
- 278 (b) two members appointed by the Administrative Office of the Courts, including:
279 (i) a current or former court administrator; and
280 (ii) a current internal court auditor;
- 281 (c) a member of the Senate, whom the president of the Senate appoints;
282 (d) a member of the House of Representatives, whom the speaker of the House of
283 Representatives appoints; and
- 284 (e) the guardian ad litem director, described in Section 78A-2-802, or the director's
285 designee.
- 286 (3) The committee shall:
- 287 (a) oversee the statewide guardian ad litem program;
288 (b) evaluate the Office of Guardian ad Litem's compliance with the statutory obligations
289 described in Section 78A-2-802;
290 (c) assess the effectiveness of the statewide guardian ad litem program, including in:
291 (i) cases in which the minor is the subject of an abuse, neglect, or dependency
292 petition as described in Section 78A-2-803;
293 (ii) cases in which an attorney guardian ad litem is appointed by the district court as
294 described in Section 78A-2-703;
295 (iii) cases in which a private guardian ad litem is appointed, as described in Section
296 78A-2-705; and
297 (iv) any other cases in which a guardian ad litem represents a minor, including as
298 described in Section 78B-7-202, 80-4-106, 80-7-104, or 81-13-203;
299 (d) annually review a randomly selected sample of the statewide guardian ad litem

- 300 program cases, including attorney guardian ad litem and private guardian ad litem
301 cases;
- 302 (e) review the report described in Section 78A-2-802; and
303 (f) make recommendations regarding the statewide guardian ad litem program.
- 304 (4) In reviewing cases as described in Subsection (3)(d), the committee shall assess:
305 (a) whether the office is adequately representing the minor's interests;
306 (b) compliance with the requirement to conduct an independent investigation, meet with
307 the minor, and keep the minor informed regarding the case; and
308 (c) the outcomes of cases for children and families.
- 309 (5) The committee may:
310 (a) replace the guardian ad litem director in accordance with Section 78A-2-802;
311 (b) establish policies, requirements, or guidelines for guardians ad litem; and
312 (c) subject to Subsection (6), review and discuss individual cases assigned to the Office
313 of Guardian ad Litem.
- 314 (6)(a) If the committee discusses an individual case, the committee shall close the
315 committee's meeting in accordance with Title 52, Chapter 4, Open and Public
316 Meetings Act.
- 317 (b) A record of the committee regarding an individual case:
318 (i) is classified as private under Section 63G-2-302; and
319 (ii) may be disclosed only in accordance with federal law and Title 63G, Chapter 2,
320 Government Records Access and Management Act.
- 321 (c) The committee shall have access to all of the Office of Guardian ad Litem's records,
322 including records regarding individual cases.
- 323 (d) Except as provided in Subsection (6)(c), and notwithstanding Title 63G, Chapter 2,
324 Government Records Access and Management Act, all records of an attorney
325 guardian ad litem are confidential and may not be released or made public upon
326 subpoena, search warrant, discovery proceedings, or otherwise.
- 327 (e) In accordance with Title 63G, Chapter 2, Government Records Access and
328 Management Act, all documents and information received by the committee from the
329 Office of Guardian ad Litem shall maintain the same classification under Title 63G,
330 Chapter 2, Government Records Access and Management Act, that was designated
331 by the Office of Guardian ad Litem.
- 332 (f) Subsection (6)(c) is an exception to Utah Rules of Professional Conduct, Rule 1.6, as
333 provided by Rule 1.6(b)(4), because of:

- 334 (i) the unique role of an attorney guardian ad litem; and
 335 (ii) the state's role and responsibility to provide a guardian ad litem program, and as
 336 parens patriae, to protect minors.
- 337 (7) The committee shall meet at least quarterly.
- 338 (8) A member may not receive compensation or benefits for the member's service, but may
 339 receive per diem and travel expenses in accordance with:
- 340 (a) Section 63A-3-106;
 341 (b) Section 63A-3-107; and
 342 (c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and
 343 63A-3-107.
- 344 (9) On or before November 1, the committee shall provide an annual report to the Judicial
 345 Council and the Child Welfare Legislative Oversight Panel regarding the committee's
 346 activities, findings, and recommendations.

347 Section 5. Section **78A-2-702** is amended to read:

348 **78A-2-702 . Definitions.**

- 349 (1) As used in this part:
- 350 [(1)] (a) "Attorney guardian ad litem" means an attorney employed by the office.
 351 [(2)] (b) "Director" means the director of the office.
 352 (c) "Expressed interest" means the same as that term is defined in Section 80-1-102.
 353 [(3)] (d) "Guardian ad litem" means an attorney guardian ad litem or a private attorney
 354 guardian ad litem.
 355 [(4)] (e) "Office" means the Office of Guardian ad Litem, created in Section 78A-2-802.
 356 [(5)] (f) "Private attorney guardian ad litem" means an attorney designated by the office
 357 in accordance with Section 78A-2-705 who is not an employee of the office.
- 358 (2) A determination of a minor's best interest under this part shall be made in accordance
 359 with Sections 80-2a-201, 80-4-104, and any other section of this title consistent with
 360 those sections.

361 Section 6. Section **78A-2-704** is amended to read:

362 **78A-2-704 . Public policy regarding attorney guardian ad litem -- Training.**

- 363 (1) An attorney guardian ad litem may not presume that a child and the child's parent are
 364 adversaries.
- 365 (2) An attorney guardian ad litem shall be trained on and implement into practice:
 366 (a) the parental rights and child and family protection principles provided in Section
 367 80-2a-201;

- 368 (b) the fundamental liberties of parents and the public policy of the state to support
 369 family unification to the fullest extent possible;
- 370 (c) the constitutionally protected rights of parents, in cases where the state is a party;
- 371 (d) the use of a least restrictive means analysis regarding state claims of a compelling
 372 child welfare interest;
- 373 (e) the priority of maintaining a child safely in the child's home, whenever possible;
- 374 (f) the importance of:
- 375 (i) kinship placement, [~~in the event~~] if the child is removed from the home; and
- 376 (ii) keeping sibling groups together, whenever practicable and in the best interests of
 377 the children;
- 378 (g) the preference for kinship adoption over nonkinship adoption, if the parent-child
 379 relationship is legally terminated;
- 380 (h) the potential for a guardianship placement if the parent-child relationship is legally
 381 terminated and no appropriate adoption placement is available; and
- 382 (i) the use of an individualized permanency plan, only as a last resort.
- 383 (3) The office shall implement policies and practice guidelines that reflect the priorities
 384 described in Subsections (2)(e) through (i) for the placement of children.

385 Section 7. Section **78A-2-801** is amended to read:

386 **78A-2-801 . Definitions.**

387 (1) As used in this part:

- 388 [(1)] (a) "Abuse, neglect, or dependency petition" means the same as that term is defined
 389 in Section 80-3-102.
- 390 [(2)] (b) "Attorney guardian ad litem" means an attorney employed by the office.
- 391 [(3)] (c) "Director" means the director of the office.
- 392 [(4)] (d) "Division" means the Division of Child and Family Services created in Section
 393 80-2-201.
- 394 [(5)] (e) "Guardian ad litem" means an attorney guardian ad litem or a private attorney
 395 guardian ad litem.
- 396 [(6)] (f) "Indigent individual" means the same as that term is defined in Section
 397 78B-22-102.
- 398 [(7)] (g) "Minor" means the same as that term is defined in Section 80-1-102.
- 399 [(8)] (h) "Office" means the Office of Guardian Ad Litem created in Section 78A-2-802.
- 400 [(9)] (i) "Private attorney guardian ad litem" means an attorney designated by the office
 401 in accordance with Section 78A-2-705 who is not an employee of the office.

402 (2) A determination of a minor's best interest under this chapter shall be made in
403 accordance with Sections 80-2a-201, 80-4-104, and any other section of this title
404 consistent with those sections.

405 Section 8. Section **78A-2-802** is amended to read:

406 **78A-2-802 . Office of Guardian ad Litem -- Appointment of director -- Duties of**
407 **director -- Contracts in second, third, and fourth districts.**

408 (1) There is created the Office of Guardian [A~~d~~] ad Litem under the direct supervision of the
409 Guardian [A~~d~~] ad Litem Oversight Committee described in [~~Subsection 78A-2-104(14)~~]
410 Section 78A-2-104.5.

411 (2)(a) The Guardian [A~~d~~] ad Litem Oversight Committee shall appoint one individual to
412 serve full time as the guardian ad litem director for the state.

413 (b) The guardian ad litem director shall:

414 (i) serve at the pleasure of the Guardian [A~~d~~] ad Litem Oversight Committee, in
415 consultation with the state court administrator;

416 (ii) be an attorney licensed to practice law in this state and selected on the basis of:

417 (A) professional ability;

418 (B) experience in abuse, neglect, and dependency proceedings;

419 (C) familiarity with the role, purpose, and function of guardians ad litem in both
420 juvenile and district courts; and

421 (D) ability to develop training curricula and reliable methods for data collection
422 and evaluation; and

423 (iii) before or immediately after the director's appointment, be trained in nationally
424 recognized standards for an attorney guardian ad litem.

