

David Shallenberger proposes the following substitute bill:

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;
- ▶ requires an attorney guardian ad litem to communicate a minor's expressed interests to a court;
- ▶ 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 of:
 - the minor's expressed wishes; and
 - the date of the guardian ad litem's last interaction with the minor;
- ▶ addresses when a guardian ad litem is appointed;
- ▶ adjusts the responsibilities and obligations of a guardian ad litem;
- ▶ addresses records in child welfare cases;
- ▶ directs a court to consider the best interest of a minor within the context of the principles and provisions in Section 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

29 **Utah Code Sections Affected:**

30 AMENDS:

- 31 **26B-1-506**, as last amended by Laws of Utah 2024, Chapter 288
 32 **26B-1-507**, as last amended by Laws of Utah 2024, Chapter 288
 33 **78A-2-104**, as last amended by Laws of Utah 2023, Chapter 394
 34 **78A-2-702**, as last amended by Laws of Utah 2021, Chapter 262
 35 **78A-2-703**, as last amended by Laws of Utah 2019, Chapter 326
 36 **78A-2-704**, as last amended by Laws of Utah 2022, Chapter 335
 37 **78A-2-801**, as last amended by Laws of Utah 2022, Chapter 334
 38 **78A-2-802**, as last amended by Laws of Utah 2023, Chapter 394
 39 **78A-2-803**, as last amended by Laws of Utah 2023, Chapter 280
 40 **80-2-102**, as last amended by Laws of Utah 2025, Chapter 48
 41 **80-2-301**, as last amended by Laws of Utah 2025, Chapters 173, 174
 42 **80-2a-101**, as last amended by Laws of Utah 2025, Chapter 426
 43 **80-3-102**, as last amended by Laws of Utah 2025, Chapter 426
 44 **80-3-104**, as last amended by Laws of Utah 2022, Chapter 334
 45 **80-4-102**, as last amended by Laws of Utah 2022, Chapter 335
 46 **81-13-202**, as renumbered and amended by Laws of Utah 2025, Chapter 426

47 ENACTS:

- 48
- 78A-2-104.5**
- , Utah Code Annotated 1953

49

50 *Be it enacted by the Legislature of the state of Utah:*51 Section 1. Section **26B-1-506** is amended to read:52 **26B-1-506 . Fatality review committee report -- Response to report.**53 (1) Within 20 days after the day on which the committee proceedings described in Section
54 26B-1-505 end, the committee shall submit:

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

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

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

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

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

62 (ii) the regional director, or the regional director's designee, of the region to which

- 63 the near fatality or the death relates.
- 64 (2)(a) Within 60 days after the day on which the director described in Subsection
65 (1)(b)(i) receives a copy of the report described in Subsection (1)(a), the department
66 shall provide a written response[~~-, with only identifying information redacted,~~] to the
67 Office of Legislative Research and General Counsel, if the report:
- 68 [(a)] (i) indicates that a law, rule, policy, or procedure was not complied with;
 - 69 [(b)] (ii) indicates that the near fatality or the death was not responded to properly;
 - 70 [(c)] (iii) recommends that a law, rule, policy, or procedure be changed; or
 - 71 [(d)] (iv) indicates that additional training is needed.
- 72 (b) Only the following information in the report shall be redacted:
- 73 (i) the names and contact information of a referent; and
 - 74 (ii) the surname and address of an individual that is not described in Subsection
75 (2)(b)(i).
- 76 (3) The response described in Subsection (2) shall include:
- 77 (a) a plan of action to implement any recommended improvements within the
78 department; and
 - 79 (b) the approval of the executive director or the executive director's designee for the plan
80 described in Subsection (3)(a).
- 81 (4) A report described in Subsection (1) and the response described in Subsection (2) is a
82 protected record.
- 83 (5)(a) As used in this Subsection (5), "fatality review document" means any document
84 created in connection with, or as a result of, a formal review of a near fatality or a
85 death, or a decision whether to conduct a formal review of a near fatality or a death,
86 including:
- 87 (i) a report described in Subsection (1);
 - 88 (ii) a response described in Subsection (2);
 - 89 (iii) a recommendation regarding whether a formal review should be conducted;
 - 90 (iv) a decision to conduct a formal review;
 - 91 (v) notes of a person who participates in a formal review;
 - 92 (vi) notes of a person who reviews a formal review report;
 - 93 (vii) minutes of a formal review;
 - 94 (viii) minutes of a meeting where a formal review report is reviewed; and
 - 95 (ix) minutes of, documents received in relation to, and documents generated in
96 relation to, the portion of a meeting of the Health and Human Services Interim

97 Committee or the Child Welfare Legislative Oversight Panel that a formal review
98 report or a document described in this Subsection (5)(a) is reviewed or discussed.

99 (b) A fatality review document is not subject to discovery, subpoena, or similar
100 compulsory process in any civil, judicial, or administrative proceeding, nor shall any
101 individual or organization with lawful access to the data be compelled to testify with
102 regard to a report described in Subsection (1) or a response described in Subsection
103 (2).

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

106 (i) a fatality review document; and

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

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

109 **26B-1-507 . Reporting to, and review by, legislative committees.**

110 (1)(a) On or before September 1 of each year, the department shall provide~~[, with only~~
111 ~~identifying information redacted,]~~ a copy of the report described in Subsection
112 26B-1-506(1)~~[(b),]~~ and the response described in Subsection 26B-1-506(2) to the
113 Office of Legislative Research and General Counsel and the chairs of:

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

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

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

120 (i) the names and contact information of a referent; and

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

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

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

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

130 (b) The purpose of a review described in Subsection (2) is to assist a committee or panel

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

165 neglect that results in a child fatality or a near fatality.

166 Section 3. Section **78A-2-104** is amended to read:

167 **78A-2-104 . Judicial Council -- Creation -- Members -- Terms and election --**
168 **Responsibilities -- Reports.**

169 (1) The Judicial Council is composed of:

170 (a) the chief justice of the Supreme Court;

171 (b) one member elected by the justices of the Supreme Court;

172 (c) one member elected by the judges of the Court of Appeals;

173 (d) one member elected by the judges of the Business and Chancery Court;

174 (e) six members elected by the judges of the district courts;

175 (f) three members elected by the judges of the juvenile courts;

176 (g) three members elected by the justice court judges; and

177 (h) a member or ex officio member of the Board of Commissioners of the Utah State Bar
178 who is an active member of the Utah State Bar in good standing at the time of
179 election by the Board of Commissioners.

