

SB0124S01 compared with SB0124

~~{Omitted text}~~ shows text that was in SB0124 but was omitted in SB0124S01

inserted text shows text that was not in SB0124 but was inserted into SB0124S01

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1

Child Welfare Modifications

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Luz Escamilla

House Sponsor: Christine F. Watkins

2

LONG TITLE

General Description:

5 This bill addresses ~~{search}~~ protective custody warrants and investigative warrants relating to child welfare.

Highlighted Provisions:

8 This bill:

8 ▶ amends provisions regarding the issuance of warrants by a juvenile court;

10 ▶ distinguishes between a protective custody warrant and an investigative warrant;

9 ▶ authorizes a juvenile court to issue an investigative warrant related to the health, safety, or welfare of a child;

11 ▶ states that a peace officer or child welfare caseworker who is executing a ~~{search}~~ protective custody warrant or an investigative warrant may request assistance in executing the warrant; ~~{and}~~

16 ▶ specifies that an investigative warrant does not give a peace officer or child welfare caseworker authority to take a child into protective custody;

18 ▶ defines terms; and

13 ▶ makes technical and conforming changes.

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20 **Money Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 None

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **78A-6-102** , as last amended by Laws of Utah 2022, Chapter 335

27 **80-1-102 , as last amended by Laws of Utah 2025, Chapter 426**

28 **80-2-402 , as last amended by Laws of Utah 2025, Chapter 48**

29 **80-2a-202** , as last amended by Laws of Utah 2025, Chapter 48

30 **80-3-204 , as last amended by Laws of Utah 2025, Chapter 426**

31 **80-3-301 , as last amended by Laws of Utah 2025, Chapter 426**

32 **80-3-405 , as last amended by Laws of Utah 2025, Chapter 426**

33

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

35 Section 1. Section **78A-6-102** is amended to read:

36 **78A-6-102. Establishment of juvenile court -- Organization and status of court -- Purpose.**

27 (1) There is established a juvenile court for the state.

28 (2)

(a) The juvenile court is a court of record.

29 (b) The juvenile court shall have a seal.

30 (c) The juvenile court's judges, clerks, and referees have the power to administer oaths and affirmations.

32 (d) The juvenile court has the authority to issue [search-]warrants, subpoenas, or investigative subpoenas under:

34 (i) [~~under Section 80-2a-202,~~]Part 4a, Adult Criminal Proceedings, Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, Title 80, Chapter 4, Termination and Restoration of Parental Rights, and Title 80, Chapter 6, Juvenile Justice, for the same purposes and in the same manner as described in Title 77, Utah Code of Criminal Procedure, and the Utah Rules of Criminal Procedure, for the issuance of search warrants, subpoenas, or investigative subpoenas in other trial courts in the state[-] ; and

41 (ii) Section 80-2a-202.

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- 42 (3) The juvenile court is of equal status with the district courts of the state.
- 43 (4) The juvenile court is established as a forum for the resolution of all matters properly brought before
the juvenile court, consistent with applicable constitutional and statutory requirements of due
process.
- 46 (5) The purpose of the court under this chapter is to:
- 47 (a) promote public safety and individual accountability by the imposition of appropriate sanctions on
persons who have committed acts in violation of law;
- 49 (b) order appropriate measures to promote guidance and control, preferably in the minor's own home, as
an aid in the prevention of future unlawful conduct and the development of responsible citizenship;
- 52 (c) where appropriate, order rehabilitation, reeducation, and treatment for persons who have committed
acts bringing them within the court's jurisdiction;
- 54 (d) adjudicate matters that relate to minors who are beyond parental or adult control and to establish
appropriate authority over these minors by means of placement and control orders;
- 57 (e) adjudicate matters that relate to abused, neglected, and dependent children and to provide care and
protection for minors by placement, protection, and custody orders;
- 59 (f) remove a minor from parental custody only where the minor's safety or welfare, or the public safety,
may not otherwise be adequately safeguarded; and
- 61 (g) consistent with the ends of justice, act in the best interests of the minor in all cases and preserve and
strengthen family ties.

74 Section 2. Section 80-1-102 is amended to read:

75 **80-1-102. Juvenile Code definitions.**

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

- 77 (1)
- (a) "Abuse" means:
- 78 (i)
- (A) nonaccidental harm of a child;
- 79 (B) threatened harm of a child;
- 80 (C) sexual exploitation;
- 81 (D) sexual abuse; or
- 82 (E) human trafficking of a child in violation of Section 76-5-308.5; or
- 83 (ii) that a child's parent:

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- 84 (A) intentionally, knowingly, or recklessly causes the death of another parent of the child;
- 86 (B) is identified by a law enforcement agency as the primary suspect in an investigation for
intentionally, knowingly, or recklessly causing the death of another parent of the child; or
- 89 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the
death of another parent of the child.
- 91 (b) "Abuse" does not include:
- 92 (i) reasonable discipline or management of a child, including withholding privileges;
- 93 (ii) conduct described in Section 76-2-401; or
- 94 (iii) the use of reasonable and necessary physical restraint or force on a child:
- 95 (A) in self-defense;
- 96 (B) in defense of others;
- 97 (C) to protect the child; or
- 98 (D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (1)
(b)(iii)(A) through (C).
- 100 (2) "Abused child" means a child who has been subjected to abuse.
- 101 (3)
- (a) "Adjudication" means, except as provided in Subsection (3)(b):
- 102 (i) for a delinquency petition or criminal information under Chapter 6, Juvenile Justice:
- 104 (A) a finding by the juvenile court that the facts alleged in a delinquency petition or criminal
information alleging that a minor committed an offense have been proved;
- 107 (B) an admission by a minor in the juvenile court as described in Section 80-6-306; or
- 109 (C) a plea of no contest by minor in the juvenile court; or
- 110 (ii) for all other proceedings under this title, a finding by the juvenile court that the facts alleged in
the petition have been proved.
- 112 (b) "Adjudication" does not include:
- 113 (i) an admission by a minor described in Section 80-6-306 until the juvenile court enters the minor's
admission; or
- 115 (ii) a finding of not competent to proceed in accordance with Section 80-6-402.
- 116 (4)
- (a) "Adult" means an individual who is 18 years old or older.
- 117 (b) "Adult" does not include an individual:

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- 118 (i) who is 18 years old or older; and
119 (ii) who is a minor.
- 120 (5) "Attorney guardian ad litem" means the same as that term is defined in Section 78A-2-801.
122 (6) "Board" means the Board of Juvenile Court Judges.
123 (7) "Child" means, except as provided in Section 80-2-905, an individual who is under 18 years old.
125 (8) "Child and family plan" means a written agreement between a child's parents or guardian and the
Division of Child and Family Services as described in Section 80-3-307.
- 127 (9) "Child placing" means the same as that term is defined in Section 26B-2-101.
128 (10) "Child-placing agency" means the same as that term is defined in Section 26B-2-101.
129 (11) "Child protection team" means a team consisting of:
130 (a) the child welfare caseworker assigned to the case;
131 (b) if applicable, the child welfare caseworker who made the decision to remove the child;
133 (c) a representative of the school or school district where the child attends school;
134 (d) if applicable, the law enforcement officer who removed the child from the home;
135 (e) a representative of the appropriate Children's Justice Center, if one is established within the county
where the child resides;
137 (f) if appropriate, and known to the division, a therapist or counselor who is familiar with the child's
circumstances;
139 (g) if appropriate, a representative of law enforcement selected by the chief of police or sheriff in the
city or county where the child resides; and
141 (h) any other individuals determined appropriate and necessary by the team coordinator and chair.
143 (12)
144 (a) "Chronic abuse" means repeated or patterned abuse.
145 (b) "Chronic abuse" does not mean an isolated incident of abuse.
146 (13)
147 (a) "Chronic neglect" means repeated or patterned neglect.
148 (b) "Chronic neglect" does not mean an isolated incident of neglect.
149 (14) "Clandestine laboratory operation" means the same as that term is defined in Section 58-37d-3.
150 (15) "Commit" or "committed" means, unless specified otherwise:
151 (a) with respect to a child, to transfer legal custody; and
(b) with respect to a minor who is at least 18 years old, to transfer custody.