425 (3) The guardian ad litem director shall:

426 (a) establish policy and procedure for the management of a statewide guardian ad litem
427 program;

428 (b) manage the guardian ad litem program to assure that a minor receives qualified
429 guardian ad litem services in an abuse, neglect, or dependency proceeding under Title
430 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, in accordance with
431 state and federal law and policy;

432 (c) develop standards for contracts of employment and contracts with independent
433 contractors, and employ or contract with attorneys licensed to practice law in this
434 state, to act as attorney guardians ad litem in accordance with Section 78A-2-803;

435 (d) develop and provide training programs for volunteers in accordance with the United

- 436 States Department of Justice National Court Appointed Special [~~Advocates~~] Advocate
437 Association standards;
- 438 (e) develop, publish, and update a guardian ad litem manual that includes:
439 (i) best practices for an attorney guardian ad litem; and
440 (ii) statutory and case law relating to an attorney guardian ad litem;
- 441 (f) develop and provide a library of materials for the continuing education of attorney
442 guardians ad litem and volunteers;
- 443 (g) educate court personnel regarding the role and function of guardians ad litem;
- 444 (h) develop needs assessment strategies, perform needs assessment surveys, and ensure
445 that guardian ad litem training programs correspond with actual and perceived needs
446 for training;
- 447 (i) design and implement evaluation tools based on specific objectives targeted in the
448 needs assessments described in Subsection (3)(h);
- 449 (j) evaluate the performance of attorney guardians ad litem and private guardians ad
450 litem, including tracking the frequency of a guardian ad litem's interactions with a
451 minor and whether the interaction was:
452 (i) directly with the minor in person;
453 (ii) directly with the minor through telephone, video, or writing; or
454 (iii) indirectly with the minor through an assigned trained volunteer, in accordance
455 with Section 78A-2-803;
- 456 [(j)] (k) prepare and submit an annual report to the Guardian ad Litem Oversight
457 Committee and the Child Welfare Legislative Oversight Panel created in Section
458 36-33-102 regarding:
459 (i) the development, policy, and management of the statewide guardian ad litem
460 program;
461 (ii) the training and evaluation of attorney guardians ad litem and volunteers,
462 including needs assessment surveys and evaluation tools described in Subsections
463 (3)(h) and (i);
464 (iii) specific action the director has taken to:
465 (A) confirm that minor clients receive qualified guardian ad litem services; and
466 (B) audit and review cases assigned to the office for statutory compliance, best
467 practices, and outcomes;
468 (iv) guardians ad litem client interaction data; and
469 [(j)] (v) the number of minors served by the office;

470 ~~[(k)]~~ (l) hire, train, and supervise investigators; and
 471 ~~[(h)]~~ (m) administer the program of private attorney guardians ad litem established under
 472 Section 78A-2-705.

473 (4) A contract of employment or independent contract described in Subsection (3)(c) shall
 474 provide that an attorney guardian ad litem in the second, third, and fourth judicial
 475 districts devote the attorney guardian's ad litem full time and attention to the role of
 476 attorney guardian ad litem, having no clients other than the minors whose interest the
 477 attorney guardian ad litem represents within the guardian ad litem program.

478 Section 9. Section **78A-2-803** is amended to read:

479 **78A-2-803 . Appointment of attorney guardian ad litem -- Duties and**
 480 **responsibilities -- Training -- Trained staff and court-appointed special advocate**
 481 **volunteers -- Costs -- Immunity -- Annual report.**

482 (1)(a) The court:

483 (i) may appoint an attorney guardian ad litem to represent ~~[the best interest of]~~ a
 484 minor involved in any case before the court; and

485 (ii) shall consider the best interest of a minor, consistent with the provisions of
 486 Section 80-2a-201, in determining whether to appoint a guardian ad litem.

487 (b) In all cases where an attorney guardian ad litem is appointed, the court shall make a
 488 finding that establishes the necessity of the appointment within seven days of the
 489 appointment.

490 (2) ~~[An]~~ Following appointment by the court, an attorney guardian ad litem shall represent
 491 the ~~[best interest of each-]~~ minor who ~~[may become]~~ is the subject of an abuse, neglect, or
 492 dependency petition ~~[from the earlier of:]~~ in accordance with Subsection (8).

493 ~~[(a) the day on which the minor is removed from the minor's home by the division; or]~~

494 ~~[(b) the day on which the abuse, neglect, or dependency petition is filed.]~~

495 (3) The director shall ensure that each attorney guardian ad litem employed by the office:

496 (a) represents the best interest of each client of the office in all venues, including:

497 (i) court proceedings; and

498 (ii) meetings to develop, review, or modify the child and family plan with the
 499 division in accordance with Section 80-3-307;

500 (b) before representing any minor before the court, be trained in:

501 (i) applicable statutory, regulatory, and case law; and

502 (ii) nationally recognized standards for an attorney guardian ad litem;

503 (c) conducts or supervises an ongoing, independent investigation in order to obtain,

- 504 first-hand, a clear understanding of the situation~~[-and]~~ , needs, and wishes of the
 505 minor;
- 506 (d)(i) personally meets with the minor, unless:
- 507 (A) the minor is outside of the state; or
- 508 (B) meeting with the minor would be detrimental to the minor;
- 509 (ii) personally interviews the minor, unless:
- 510 (A) the minor is not old enough to communicate;
- 511 (B) the minor lacks the capacity to participate in a meaningful interview; or
- 512 (C) the interview would be detrimental to the minor; and
- 513 (iii) if the minor is placed in an out-of-home placement, or is being considered for
 514 placement in an out-of-home placement, unless it would be detrimental to the
 515 minor[:] ,
- 516 [~~(A)~~] to the extent possible, determines the minor's goals and concerns regarding
 517 placement~~[-and]~~ ;
- 518 [~~(B)~~] personally assesses or supervises an assessment of the appropriateness and
 519 safety of the minor's environment in each placement;]
- 520 (e) personally attends all review hearings pertaining to the minor's case;
- 521 (f) participates in all appeals, unless excused by order of the court;
- 522 (g) is familiar with local experts who can provide consultation and testimony regarding
 523 the reasonableness and appropriateness of efforts made by the division to:
- 524 (i) maintain a minor in the minor's home; or
- 525 (ii) reunify a minor with a minor's parent;
- 526 (h) to the extent possible, and unless it would be detrimental to the minor, personally or
 527 through a trained volunteer, paralegal, or other trained staff, keeps the minor advised
 528 of:
- 529 (i) the status of the minor's case;
- 530 (ii) all court and administrative proceedings;
- 531 (iii) discussions with, and proposals made by, other parties;
- 532 (iv) court action; and
- 533 (v) the psychiatric, medical, or other treatment or diagnostic services that are to be
 534 provided to the minor;
- 535 (i) in cases where a child and family plan is required, personally or through a trained
 536 volunteer, paralegal, or other trained staff, monitors implementation of a minor's
 537 child and family plan and any dispositional orders to:

- 538 (i) determine whether services ordered by the court:
539 (A) are actually provided; and
540 (B) are provided in a timely manner; and
541 (ii) ~~[attempt to]~~ assess whether services ordered by the court are accomplishing the
542 intended goal of the services; and
543 (j) makes all necessary court filings to advance the ~~[guardian's ad litem position~~
544 ~~regarding the best interest of the minor]~~ orders and established goals of the court.
- 545 (4)(a) Consistent with this Subsection (4), an attorney guardian ad litem may use trained
546 volunteers, in accordance with Title 67, Chapter 20, Volunteer Government Workers
547 Act, trained paralegals, and other trained staff to assist in investigation and
548 preparation of information regarding the cases of individual minors before the court.
- 549 (b) A volunteer, paralegal, or other staff utilized under this section shall be trained in
550 and follow, at a minimum, the guidelines established by the United States
551 Department of Justice National Court Appointed Special Advocate Association.
- 552 (5) The attorney guardian ad litem shall continue to represent the best interest of the minor
553 until released from that duty by the court.
- 554 (6)(a) Consistent with Subsection (6)(b), the juvenile court is responsible for:
555 (i) all costs resulting from the appointment of an attorney guardian ad litem; and
556 (ii) the costs of volunteer, paralegal, and other staff appointment and training.
- 557 (b) The court shall use funds appropriated by the Legislature for the guardian ad litem
558 program to cover the costs described in Subsection (6)(a).
- 559 (c)(i) When the court appoints an attorney guardian ad litem under this section, the
560 court may assess all or part of the attorney fees, court costs, and paralegal, staff,
561 and volunteer expenses against the minor's parents, parent, or legal guardian in a
562 proportion that the court determines to be just and appropriate, taking into
563 consideration costs already borne by the parents, parent, or legal guardian,
564 including:
565 (A) private attorney fees;
566 (B) counseling for the minor;
567 (C) counseling for the parent, if mandated by the court or recommended by the
568 division; and
569 (D) any other cost the court determines to be relevant.
- 570 (ii) The court may not assess the fees or costs described in Subsection (6)(c)(i)
571 against:

- 572 (A) a legal guardian, when that guardian is the state; or
573 (B) consistent with Subsection (6)(d), a parent who is found to be an indigent
574 individual.
- 575 (d) For purposes of Subsection (6)(c)(ii)(B), if an individual claims to be an indigent
576 individual, the court shall:
- 577 (i) require the individual to submit an affidavit of indigency as provided in Section
578 78A-2-302; and
- 579 (ii) follow the procedures and make the determinations as provided in Section
580 78A-2-304.
- 581 (e) The minor's parents, parent, or legal guardian may appeal the court's determination,
582 under Subsection (6)(c), of fees, costs, and expenses.
- 583 (7) An attorney guardian ad litem appointed under this section, when serving in the scope
584 of the attorney guardian's ad litem duties as guardian ad litem is considered an employee
585 of the state for purposes of indemnification under Title 63G, Chapter 7, Governmental
586 Immunity Act of Utah.
- 587 (8)(a) An attorney guardian ad litem shall represent the best interest of a minor.
- 588 (b) If the minor's wishes differ from the attorney's determination of the minor's best
589 interest, the attorney guardian ad litem shall:
- 590 (i) [-]communicate the minor's wishes to the court in addition to presenting the
591 attorney's determination of the minor's best interest; and
- 592 (ii) provide the basis for the attorney's determination to the court and to the minor.
- 593 (c) A difference between the minor's wishes and the attorney's determination of best
594 interest may not be considered a conflict of interest for the attorney.
- 595 (d) The guardian ad litem shall disclose the wishes of the minor unless the minor:
- 596 (i) instructs the guardian ad litem to not disclose the minor's wishes; or
597 (ii) has not expressed any wishes.
- 598 (e) The court may appoint one attorney guardian ad litem to represent the best interests
599 of [more than one minor of a marriage] minor siblings if no conflict is present.
- 600 (9) At each hearing, the attorney guardian ad litem shall inform the court:
- 601 (a) whether the minor expressed a desire to be present at the hearing; and
- 602 (b) of the date that the attorney guardian ad litem most recently spoke with the minor,
603 including whether the interaction was:
- 604 (i) directly with the minor in person;
- 605 (ii) directly with the minor through telephone, video, or writing; or

606 (iii) indirectly with the minor through an assigned trained volunteer, in accordance
607 with Subsection (4).

608 (10)(a) A minor may request a change in an appointed attorney guardian ad litem
609 directly if there is good cause.

610 (b) The court shall determine whether to change the appointed attorney guardian ad
611 litem.

612 ~~[(9)]~~ (11) The division shall provide an attorney guardian ad litem access to all division
613 records regarding the minor at issue and the minor's family.

614 ~~[(10)]~~ (12)(a) An attorney guardian ad litem shall conduct an independent investigation
615 regarding the minor at issue, the minor's family, and what is in the best interest of the
616 minor.

617 (b) An attorney guardian ad litem may interview the minor's child welfare caseworker,
618 but may not:

619 (i) rely exclusively on the conclusions and findings of the division; or

620 (ii) except as provided in Subsection ~~[(10)](e)]~~ (12)(c), conduct a visit with the client
621 in conjunction with the visit of a child welfare caseworker.

622 (c)(i) An attorney guardian ad litem may meet with a client during a team meeting,
623 court hearing, or similar venue when a child welfare caseworker is present for a
624 purpose other than the attorney guardian ad litem's meeting with the client.

625 (ii) A party and the party's counsel may attend a team meeting in accordance with the
626 Utah Rules of Professional Conduct.

627 ~~[(11)]~~ (13)(a) An attorney guardian ad litem shall maintain current and accurate records
628 regarding:

629 (i) the number of times the attorney has had contact with each minor; and

630 (ii) the actions the attorney has taken in representation of the minor's best interest.

631 (b) In every hearing where the attorney guardian ad litem makes a recommendation
632 regarding the best interest of the minor, the court shall require the attorney guardian
633 ad litem to disclose the activities and sources of the attorney guardian ad litem's
634 independent investigation and factors that form the basis of the recommendation.

635 ~~[(12)]~~ (14)(a) Except as provided in Subsection ~~[(12)](b)]~~ (14)(b), and notwithstanding
636 Title 63G, Chapter 2, Government Records Access and Management Act, all records
637 of an attorney guardian ad litem are confidential and may not be released or made
638 public upon subpoena, search warrant, discovery proceedings, or otherwise.

639 (b) Consistent with Subsection ~~[(12)](d)]~~ (14)(d), all records of an attorney guardian ad

- 640 litem:
- 641 (i) are subject to legislative subpoena, under Title 36, Chapter 14, Legislative
- 642 Subpoena Powers; and
- 643 (ii) shall be released to the Legislature.
- 644 (c)(i) Except as provided in Subsection [~~(12)(e)(ii)~~] (14)(c)(ii), the Legislature shall
- 645 maintain records released in accordance with Subsection [~~(12)(b)~~] (14)(b) as
- 646 confidential.
- 647 (ii) Notwithstanding Subsection [~~(12)(e)(i)~~] (14)(c)(i), the Office of the Legislative
- 648 Auditor General may include summary data and nonidentifying information in the
- 649 office's audits and reports to the Legislature.
- 650 (d)(i) Subsection [~~(12)(b)~~] (14)(b) is an exception to Utah Rules of Professional
- 651 Conduct, Rule 1.6, as provided by Rule 1.6(b)(4), because of:
- 652 (A) the unique role of an attorney guardian ad litem described in Subsection (8);
- 653 and
- 654 (B) the state's role and responsibility to provide a guardian ad litem program, and
- 655 as *parens patriae*, to protect minors.
- 656 (ii) A claim of attorney-client privilege does not bar access to the records of an
- 657 attorney guardian ad litem by the Legislature, through legislative subpoena.
- 658 (15)(a) An attorney guardian ad litem shall respond to case-related discovery.
- 659 (b) Interrogatories, requests for admissions, or depositions may not be imposed on a
- 660 minor.
- 661 (16)(a) An attorney guardian ad litem should make a best interest recommendation based
- 662 on the attorney guardian ad litem's direct knowledge and independent and personal
- 663 investigation.
- 664 (b) The Office of Guardian ad Litem's director or a managing attorney shall preserve the
- 665 independent investigation of an attorney guardian ad litem as required in Subsection
- 666 (12)(a) and may not direct an attorney guardian ad litem to take a certain position or
- 667 make a particular recommendation.
- 668 (17) When making a ruling, the juvenile court may consider the minor's wishes.
- 669 Section 10. Section **80-1-102** is amended to read:
- 670 **80-1-102 . Juvenile Code definitions.**
- 671 Except as provided in Section 80-6-1103, as used in this title:
- 672 (1)(a) "Abuse" means:
- 673 (i)(A) nonaccidental harm of a child;

- 674 (B) threatened harm of a child;
- 675 (C) sexual exploitation;
- 676 (D) sexual abuse; or
- 677 (E) human trafficking of a child in violation of Section 76-5-308.5; or
- 678 (ii) that a child's parent:
- 679 (A) intentionally, knowingly, or recklessly causes the death of another parent of
- 680 the child;
- 681 (B) is identified by a law enforcement agency as the primary suspect in an
- 682 investigation for intentionally, knowingly, or recklessly causing the death of
- 683 another parent of the child; or
- 684 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or
- 685 recklessly causing the death of another parent of the child.
- 686 (b) "Abuse" does not include:
- 687 (i) reasonable discipline or management of a child, including withholding privileges;
- 688 (ii) conduct described in Section 76-2-401; or
- 689 (iii) the use of reasonable and necessary physical restraint or force on a child:
- 690 (A) in self-defense;
- 691 (B) in defense of others;
- 692 (C) to protect the child; or
- 693 (D) to remove a weapon in the possession of a child for any of the reasons
- 694 described in Subsections (1)(b)(iii)(A) through (C).
- 695 (2) "Abused child" means a child who has been subjected to abuse.
- 696 (3)(a) "Adjudication" means, except as provided in Subsection (3)(b):
- 697 (i) for a delinquency petition or criminal information under Chapter 6, Juvenile
- 698 Justice:
- 699 (A) a finding by the juvenile court that the facts alleged in a delinquency petition
- 700 or criminal information alleging that a minor committed an offense have been
- 701 proved;
- 702 (B) an admission by a minor in the juvenile court as described in Section 80-6-306;
- 703 or
- 704 (C) a plea of no contest by minor in the juvenile court; or
- 705 (ii) for all other proceedings under this title, a finding by the juvenile court that the
- 706 facts alleged in the petition have been proved.
- 707 (b) "Adjudication" does not include:

- 708 (i) an admission by a minor described in Section 80-6-306 until the juvenile court
709 enters the minor's admission; or
- 710 (ii) a finding of not competent to proceed in accordance with Section 80-6-402.
- 711 (4)(a) "Adult" means an individual who is 18 years old or older.
- 712 (b) "Adult" does not include an individual:
- 713 (i) who is 18 years old or older; and
- 714 (ii) who is a minor.
- 715 (5) "Attorney guardian ad litem" means the same as that term is defined in Section
716 78A-2-801.
- 717 (6) "Board" means the Board of Juvenile Court Judges.
- 718 (7) "Child" means, except as provided in Section 80-2-905, an individual who is under 18
719 years old.
- 720 (8) "Child and family plan" means a written agreement between a child's parents or
721 guardian and the Division of Child and Family Services as described in Section 80-3-307.
- 722 (9) "Child placing" means the same as that term is defined in Section 26B-2-101.
- 723 (10) "Child-placing agency" means the same as that term is defined in Section 26B-2-101.
- 724 (11) "Child protection team" means a team consisting of:
- 725 (a) the child welfare caseworker assigned to the case;
- 726 (b) if applicable, the child welfare caseworker who made the decision to remove the
727 child;
- 728 (c) a representative of the school or school district where the child attends school;
- 729 (d) if applicable, the law enforcement officer who removed the child from the home;
- 730 (e) a representative of the appropriate Children's Justice Center, if one is established
731 within the county where the child resides;
- 732 (f) if appropriate, and known to the division, a therapist or counselor who is familiar
733 with the child's circumstances;
- 734 (g) if appropriate, a representative of law enforcement selected by the chief of police or
735 sheriff in the city or county where the child resides; and
- 736 (h) any other individuals determined appropriate and necessary by the team coordinator
737 and chair.
- 738 (12)(a) "Chronic abuse" means repeated or patterned abuse.
- 739 (b) "Chronic abuse" does not mean an isolated incident of abuse.
- 740 (13)(a) "Chronic neglect" means repeated or patterned neglect.
- 741 (b) "Chronic neglect" does not mean an isolated incident of neglect.