180 (2) The Judicial Council shall have a seal.

181 (3)(a) The chief justice of the Supreme Court shall act as presiding officer of the Judicial
182 Council and chief administrative officer for the courts.

183 (b) The chief justice shall vote only in the case of a tie.

184 (4)(a) All members of the Judicial Council shall serve for three-year terms.

185 (b) If a Judicial Council member should die, resign, retire, or otherwise fail to complete
186 a term of office, the appropriate constituent group shall elect a member to complete
187 the term of office.

188 (c) In courts having more than one member, the members shall be elected to staggered
189 terms.

190 (d) The individual elected by the Board of Commissioners under Subsection (1)(h) may
191 complete a three-year term of office on the Judicial Council even though the
192 individual ceases to be a member or ex officio member of the Board of
193 Commissioners.

194 (e) The individual elected by the Board of Commissioners under Subsection (1)(h) shall
195 be an active member of the Utah State Bar in good standing for the entire term of the
196 Judicial Council.

197 (f) Elections are held under rules made by the Judicial Council.

198 (5)(a) The Judicial Council is responsible for the development of uniform administrative

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

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

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

- 301 (e) review the report described in Section 78A-2-802; and
 302 (f) make recommendations regarding the statewide guardian ad litem program.
 303 (4)(a) In reviewing cases as described in Subsection (3)(d), the committee shall assess:
 304 (i) whether the office is adequately representing the minor's interests;
 305 (ii) compliance with the requirement to conduct an independent investigation, meet
 306 with the minor, and keep the minor informed regarding the case; and
 307 (iii) the outcomes of cases for children and families.
 308 (b) The Judicial Council shall establish rules to ensure privacy and confidentiality when
 309 the committee reviews cases.
 310 (5) The committee may:
 311 (a) replace the guardian ad litem director in accordance with Section 78A-2-802;
 312 (b) establish policies, requirements, or guidelines for guardians ad litem; and
 313 (c) subject to Subsection (6), review and discuss individual cases assigned to the Office
 314 of Guardian ad Litem.
 315 (6) The committee shall meet at least quarterly.
 316 (7) On or before November 1, the committee shall provide an annual report to the Judicial
 317 Council and the Child Welfare Legislative Oversight Panel regarding the committee's
 318 activities, findings, and recommendations.

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

320 **78A-2-702 . Definitions.**

- 321 (1) As used in this part:
 322 [(1)] (a) "Attorney guardian ad litem" means an attorney employed by the office.
 323 [(2)] (b) "Director" means the director of the office.
 324 [(3)] (c) "Guardian ad litem" means an attorney guardian ad litem or a private attorney
 325 guardian ad litem.
 326 [(4)] (d) "Office" means the Office of Guardian ad Litem, created in Section 78A-2-802.
 327 [(5)] (e) "Private attorney guardian ad litem" means an attorney designated by the office
 328 in accordance with Section 78A-2-705 who is not an employee of the office.
 329 (2) A determination of a minor's best interest under this part shall be made in accordance
 330 with Sections 80-2a-201, 80-4-104, and any other section of this title consistent with
 331 those sections.

332 Section 6. Section **78A-2-703** is amended to read:

333 **78A-2-703 . Appointment of attorney guardian ad litem in district court matters.**

- 334 (1) A district court may appoint an attorney guardian ad litem to represent the best interests

- 335 of a minor in the following district court matters:
- 336 (a) protective order proceedings; and
- 337 (b) district court actions when:
- 338 (i) child abuse, child sexual abuse, or neglect is alleged in a formal complaint,
- 339 petition, or counterclaim;
- 340 (ii) the child abuse, child sexual abuse, or neglect described in Subsection (1)(b)(i)
- 341 has been reported to Child Protective Services;
- 342 (iii) the court makes a finding that the adult parties to the case are indigent
- 343 individuals, as defined in Section 78B-22-102; and
- 344 (iv) the district court determines that there are no private attorney guardians ad litem
- 345 who are reasonably available to be appointed in the district court action.
- 346 (2)(a) A court may not appoint an attorney guardian ad litem in a criminal case.
- 347 (b) Subsection (2)(a) does not prohibit the appointment of an attorney guardian ad litem
- 348 in a case where a court is determining whether to adjudicate a minor for committing
- 349 an act that would be a crime if committed by an adult.
- 350 (c) Subsection (2)(a) does not prohibit an attorney guardian ad litem from entering an
- 351 appearance, filing motions, or taking other action in a criminal case on behalf of a
- 352 minor, if:
- 353 (i) the attorney guardian ad litem is appointed to represent the minor in a case that is
- 354 not a criminal case; and
- 355 (ii) the interests of the minor may be impacted by:
- 356 (A) an order that has been, or may be, issued in the criminal case; or
- 357 (B) other proceedings that have occurred, or may occur, in the criminal case.
- 358 (3) If a court appoints an attorney guardian ad litem in a divorce or child custody case, the
- 359 court shall:
- 360 (a) specify in the order appointing the attorney guardian ad litem the specific issues in
- 361 the proceeding that the attorney guardian ad litem is required to be involved in
- 362 resolving, which may include issues relating to the custody of children and
- 363 parent-time schedules;
- 364 (b) to the extent possible, bifurcate the issues specified in the order described in
- 365 Subsection (3)(a) from the other issues in the case, in order to minimize the time
- 366 constraints placed upon the attorney guardian ad litem in the case; and
- 367 (c) except as provided in Subsection (5), within one year after the day on which the
- 368 attorney guardian ad litem is appointed in the case, issue a final order:

- 369 (i) resolving the issues in the order described in Subsection (3)(a); and
 370 (ii) terminating the appointment of the attorney guardian ad litem in the case.
- 371 (4) A court shall issue an order terminating the appointment of an attorney guardian ad
 372 litem made under this section, if:
- 373 (a) the court determines that the allegations of abuse or neglect are unfounded;
 374 (b) after receiving input from the attorney guardian ad litem, the court determines that
 375 the children are no longer at risk of abuse or neglect; or
 376 (c) there has been no activity in the case for which the attorney guardian ad litem is
 377 appointed for a period of six consecutive months.
- 378 (5) A court may issue a written order extending the one-year period described in Subsection
 379 (3)(c) for a time certain, if the court makes a written finding that there is a compelling
 380 reason that the court cannot comply with the requirements described in Subsection (3)(c)
 381 within the one-year period.
- 382 (6) When appointing an attorney guardian ad litem for a minor under this section, a court
 383 may appoint the same attorney guardian ad litem who represents the minor in another
 384 proceeding, or who has represented the minor in a previous proceeding, if that attorney
 385 guardian ad litem is available.
- 386 (7) The court is responsible for all costs resulting from the appointment of an attorney
 387 guardian ad litem and shall use funds appropriated by the Legislature for the guardian ad
 388 litem program to cover those costs.
- 389 (8) An attorney guardian ad litem appointed in accordance with the requirements of this
 390 section and [~~Chapter 2, Part 8, Guardian Ad Litem~~] Part 8, Guardian ad Litem, is, when
 391 serving in the scope of duties of an attorney guardian ad litem, considered an employee
 392 of this state for purposes of indemnification under [~~the Governmental Immunity Act~~]
 393 Title 63G, Chapter 7, Governmental Immunity Act of Utah.
- 394 Section 7. Section **78A-2-704** is amended to read:
- 395 **78A-2-704 . Public policy regarding attorney guardian ad litem -- Training.**
- 396 (1) An attorney guardian ad litem may not presume that a child and the child's parent are
 397 adversaries.
- 398 (2) An attorney guardian ad litem shall be trained on and implement into practice:
- 399 (a) the parental rights and child and family protection principles provided in Section
 400 80-2a-201;
- 401 (b) the fundamental liberties of parents and the public policy of the state to support
 402 family unification to the fullest extent possible;

- 403 (c) the constitutionally protected rights of parents, in cases where the state is a party;
- 404 (d) the use of a least restrictive means analysis regarding state claims of a compelling
- 405 child welfare interest;
- 406 (e) the priority of maintaining a child safely in the child's home, whenever possible;
- 407 (f) the importance of:
- 408 (i) kinship placement, ~~[in the event]~~ if the child is removed from the home;~~[-and]~~
- 409 (ii) keeping sibling groups together, whenever practicable and in the best interests of
- 410 the children; and
- 411 (iii) understanding and communicating the minor's expressed interests to the court;
- 412 (g) the preference for kinship adoption over nonkinship adoption, if the parent-child
- 413 relationship is legally terminated;
- 414 (h) the potential for a guardianship placement if the parent-child relationship is legally
- 415 terminated and no appropriate adoption placement is available; and
- 416 (i) the use of an individualized permanency plan, only as a last resort.
- 417 (3) The office shall implement policies and practice guidelines that reflect the priorities
- 418 described in Subsections (2)(e) through (i) for the placement of children.

419 Section 8. Section **78A-2-801** is amended to read:

420 **78A-2-801 . Definitions.**

421 (1) As used in this part:

422 ~~[(1)]~~ (a) "Abuse, neglect, or dependency petition" means the same as that term is defined

423 in Section 80-3-102.

424 ~~[(2)]~~ (b) "Attorney guardian ad litem" means an attorney employed by the office.

425 ~~[(3)]~~ (c) "Director" means the director of the office.

426 ~~[(4)]~~ (d) "Division" means the Division of Child and Family Services created in Section

427 80-2-201.

428 ~~[(5)]~~ (e) "Guardian ad litem" means an attorney guardian ad litem or a private attorney

429 guardian ad litem.

430 ~~[(6)]~~ (f) "Indigent individual" means the same as that term is defined in Section

431 78B-22-102.

432 ~~[(7)]~~ (g) "Minor" means the same as that term is defined in Section 80-1-102.

433 ~~[(8)]~~ (h) "Office" means the Office of Guardian Ad Litem created in Section 78A-2-802.

434 ~~[(9)]~~ (i) "Private attorney guardian ad litem" means an attorney designated by the office

435 in accordance with Section 78A-2-705 who is not an employee of the office.

436 (2) A determination of a minor's best interest under this part shall be made in accordance

437 with Sections 80-2a-201, 80-4-104, and any other section of this title consistent with
438 those sections.

439 Section 9. Section **78A-2-802** is amended to read:

440 **78A-2-802 . Office of Guardian ad Litem -- Appointment of director -- Duties of**
441 **director -- Contracts in second, third, and fourth districts.**

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

445 (2)(a) The Guardian [Ad] ad Litem Oversight Committee shall appoint one individual to
446 serve full time as the guardian ad litem director for the state.

447 (b) The guardian ad litem director shall:

448 (i) serve at the pleasure of the Guardian [Ad] ad Litem Oversight Committee, in
449 consultation with the state court administrator;

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

451 (A) professional ability;

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

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

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

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

459 (3) The guardian ad litem director shall:

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

462 (b) manage the guardian ad litem program to assure that a minor receives qualified
463 guardian ad litem services in an abuse, neglect, or dependency proceeding under Title
464 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, in accordance with
465 state and federal law and policy;

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

469 (d) develop and provide training programs for volunteers in accordance with the United
470 States Department of Justice National Court Appointed Special [Advocates] Advocate