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- 152 (16) "Community-based program" means a nonsecure residential or nonresidential program, designated
to supervise and rehabilitate juvenile offenders, that prioritizes the least restrictive setting, consistent
with public safety, and operated by or under contract with the Division of Juvenile Justice and
Youth Services.
- 156 (17) "Community placement" means placement of a minor in a community-based program described in
Section 80-5-402.
- 158 (18) "Correctional facility" means:
- 159 (a) a county jail; or
- 160 (b) a secure correctional facility as defined in Section 64-13-1.
- 161 (19) "Credible threat" means a threat supported by specific and articulated facts, known to the petitioner
at the time the warrant is sought, that would lead a reasonable person to conclude that a child faces a
current or ongoing risk of harm, as that term is defined in Subsection (39).
- 165 [~~(19)~~] (20) "Criminogenic risk factors" means evidence-based factors that are associated with a minor's
likelihood of reoffending.
- 167 [~~(20)~~] (21) "Department" means the Department of Health and Human Services created in Section
26B-1-201.
- 169 [~~(21)~~] (22) "Dependent child" or "dependency" means a child who is without proper care through no
fault of the child's parent, guardian, or custodian.
- 171 [~~(22)~~] (23) "Deprivation of custody" means transfer of legal custody by the juvenile court from a parent
or a previous custodian to another person, agency, or institution.
- 173 [~~(23)~~] (24) "Detention" means home detention or secure detention.
- 174 [~~(24)~~] (25) "Detention facility" means a facility, established by the Division of Juvenile Justice and
Youth Services in accordance with Section 80-5-501, for minors held in detention.
- 177 [~~(25)~~] (26) "Detention risk assessment tool" means an evidence-based tool established under Section
80-5-203 that:
- 179 (a) assesses a minor's risk of failing to appear in court or reoffending before adjudication; and
- 181 (b) is designed to assist in making a determination of whether a minor shall be held in detention.
- 183 [~~(26)~~] (27) "Developmental immaturity" means incomplete development in one or more domains that
manifests as a functional limitation in the minor's present ability to:
- 185 (a) consult with counsel with a reasonable degree of rational understanding; and
- 186 (b) have a rational as well as factual understanding of the proceedings.

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- 187 [(27)] (28) "Disposition" means an order by a juvenile court, after the adjudication of a minor, under
Section 80-3-405 or 80-4-305 or Chapter 6, Part 7, Adjudication and Disposition.
- 190 [(28)] (29) "Educational neglect" means that, after receiving a notice of compulsory education violation
under Section 53G-6-202, the parent or guardian fails to make a good faith effort to ensure that the
child receives an appropriate education.
- 193 [(29)] (30) "Educational series" means an evidence-based instructional series:
- 194 (a) obtained at a substance abuse program that is approved by the Division of Integrated Healthcare in
accordance with Section 26B-5-104; and
- 196 (b) designed to prevent substance use or the onset of a mental health disorder.
- 197 [(30)] (31) "Emancipated" means the same as that term is defined in Section 80-7-102.
- 198 [(31)] (32) "Evidence-based" means a program or practice that has had multiple randomized control
studies or a meta-analysis demonstrating that the program or practice is effective for a specific
population or has been rated as effective by a standardized program evaluation tool.
- 202 [(32)] (33) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.
- 203 [(33)] (34) "Formal probation" means a minor is:
- 204 (a) supervised in the community by, and reports to, a juvenile probation officer or an agency designated
by the juvenile court; and
- 206 (b) subject to return to the juvenile court in accordance with Section 80-6-607.
- 207 [(34)] (35) "Gender identity" means the same as that term is defined in Section 34A-5-102.
- 208 [(35)] (36) "Group rehabilitation therapy" means psychological and social counseling of one or more
individuals in the group, depending upon the recommendation of the therapist.
- 210 [(36)] (37) "Guardian" means a person appointed by a court to make decisions regarding a minor,
including the authority to consent to:
- 212 (a) marriage;
- 213 (b) enlistment in the armed forces;
- 214 (c) major medical, surgical, or psychiatric treatment; or
- 215 (d) legal custody, if legal custody is not vested in another individual, agency, or institution.
- 217 [(37)] (38) "Guardian ad litem" means the same as that term is defined in Section 78A-2-801.
- 218 [(38)] (39) "Harm" means:
- 219 (a) physical or developmental injury or damage;
- 220

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- (b) emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;
- 222 (c) sexual abuse; or
- 223 (d) sexual exploitation.
- 224 ~~[(39)]~~ (40) "Home detention" means placement of a minor:
- 225 (a) if prior to a disposition, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice and Youth Services or the juvenile court; or
- 228 (b) if after a disposition, and in accordance with Section 78A-6-353 or 80-6-704, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice and Youth Services or the juvenile court.
- 232 ~~[(40)]~~ (41)
- (a) "Incest" means engaging in sexual intercourse with an individual whom the perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin.
- 235 (b) "Incest" includes:
- 236 (i) blood relationships of the whole or half blood, regardless of whether the relationship is legally recognized;
- 238 (ii) relationships of parent and child by adoption; and
- 239 (iii) relationships of stepparent and stepchild while the marriage creating the relationship of a stepparent and stepchild exists.
- 241 ~~[(41)]~~ (42) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.
- 242 ~~[(42)]~~ (43) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.
- 243 ~~[(43)]~~ (44) "Indigent defense service provider" means the same as that term is defined in Section 78B-22-102.
- 245 ~~[(44)]~~ (45) "Indigent defense services" means the same as that term is defined in Section 78B-22-102.
- 247 ~~[(45)]~~ (46) "Indigent individual" means the same as that term is defined in Section 78B-22-102.
- 249 ~~[(46)]~~ (47)
- (a) "Intake probation" means a minor is:
- 250 (i) monitored by a juvenile probation officer; and
- 251 (ii) subject to return to the juvenile court in accordance with Section 80-6-607.

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- 252 (b) "Intake probation" does not include formal probation.
- 253 [~~(47)~~] (48) "Intellectual disability" means a significant subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior that constitutes a substantial limitation to the individual's ability to function in society.
- 256 [~~(48)~~] (49) "Juvenile offender" means:
- 257 (a) a serious youth offender; or
- 258 (b) a youth offender.
- 259 [~~(49)~~] (50) "Juvenile probation officer" means a probation officer appointed under Section 78A-6-205.
- 261 [~~(50)~~] (51) "Juvenile receiving center" means a nonsecure, nonresidential program established by the Division of Juvenile Justice and Youth Services, or under contract with the Division of Juvenile Justice and Youth Services, that is responsible for minors taken into temporary custody under Section 80-6-201.
- 265 [~~(51)~~] (52) "Legal custody" means a relationship embodying:
- 266 (a) the right to physical custody of the minor;
- 267 (b) the right and duty to protect, train, and discipline the minor;
- 268 (c) the duty to provide the minor with food, clothing, shelter, education, and ordinary medical care;
- 270 (d) the right to determine where and with whom the minor shall live; and
- 271 (e) the right, in an emergency, to authorize surgery or other extraordinary care.
- 272 [~~(52)~~] (53) "Licensing Information System" means the Licensing Information System maintained by the Division of Child and Family Services under Section 80-2-1002.
- 274 [~~(53)~~] (54) "Management Information System" means the Management Information System developed by the Division of Child and Family Services under Section 80-2-1001.
- 276 [~~(54)~~] (55) "Mental illness" means:
- 277 (a) a psychiatric disorder that substantially impairs an individual's mental, emotional, behavioral, or related functioning; or
- 279 (b) the same as that term is defined in:
- 280 (i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or
- 282 (ii) the current edition of the International Statistical Classification of Diseases and Related Health Problems.
- 284 [~~(55)~~] (56) "Minor" means, except as provided in Sections 80-6-501, 80-6-901, and 80-7-102:

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- 285 (a) a child; or
286 (b) an individual:
- 287 (i)
288 (A) who is at least 18 years old and younger than 21 years old; and
(B) for whom the Division of Child and Family Services has been specifically ordered by the juvenile court to provide services because the individual was an abused, neglected, or dependent child or because the individual was adjudicated for an offense;
- 292 (ii)
293 (A) who is at least 18 years old and younger than 25 years old; and
(B) whose case is under the jurisdiction of the juvenile court in accordance with Subsection 78A-6-103(1)(b); or
- 295 (iii)
296 (A) who is at least 18 years old and younger than 21 years old; and
(B) whose case is under the jurisdiction of the juvenile court in accordance with Subsection 78A-6-103(1)(c).
- 298 [~~56~~] (57) "Mobile crisis outreach team" means the same as that term is defined in Section 26B-5-101.
300 [~~57~~] (58) "Molestation" means that an individual, with the intent to arouse or gratify the sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child, or the breast of a female child, or takes indecent liberties with a child as defined in Section 76-5-401.1.
- 304 [~~58~~] (59)
(a) "Neglect" means action or inaction causing:
- 305 (i) abandonment of a child, except as provided in Chapter 4, Part 5, Safe Relinquishment of a Newborn Child;
307 (ii) lack of proper parental care of a child by reason of the fault or habits of the parent, guardian, or custodian;
309 (iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary subsistence or medical care, or any other care necessary for the child's health, safety, morals, or well-being;
312 (iv) a child to be at risk of being neglected or abused because another child in the same home is neglected or abused;
314 (v) abandonment of a child through an unregulated child custody transfer under Section 81-14-203;
or

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- 316 (vi) educational neglect.
- 317 (b) "Neglect" does not include:
- 318 (i) a parent or guardian legitimately practicing religious beliefs and who, for that reason, does not
provide specified medical treatment for a child;
- 320 (ii) a health care decision made for a child by the child's parent or guardian, unless the state or other
party to a proceeding shows, by clear and convincing evidence, that the health care decision is not
reasonable and informed;
- 323 (iii) a parent or guardian exercising the right described in Section 80-3-304; or
- 324 (iv) permitting a child, whose basic needs are met and who is of sufficient age and maturity to avoid
harm or unreasonable risk of harm, to engage in independent activities, including:
- 327 (A) traveling to and from school, including by walking, running, or bicycling;
- 328 (B) traveling to and from nearby commercial or recreational facilities;
- 329 (C) engaging in outdoor play;
- 330 (D) remaining in a vehicle unattended, except under the conditions described in Subsection
76-5-115(2);
- 332 (E) remaining at home unattended; or
- 333 (F) engaging in a similar independent activity.
- 334 [~~59~~] (60) "Neglected child" means a child who has been subjected to neglect.
- 335 [~~60~~] (61) "Nonjudicial adjustment" means closure of the case by the assigned juvenile probation
officer, without an adjudication of the minor's case under Section 80-6-701, upon the consent in
writing of:
- 338 (a) the assigned juvenile probation officer; and
- 339 (b)
- (i) the minor; or
- 340 (ii) the minor and the minor's parent, guardian, or custodian.
- 341 [~~61~~] (62) "Not competent to proceed" means that a minor, due to a mental illness, intellectual
disability or related condition, or developmental immaturity, lacks the ability to:
- 344 (a) understand the nature of the proceedings against the minor or of the potential disposition for the
offense charged; or
- 346 (b) consult with counsel and participate in the proceedings against the minor with a reasonable degree
of rational understanding.

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- 348 ~~[(62)]~~ (63)
- (a) "Parent" means, except as provided in Section 80-3-302, an individual with a parent-child relationship to a minor under Section 81-5-201.
- 350 (b) "Parent" includes the minor's noncustodial parent as defined in Section 81-1-101.
- 351 ~~[(63)]~~ (64) "Parole" means a conditional release of a juvenile offender from residency in secure care to live outside of secure care under the supervision of the Division of Juvenile Justice and Youth Services, or another person designated by the Division of Juvenile Justice and Youth Services.
- 355 ~~[(64)]~~ (65) "Physical abuse" means abuse that results in physical injury or damage to a child.
- 356 ~~[(65)]~~ (66)
- (a) "Probation" means a legal status created by court order, following an adjudication under Section 80-6-701, whereby the minor is permitted to remain in the minor's home under prescribed conditions.
- 359 (b) "Probation" includes intake probation or formal probation.
- 360 ~~[(66)]~~ (67) "Prosecuting attorney" means:
- 361 (a) the attorney general and any assistant attorney general;
- 362 (b) any district attorney or deputy district attorney;
- 363 (c) any county attorney or assistant county attorney; and
- 364 (d) any other attorney authorized to commence an action on behalf of the state.
- 365 ~~[(67)]~~ (68) "Protective custody" means the shelter of a child by the Division of Child and Family Services from the time the child is removed from the home until the earlier of:
- 367 (a) the day on which the shelter hearing is held under Section 80-3-301; or
- 368 (b) the day on which the child is returned home.
- 369 ~~[(68)]~~ (69) "Protective services" means expedited services that are provided:
- 370 (a) in response to evidence of neglect, abuse, or dependency of a child;
- 371 (b) to a cohabitant who is neglecting or abusing a child, in order to:
- 372 (i) help the cohabitant develop recognition of the cohabitant's duty of care and of the causes of neglect or abuse; and
- 374 (ii) strengthen the cohabitant's ability to provide safe and acceptable care; and
- 375 (c) in cases where the child's welfare is endangered:
- 376 (i) to bring the situation to the attention of the appropriate juvenile court and law enforcement agency;
- 378 (ii) to cause a protective order to be issued for the protection of the child, when appropriate; and

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- 380 (iii) to protect the child from the circumstances that endanger the child's welfare including, when
appropriate:
- 382 (A) removal from the child's home;
- 383 (B) placement in substitute care; and
- 384 (C) petitioning the court for termination of parental rights.
- 385 [(69)] (70) "Protective supervision" means a legal status created by court order, following an
adjudication on the ground of abuse, neglect, or dependency, whereby:
- 387 (a) the minor is permitted to remain in the minor's home; and
- 388 (b) supervision and assistance to correct the abuse, neglect, or dependency is provided by an agency
designated by the juvenile court.
- 390 [(70)] (71)
- (a) "Related condition" means a condition that:
- 391 (i) is found to be closely related to intellectual disability;
- 392 (ii) results in impairment of general intellectual functioning or adaptive behavior similar to that of
an intellectually disabled individual;
- 394 (iii) is likely to continue indefinitely; and
- 395 (iv) constitutes a substantial limitation to the individual's ability to function in society.
- 396 (b) "Related condition" does not include mental illness, psychiatric impairment, or serious emotional or
behavioral disturbance.
- 398 [(71)] (72)
- (a) "Residual parental rights and duties" means the rights and duties remaining with a parent after legal
custody or guardianship, or both, have been vested in another person or agency, including:
- 401 (i) the responsibility for support;
- 402 (ii) the right to consent to adoption;
- 403 (iii) the right to determine the child's religious affiliation; and
- 404 (iv) the right to reasonable parent-time unless restricted by the court.
- 405 (b) If no guardian has been appointed, "residual parental rights and duties" includes the right to consent
to:
- 407 (i) marriage;
- 408 (ii) enlistment; and
- 409 (iii) major medical, surgical, or psychiatric treatment.