- 742 (14) "Clandestine laboratory operation" means the same as that term is defined in Section
743 58-37d-3.
- 744 (15) "Commit" or "committed" means, unless specified otherwise:
745 (a) with respect to a child, to transfer legal custody; and
746 (b) with respect to a minor who is at least 18 years old, to transfer custody.
- 747 (16) "Community-based program" means a nonsecure residential or nonresidential program,
748 designated to supervise and rehabilitate juvenile offenders, that prioritizes the least
749 restrictive setting, consistent with public safety, and operated by or under contract with
750 the Division of Juvenile Justice and Youth Services.
- 751 (17) "Community placement" means placement of a minor in a community-based program
752 described in Section 80-5-402.
- 753 (18) "Correctional facility" means:
754 (a) a county jail; or
755 (b) a secure correctional facility as defined in Section 64-13-1.
- 756 (19) "Criminogenic risk factors" means evidence-based factors that are associated with a
757 minor's likelihood of reoffending.
- 758 (20) "Department" means the Department of Health and Human Services created in Section
759 26B-1-201.
- 760 (21) "Dependent child" or "dependency" means a child who is without proper care through
761 no fault of the child's parent, guardian, or custodian.
- 762 (22) "Deprivation of custody" means transfer of legal custody by the juvenile court from a
763 parent or a previous custodian to another person, agency, or institution.
- 764 (23) "Detention" means home detention or secure detention.
- 765 (24) "Detention facility" means a facility, established by the Division of Juvenile Justice
766 and Youth Services in accordance with Section 80-5-501, for minors held in detention.
- 767 (25) "Detention risk assessment tool" means an evidence-based tool established under
768 Section 80-5-203 that:
769 (a) assesses a minor's risk of failing to appear in court or reoffending before
770 adjudication; and
771 (b) is designed to assist in making a determination of whether a minor shall be held in
772 detention.
- 773 (26) "Developmental immaturity" means incomplete development in one or more domains
774 that manifests as a functional limitation in the minor's present ability to:
775 (a) consult with counsel with a reasonable degree of rational understanding; and

- 776 (b) have a rational as well as factual understanding of the proceedings.
- 777 (27) "Disposition" means an order by a juvenile court, after the adjudication of a minor,
778 under Section 80-3-405 or 80-4-305 or Chapter 6, Part 7, Adjudication and Disposition.
- 779 (28) "Educational neglect" means that, after receiving a notice of compulsory education
780 violation under Section 53G-6-202, the parent or guardian fails to make a good faith
781 effort to ensure that the child receives an appropriate education.
- 782 (29) "Educational series" means an evidence-based instructional series:
- 783 (a) obtained at a substance abuse program that is approved by the Division of Integrated
784 Healthcare in accordance with Section 26B-5-104; and
- 785 (b) designed to prevent substance use or the onset of a mental health disorder.
- 786 (30) "Emancipated" means the same as that term is defined in Section 80-7-102.
- 787 (31) "Evidence-based" means a program or practice that has had multiple randomized
788 control studies or a meta-analysis demonstrating that the program or practice is effective
789 for a specific population or has been rated as effective by a standardized program
790 evaluation tool.
- 791 (32) "Expressed interest" means the goals, desires, outcomes, or wishes that a minor has
792 expressed.
- 793 [~~(32)~~] (33) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.
- 794 [~~(33)~~] (34) "Formal probation" means a minor is:
- 795 (a) supervised in the community by, and reports to, a juvenile probation officer or an
796 agency designated by the juvenile court; and
- 797 (b) subject to return to the juvenile court in accordance with Section 80-6-607.
- 798 [~~(34)~~] (35) "Gender identity" means the same as that term is defined in Section 34A-5-102.
- 799 [~~(35)~~] (36) "Group rehabilitation therapy" means psychological and social counseling of one
800 or more individuals in the group, depending upon the recommendation of the therapist.
- 801 [~~(36)~~] (37) "Guardian" means a person appointed by a court to make decisions regarding a
802 minor, including the authority to consent to:
- 803 (a) marriage;
- 804 (b) enlistment in the armed forces;
- 805 (c) major medical, surgical, or psychiatric treatment; or
- 806 (d) legal custody, if legal custody is not vested in another individual, agency, or
807 institution.
- 808 [~~(37)~~] (38) "Guardian ad litem" means the same as that term is defined in Section 78A-2-801.
- 809 [~~(38)~~] (39) "Harm" means:

- 810 (a) physical or developmental injury or damage;
- 811 (b) emotional damage that results in a serious impairment in the child's growth,
- 812 development, behavior, or psychological functioning;
- 813 (c) sexual abuse; or
- 814 (d) sexual exploitation.
- 815 ~~[(39)]~~ (40) "Home detention" means placement of a minor:
- 816 (a) if prior to a disposition, in the minor's home, or in a surrogate home with the consent
- 817 of the minor's parent, guardian, or custodian, under terms and conditions established
- 818 by the Division of Juvenile Justice and Youth Services or the juvenile court; or
- 819 (b) if after a disposition, and in accordance with Section 78A-6-353 or 80-6-704, in the
- 820 minor's home, or in a surrogate home with the consent of the minor's parent,
- 821 guardian, or custodian, under terms and conditions established by the Division of
- 822 Juvenile Justice and Youth Services or the juvenile court.
- 823 ~~[(40)]~~ (41)(a) "Incest" means engaging in sexual intercourse with an individual whom the
- 824 perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle,
- 825 aunt, nephew, niece, or first cousin.
- 826 (b) "Incest" includes:
- 827 (i) blood relationships of the whole or half blood, regardless of whether the
- 828 relationship is legally recognized;
- 829 (ii) relationships of parent and child by adoption; and
- 830 (iii) relationships of stepparent and stepchild while the marriage creating the
- 831 relationship of a stepparent and stepchild exists.
- 832 ~~[(41)]~~ (42) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.
- 833 ~~[(42)]~~ (43) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.
- 834 ~~[(43)]~~ (44) "Indigent defense service provider" means the same as that term is defined in
- 835 Section 78B-22-102.
- 836 ~~[(44)]~~ (45) "Indigent defense services" means the same as that term is defined in Section
- 837 78B-22-102.
- 838 ~~[(45)]~~ (46) "Indigent individual" means the same as that term is defined in Section
- 839 78B-22-102.
- 840 ~~[(46)]~~ (47)(a) "Intake probation" means a minor is:
- 841 (i) monitored by a juvenile probation officer; and
- 842 (ii) subject to return to the juvenile court in accordance with Section 80-6-607.
- 843 (b) "Intake probation" does not include formal probation.

- 844 ~~[(47)]~~ (48) "Intellectual disability" means a significant subaverage general intellectual
845 functioning existing concurrently with deficits in adaptive behavior that constitutes a
846 substantial limitation to the individual's ability to function in society.
- 847 ~~[(48)]~~ (49) "Juvenile offender" means:
848 (a) a serious youth offender; or
849 (b) a youth offender.
- 850 ~~[(49)]~~ (50) "Juvenile probation officer" means a probation officer appointed under Section
851 78A-6-205.
- 852 ~~[(50)]~~ (51) "Juvenile receiving center" means a nonsecure, nonresidential program
853 established by the Division of Juvenile Justice and Youth Services, or under contract
854 with the Division of Juvenile Justice and Youth Services, that is responsible for minors
855 taken into temporary custody under Section 80-6-201.
- 856 ~~[(51)]~~ (52) "Legal custody" means a relationship embodying:
857 (a) the right to physical custody of the minor;
858 (b) the right and duty to protect, train, and discipline the minor;
859 (c) the duty to provide the minor with food, clothing, shelter, education, and ordinary
860 medical care;
861 (d) the right to determine where and with whom the minor shall live; and
862 (e) the right, in an emergency, to authorize surgery or other extraordinary care.
- 863 ~~[(52)]~~ (53) "Licensing Information System" means the Licensing Information System
864 maintained by the Division of Child and Family Services under Section 80-2-1002.
- 865 ~~[(53)]~~ (54) "Management Information System" means the Management Information System
866 developed by the Division of Child and Family Services under Section 80-2-1001.
- 867 ~~[(54)]~~ (55) "Mental illness" means:
868 (a) a psychiatric disorder that substantially impairs an individual's mental, emotional,
869 behavioral, or related functioning; or
870 (b) the same as that term is defined in:
871 (i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders
872 published by the American Psychiatric Association; or
873 (ii) the current edition of the International Statistical Classification of Diseases and
874 Related Health Problems.
- 875 ~~[(55)]~~ (56) "Minor" means, except as provided in Sections 80-6-501, 80-6-901, and 80-7-102:
876 (a) a child; or
877 (b) an individual:

- 878 (i)(A) who is at least 18 years old and younger than 21 years old; and
879 (B) for whom the Division of Child and Family Services has been specifically
880 ordered by the juvenile court to provide services because the individual was an
881 abused, neglected, or dependent child or because the individual was
882 adjudicated for an offense;
- 883 (ii)(A) who is at least 18 years old and younger than 25 years old; and
884 (B) whose case is under the jurisdiction of the juvenile court in accordance with
885 Subsection 78A-6-103(1)(b); or
- 886 (iii)(A) who is at least 18 years old and younger than 21 years old; and
887 (B) whose case is under the jurisdiction of the juvenile court in accordance with
888 Subsection 78A-6-103(1)(c).
- 889 ~~[(56)]~~ (57) "Mobile crisis outreach team" means the same as that term is defined in Section
890 26B-5-101.
- 891 ~~[(57)]~~ (58) "Molestation" means that an individual, with the intent to arouse or gratify the
892 sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of
893 any child, or the breast of a female child, or takes indecent liberties with a child as
894 defined in Section 76-5-401.1.
- 895 ~~[(58)]~~ (59)(a) "Neglect" means action or inaction causing:
- 896 (i) abandonment of a child, except as provided in Chapter 4, Part 5, Safe
897 Relinquishment of a Newborn Child;
- 898 (ii) lack of proper parental care of a child by reason of the fault or habits of the
899 parent, guardian, or custodian;
- 900 (iii) failure or refusal of a parent, guardian, or custodian to provide proper or
901 necessary subsistence or medical care, or any other care necessary for the child's
902 health, safety, morals, or well-being;
- 903 (iv) a child to be at risk of being neglected or abused because another child in the
904 same home is neglected or abused;
- 905 (v) abandonment of a child through an unregulated child custody transfer under
906 Section 81-14-203; or
- 907 (vi) educational neglect.
- 908 (b) "Neglect" does not include:
- 909 (i) a parent or guardian legitimately practicing religious beliefs and who, for that
910 reason, does not provide specified medical treatment for a child;
- 911 (ii) a health care decision made for a child by the child's parent or guardian, unless

- 912 the state or other party to a proceeding shows, by clear and convincing evidence,
 913 that the health care decision is not reasonable and informed;
- 914 (iii) a parent or guardian exercising the right described in Section 80-3-304; or
 915 (iv) permitting a child, whose basic needs are met and who is of sufficient age and
 916 maturity to avoid harm or unreasonable risk of harm, to engage in independent
 917 activities, including:
- 918 (A) traveling to and from school, including by walking, running, or bicycling;
 919 (B) traveling to and from nearby commercial or recreational facilities;
 920 (C) engaging in outdoor play;
 921 (D) remaining in a vehicle unattended, except under the conditions described in
 922 Subsection 76-5-115(2);
 923 (E) remaining at home unattended; or
 924 (F) engaging in a similar independent activity.
- 925 ~~[(59)]~~ (60) "Neglected child" means a child who has been subjected to neglect.
- 926 ~~[(60)]~~ (61) "Nonjudicial adjustment" means closure of the case by the assigned juvenile
 927 probation officer, without an adjudication of the minor's case under Section 80-6-701,
 928 upon the consent in writing of:
- 929 (a) the assigned juvenile probation officer; and
 930 (b)(i) the minor; or
 931 (ii) the minor and the minor's parent, guardian, or custodian.
- 932 ~~[(61)]~~ (62) "Not competent to proceed" means that a minor, due to a mental illness,
 933 intellectual disability or related condition, or developmental immaturity, lacks the ability
 934 to:
- 935 (a) understand the nature of the proceedings against the minor or of the potential
 936 disposition for the offense charged; or
 937 (b) consult with counsel and participate in the proceedings against the minor with a
 938 reasonable degree of rational understanding.
- 939 ~~[(62)]~~ (63)(a) "Parent" means, except as provided in Section 80-3-302, an individual with
 940 a parent-child relationship to a minor under Section 81-5-201.
 941 (b) "Parent" includes the minor's noncustodial parent as defined in Section 81-1-101.
- 942 ~~[(63)]~~ (64) "Parole" means a conditional release of a juvenile offender from residency in
 943 secure care to live outside of secure care under the supervision of the Division of
 944 Juvenile Justice and Youth Services, or another person designated by the Division of
 945 Juvenile Justice and Youth Services.

- 946 [(64)] (65) "Physical abuse" means abuse that results in physical injury or damage to a child.
- 947 [(65)] (66)(a) "Probation" means a legal status created by court order, following an
- 948 adjudication under Section 80-6-701, whereby the minor is permitted to remain in the
- 949 minor's home under prescribed conditions.
- 950 (b) "Probation" includes intake probation or formal probation.
- 951 [(66)] (67) "Prosecuting attorney" means:
- 952 (a) the attorney general and any assistant attorney general;
- 953 (b) any district attorney or deputy district attorney;
- 954 (c) any county attorney or assistant county attorney; and
- 955 (d) any other attorney authorized to commence an action on behalf of the state.
- 956 [(67)] (68) "Protective custody" means the shelter of a child by the Division of Child and
- 957 Family Services from the time the child is removed from the home until the earlier of:
- 958 (a) the day on which the shelter hearing is held under Section 80-3-301; or
- 959 (b) the day on which the child is returned home.
- 960 [(68)] (69) "Protective services" means expedited services that are provided:
- 961 (a) in response to evidence of neglect, abuse, or dependency of a child;
- 962 (b) to a cohabitant who is neglecting or abusing a child, in order to:
- 963 (i) help the cohabitant develop recognition of the cohabitant's duty of care and of the
- 964 causes of neglect or abuse; and
- 965 (ii) strengthen the cohabitant's ability to provide safe and acceptable care; and
- 966 (c) in cases where the child's welfare is endangered:
- 967 (i) to bring the situation to the attention of the appropriate juvenile court and law
- 968 enforcement agency;
- 969 (ii) to cause a protective order to be issued for the protection of the child, when
- 970 appropriate; and
- 971 (iii) to protect the child from the circumstances that endanger the child's welfare
- 972 including, when appropriate:
- 973 (A) removal from the child's home;
- 974 (B) placement in substitute care; and
- 975 (C) petitioning the court for termination of parental rights.
- 976 [(69)] (70) "Protective supervision" means a legal status created by court order, following an
- 977 adjudication on the ground of abuse, neglect, or dependency, whereby:
- 978 (a) the minor is permitted to remain in the minor's home; and
- 979 (b) supervision and assistance to correct the abuse, neglect, or dependency is provided

980 by an agency designated by the juvenile court.

981 [~~(70)~~] (71)(a) "Related condition" means a condition that:

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

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

985 (iii) is likely to continue indefinitely; and

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

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

989 [~~(71)~~] (72)(a) "Residual parental rights and duties" means the rights and duties remaining
990 with a parent after legal custody or guardianship, or both, have been vested in another
991 person or agency, including:

992 (i) the responsibility for support;

993 (ii) the right to consent to adoption;

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

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

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

998 (i) marriage;

999 (ii) enlistment; and

1000 (iii) major medical, surgical, or psychiatric treatment.

1001 [~~(72)~~] (73) "Runaway" means a child, other than an emancipated child, who willfully leaves
1002 the home of the child's parent or guardian, or the lawfully prescribed residence of the
1003 child, without permission.

1004 [~~(73)~~] (74) "Secure care" means placement of a minor, who is committed to the Division of
1005 Juvenile Justice and Youth Services for rehabilitation, in a facility operated by, or under
1006 contract with, the Division of Juvenile Justice and Youth Services, that provides 24-hour
1007 supervision and confinement of the minor.

1008 [~~(74)~~] (75) "Secure care facility" means a facility, established in accordance with Section
1009 80-5-503, for juvenile offenders in secure care.

1010 [~~(75)~~] (76) "Secure detention" means temporary care of a minor who requires secure custody
1011 in a physically restricting facility operated by, or under contract with, the Division of
1012 Juvenile Justice and Youth Services:

1013 (a) before disposition of an offense that is alleged to have been committed by the minor;

- 1014 or
- 1015 (b) under Section 80-6-704.
- 1016 [~~(76)~~] (77) "Serious youth offender" means an individual who:
- 1017 (a) is at least 14 years old, but under 25 years old;
- 1018 (b) committed a felony listed in Subsection 80-6-503(1) and the continuing jurisdiction
- 1019 of the juvenile court was extended over the individual's case until the individual was
- 1020 25 years old in accordance with Section 80-6-605; and
- 1021 (c) is committed by the juvenile court to the Division of Juvenile Justice and Youth
- 1022 Services for secure care under Sections 80-6-703 and 80-6-705.
- 1023 [~~(77)~~] (78) "Severe abuse" means abuse that causes or threatens to cause serious harm to a
- 1024 child.
- 1025 [~~(78)~~] (79) "Severe neglect" means neglect that causes or threatens to cause serious harm to
- 1026 a child.
- 1027 [~~(79)~~] (80)(a) "Severe type of child abuse or neglect" means, except as provided in
- 1028 Subsection [~~(79)(b)~~] (80)(b):
- 1029 (i) if committed by an individual who is 18 years old or older:
- 1030 (A) chronic abuse;
- 1031 (B) severe abuse;
- 1032 (C) sexual abuse;
- 1033 (D) sexual exploitation;
- 1034 (E) abandonment;
- 1035 (F) chronic neglect; or
- 1036 (G) severe neglect; or
- 1037 (ii) if committed by an individual who is under 18 years old:
- 1038 (A) causing serious injury, as defined in Subsection 76-5-109(1), to another child
- 1039 that indicates a significant risk to other children; or
- 1040 (B) sexual behavior with or upon another child that indicates a significant risk to
- 1041 other children.
- 1042 (b) "Severe type of child abuse or neglect" does not include:
- 1043 (i) the use of reasonable and necessary physical restraint by an educator in
- 1044 accordance with Section 53G-8-301 or Section 76-2-401;
- 1045 (ii) an individual's conduct that is justified under Section 76-2-401 or constitutes the
- 1046 use of reasonable and necessary physical restraint or force in self-defense or
- 1047 otherwise appropriate to the circumstances to obtain possession of a weapon or

1048 other dangerous object in the possession or under the control of a child or to
 1049 protect the child or another individual from physical injury; or
 1050 (iii) a health care decision made for a child by a child's parent or guardian, unless,
 1051 subject to Subsection [~~(79)(e)~~] (80)(c), the state or other party to the proceeding
 1052 shows, by clear and convincing evidence, that the health care decision is not
 1053 reasonable and informed.