- 471 Association standards;
- 472 (e) develop, publish, and update a guardian ad litem manual that includes:
- 473 (i) best practices for an attorney guardian ad litem; and
- 474 (ii) statutory and case law relating to an attorney guardian ad litem;
- 475 (f) develop and provide a library of materials for the continuing education of attorney
- 476 guardians ad litem and volunteers;
- 477 (g) educate court personnel regarding the role and function of guardians ad litem;
- 478 (h) develop needs assessment strategies, perform needs assessment surveys, and ensure
- 479 that guardian ad litem training programs correspond with actual and perceived needs
- 480 for training;
- 481 (i) design and implement evaluation tools based on specific objectives targeted in the
- 482 needs assessments described in Subsection (3)(h);
- 483 (j) evaluate the performance of attorney guardians ad litem and private guardians ad
- 484 litem, including tracking the frequency of a guardian ad litem's interactions with a
- 485 minor client and whether the interaction was:
- 486 (i) directly with the minor client in person;
- 487 (ii) directly with the minor client through telephone, video, or writing; or
- 488 (iii) indirectly with the minor through an assigned trained volunteer, in accordance
- 489 with Section 78A-2-803;
- 490 [(j)] (k) prepare and submit an annual report to the Guardian ad Litem Oversight
- 491 Committee and the Child Welfare Legislative Oversight Panel created in Section
- 492 36-33-102 regarding:
- 493 (i) the development, policy, and management of the statewide guardian ad litem
- 494 program;
- 495 (ii) the training and evaluation of attorney guardians ad litem and volunteers,
- 496 including needs assessment surveys and evaluation tools described in Subsections
- 497 (3)(h) and (i);
- 498 (iii) specific action the director has taken to:
- 499 (A) confirm that minor clients receive qualified guardian ad litem services; and
- 500 (B) audit and review cases assigned to the office for statutory compliance, best
- 501 practices, and outcomes;
- 502 (iv) guardians ad litem client interaction data; and
- 503 [(iii)] (v) the number of minors served by the office;
- 504 [(k)] (l) hire, train, and supervise investigators; and

505 ~~(H)~~ (m) administer the program of private attorney guardians ad litem established under
506 Section 78A-2-705.

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

512 Section 10. Section **78A-2-803** is amended to read:

513 **78A-2-803 . Appointment of attorney guardian ad litem -- Duties and**
514 **responsibilities -- Training -- Trained staff and court-appointed special advocate**
515 **volunteers -- Costs -- Immunity -- Annual report.**

516 (1)(a) The court:

517 (i) may appoint an attorney guardian ad litem to represent the best interest of a minor
518 involved in any case before the court; and

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

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

524 (2) ~~[An]~~ Following appointment by the court, an attorney guardian ad litem shall represent
525 the best interest of each minor who ~~[may become]~~ is the subject of an abuse, neglect, or
526 dependency petition~~[from the earlier of:]~~ .

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

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

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

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

531 (i) court proceedings; and

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

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

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

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

537 (c) conducts or supervises an ongoing, independent investigation in order to obtain,
538 first-hand, a clear understanding of the situation~~[and]~~ , needs, and wishes of the

- 539 minor;
- 540 (d)(i) personally meets with the minor, unless:
- 541 (A) the minor is outside of the state; or
- 542 (B) meeting with the minor would be detrimental to the minor;
- 543 (ii) personally interviews the minor, unless:
- 544 (A) the minor is not old enough to communicate;
- 545 (B) the minor lacks the capacity to participate in a meaningful interview; or
- 546 (C) the interview would be detrimental to the minor; and
- 547 (iii) if the minor is placed in an out-of-home placement, or is being considered for
- 548 placement in an out-of-home placement, unless it would be detrimental to the
- 549 minor[;] ,
- 550 [~~(A)~~] to the extent possible, determines the minor's goals and concerns regarding
- 551 placement[; ~~and~~] ;
- 552 [~~(B)~~] personally assesses or supervises an assessment of the appropriateness and
- 553 safety of the minor's environment in each placement[;]
- 554 (e) personally attends all review hearings pertaining to the minor's case;
- 555 (f) participates in all appeals, unless excused by order of the court;
- 556 (g) is familiar with local experts who can provide consultation and testimony regarding
- 557 the reasonableness and appropriateness of efforts made by the division to:
- 558 (i) maintain a minor in the minor's home; or
- 559 (ii) reunify a minor with a minor's parent;
- 560 (h) to the extent possible, and unless it would be detrimental to the minor, personally or
- 561 through a trained volunteer, paralegal, or other trained staff, keeps the minor advised
- 562 of:
- 563 (i) the status of the minor's case;
- 564 (ii) all court and administrative proceedings;
- 565 (iii) discussions with, and proposals made by, other parties;
- 566 (iv) court action; and
- 567 (v) the psychiatric, medical, or other treatment or diagnostic services that are to be
- 568 provided to the minor;
- 569 (i) in cases where a child and family plan is required, personally or through a trained
- 570 volunteer, paralegal, or other trained staff, monitors implementation of a minor's
- 571 child and family plan and any dispositional orders to:
- 572 (i) determine whether services ordered by the court:

- 573 (A) are actually provided; and
- 574 (B) are provided in a timely manner; and
- 575 (ii) ~~[attempt to-]assess whether services [ordered by the court are accomplishing the~~
576 ~~intended goal of the services]~~ provided by the division are accomplishing the goals
577 ordered by the court; and
- 578 (j) makes all necessary court filings to advance the ~~[guardian's ad litem position~~
579 ~~regarding the best interest of the minor]~~ orders and established goals of the court.
- 580 (4)(a) Consistent with this Subsection (4), an attorney guardian ad litem may use trained
581 volunteers, in accordance with Title 67, Chapter 20, Volunteer Government Workers
582 Act, trained paralegals, and other trained staff to assist in investigation and
583 preparation of information regarding the cases of individual minors before the court.
- 584 (b) A volunteer, paralegal, or other staff utilized under this section shall be trained in
585 and follow, at a minimum, the guidelines established by the United States
586 Department of Justice National Court Appointed Special Advocate Association.
- 587 (5) The attorney guardian ad litem shall continue to represent the best interest of the minor
588 until released from that duty by the court.
- 589 (6)(a) Consistent with Subsection (6)(b), the juvenile court is responsible for:
- 590 (i) all costs resulting from the appointment of an attorney guardian ad litem; and
- 591 (ii) the costs of volunteer, paralegal, and other staff appointment and training.
- 592 (b) The court shall use funds appropriated by the Legislature for the guardian ad litem
593 program to cover the costs described in Subsection (6)(a).
- 594 (c)(i) When the court appoints an attorney guardian ad litem under this section, the
595 court may assess all or part of the attorney fees, court costs, and paralegal, staff,
596 and volunteer expenses against the minor's parents, parent, or legal guardian in a
597 proportion that the court determines to be just and appropriate, taking into
598 consideration costs already borne by the parents, parent, or legal guardian,
599 including:
- 600 (A) private attorney fees;
- 601 (B) counseling for the minor;
- 602 (C) counseling for the parent, if mandated by the court or recommended by the
603 division; and
- 604 (D) any other cost the court determines to be relevant.
- 605 (ii) The court may not assess the fees or costs described in Subsection (6)(c)(i)
606 against:

- 607 (A) a legal guardian, when that guardian is the state; or
 608 (B) consistent with Subsection (6)(d), a parent who is found to be an indigent
 609 individual.
- 610 (d) For purposes of Subsection (6)(c)(ii)(B), if an individual claims to be an indigent
 611 individual, the court shall:
- 612 (i) require the individual to submit an affidavit of indigency as provided in Section
 613 78A-2-302; and
- 614 (ii) follow the procedures and make the determinations as provided in Section
 615 78A-2-304.
- 616 (e) The minor's parents, parent, or legal guardian may appeal the court's determination,
 617 under Subsection (6)(c), of fees, costs, and expenses.
- 618 (7) An attorney guardian ad litem appointed under this section, when serving in the scope
 619 of the attorney guardian's ad litem duties as guardian ad litem is considered an employee
 620 of the state for purposes of indemnification under Title 63G, Chapter 7, Governmental
 621 Immunity Act of Utah.
- 622 (8)(a) An attorney guardian ad litem shall represent the best interest of a minor.
- 623 (b) At each hearing, the attorney guardian ad litem shall inform the court:
- 624 (i) of the minor's wishes and desired outcome, except as described in Subsection
 625 (8)(e);
- 626 (ii) whether the minor expressed a desire to be present at the hearing; and
- 627 (iii) of the date that the attorney guardian ad litem most recently spoke with the
 628 minor, including whether the interaction was:
- 629 (A) directly with the minor client in person;
- 630 (B) directly with the minor client through telephone, video, or writing; or
- 631 (C) indirectly with the minor through an assigned trained volunteer, in accordance
 632 with Subsection (4).
- 633 ~~[(b)] (c) If the minor's expressed wishes differ from the [attorney's determination of the]~~
 634 ~~minor's best interest, the attorney guardian ad litem shall [communicate the minor's~~
 635 ~~wishes to the court in addition to presenting the attorney's determination of the~~
 636 ~~minor's best interest] provide the basis for the attorney's determination to the court~~
 637 ~~and the minor child.~~
- 638 ~~[(e)] (d) A difference between the minor's wishes and the attorney's determination of best~~
 639 ~~interest may not be considered a conflict of interest for the attorney.~~
- 640 ~~[(d)] (e) The guardian ad litem shall disclose the wishes of the minor unless the minor:~~

- 641 (i) instructs the guardian ad litem to not disclose the minor's wishes; or
642 (ii) has not expressed any wishes, despite the guardian ad litem inquiring.
- 643 ~~(e)~~ (f) The court may appoint one attorney guardian ad litem to represent the best
644 interests of more than one minor of a marriage.
- 645 (g)(i) A guardian ad litem shall inform a minor that the minor may request a change
646 in an appointed guardian ad litem.
- 647 (ii) A guardian ad litem shall promptly inform the court if a minor requests a change
648 in an appointed guardian ad litem.
- 649 (9) The division shall provide an attorney guardian ad litem access to all division records
650 regarding the minor at issue and the minor's family.
- 651 (10)(a) An attorney guardian ad litem shall conduct an independent investigation
652 regarding the minor at issue, the minor's family, and what is in the best interest of the
653 minor.
- 654 (b) An attorney guardian ad litem may interview the minor's child welfare caseworker,
655 but may not:
- 656 (i) rely exclusively on the conclusions and findings of the division; or
657 (ii) except as provided in Subsection (10)(c), conduct a visit with the client in
658 conjunction with the visit of a child welfare caseworker.
- 659 (c)(i) An attorney guardian ad litem may meet with a client during a team meeting,
660 court hearing, or similar venue when a child welfare caseworker is present for a
661 purpose other than the attorney guardian ad litem's meeting with the client.
- 662 (ii) A party and the party's counsel may attend a team meeting in accordance with the
663 Utah Rules of Professional Conduct.
- 664 (11)(a) An attorney guardian ad litem shall maintain current and accurate records
665 regarding:
- 666 (i) the number of times the attorney has had contact with each minor; and
667 (ii) the actions the attorney has taken in representation of the minor's best interest.
- 668 (b) In every hearing where the attorney guardian ad litem makes a recommendation
669 regarding the best interest of the minor, the court shall require the attorney guardian
670 ad litem to disclose the activities and sources of the attorney guardian ad litem's
671 independent investigation and factors that form the basis of the recommendation.
- 672 (12)(a) Except as provided in Subsection (12)(b), and notwithstanding Title 63G,
673 Chapter 2, Government Records Access and Management Act, all records of an
674 attorney guardian ad litem are confidential and may not be released or made public