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- 410 [~~(72)~~] (73) "Runaway" means a child, other than an emancipated child, who willfully leaves the
home of the child's parent or guardian, or the lawfully prescribed residence of the child, without
permission.
- 413 [~~(73)~~] (74) "Secure care" means placement of a minor, who is committed to the Division of Juvenile
Justice and Youth Services for rehabilitation, in a facility operated by, or under contract with, the
Division of Juvenile Justice and Youth Services, that provides 24-hour supervision and confinement
of the minor.
- 417 [~~(74)~~] (75) "Secure care facility" means a facility, established in accordance with Section 80-5-503, for
juvenile offenders in secure care.
- 419 [~~(75)~~] (76) "Secure detention" means temporary care of a minor who requires secure custody in a
physically restricting facility operated by, or under contract with, the Division of Juvenile Justice
and Youth Services:
- 422 (a) before disposition of an offense that is alleged to have been committed by the minor; or
424 (b) under Section 80-6-704.
- 425 [~~(76)~~] (77) "Serious youth offender" means an individual who:
- 426 (a) is at least 14 years old, but under 25 years old;
427 (b) committed a felony listed in Subsection 80-6-503(1) and the continuing jurisdiction of the juvenile
court was extended over the individual's case until the individual was 25 years old in accordance
with Section 80-6-605; and
- 430 (c) is committed by the juvenile court to the Division of Juvenile Justice and Youth Services for secure
care under Sections 80-6-703 and 80-6-705.
- 432 [~~(77)~~] (78) "Severe abuse" means abuse that causes or threatens to cause serious harm to a child.
- 434 [~~(78)~~] (79) "Severe neglect" means neglect that causes or threatens to cause serious harm to a child.
- 436 [~~(79)~~] (80)
- (a) "Severe type of child abuse or neglect" means, except as provided in Subsection [~~(79)~~](b)] (80)(b):
- 438 (i) if committed by an individual who is 18 years old or older:
- 439 (A) chronic abuse;
440 (B) severe abuse;
441 (C) sexual abuse;
442 (D) sexual exploitation;
443 (E) abandonment;

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- 444 (F) chronic neglect; or
445 (G) severe neglect; or
446 (ii) if committed by an individual who is under 18 years old:
447 (A) causing serious injury, as defined in Subsection 76-5-109(1), to another child that indicates a
significant risk to other children; or
449 (B) sexual behavior with or upon another child that indicates a significant risk to other children.
451 (b) "Severe type of child abuse or neglect" does not include:
452 (i) the use of reasonable and necessary physical restraint by an educator in accordance with Section
53G-8-301 or Section 76-2-401;
454 (ii) an individual's conduct that is justified under Section 76-2-401 or constitutes the use of
reasonable and necessary physical restraint or force in self-defense or otherwise appropriate to the
circumstances to obtain possession of a weapon or other dangerous object in the possession or under
the control of a child or to protect the child or another individual from physical injury; or
459 (iii) a health care decision made for a child by a child's parent or guardian, unless, subject to Subsection
[(79)(e)] (80)(c), the state or other party to the proceeding shows, by clear and convincing evidence,
that the health care decision is not reasonable and informed.
463 (c) Subsection [(79)(b)(iii)] (80)(b)(iii) does not prohibit a parent or guardian from exercising the right
to obtain a second health care opinion.
465 [(80)] (81)
(a) "Sexual abuse" means:
466 (i) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an adult directed
towards a child;
468 (ii) an act or attempted act of sexual intercourse, sodomy, incest, or molestation committed by a
child towards another child if:
470 (A) there is an indication of force or coercion;
471 (B) the children are related, as described in Subsection [(40)] (41), including siblings by marriage while
the marriage exists or by adoption; or
473 (C) the act or attempted act constitutes unlawful sexual activity as described in Section 76-5-401.3.
475 (iii) engaging in any conduct with a child that would constitute an offense under any of the
following, regardless of whether the individual who engages in the conduct is actually charged
with, or convicted of, the offense:

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- 478 (A) Title 76, Chapter 5, Part 4, Sexual Offenses;
- 479 (B) child bigamy, Section 76-7-101.5;
- 480 (C) incest, Section 76-7-102;
- 481 (D) voyeurism, Section 76-12-306;
- 482 (E) recorded or photographed voyeurism, Section 76-12-307; or
- 483 (F) distribution of images obtained through voyeurism, Section 76-12-308; or
- 484 (iv) subjecting a child to participate in or threatening to subject a child to participate in a sexual
relationship, regardless of whether that sexual relationship is part of a legal or cultural marriage.
- 487 (b) "Sexual abuse" does not include engaging in any conduct with a child that would constitute an
offense described in:
- 489 (i) Section 76-5-401, unlawful sexual activity with a minor, if the alleged perpetrator of the offense is a
minor; or
- 491 (ii) Section 76-5-417, enticing a minor.
- 492 ~~[(81)]~~ (82) "Sexual exploitation" means knowingly:
- 493 (a) employing, using, persuading, inducing, enticing, or coercing any child to:
- 494 (i) pose in the nude for the purpose of sexual arousal of any individual; or
- 495 (ii) engage in any sexual or simulated sexual conduct for the purpose of photographing, filming,
recording, or displaying in any way the sexual or simulated sexual conduct;
- 498 (b) displaying, distributing, possessing for the purpose of distribution, or selling material depicting a
child:
- 500 (i) in the nude, for the purpose of sexual arousal of any individual; or
- 501 (ii) engaging in sexual or simulated sexual conduct; or
- 502 (c) engaging in any conduct that would constitute an offense under Section 76-5b-201, sexual
exploitation of a minor, or Section 76-5b-201.1, aggravated sexual exploitation of a minor,
regardless of whether the individual who engages in the conduct is actually charged with, or
convicted of, the offense.
- 506 ~~[(82)]~~ (83) "Shelter" means the temporary care of a child in a physically unrestricted facility pending a
disposition or transfer to another jurisdiction.
- 508 ~~[(83)]~~ (84) "Shelter facility" means a nonsecure facility that provides shelter for a minor.
- 509

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[~~(84)~~] (85) "Significant risk" means a risk of harm that is determined to be significant in accordance with risk assessment tools and rules established by the Division of Child and Family Services in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that focus on:

- 513 (a) age;
- 514 (b) social factors;
- 515 (c) emotional factors;
- 516 (d) sexual factors;
- 517 (e) intellectual factors;
- 518 (f) family risk factors; and
- 519 (g) other related considerations.

520 [~~(85)~~] (86) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

522 [~~(86)~~] (87) "Status offense" means an offense that would not be an offense but for the age of the offender.

524 [~~(87)~~] (88) "Substance abuse" means, except as provided in Section 80-2-603, the misuse or excessive use of alcohol or other drugs or substances.

526 [~~(88)~~] (89) "Substantiated" or "substantiation" means a judicial finding based on a preponderance of the evidence, and separate consideration of each allegation made or identified in the case, that abuse, neglect, or dependency occurred.

529 [~~(89)~~] (90) "Substitute care" means:

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

538 [~~(90)~~] (91) "Supported" means a finding by the Division of Child and Family Services based on the evidence available at the completion of an investigation, and separate consideration of each allegation made or identified during the investigation, that there is a reasonable basis to conclude that abuse, neglect, or dependency occurred.

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- 542 [~~(91)~~] (92) "Termination of parental rights" means the permanent elimination of all parental rights and
duties, including residual parental rights and duties, by court order.
- 544 [~~(92)~~] (93) "Therapist" means:
- 545 (a) an individual employed by a state division or agency for the purpose of conducting psychological
treatment and counseling of a minor in the division's or agency's custody; or
- 548 (b) any other individual licensed or approved by the state for the purpose of conducting psychological
treatment and counseling.
- 550 [~~(93)~~] (94) "Threatened harm" means actions, inactions, or credible verbal threats, indicating that the
child is at an unreasonable risk of harm or neglect.
- 552 [~~(94)~~] (95) "Torture" means:
- 553 (a) the infliction of a serious injury upon a child in an exceptionally cruel or exceptionally depraved
manner that causes the child to experience extreme physical or psychological pain or anguish; or
- 556 (b) the infliction of a serious injury, or more than one serious injury, upon a child as part of a course of
conduct or over a prolonged period of time.
- 558 [~~(95)~~] (96) "Ungovernable" means a child in conflict with a parent or guardian, and the conflict:
- 560 (a) results in behavior that is beyond the control or ability of the child, or the parent or guardian, to
manage effectively;
- 562 (b) poses a threat to the safety or well-being of the child, the child's family, or others; or
- 563 (c) results in the situations described in Subsections [~~(95)(a)~~] (96)(a) and (b).
- 564 [~~(96)~~] (97) "Unsubstantiated" means a judicial finding that there is insufficient evidence to conclude
that abuse, neglect, or dependency occurred.
- 566 [~~(97)~~] (98) "Unsupported" means a finding by the Division of Child and Family Services at the
completion of an investigation, after the day on which the Division of Child and Family Services
concludes the alleged abuse, neglect, or dependency is not without merit, that there is insufficient
evidence to conclude that abuse, neglect, or dependency occurred.
- 571 [~~(98)~~] (99) "Validated risk and needs assessment" means an evidence-based tool that assesses a minor's
risk of reoffending and a minor's criminogenic needs.
- 573 [~~(99)~~] (100) "Without merit" means a finding at the completion of an investigation by the Division of
Child and Family Services, or a judicial finding, that the alleged abuse, neglect, or dependency did
not occur, or that the alleged perpetrator was not responsible for the abuse, neglect, or dependency.
- 577 [~~(100)~~] (101) "Youth offender" means an individual who is:

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- 578 (a) at least 12 years old, but under 21 years old; and
579 (b) committed by the juvenile court to the Division of Juvenile Justice and Youth Services for secure
care under Sections 80-6-703 and 80-6-705.