1054 (c) Subsection [~~(79)(b)(iii)~~] (80)(b)(iii) does not prohibit a parent or guardian from
 1055 exercising the right to obtain a second health care opinion.

1056 [~~(80)~~] (81)(a) "Sexual abuse" means:

1057 (i) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an
 1058 adult directed towards a child;

1059 (ii) an act or attempted act of sexual intercourse, sodomy, incest, or molestation
 1060 committed by a child towards another child if:

1061 (A) there is an indication of force or coercion;

1062 (B) the children are related, as described in Subsection [~~(40)~~] (41), including
 1063 siblings by marriage while the marriage exists or by adoption; or

1064 (C) the act or attempted act constitutes unlawful sexual activity as described in
 1065 Section 76-5-401.3.

1066 (iii) engaging in any conduct with a child that would constitute an offense under any
 1067 of the following, regardless of whether the individual who engages in the conduct
 1068 is actually charged with, or convicted of, the offense:

1069 (A) Title 76, Chapter 5, Part 4, Sexual Offenses;

1070 (B) child bigamy, Section 76-7-101.5;

1071 (C) incest, Section 76-7-102;

1072 (D) voyeurism, Section 76-12-306;

1073 (E) recorded or photographed voyeurism, Section 76-12-307; or

1074 (F) distribution of images obtained through voyeurism, Section 76-12-308; or

1075 (iv) subjecting a child to participate in or threatening to subject a child to participate
 1076 in a sexual relationship, regardless of whether that sexual relationship is part of a
 1077 legal or cultural marriage.

1078 (b) "Sexual abuse" does not include engaging in any conduct with a child that would
 1079 constitute an offense described in:

1080 (i) Section 76-5-401, unlawful sexual activity with a minor, if the alleged perpetrator
 1081 of the offense is a minor; or

- 1082 (ii) Section 76-5-417, enticing a minor.
- 1083 [~~(81)~~] (82) "Sexual exploitation" means knowingly:
- 1084 (a) employing, using, persuading, inducing, enticing, or coercing any child to:
- 1085 (i) pose in the nude for the purpose of sexual arousal of any individual; or
- 1086 (ii) engage in any sexual or simulated sexual conduct for the purpose of
- 1087 photographing, filming, recording, or displaying in any way the sexual or
- 1088 simulated sexual conduct;
- 1089 (b) displaying, distributing, possessing for the purpose of distribution, or selling material
- 1090 depicting a child:
- 1091 (i) in the nude, for the purpose of sexual arousal of any individual; or
- 1092 (ii) engaging in sexual or simulated sexual conduct; or
- 1093 (c) engaging in any conduct that would constitute an offense under Section 76-5b-201,
- 1094 sexual exploitation of a minor, or Section 76-5b-201.1, aggravated sexual
- 1095 exploitation of a minor, regardless of whether the individual who engages in the
- 1096 conduct is actually charged with, or convicted of, the offense.
- 1097 [~~(82)~~] (83) "Shelter" means the temporary care of a child in a physically unrestricted facility
- 1098 pending a disposition or transfer to another jurisdiction.
- 1099 [~~(83)~~] (84) "Shelter facility" means a nonsecure facility that provides shelter for a minor.
- 1100 [~~(84)~~] (85) "Significant risk" means a risk of harm that is determined to be significant in
- 1101 accordance with risk assessment tools and rules established by the Division of Child and
- 1102 Family Services in accordance with Title 63G, Chapter 3, Utah Administrative
- 1103 Rulemaking Act, that focus on:
- 1104 (a) age;
- 1105 (b) social factors;
- 1106 (c) emotional factors;
- 1107 (d) sexual factors;
- 1108 (e) intellectual factors;
- 1109 (f) family risk factors; and
- 1110 (g) other related considerations.
- 1111 [~~(85)~~] (86) "Single criminal episode" means the same as that term is defined in Section
- 1112 76-1-401.
- 1113 [~~(86)~~] (87) "Status offense" means an offense that would not be an offense but for the age of
- 1114 the offender.
- 1115 [~~(87)~~] (88) "Substance abuse" means, except as provided in Section 80-2-603, the misuse or

1116 excessive use of alcohol or other drugs or substances.

1117 [~~(88)~~] (89) "Substantiated" or "substantiation" means a judicial finding based on a
 1118 preponderance of the evidence, and separate consideration of each allegation made or
 1119 identified in the case, that abuse, neglect, or dependency occurred.

1120 [~~(89)~~] (90) "Substitute care" means:

1121 (a) the placement of a minor in a family home, group care facility, or other placement
 1122 outside the minor's own home, either at the request of a parent or other responsible
 1123 relative, or upon court order, when it is determined that continuation of care in the
 1124 minor's own home would be contrary to the minor's welfare;

1125 (b) services provided for a minor in the protective custody of the Division of Child and
 1126 Family Services, or a minor in the temporary custody or custody of the Division of
 1127 Child and Family Services, as those terms are defined in Section 80-2-102; or

1128 (c) the licensing and supervision of a substitute care facility.

1129 [~~(90)~~] (91) "Supported" means a finding by the Division of Child and Family Services based
 1130 on the evidence available at the completion of an investigation, and separate
 1131 consideration of each allegation made or identified during the investigation, that there is
 1132 a reasonable basis to conclude that abuse, neglect, or dependency occurred.

1133 [~~(91)~~] (92) "Termination of parental rights" means the permanent elimination of all parental
 1134 rights and duties, including residual parental rights and duties, by court order.

1135 [~~(92)~~] (93) "Therapist" means:

1136 (a) an individual employed by a state division or agency for the purpose of conducting
 1137 psychological treatment and counseling of a minor in the division's or agency's
 1138 custody; or

1139 (b) any other individual licensed or approved by the state for the purpose of conducting
 1140 psychological treatment and counseling.

1141 [~~(93)~~] (94) "Threatened harm" means actions, inactions, or credible verbal threats, indicating
 1142 that the child is at an unreasonable risk of harm or neglect.

1143 [~~(94)~~] (95) "Torture" means:

1144 (a) the infliction of a serious injury upon a child in an exceptionally cruel or
 1145 exceptionally depraved manner that causes the child to experience extreme physical
 1146 or psychological pain or anguish; or

1147 (b) the infliction of a serious injury, or more than one serious injury, upon a child as part
 1148 of a course of conduct or over a prolonged period of time.

1149 [~~(95)~~] (96) "Ungovernable" means a child in conflict with a parent or guardian, and the

- 1150 conflict:
- 1151 (a) results in behavior that is beyond the control or ability of the child, or the parent or
1152 guardian, to manage effectively;
- 1153 (b) poses a threat to the safety or well-being of the child, the child's family, or others; or
1154 (c) results in the situations described in Subsections ~~[(95)(a)]~~ (96)(a) and (b).
- 1155 ~~[(96)]~~ (97) "Unsubstantiated" means a judicial finding that there is insufficient evidence to
1156 conclude that abuse, neglect, or dependency occurred.
- 1157 ~~[(97)]~~ (98) "Unsupported" means a finding by the Division of Child and Family Services at
1158 the completion of an investigation, after the day on which the Division of Child and
1159 Family Services concludes the alleged abuse, neglect, or dependency is not without
1160 merit, that there is insufficient evidence to conclude that abuse, neglect, or dependency
1161 occurred.
- 1162 ~~[(98)]~~ (99) "Validated risk and needs assessment" means an evidence-based tool that
1163 assesses a minor's risk of reoffending and a minor's criminogenic needs.
- 1164 ~~[(99)]~~ (100) "Without merit" means a finding at the completion of an investigation by the
1165 Division of Child and Family Services, or a judicial finding, that the alleged abuse,
1166 neglect, or dependency did not occur, or that the alleged perpetrator was not responsible
1167 for the abuse, neglect, or dependency.
- 1168 ~~[(100)]~~ (101) "Youth offender" means an individual who is:
- 1169 (a) at least 12 years old, but under 21 years old; and
1170 (b) committed by the juvenile court to the Division of Juvenile Justice and Youth
1171 Services for secure care under Sections 80-6-703 and 80-6-705.
- 1172 Section 11. Section **80-2-102** is amended to read:
- 1173 **80-2-102 . Definitions.**
- 1174 (1) As used in this chapter:
- 1175 ~~[(1)]~~ (a) "Consult" means an interaction between two persons in which the initiating
1176 person:
- 1177 ~~[(a)]~~ (i) provides information to another person;
1178 ~~[(b)]~~ (ii) provides the other person an opportunity to respond; and
1179 ~~[(c)]~~ (iii) takes the other person's response, if any, into consideration.
- 1180 ~~[(2)]~~ (b) "Consumer" means a person who receives services offered by the division in
1181 accordance with this chapter.
- 1182 ~~[(3)]~~ (c) "Council" means the Child Welfare Improvement Council created in Section
1183 80-2-1101.