- 675 upon subpoena, search warrant, discovery proceedings, or otherwise.
- 676 (b) Consistent with Subsection (12)(d), all records of an attorney guardian ad litem:
- 677 (i) are subject to legislative subpoena, under Title 36, Chapter 14, Legislative
- 678 Subpoena Powers; and
- 679 (ii) shall be released to the Legislature.
- 680 (c)(i) Except as provided in Subsection (12)(c)(ii), the Legislature shall maintain
- 681 records released in accordance with Subsection (12)(b) as confidential.
- 682 (ii) Notwithstanding Subsection (12)(c)(i), the Office of the Legislative Auditor
- 683 General may include summary data and nonidentifying information in the office's
- 684 audits and reports to the Legislature.
- 685 (d)(i) Subsection (12)(b) is an exception to Utah Rules of Professional Conduct, Rule
- 686 1.6, as provided by Rule 1.6(b)(4), because of:
- 687 (A) the unique role of an attorney guardian ad litem described in Subsection (8);
- 688 and
- 689 (B) the state's role and responsibility to provide a guardian ad litem program, and
- 690 as *parens patriae*, to protect minors.
- 691 (ii) A claim of attorney-client privilege does not bar access to the records of an
- 692 attorney guardian ad litem by the Legislature, through legislative subpoena.
- 693 (13)(a) An attorney guardian ad litem shall respond to case-related discovery.
- 694 (b) Interrogatories, requests for admissions, or depositions may not be imposed on a
- 695 minor.
- 696 (14)(a) An attorney guardian ad litem should make a best interest recommendation based
- 697 on the attorney guardian ad litem's direct knowledge and personal investigation.
- 698 (b) The Office of Guardian ad Litem's director or a managing attorney may not direct an
- 699 attorney guardian ad litem to take a certain position or make a particular
- 700 recommendation.

701 Section 11. Section **80-2-102** is amended to read:

702 **80-2-102 . Definitions.**

703 (1) As used in this chapter:

- 704 ~~[(+)]~~ (a) "Consult" means an interaction between two persons in which the initiating
- 705 person:
- 706 ~~[(a)]~~ (i) provides information to another person;
- 707 ~~[(b)]~~ (ii) provides the other person an opportunity to respond; and
- 708 ~~[(c)]~~ (iii) takes the other person's response, if any, into consideration.

- 709 ~~[(2)]~~ (b) "Consumer" means a person who receives services offered by the division in
710 accordance with this chapter.
- 711 ~~[(3)]~~ (c) "Council" means the Child Welfare Improvement Council created in Section
712 80-2-1101.
- 713 ~~[(4)]~~ (d) "Custody," with regard to the division, means the custody of a minor in the
714 division as of the date of disposition.
- 715 ~~[(5)]~~ (e) "Day-care services" means care of a child for a portion of the day which is less
716 than 24 hours:
- 717 ~~[(a)]~~ (i) in the child's own home by a responsible individual; or
718 ~~[(b)]~~ (ii) outside of the child's home in a:
- 719 ~~[(i)]~~ (A) day-care center;
720 ~~[(ii)]~~ (B) family group home; or
721 ~~[(iii)]~~ (C) family child care home.
- 722 ~~[(6)]~~ (f) "Director" means the director of the division appointed under Section 80-2-202.
- 723 ~~[(7)]~~ (g) "Division" means the Division of Child and Family Services created in Section
724 80-2-201.
- 725 ~~[(8)]~~ (h) "Domestic violence" means the same as that term is defined in Section 77-36-1.
- 726 ~~[(9)]~~ (i) "Domestic violence services" means:
- 727 ~~[(a)]~~ (i) temporary shelter, treatment, and related services provided to:
- 728 ~~[(i)]~~ (A) an individual who is a victim of abuse, as defined in Section 78B-7-102;
729 and
730 ~~[(ii)]~~ (B) the dependent children of an individual who is a victim of abuse, as
731 defined in Section 78B-7-102; and
- 732 ~~[(b)]~~ (ii) treatment services for an individual who is alleged to have committed, has
733 been convicted of, or has pled guilty to domestic violence.
- 734 ~~[(10)]~~ (j) "Homemaking services" means the care of an individual in the individual's
735 domicile, and help given to an individual caretaker relative to achieve improved
736 household and family management through the services of a trained homemaker.
- 737 ~~[(11)]~~ (k) "Hormonal transgender treatment" means the same as that term is defined in
738 Section 58-1-603.
- 739 ~~[(12)]~~ (l) "Mutual case" means a case that is:
- 740 ~~[(a)]~~ (i) opened by the division under the division's discretion and procedures;
741 ~~[(b)]~~ (ii) opened by the law enforcement agency with jurisdiction over the case; and
742 ~~[(c)]~~ (iii) accepted for investigation by a child protection team, as applicable.

743 ~~[(13)]~~ ~~(m)~~~~(a)~~ (i) "Person responsible for the child's care" means the child's parent,
744 guardian, or other person responsible for the child's care.

745 ~~[(b)]~~ (ii) "Person responsible for the child's care" includes a person responsible for the
746 child's care in the same home as the child, a relative's home, a group, family, or
747 day care facility, a foster care home, or a residential institution.

748 ~~[(14)]~~ (n) "Primary sex characteristic surgical procedure" means the same as that term is
749 defined in Section 58-67-102.

750 ~~[(15)]~~ (o) "Secondary sex characteristic surgical procedure" means the same as that term
751 is defined in Section 58-67-102.

752 ~~[(16)]~~ (p) "Shelter care" means the temporary care of a minor in a nonsecure facility.

753 ~~[(17)]~~ (q) "Sibling" means a child who shares or has shared at least one parent in
754 common either by blood or adoption.

755 ~~[(18)]~~ (r) "Sibling visitation" means services provided by the division to facilitate the
756 interaction between a child in division custody with the child's sibling.

757 ~~[(19)]~~ ~~(s)~~~~(a)~~ (i) "Subject of the report" means a person reported under Part 6, Child
758 Abuse and Neglect Reports.

759 ~~[(b)]~~ (ii) "Subject of the report" includes the child who is the alleged victim of the
760 report and the person responsible for the child's care.

761 ~~[(20)]~~ (t) "Temporary custody" means, with regard to the division, the custody of a child
762 from the day on which the shelter hearing described in Section 80-3-301 is held until
763 the day on which the juvenile court enters a disposition under Section 80-3-405.

764 ~~[(21)]~~ (u) "Transportation services" means travel assistance given to an individual with
765 escort service, if necessary, to and from community facilities and resources as part of
766 a service plan.

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

770 Section 12. Section **80-2-301** is amended to read:

771 **80-2-301 . Division responsibilities.**

772 (1) The division is the child, youth, and family services authority of the state.