581 Section 3. Section 80-2-402 is amended to read:

582 **80-2-402. Child welfare training coordinator -- Mandatory education and training of child
welfare caseworkers -- Development of curriculum.**

- 584 (1) There is created within the division a full-time position of a child welfare training coordinator.
586 (2) The child welfare training coordinator is not responsible for direct casework services or the
supervision of casework services, but is required to:
- 588 (a) develop child welfare curriculum that:
- 589 (i) is current and effective, consistent with the division's mission and purpose for child welfare; and
591 (ii) utilizes curriculum and resources from a variety of sources including those from:
- 592 (A) the public sector;
593 (B) the private sector; and
594 (C) inside and outside of the state;
- 595 (b) recruit, select, and supervise child welfare trainers;
596 (c) develop a statewide training program, including a budget and identification of sources of funding to
support that training;
598 (d) evaluate the efficacy of training in improving job performance;
599 (e) assist child protective services and foster care workers in developing and fulfilling their individual
training plans;
601 (f) monitor staff compliance with division training requirements and individual training plans; and
603 (g) expand the collaboration between the division and schools of social work within institutions of
higher education in developing child welfare services curriculum, and in providing and evaluating
training.
- 606 (3) The director shall, with the assistance of the child welfare training coordinator, establish and ensure
child welfare caseworker competency regarding a core curriculum for child welfare services that:
- 609 (a) is driven by child safety and family well-being;
610 (b) emphasizes child and family voice;
611 (c) is based on a policy, procedure, program, or practice that demonstrates an ability to minimize
retraumatization associated with the criminal and juvenile justice system; and

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- 614 (d) is consistent with national child welfare practice standards.
- 615 (4) A child welfare caseworker shall complete training in:
- 616 (a) the legal duties of a child welfare caseworker;
- 617 (b) the responsibility of a child welfare caseworker to protect the safety and legal rights of children,
parents, and families at all stages of a case, including:
- 619 (i) initial contact;
- 620 (ii) safety and risk assessment, as described in Section 80-2-403; and
- 621 (iii) intervention;
- 622 (c) recognizing situations involving:
- 623 (i) substance abuse;
- 624 (ii) domestic violence;
- 625 (iii) abuse; and
- 626 (iv) neglect; and
- 627 (d) the relationship of the Fourth and Fourteenth Amendments of the Constitution of the United States
to the child welfare caseworker's job, including:
- 629 (i) search and seizure of evidence;
- 630 (ii) the warrant requirement;
- 631 (iii) exceptions to the warrant requirement; and
- 632 (iv) removing a child from the custody of the child's parent or guardian.
- 633 (5) The division shall train the division's child welfare caseworkers to:
- 634 (a) apply the risk assessment tools and rules described in Subsection [~~80-1-102(84)~~] 80-1-102(85); and
- 636 (b) develop child and family plans that comply with:
- 637 (i) federal mandates; and
- 638 (ii) the specific needs of the child and the child's family.
- 639 (6) The division shall use the training of child welfare caseworkers to emphasize:
- 640 (a) the importance of maintaining the parent-child relationship;
- 641 (b) the preference for providing in-home services over taking a child into protective custody, both for
the emotional well-being of the child and the efficient allocation of resources; and
- 644 (c) the importance and priority of:
- 645 (i) kinship placement in the event a child must be taken into protective custody; and
- 646

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(ii) guardianship placement, in the event the parent-child relationship is legally terminated and no appropriate adoptive placement is available.

648 (7) If a child welfare caseworker is hired, before assuming independent casework responsibilities, the division shall ensure that the child welfare caseworker has:

650 (a) completed the training described in Subsections (4), (5), and (6); and

651 (b) participated in sufficient skills development for a child welfare caseworker.

652 Section 4. Section **80-2a-202** is amended to read:

653 **80-2a-202. Removal of a child by a peace officer or child welfare caseworker -- {Search-}**

Protective custody warrants and investigative warrants -- Protective custody and temporary care of a child.

67 (1) A peace officer or child welfare caseworker may remove a child or take a child into protective custody, temporary custody, or custody in accordance with this section.

69 (2)

(a) Except as provided in Subsection (2)(b), a peace officer or a child welfare caseworker may not enter the home of a child whose case is not under the jurisdiction of the juvenile court, remove a child from the child's home or school, or take a child into protective custody unless:

73 (i) there exist exigent circumstances sufficient to relieve the peace officer or the child welfare caseworker of the requirement to obtain a[-search] protective custody warrant under Subsection (3);

76 (ii) the peace officer or child welfare caseworker obtains a[-search] protective custody warrant under Subsection (3);

78 (iii) the peace officer or child welfare caseworker obtains a court order after the child's parent or guardian is given notice and an opportunity to be heard; or

80 (iv) the peace officer or child welfare caseworker obtains the consent of the child's parent or guardian.

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

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

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

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- 90 (iii) subject to Subsection (2)(c), a parent's agreement or disagreement with a minor child of the
couple's:
- 92 (A) assertion that the child's gender identity is different from the child's biological sex;
- 94 (B) practice of having or expressing a different gender identity than the child's biological sex; or
- 96 (C) sexual orientation.
- 97 (c) Subsection (2)(b)(iii) does not preclude a peace officer or a child welfare caseworker from taking
action under Subsection (2)(a) if the parent's agreement or disagreement with a minor child as
described in Subsection (2)(b)(iii) results in or is related to harm, as that term is defined in Section
80-1-102, to the minor child.
- 101 (3)
- (a) The juvenile court may issue a protective custody warrant authorizing a peace officer or a child
welfare caseworker to search for a child and take the child into protective custody if it appears to
the juvenile court upon a verified petition, recorded sworn testimony, or an affidavit sworn to by a
peace officer or another individual, and upon the examination of other witnesses if required by the
juvenile court, that there is probable cause to believe that:
- 107 (i) there is a threat of substantial harm to the child's health or safety;
- 108 (ii) it is necessary to take the child into protective custody to avoid the harm described in
Subsection (3)(a)(i); and
- 110 (iii) it is likely that the child will suffer substantial harm if the child's parent or guardian is given
notice and an opportunity to be heard before the child is taken into protective custody.
- 113 (b) The juvenile court may issue an investigative warrant authorizing a peace officer or a child welfare
caseworker to view a child, view a child's home environment, examine a child for signs of abuse
or neglect, or interview a child regarding the child's health, safety, or welfare, if it appears to the
juvenile court upon a verified petition, recorded sworn testimony, or an affidavit sworn to by a
peace officer or child welfare caseworker, and upon the examination of other witnesses if required
by the juvenile court, that there is probable cause to believe that:
- 120 (i) there is a credible threat , supported by specific and articulable facts, to the child's health, safety, or
welfare;
- 121 (ii) it is necessary to view, examine, or interview the child to ensure the child's health, safety, or
welfare; and

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(iii) the peace officer or child welfare caseworker has made diligent efforts to ensure the child's health, safety, or welfare by other legal means but has been unable or not permitted to view, examine, or interview the child to ensure the child's health, safety, or welfare.