- 1184 ~~[(4)]~~ (d) "Custody," with regard to the division, means the custody of a minor in the
1185 division as of the date of disposition.
- 1186 ~~[(5)]~~ (e) "Day-care services" means care of a child for a portion of the day which is less
1187 than 24 hours:
- 1188 ~~[(a)]~~ (i) in the child's own home by a responsible individual; or
1189 ~~[(b)]~~ (ii) outside of the child's home in a:
- 1190 ~~[(i)]~~ (A) day-care center;
1191 ~~[(ii)]~~ (B) family group home; or
1192 ~~[(iii)]~~ (C) family child care home.
- 1193 ~~[(6)]~~ (f) "Director" means the director of the division appointed under Section 80-2-202.
- 1194 ~~[(7)]~~ (g) "Division" means the Division of Child and Family Services created in Section
1195 80-2-201.
- 1196 ~~[(8)]~~ (h) "Domestic violence" means the same as that term is defined in Section 77-36-1.
- 1197 ~~[(9)]~~ (i) "Domestic violence services" means:
- 1198 ~~[(a)]~~ (i) temporary shelter, treatment, and related services provided to:
- 1199 ~~[(i)]~~ (A) an individual who is a victim of abuse, as defined in Section 78B-7-102;
1200 and
1201 ~~[(ii)]~~ (B) the dependent children of an individual who is a victim of abuse, as
1202 defined in Section 78B-7-102; and
- 1203 ~~[(b)]~~ (ii) treatment services for an individual who is alleged to have committed, has
1204 been convicted of, or has pled guilty to domestic violence.
- 1205 ~~[(10)]~~ (j) "Homemaking services" means the care of an individual in the individual's
1206 domicile, and help given to an individual caretaker relative to achieve improved
1207 household and family management through the services of a trained homemaker.
- 1208 ~~[(11)]~~ (k) "Hormonal transgender treatment" means the same as that term is defined in
1209 Section 58-1-603.
- 1210 ~~[(12)]~~ (l) "Mutual case" means a case that is:
- 1211 ~~[(a)]~~ (i) opened by the division under the division's discretion and procedures;
1212 ~~[(b)]~~ (ii) opened by the law enforcement agency with jurisdiction over the case; and
1213 ~~[(c)]~~ (iii) accepted for investigation by a child protection team, as applicable.
- 1214 ~~[(13)]~~ (m)~~[(a)]~~ (i) "Person responsible for the child's care" means the child's parent,
1215 guardian, or other person responsible for the child's care.
- 1216 ~~[(b)]~~ (ii) "Person responsible for the child's care" includes a person responsible for the
1217 child's care in the same home as the child, a relative's home, a group, family, or

- 1218 day care facility, a foster care home, or a residential institution.
- 1219 ~~[(14)]~~ (n) "Primary sex characteristic surgical procedure" means the same as that term is
- 1220 defined in Section 58-67-102.
- 1221 ~~[(15)]~~ (o) "Secondary sex characteristic surgical procedure" means the same as that term
- 1222 is defined in Section 58-67-102.
- 1223 ~~[(16)]~~ (p) "Shelter care" means the temporary care of a minor in a nonsecure facility.
- 1224 ~~[(17)]~~ (q) "Sibling" means a child who shares or has shared at least one parent in
- 1225 common either by blood or adoption.
- 1226 ~~[(18)]~~ (r) "Sibling visitation" means services provided by the division to facilitate the
- 1227 interaction between a child in division custody with the child's sibling.
- 1228 ~~[(19)]~~ (s)~~[(a)]~~ (i) "Subject of the report" means a person reported under Part 6, Child
- 1229 Abuse and Neglect Reports.
- 1230 ~~[(b)]~~ (ii) "Subject of the report" includes the child who is the alleged victim of the
- 1231 report and the person responsible for the child's care.
- 1232 ~~[(20)]~~ (t) "Temporary custody" means, with regard to the division, the custody of a child
- 1233 from the day on which the shelter hearing described in Section 80-3-301 is held until
- 1234 the day on which the juvenile court enters a disposition under Section 80-3-405.
- 1235 ~~[(21)]~~ (u) "Transportation services" means travel assistance given to an individual with
- 1236 escort service, if necessary, to and from community facilities and resources as part of
- 1237 a service plan.
- 1238 (2) A determination of a minor's best interest under this chapter shall be made in
- 1239 accordance with Sections 80-2a-201, 80-4-104, and any other section of this title
- 1240 consistent with those sections.
- 1241 Section 12. Section **80-2a-101** is amended to read:
- 1242 **80-2a-101 . Definitions.**
- 1243 (1) "Custody" means the same as that term is defined in Section 80-2-102.
- 1244 (2) "Division" means the Division of Child and Family Services created in Section 80-2-201.
- 1245 (3) "Friend" means an adult who:
- 1246 (a) has an established relationship with the child or a family member of the child; and
- 1247 (b) is not the parent of the child.
- 1248 (4) "Nonrelative" means an individual who is not a noncustodial parent or relative.
- 1249 (5) "Relative" means an adult who:
- 1250 (a) is the child's grandparent, great grandparent, aunt, great aunt, uncle, great uncle,
- 1251 brother-in-law, sister-in-law, stepparent, first cousin, stepsibling, or sibling;

- 1252 (b) is the first cousin of the child's parent;
 1253 (c) is a permanent guardian or parent of the child's sibling; or
 1254 (d) in the case of a child who is an Indian child, is an extended family member as
 1255 defined in the Indian Child Welfare Act, 25 U.S.C. Sec. 1903.

1256 (6) "Sibling" means the same as that term is defined in Section 80-2-102.

1257 (7) "Temporary custody" means the same as that term is defined in Section 80-2-102.

1258 (8) A determination of a minor's best interest under this chapter shall be made in
 1259 accordance with Sections 80-2a-201, 80-4-104, and any other section of this title
 1260 consistent with those sections.

1261 Section 13. Section **80-3-102** is amended to read:

1262 **80-3-102 . Definitions.**

1263 (1) As used in this chapter:

1264 [(1)] (a) "Abuse, neglect, or dependency petition" means a petition filed in accordance
 1265 with this chapter to commence proceedings in a juvenile court alleging that a child is:

1266 [(a)] (i) abused;

1267 [(b)] (ii) neglected; or

1268 [(c)] (iii) dependent.

1269 [(2)] (b) "Custody" means the same as that term is defined in Section 80-2-102.

1270 [(3)] (c) "Division" means the Division of Child and Family Services created in Section
 1271 80-2-201.

1272 [(4)] (d) "Friend" means an adult who:

1273 [(a)] (i) has an established relationship with the child or a family member of the child;
 1274 and

1275 [(b)] (ii) is not the parent of the child.

1276 [(5)] (e) "Immediate family member" means a spouse, child, parent, sibling, grandparent,
 1277 or grandchild.

1278 [(6)] (f) "Relative" means an adult who:

1279 [(a)] (i) is the child's grandparent, great grandparent, aunt, great aunt, uncle, great
 1280 uncle, brother-in-law, sister-in-law, stepparent, first cousin, stepsibling, or sibling;

1281 [(b)] (ii) is a first cousin of the child's parent;

1282 [(c)] (iii) is a permanent guardian or parent of the child's sibling; or

1283 [(d)] (iv) in the case of a child who is an Indian child, is an extended family member
 1284 as defined in the Indian Child Welfare Act, 25 U.S.C. Sec. 1903.

1285 [(7)] (g) "Sibling" means the same as that term is defined in Section 80-2-102.

1286 [(8)] (h) "Sibling visitation" means the same as that term is defined in Section 80-2-102.
1287 [(9)] (i) "Temporary custody" means the same as that term is defined in Section 80-2-102.
1288 (2) A determination of a minor's best interest under this chapter shall be made in
1289 accordance with Sections 80-2a-201, 80-4-104, and any other section of this title
1290 consistent with those sections.

1291 Section 14. Section **80-3-104** is amended to read:

1292 **80-3-104 . Individuals entitled to be present at proceedings -- Legal**
1293 **representation -- Attorney general responsibilities.**

1294 (1)(a) A minor who is the subject of a juvenile court hearing, any person entitled to
1295 notice under Section 80-3-201 or 80-3-301, preadoptive parents, foster parents, and
1296 any relative providing care for the minor, are:

1297 (i) entitled to notice of, and to be present at, each hearing and proceeding held under
1298 this chapter, including administrative reviews; and

1299 (ii) have a right to be heard at each hearing and proceeding described in Subsection

1300 (1)(a)(i).

1301 (b) A child's right to be present at a hearing under Subsection (1)(a) is subject to the
1302 discretion of the guardian ad litem appointed under Subsection (3) or the juvenile
1303 court regarding any possible detriment to the child.