773 (2) The division shall:

774 (a) administer services to minors and families, including:

775 (i) child welfare services;

776 (ii) domestic violence services; and

- 777 (iii) all other responsibilities that the Legislature or the executive director of the
778 department may assign to the division;
- 779 (b) provide the following services:
- 780 (i) financial and other assistance to an individual adopting a child with special needs
781 under Sections 80-2-806 through 80-2-809, not to exceed the amount the division
782 would provide for the child as a legal ward of the state;
- 783 (ii) non-custodial and in-home services in accordance with Section 80-2-306,
784 including:
- 785 (A) services designed to prevent family break-up; and
786 (B) family preservation services;
- 787 (iii) reunification services to families whose children are in substitute care in
788 accordance with this chapter, Chapter 2a, Removal and Protective Custody of a
789 Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings;
- 790 (iv) protective supervision of a family, upon court order, in an effort to eliminate
791 abuse or neglect of a child in that family;
- 792 (v) shelter care in accordance with this chapter, Chapter 2a, Removal and Protective
793 Custody of a Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings;
- 794 (vi) domestic violence services, in accordance with the requirements of federal law;
- 795 (vii) protective services to victims of domestic violence and the victims' children, in
796 accordance with this chapter, Chapter 2a, Removal and Protective Custody of a
797 Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings;
- 798 (viii) substitute care for dependent, abused, and neglected children;
- 799 (ix) services for minors who are victims of human trafficking or human smuggling,
800 as described in Sections 76-5-308 through 76-5-310.1, or who have engaged in
801 prostitution or sexual solicitation, as defined in Sections 76-5d-202 and 76-5d-209;
802 and
- 803 (x) training for staff and providers involved in the administration and delivery of
804 services offered by the division in accordance with this chapter and Chapter 2a,
805 Removal and Protective Custody of a Child;
- 806 (c) establish standards for all:
- 807 (i) contract providers of out-of-home care for minors and families;
- 808 (ii) facilities that provide substitute care for dependent, abused, or neglected children
809 placed in the custody of the division; and
- 810 (iii) direct or contract providers of domestic violence services described in

- 811 Subsection (2)(b)(vi);
- 812 (d) have authority to:
- 813 (i) contract with a private, nonprofit organization to recruit and train foster care
- 814 families and child welfare volunteers in accordance with Section 80-2-405;
- 815 (ii) approve facilities that meet the standards established under Subsection (2)(c) to
- 816 provide substitute care for dependent, abused, or neglected children placed in the
- 817 custody of the division; and
- 818 (iii) approve an individual to provide short-term relief care to a foster parent if the
- 819 individual:
- 820 (A) provides the relief care for less than six consecutive nights;
- 821 (B) provides the relief care in the short-term relief care provider's home;
- 822 (C) is direct access qualified, as that term is defined in Section 26B-2-120; and
- 823 (D) is an immediate family member or relative, as those terms are defined in
- 824 Section 80-3-102, of the foster parent;
- 825 (e) cooperate with the federal government in the administration of child welfare and
- 826 domestic violence programs and other human service activities assigned by the
- 827 department;
- 828 (f) in accordance with Subsection (5)(a), promote and enforce state and federal laws
- 829 enacted for the protection of abused, neglected, or dependent children, in accordance
- 830 with this chapter and Chapter 2a, Removal and Protective Custody of a Child, unless
- 831 administration is expressly vested in another division or department of the state;
- 832 (g) cooperate with the Workforce Development Division within the Department of
- 833 Workforce Services in meeting the social and economic needs of an individual who is
- 834 eligible for public assistance;
- 835 (h) compile relevant information, statistics, and reports on child and family service
- 836 matters in the state;
- 837 (i) prepare and submit to the department, the governor, and the Legislature reports of the
- 838 operation and administration of the division in accordance with the requirements of
- 839 Sections 80-2-1102 and 80-2-1103;
- 840 (j) within appropriations from the Legislature, provide or contract for a variety of
- 841 domestic violence services and treatment methods;
- 842 (k) enter into contracts for programs designed to reduce the occurrence or recurrence of
- 843 abuse and neglect in accordance with Section 80-2-503;
- 844 (l) seek reimbursement of funds the division expends on behalf of a child in the

- 845 protective custody, temporary custody, or custody of the division, from the child's
846 parent or guardian in accordance with an order for child support under Section
847 78A-6-356;
- 848 (m) ensure regular, periodic publication, including electronic publication, regarding the
849 number of children in the custody of the division who:
- 850 (i) have a permanency goal of adoption; or
851 (ii) have a final plan of termination of parental rights, under Section 80-3-409, and
852 promote adoption of the children;
- 853 (n) subject to Subsections (5) and (7), refer an individual receiving services from the
854 division to the local substance abuse authority or other private or public resource for
855 a court-ordered drug screening test;
- 856 (o) report before November 30, 2020, and every third year thereafter, to the Social
857 Services Appropriations Subcommittee regarding:
- 858 (i) the daily reimbursement rate that is provided to licensed foster parents based on
859 level of care;
- 860 (ii) the amount of money spent on daily reimbursements for licensed foster parents
861 during the previous fiscal year; and
862 (iii) any recommended changes to the division's budget to support the daily
863 reimbursement rates described in Subsection (2)(o)(i);
- 864 (p) when a division child welfare caseworker identifies a safety concern with the foster
865 home, cooperate with the Office of Licensing and make a recommendation to the
866 Office of Licensing concerning whether the foster home's license should be placed on
867 conditions, suspended, or revoked; ~~and~~
- 868 (q) provide an attorney that is representing a parent or guardian in a dependency,
869 neglect, or abuse petition with access to division records regarding the parent or
870 guardian or the parent or guardian's family; and
- 871 [~~(q)~~] (r) perform other duties and functions required by law.
- 872 (3)(a) The division may provide, directly or through contract, services that include the
873 following:
- 874 (i) adoptions;
875 (ii) day-care services;
876 (iii) out-of-home placements for minors;
877 (iv) health-related services;
878 (v) homemaking services;