127 [(b)] (c) In accordance with Section 77-23-210, a peace officer [~~making the search under Subsection (3)(a)~~] executing a protective custody warrant under Subsection (3)(a) or an investigative warrant under Subsection (3)(b) may enter a house or premises by force, if necessary, in order to [~~remove the child~~] execute the warrant.

131 (d) A peace officer or a child welfare caseworker who is executing a protective custody warrant under Subsection (3)(a) or an investigative warrant under Subsection (3)(b) may request other persons to assist in executing the warrant.

134 {~~(4)~~}

{(a)} Except as described in Subsection (2)(a)(i), an individual that is executing an investigative warrant may not take a child into protective custody unless the individual obtains a protective custody warrant in accordance with Subsection (3)(a).

727 (4)

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

136 (b)

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

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

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

146 (5)

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

148 (i) notify the child's parent or guardian in accordance with Section 80-2a-203; and

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- 149 (ii) release the child to the care of the child's parent or guardian or another responsible adult, unless:
151 (A) the child's immediate welfare requires the child remain in protective custody; or
153 (B) the protection of the community requires the child's detention in accordance with Chapter 6, Part 2,
Custody and Detention.
- 155 (b)
(i) If a peace officer or child welfare caseworker is executing a warrant under Subsection (3){ ~~§~~ }
{(a)}{ } ←§ } , the peace officer or child welfare caseworker shall take the child to:
158 (A) a shelter facility; or
159 (B) if the division makes an emergency placement under Section 80-2a-301, the emergency
placement.
- 161 (ii) If a peace officer or a child welfare caseworker takes a child to a shelter facility under Subsection
(5)(b)(i), the peace officer or the child welfare caseworker shall promptly file a written report that
includes the child's information, on a form provided by the division, with the shelter facility.
- 165 (c) A child removed or taken into protective custody under this section may not be placed or kept in
detention pending court proceedings, unless the child may be held in detention under Chapter 6, Part
2, Custody and Detention.
- 168 (6)
(a) The juvenile court shall issue a warrant authorizing a peace officer or a child welfare worker to
search for a child who is missing, has been abducted, or has run away, and take the child into
physical custody if the juvenile court determines that the child is missing, has been abducted, or has
run away from the protective custody, temporary custody, or custody of the division.
- 173 (b) If the juvenile court issues a warrant under Subsection (6)(a):
174 (i) the division shall notify the child's parent or guardian who has a right to parent-time with the child in
accordance with Subsection 80-2a-203(5)(a);
176 (ii) the court shall order:
177 (A) the law enforcement agency that has jurisdiction over the location from which the child ran away to
enter a record of the warrant into the National Crime Information Center database within 24 hours
after the time in which the law enforcement agency receives a copy of the warrant; and
181 (B) the division to notify the law enforcement agency described in Subsection (6)(b)(ii)(A) of the order
described in Subsection (6)(b)(ii)(A); and

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

778 Section 5. Section 80-3-204 is amended to read:

779 **80-3-204. Protective custody of a child after a petition is filed -- Grounds.**

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

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- (i) a relative or other adult custodian with whom the child is left by the parent or guardian is unwilling or unable to provide care or support for the child;
- 807 (ii) the whereabouts of the parent or guardian are unknown; and
- 808 (iii) reasonable efforts to locate the parent or guardian are unsuccessful;
- 809 (h) subject to Subsection [~~80-1-102(58)(b)~~] 80-1-102(59)(b) and Sections 80-3-109 and 80-3-304, the child is in immediate need of medical care;
- 811 (i)
- (i) a parent's or guardian's actions, omissions, or habitual action create an environment that poses a serious risk to the child's health or safety for which immediate remedial or preventive action is necessary; or
- 814 (ii) a parent's or guardian's action in leaving a child unattended would reasonably pose a threat to the child's health or safety;
- 816 (j) the child or another child residing in the same household has been neglected;
- 817 (k) the child's parent:
- 818 (i) intentionally, knowingly, or recklessly causes the death of another parent of the child;
- 820 (ii) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or
- 823 (iii) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child;
- 825 (l) an infant is an abandoned infant, as defined in Section 80-4-203;
- 826 (m)
- (i) the parent or guardian, or an adult residing in the same household as the parent or guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act; and
- 829 (ii) any clandestine laboratory operation was located in the residence or on the property where the child resided; or
- 831 (n) the child's welfare is otherwise endangered.
- 832 (3)
- (a) For purposes of Subsection (2)(a), if a child has previously been adjudicated as abused, neglected, or dependent, and a subsequent incident of abuse, neglect, or dependency occurs involving the same substantiated abuser or under similar circumstance as the previous abuse, that fact is prima facie evidence that the child cannot safely remain in the custody of the child's parent.

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- 837 (b) For purposes of Subsection (2)(c):
- 838 (i) another child residing in the same household may not be removed from the home unless that child
is considered to be at substantial risk of being physically abused, sexually abused, or sexually
exploited as described in Subsection (2)(c) or Subsection (3)(b)(ii); and
- 842 (ii) if a parent or guardian has received actual notice that physical abuse, sexual abuse, or sexual
exploitation by an individual known to the parent has occurred, and there is evidence that the parent
or guardian failed to protect the child, after having received the notice, by allowing the child to be
in the physical presence of the alleged abuser, that fact is prima facie evidence that the child is at
substantial risk of being physically abused, sexually abused, or sexually exploited.
- 848 (4)
- (a) For purposes of Subsection (2), if the division files an abuse, neglect, or dependency petition, the
juvenile court shall consider the division's safety and risk assessments described in Section 80-2-403
to determine whether a child should be removed from the custody of the child's parent or guardian
or should otherwise be taken into protective custody.
- 853 (b) The division shall make a diligent effort to provide the safety and risk assessments described in
Section 80-2-403 to the juvenile court, guardian ad litem, and counsel for the parent or guardian, as
soon as practicable before the shelter hearing described in Section 80-3-301.
- 857 (5) In the absence of one of the factors described in Subsection (2), a juvenile court may not remove a
child from the parent's or guardian's custody on the basis of:
- 859 (a) educational neglect, truancy, or failure to comply with a court order to attend school;
- 860 (b) mental illness or poverty of the parent or guardian;
- 861 (c) disability of the parent or guardian, as defined in Section 57-21-2; or
- 862 (d) the possession or use, in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and
Medical Cannabis, of cannabis in a medicinal dosage form, a cannabis product in a medicinal
dosage form, or a medical cannabis device, as those terms are defined in Section 26B-4-201.
- 866 (6) A child removed from the custody of the child's parent or guardian under this section may not be
placed or kept in detention, unless the child may be admitted to detention under Chapter 6, Part 2,
Custody and Detention.
- 869 (7) This section does not preclude removal of a child from the child's home without a warrant or court
order under Section 80-2a-202.
- 871 (8)

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

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

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

881 Section 6. Section 80-3-301 is amended to read:

882 **80-3-301. Shelter hearing -- Court considerations.**

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

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

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

- 895 (a) the name and address of the individual to whom the notice is directed;
- 896 (b) the date, time, and place of the shelter hearing;
- 897 (c) the name of the child on whose behalf an abuse, neglect, or dependency petition is brought;
- 899 (d) a concise statement regarding:
 - 900 (i) the reasons for removal or other action of the division under Subsection (1); and
 - 901 (ii) the allegations and code sections under which the proceeding is instituted;
- 902 (e) a statement that the parent or guardian to whom notice is given, and the child, are entitled to have an attorney present at the shelter hearing, and that if the parent or guardian is an indigent individual

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and cannot afford an attorney, and desires to be represented by an attorney, one will be provided in accordance with Title 78B, Chapter 22, Indigent Defense Act; and