1304 (2)(a) The parent or guardian of a minor who is the subject of an abuse, neglect, or
1305 dependency petition has the right to be represented by counsel, and to present
1306 evidence, at each hearing.

1307 (b) If a parent or guardian is the subject of an abuse, neglect, or dependency petition, the
1308 juvenile court shall:

1309 (i) appoint an indigent defense service provider for a parent or guardian determined
1310 to be an indigent individual in accordance with Title 78B, Chapter 22, Part 2,
1311 Appointment of Counsel; and

1312 (ii) order indigent defense services for the parent or guardian who is determined to be
1313 an indigent individual in accordance with Title 78B, Chapter 22, Part 2,
1314 Appointment of Counsel.

1315 (3)(a) In an abuse, neglect, or dependency proceeding under this chapter, the juvenile
1316 court shall order that the child be represented by an attorney guardian ad litem, in
1317 accordance with Section 78A-2-803.

1318 (b) A guardian ad litem appointed under Subsection (3)(a) shall represent the best
1319 interest of the minor, in accordance with the requirements of Section 78A-2-803:

1320 (i) at the shelter hearing and at all subsequent court and administrative proceedings,
 1321 including any proceeding for termination of parental rights in accordance with
 1322 Chapter 4, Termination and Restoration of Parental Rights; and
 1323 (ii) in other actions initiated under this chapter when appointed by the court under
 1324 Section 78A-2-803 or as otherwise provided by law.

1325 (4) Subject to Section 67-5-17 and the attorney general's prosecutorial discretion in civil
 1326 enforcement actions, the attorney general shall, in accordance with Section 80-2-303,
 1327 enforce this chapter, Chapter 2, Child Welfare Services, and Chapter 2a, Removal and
 1328 Protective Custody of a Child, relating to protection or custody of an abused, neglected,
 1329 or dependent minor and the termination of parental rights.

1330 (5)(a) The juvenile court shall admit any individual to a hearing under this chapter,
 1331 including a hearing under Section 80-3-205, unless the juvenile court makes a finding
 1332 upon the record that the individual's presence at the hearing would:

1333 (i) be detrimental to the best interest of a minor who is a party to the proceeding;
 1334 (ii) impair the fact-finding process; or
 1335 (iii) be otherwise contrary to the interests of justice.

1336 (b) The juvenile court may exclude an individual from a hearing under Subsection (5)(a)
 1337 on the juvenile court's own motion or by motion of a party to the proceeding.

1338 (6) A determination of a minor's best interest under this chapter shall be made in
 1339 accordance with Sections 80-2a-201, 80-4-104, and any other section of this title
 1340 consistent with those sections.

1341 Section 15. Section **80-4-102** is amended to read:

1342 **80-4-102 . Definitions.**

1343 (1) As used in this chapter:

1344 [(1)] (a) "Division" means the Division of Child and Family Services created in Section
 1345 80-2-201.

1346 [(2)] (b) "Failure of parental adjustment" means that a parent or parents are unable or
 1347 unwilling within a reasonable time to substantially correct the circumstances,
 1348 conduct, or conditions that led to placement of their child outside of their home,
 1349 notwithstanding reasonable and appropriate efforts made by the division to return the
 1350 child to the home.

1351 [(3)] (c) "Former parent" means an individual whose legal parental rights were
 1352 terminated under this chapter.

1353 [(4)] (d) "Petition to restore parental rights" means a petition filed in accordance with this

- 1354 chapter to restore the rights of a parent with regard to a child.
- 1355 ~~[(5)]~~ (e) "Petition for termination of parental rights" means a petition filed in accordance
- 1356 with this chapter to terminate the parental rights of a parent.
- 1357 ~~[(6)]~~ (f) "Temporary custody" means the same as that term is defined in Section 80-2-102.
- 1358 (2) A determination of a minor's best interest under this chapter shall be made in
- 1359 accordance with Sections 80-2a-201, 80-4-104, and any other section of this title
- 1360 consistent with those sections.

1361 Section 16. Section **81-13-202** is amended to read:

1362 **81-13-202 . Legislative findings -- Best interest of the minor child -- Interests of**

1363 **each party.**

- 1364 (1)(a) In every adoption of a minor child that, the best interest of the minor child should
- 1365 govern and be of foremost concern in a court's determination.
- 1366 (b) A determination of a minor child's best interest shall be made in accordance with
- 1367 Sections 80-2a-201, 80-4-104, and any other section of this title consistent with those
- 1368 sections.
- 1369 (2) The court shall make a specific finding regarding the best interest of the minor child,
- 1370 taking into consideration information provided to the court [~~pursuant to~~] in accordance
- 1371 with the requirements of this chapter relating to the health, safety, and welfare of the
- 1372 minor child and the moral climate of the potential adoptive placement.
- 1373 (3) The Legislature finds that the rights and interests of all parties affected by an adoption
- 1374 proceeding [~~must~~] shall be considered and balanced in determining what constitutional
- 1375 protections and processes are necessary and appropriate.
- 1376 (4)(a) The Legislature specifically finds that it is not in a minor child's best interest to be
- 1377 adopted by a person or persons who are cohabiting in a relationship that is not a
- 1378 legally valid and binding marriage under the laws of this state.
- 1379 (b) Nothing in this section limits or prohibits the court's placement of a minor child with
- 1380 a single adult who is not cohabiting or a person who is a relative of the minor child or
- 1381 a recognized placement under the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et
- 1382 seq.
- 1383 (5) The Legislature also finds that:
- 1384 (a) the state has a compelling interest in providing a stable and permanent home for a
- 1385 child adoptee in a prompt manner, in preventing the disruption of an adoptive
- 1386 placement, and in holding parents accountable for meeting the needs of a child
- 1387 adoptee;

- 1388 (b) an unmarried birth mother, faced with the responsibility of making crucial decisions
1389 about the future of a newborn child, is entitled to privacy, and has the right to make
1390 timely and appropriate decisions regarding her future and the future of the newborn
1391 child, and is entitled to assurance regarding the permanence of an adoptive placement;
- 1392 (c) a child adoptee has a right to permanence and stability in an adoptive placement;
- 1393 (d) adoptive parents have a constitutionally protected liberty and privacy interest in
1394 retaining custody of a child adoptee;
- 1395 (e) an unmarried biological father has an inchoate interest that acquires constitutional
1396 protection only when the unmarried biological father demonstrates a timely and full
1397 commitment to the responsibilities of parenthood, both during pregnancy and upon
1398 the child adoptee's birth; and
- 1399 (f) the state has a compelling interest in requiring an unmarried biological father to
1400 demonstrate commitment by providing appropriate medical care and financial
1401 support and by establishing legal parentage in accordance with the requirements of
1402 this chapter.
- 1403 (6)(a) In enacting this chapter, the Legislature has prescribed the conditions for
1404 determining whether an unmarried biological father's action is sufficiently prompt
1405 and substantial to require constitutional protection.
- 1406 (b) If an unmarried biological father fails to grasp the opportunities to establish a
1407 relationship with the child adoptee that are available to the unmarried biological
1408 father, the unmarried biological father's parental interest may be lost entirely, or
1409 greatly diminished in constitutional significance by the unmarried biological father's
1410 failure to timely exercise the unmarried biological father's parental interest, or by the
1411 unmarried biological father's failure to strictly comply with the available legal steps
1412 to substantiate the parental interest.
- 1413 (c)(i) A certain degree of finality is necessary in order to facilitate the state's
1414 compelling interest.
- 1415 (ii) The Legislature finds that the interests of the state, the birth mother, the child
1416 adoptee, and the adoptive parents described in this section outweigh the interest of
1417 an unmarried biological father who does not timely grasp the opportunity to
1418 establish and demonstrate a relationship with the child adoptee in accordance with
1419 the requirements of this chapter.
- 1420 (d)(i) The Legislature finds no practical way to remove all risk of fraud or
1421 misrepresentation in adoption proceedings, and has provided a method for

- 1422 absolute protection of an unmarried biological father's rights by compliance with
1423 the provisions of this chapter.
- 1424 (ii) In balancing the rights and interests of the state, and of all parties affected by
1425 fraud, specifically the child adoptee, the adoptive parents, and the unmarried
1426 biological father, the Legislature has determined that the unmarried biological
1427 father is in the best position to prevent or ameliorate the effects of fraud and that,
1428 therefore, the burden of fraud shall be borne by the unmarried biological father.
- 1429 (e) An unmarried biological father has the primary responsibility to protect the
1430 unmarried biological father's rights.
- 1431 (f) An unmarried biological father is presumed to know that the child adoptee may be
1432 adopted without the unmarried biological father's consent unless the unmarried
1433 biological father strictly complies with the provisions of this chapter, manifests a
1434 prompt and full commitment to the unmarried biological father's parental
1435 responsibilities, and establishes paternity.
- 1436 (7) The Legislature finds that an unmarried birth mother has:
- 1437 (a) a right of privacy with regard to the unmarried birth mother's pregnancy and adoption
1438 plan;
- 1439 (b) no legal obligation to disclose the identity of an unmarried biological father before or
1440 during an adoption proceeding; and
- 1441 (c) no obligation to volunteer information to the court with respect to the father.

1442 **Section 17. Effective Date.**

1443 This bill takes effect on May 6, 2026.