- 907 (f) a statement that the parent or guardian is liable for the cost of support of the child in the protective
custody, temporary custody, and custody of the division, and the cost for legal counsel appointed
for the parent or guardian under Subsection (2)(e), according to the financial ability of the parent or
guardian.
- 911 (3) The notice described in Subsection (2) shall be personally served as soon as possible, but no later
than one business day after the day on which the child is removed from the child's home, or the day
on which a motion for expedited placement in temporary custody under Section 80-3-203 is filed,
on:
- 915 (a) the appropriate guardian ad litem; and
- 916 (b) both parents and any guardian of the child, unless the parents or guardians cannot be located.
- 918 (4) Notwithstanding Section 80-3-104, the following individuals shall be present at the shelter hearing:
- 920 (a) the child, unless it would be detrimental for the child;
- 921 (b) the child's parents or guardian, unless the parents or guardian cannot be located, or fail to appear in
response to the notice;
- 923 (c) counsel for the parents, if one is requested;
- 924 (d) the child's guardian ad litem;
- 925 (e) the child welfare caseworker from the division who is assigned to the case; and
- 926 (f) the attorney from the attorney general's office who is representing the division.
- 927 (5)
- (a) At the shelter hearing, the juvenile court shall:
- 928 (i) provide an opportunity to provide relevant testimony to:
- 929 (A) the child's parent or guardian, if present; and
- 930 (B) any other individual with relevant knowledge;
- 931 (ii) subject to Section 80-3-108, provide an opportunity for the child to testify; and
- 932 (iii) in accordance with Subsections 80-3-302(7)(c) and (d), grant preferential consideration to a
relative or friend for the temporary placement of the child.
- 934 (b) The juvenile court:
- 935 (i) may consider all relevant evidence, in accordance with the Utah Rules of Juvenile Procedure;
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- (ii) shall hear relevant evidence presented by the child, the child's parent or guardian, the requesting party, or the requesting party's counsel, including relevant evidence regarding harm the specific child has suffered or will suffer due to the separation or continued separation from the child's parent or guardian; and
- 941 (iii) may in the juvenile court's discretion limit testimony and evidence to only that which goes to the issues of removal and the child's need for continued protection.
- 943 (6) If the child is in protective custody, the division shall report to the juvenile court:
- 944 (a) the reason why the child was removed from the parent's or guardian's custody;
- 945 (b) any services provided to the child and the child's family in an effort to prevent removal;
- 947 (c) the need, if any, for continued shelter;
- 948 (d) the available services that could facilitate the return of the child to the custody of the child's parent or guardian; and
- 950 (e) subject to Subsections 80-3-302(7)(c) and (d), whether any relatives of the child or friends of the child's parents may be able and willing to accept temporary placement of the child.
- 953 (7) The juvenile court shall consider all relevant evidence provided by an individual or entity authorized to present relevant evidence under this section.
- 955 (8)
- (a) If necessary to protect the child, preserve the rights of a party, or for other good cause shown, the juvenile court may grant no more than one continuance, not to exceed five judicial days.
- 958 (b) A juvenile court shall honor, as nearly as practicable, the request by a parent or guardian for a continuance under Subsection (8)(a).
- 960 (c) Notwithstanding Subsection (8)(a), if the division fails to provide the notice described in Subsection (2) within the time described in Subsection (3), the juvenile court may grant the request of a parent or guardian for a continuance, not to exceed five judicial days.
- 964 (9)
- (a) If the child is in protective custody, the juvenile court shall order that the child be returned to the custody of the parent or guardian unless the juvenile court finds, by a preponderance of the evidence, consistent with the protections and requirements provided in Subsection 80-2a-201(1), that any one of the following exists:
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- (i) subject to Subsection (9)(b)(i), there is a serious danger to the physical health or safety of the child and the child's physical health or safety may not be protected without removing the child from the custody of the child's parent;
- 971 (ii)
- (A) the child is suffering emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;
- 973 (B) the parent or guardian is unwilling or unable to make reasonable changes that would sufficiently prevent future damage; and
- 975 (C) there are no reasonable means available by which the child's emotional health may be protected without removing the child from the custody of the child's parent or guardian;
- 978 (iii) there is a substantial risk that the child will suffer abuse or neglect if the child is not removed from the custody of the child's parent or guardian;
- 980 (iv) subject to Subsection (9)(b)(ii), the child or a minor residing in the same household has been, or is considered to be at substantial risk of being, physically abused, sexually abused, or sexually exploited by:
- 983 (A) a parent or guardian;
- 984 (B) a member of the parent's household or the guardian's household; or
- 985 (C) an individual known to the parent or guardian;
- 986 (v) the parent or guardian is unwilling to have physical custody of the child;
- 987 (vi) the parent or guardian is unable to have physical custody of the child;
- 988 (vii) the child is without any provision for the child's support;
- 989 (viii) a parent who is incarcerated or institutionalized has not or cannot arrange for safe and appropriate care for the child;
- 991 (ix)
- (A) a relative or other adult custodian with whom the child is left by the parent or guardian is unwilling or unable to provide care or support for the child;
- 993 (B) the whereabouts of the parent or guardian are unknown; and
- 994 (C) reasonable efforts to locate the parent or guardian are unsuccessful;
- 995 (x) subject to Subsection [~~80-1-102(58)(b)(i)~~] 80-1-102(59)(b)(i) and Sections 80-3-109 and 80-3-304, the child is in immediate need of medical care;
- 997 (xi)

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- (A) the physical environment or the fact that the child is left unattended beyond a reasonable period of time poses a threat to the child's health or safety; and
- 1000 (B) the parent or guardian is unwilling or unable to make reasonable changes that would remove the threat;
- 1002 (xii)
- (A) the child or a minor residing in the same household has been neglected; and
- 1004 (B) the parent or guardian is unwilling or unable to make reasonable changes that would prevent the neglect;
- 1006 (xiii) the parent, guardian, or an adult residing in the same household as the parent or guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act, and any clandestine laboratory operation was located in the residence or on the property where the child resided;
- 1010 (xiv)
- (A) the child's welfare is substantially endangered; and
- 1011 (B) the parent or guardian is unwilling or unable to make reasonable changes that would remove the danger; or
- 1013 (xv) the child's parent:
- 1014 (A) intentionally, knowingly, or recklessly causes the death of another parent of the child;
- 1016 (B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or
- 1019 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.
- 1021 (b)
- (i) Prima facie evidence of the finding described in Subsection (9)(a)(i) is established if:
- 1023 (A) a court previously adjudicated that the child suffered abuse, neglect, or dependency involving the parent; and
- 1025 (B) a subsequent incident of abuse, neglect, or dependency involving the parent occurs.
- 1027 (ii) For purposes of Subsection (9)(a)(iv), if the juvenile court finds that the parent knowingly allowed the child to be in the physical care of an individual after the parent received actual notice that the individual physically abused, sexually abused, or sexually exploited the child, that fact is prima

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facie evidence that there is a substantial risk that the child will be physically abused, sexually abused, or sexually exploited.

- 1033 (10)
- (a)
- (i) The juvenile court shall make a determination on the record as to whether reasonable efforts were made to prevent or eliminate the need for removal of the child from the child's home and whether there are available services that would prevent the need for continued removal.
- 1037 (ii) If the juvenile court finds that the child can be safely returned to the custody of the child's parent or guardian through the provision of the services described in Subsection (10)(a)(i), the juvenile court shall place the child with the child's parent or guardian and order that the services be provided by the division.
- 1041 (b) In accordance with federal law, the juvenile court shall consider the child's health, safety, and welfare as the paramount concern when making the determination described in Subsection (10)(a), and in ordering and providing the services described in Subsection (10)(a).
- 1045 (11) If the division's first contact with the family occurred during an emergency situation in which the child could not safely remain at home, the juvenile court shall make a finding that any lack of preplacement preventive efforts, as described in Section 80-2a-302, was appropriate.
- 1049 (12) In cases where sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved, the juvenile court and the division do not have any duty to make reasonable efforts or to, in any other way, attempt to maintain a child in the child's home, return a child to the child's home, provide reunification services, or attempt to rehabilitate the offending parent or parents.
- 1054 (13) The juvenile court may not order continued removal of a child solely on the basis of educational neglect, truancy, or failure to comply with a court order to attend school.
- 1056 (14)
- (a) If a juvenile court orders continued removal of a child under this section, the juvenile court shall state the facts on which the decision is based.
- 1058 (b) If no continued removal is ordered and the child is returned home, the juvenile court shall state the facts on which the decision is based.
- 1060 (15) If the juvenile court finds that continued removal and temporary custody are necessary for the protection of a child under Subsection (9)(a), the juvenile court shall order continued removal regardless of:

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- 1063 (a) any error in the initial removal of the child;
- 1064 (b) the failure of a party to comply with notice provisions; or
- 1065 (c) any other procedural requirement of this chapter, Chapter 2, Child Welfare Services, or Chapter 2a, Removal and Protective Custody of a Child.

1067 Section 7. Section 80-3-405 is amended to read:

1068 **80-3-405. Dispositions after adjudication.**

- 1069 (1) Upon adjudication under Subsection 80-3-402(1), the juvenile court may make the dispositions described in Subsection (2) at the dispositional hearing.
- 1071 (2)
- (a)
- (i) The juvenile court may vest custody of an abused, neglected, or dependent minor in the division or any other appropriate person, with or without court-specified child welfare services, in accordance with the requirements and procedures of this chapter.
- 1075 (ii) When placing a minor in the custody of the division or any other appropriate person, the juvenile court:
- 1077 (A) shall give primary consideration to the welfare of the minor;
- 1078 (B) shall give due consideration to the rights of the parent or parents concerning the minor; and
- 1080 (C) when practicable, may take into consideration the religious preferences of the minor and of the minor's parents or guardian.
- 1082 (b)
- (i) The juvenile court may appoint a guardian for the minor if it appears necessary in the interest of the minor.
- 1084 (ii) A guardian appointed under Subsection (2)(b)(i) may be a public or private institution or agency, but not a nonsecure residential placement provider, in which legal custody of the minor is vested.
- 1087 (iii) When placing a minor under the guardianship of an individual or of a private agency or institution, the juvenile court:
- 1089 (A) shall give primary consideration to the welfare of the minor; and
- 1090 (B) when practicable, may take into consideration the religious preferences of the minor and of the minor's parents or guardian.
- 1092 (c) The juvenile court may order:
- 1093 (i) protective supervision;

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- 1094 (ii) family preservation;
- 1095 (iii) sibling visitation; or
- 1096 (iv) other services.
- 1097 (d)
- (i) If a minor has been placed with an individual or relative as a result of an adjudication under this chapter, the juvenile court may enter an order of permanent legal custody and guardianship with the individual or relative of the minor.
- 1101 (ii) If a juvenile court enters an order of permanent custody and guardianship with an individual or relative of a minor under Subsection (2)(d)(i), the juvenile court may, in accordance with Section 78A-6-356, enter an order for child support on behalf of the minor against the parents of the minor.
- 1105 (iii) An order under this Subsection (2)(d):
- 1106 (A) shall remain in effect until the minor is 18 years old;
- 1107 (B) is not subject to review under Section 78A-6-358; and
- 1108 (C) may be modified by petition or motion as provided in Section 78A-6-357.
- 1109 (iv) If the district court has a pending case concerning questions of custody, support, or parent-time, and if the juvenile court grants an order of permanent custody and guardianship with one of the child's parents under this Subsection (2)(d), the juvenile court shall order one of the child's parents to file the order of permanent custody and guardianship with the district court within a reasonable time.
- 1114 (e) The juvenile court may order a child be committed to the physical custody, as defined in Section 26B-5-401, of a local mental health authority, in accordance with the procedures and requirements of Title 26B, Chapter 5, Part 4, Commitment of Persons Under Age 18.
- 1118 (f)
- (i) If the child has an intellectual disability, the juvenile court may make an order committing a minor to the Utah State Developmental Center in accordance with Title 26B, Chapter 6, Part 6, Admission to an Intermediate Care Facility for People with an Intellectual Disability.
- 1122 (ii) The juvenile court shall follow the procedure applicable in the district court with respect to judicial commitments to the Utah State Developmental Center when ordering a commitment under Subsection (2)(f)(i).
- 1125 (g)
- (i) Subject to Subsection [~~80-1-102(58)(b)~~] 80-1-102(59)(b) and Section 80-3-304, the juvenile court may order that a minor:

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- 1127 (A) be examined or treated by a mental health therapist, as described in Section 80-3-109; or
1129 (B) receive other special care.
- 1130 (ii) For purposes of receiving the examination, treatment, or care described in Subsection (2)(g)(i), the
juvenile court may place the minor in a hospital or other suitable facility that is not secure care or
secure detention.
- 1133 (iii) In determining whether to order the examination, treatment, or care described in Subsection (2)(g)
(i), the juvenile court shall consider:
- 1135 (A) the desires of the minor;
1136 (B) the desires of the parent or guardian of the minor if the minor is younger than 18 years old; and
1138 (C) whether the potential benefits of the examination, treatment, or care outweigh the potential risks
and side-effects, including behavioral disturbances, suicidal ideation, brain function impairment, or
emotional or physical harm resulting from the compulsory nature of the examination, treatment, or
care.
- 1142 (h) The juvenile court may make other reasonable orders for the best interest of the minor.
- 1144 (3)
- (a) At the dispositional hearing described in Subsection 80-3-402(3), if a child remains in an out-of-
home placement, the juvenile court shall:
- 1146 (i) make specific findings regarding the conditions of parent-time that are in the child's best interest;
and
1148 (ii) if parent-time is denied, state the facts that justify the denial.
- 1149 (b) Parent-time shall be under the least restrictive conditions necessary to:
- 1150 (i) protect the physical safety of the child; or
1151 (ii) prevent the child from being traumatized by contact with the parent due to the child's fear of the
parent in light of the nature of the alleged abuse or neglect.
- 1153 (c)
- (i) The division or the person designated by the division or a court to supervise a parent-time session
may deny parent-time for the session if the division or the supervising person determines that, based
on the parent's condition, it is necessary to deny parent-time to:
- 1157 (A) protect the physical safety of the child;
1158 (B) protect the life of the child; or
1159

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- (C) consistent with Subsection (3)(c)(ii), prevent the child from being traumatized by contact with the parent.
- 1161 (ii) In determining whether the condition of the parent described in Subsection (3)(c)(i) will traumatize
a child, the division or the person supervising the parent-time session shall consider the impact that
the parent's condition will have on the child in light of:
- 1165 (A) the child's fear of the parent; and
- 1166 (B) the nature of the alleged abuse or neglect.
- 1167 (4) Upon an adjudication under this chapter, the juvenile court may not:
- 1168 (a) commit a minor solely on the ground of abuse, neglect, or dependency to the Division of Juvenile
Justice and Youth Services;
- 1170 (b) assume the function of developing foster home services; or
- 1171 (c) vest legal custody of an abused, neglected, or dependent minor in the division to primarily address
the minor's ungovernable or other behavior, mental health, or disability, unless the division:
- 1174 (i) engages other relevant divisions within the department that are conducting an assessment of the
minor and the minor's family's needs;
- 1176 (ii) based on the assessment described in Subsection (4)(c)(i), determines that vesting custody of the
minor in the division is the least restrictive intervention for the minor that meets the minor's needs;
and
- 1179 (iii) consents to legal custody of the minor being vested in the division.
- 1180 (5) The juvenile court may combine the dispositions listed in Subsection (2) if combining the
dispositions is permissible and the dispositions are compatible.
- 1182 (6)
- (a) If, for a relative placement, an interstate placement requested under the Interstate Compact on the
Placement of Children has been initiated by the division or is ordered by or pending before the
juvenile court, the court may not finalize a non-relative placement unless the court gives due weight
to:
- 1186 (i) the preferential consideration granted to a relative in Section 80-3-302;
- 1187 (ii) the rebuttable presumption in Section 80-3-302; and
- 1188 (iii) the division's placement authority under Subsections 80-1-102(51) and 80-3-303(1).
- 1190 (b) Nothing in this section affects the ability of a foster parent to petition the juvenile court under
Subsection 80-3-502(3).

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Section 8. **Effective date.**

Effective Date.

This bill takes effect on May 6, 2026.

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