- 879 (vi) home management services;
- 880 (vii) protective services for minors;
- 881 (viii) transportation services; or
- 882 (ix) domestic violence services.
- 883 (b) The division shall monitor services provided directly by the division or through
- 884 contract to ensure compliance with applicable law and rules made in accordance with
- 885 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 886 (c)(i) Except as provided in Subsection (3)(c)(ii), if the division provides a service
- 887 through a private contract, the division shall post the name of the service provider
- 888 on the division's website.
- 889 (ii) Subsection (3)(c)(i) does not apply to a foster parent placement.
- 890 (4)(a) The division may:
- 891 (i) receive gifts, grants, devises, and donations;
- 892 (ii) encourage merchants and service providers to:
- 893 (A) donate goods or services; or
- 894 (B) provide goods or services at a nominal price or below cost;
- 895 (iii) distribute goods to applicants or consumers of division services free or for a
- 896 nominal charge and tax free; and
- 897 (iv) appeal to the public for funds to meet needs of applicants or consumers of
- 898 division services that are not otherwise provided by law, including Sub-for-Santa
- 899 programs, recreational programs for minors, and requests for household
- 900 appliances and home repairs.
- 901 (b) If requested by the donor and subject to state and federal law, the division shall use a
- 902 gift, grant, devise, donation, or proceeds from the gift, grant, devise, or donation for
- 903 the purpose requested by the donor.
- 904 (5)(a) In carrying out the requirements of Subsection (2)(f), the division shall:
- 905 (i) cooperate with the juvenile courts, the Division of Juvenile Justice and Youth
- 906 Services, and with all public and private licensed child welfare agencies and
- 907 institutions to develop and administer a broad range of services and support;
- 908 (ii) take the initiative in all matters involving the protection of abused or neglected
- 909 children, if adequate provisions have not been made or are not likely to be made;
- 910 and
- 911 (iii) make expenditures necessary for the care and protection of the children described
- 912 in Subsection (5)(a)(ii), within the division's budget.

- 913 (b) If an individual is referred to a local substance abuse authority or other private or
914 public resource for court-ordered drug screening under Subsection (2)(n), the court
915 shall order the individual to pay all costs of the tests unless:
- 916 (i) the cost of the drug screening is specifically funded or provided for by other
917 federal or state programs;
- 918 (ii) the individual is a participant in a drug court; or
- 919 (iii) the court finds that the individual is an indigent individual.
- 920 (6) Except to the extent provided by rules made in accordance with Title 63G, Chapter 3,
921 Utah Administrative Rulemaking Act, the division is not required to investigate
922 domestic violence in the presence of a child, as described in Section 76-5-114.
- 923 (7)(a) Except as provided in Subsection (7)(b), the division may not:
- 924 (i) require a parent who has a child in the custody of the division to pay for some or
925 all of the cost of any drug testing the parent is required to undergo; or
- 926 (ii) refer an individual who is receiving services from the division for drug testing by
927 means of a hair, fingernail, or saliva test that is administered to detect the presence
928 of drugs.
- 929 (b) Notwithstanding Subsection (7)(a)(ii), the division may refer an individual who is
930 receiving services from the division for drug testing by means of a saliva test if:
- 931 (i) the individual consents to drug testing by means of a saliva test; or
- 932 (ii) the court, based on a finding that a saliva test is necessary in the circumstances,
933 orders the individual to complete drug testing by means of a saliva test.

934 Section 13. Section **80-2a-101** is amended to read:

935 **80-2a-101 . Definitions.**

- 936 (1) "Custody" means the same as that term is defined in Section 80-2-102.
- 937 (2) "Division" means the Division of Child and Family Services created in Section 80-2-201.
- 938 (3) "Friend" means an adult who:
- 939 (a) has an established relationship with the child or a family member of the child; and
- 940 (b) is not the parent of the child.
- 941 (4) "Nonrelative" means an individual who is not a noncustodial parent or relative.
- 942 (5) "Relative" means an adult who:
- 943 (a) is the child's grandparent, great grandparent, aunt, great aunt, uncle, great uncle,
944 brother-in-law, sister-in-law, stepparent, first cousin, stepsibling, or sibling;
- 945 (b) is the first cousin of the child's parent;
- 946 (c) is a permanent guardian or parent of the child's sibling; or

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

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

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

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

954 Section 14. Section **80-3-102** is amended to read:

955 **80-3-102 . Definitions.**

956 (1) As used in this chapter:

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

959 [(a) (i) abused;

960 [(b) (ii) neglected; or

961 [(c) (iii) dependent.

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

963 [(3) (c) "Division" means the Division of Child and Family Services created in Section
 964 80-2-201.

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

966 [(a) (i) has an established relationship with the child or a family member of the child;
 967 and

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

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

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

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

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

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

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

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

979 [(8) (h) "Sibling visitation" means the same as that term is defined in Section 80-2-102.

980 [(9) (i) "Temporary custody" means the same as that term is defined in Section 80-2-102.

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

984 Section 15. Section **80-3-104** is amended to read:

985 **80-3-104 . Individuals entitled to be present at proceedings -- Legal**
986 **representation -- Attorney general responsibilities.**

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

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

992 (ii) have a right to be heard at each hearing and proceeding described in Subsection
993 (1)(a)(i).

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

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

1000 (b) If a parent or guardian is the subject of an abuse, neglect, or dependency petition, the
1001 juvenile court shall:

1002 (i) appoint an indigent defense service provider for a parent or guardian determined
1003 to be an indigent individual in accordance with Title 78B, Chapter 22, Part 2,
1004 Appointment of Counsel; and

1005 (ii) order indigent defense services for the parent or guardian who is determined to be
1006 an indigent individual in accordance with Title 78B, Chapter 22, Part 2,
1007 Appointment of Counsel.

1008 (3)(a) In an abuse, neglect, or dependency proceeding under this chapter, the juvenile
1009 court shall order that the child be represented by an attorney guardian ad litem, in
1010 accordance with Section 78A-2-803.

1011 (b) A guardian ad litem appointed under Subsection (3)(a) shall represent the best
1012 interest of the minor, in accordance with the requirements of Section 78A-2-803:

1013 (i) at the shelter hearing and at all subsequent court and administrative proceedings,
1014 including any proceeding for termination of parental rights in accordance with

1015 Chapter 4, Termination and Restoration of Parental Rights; and
 1016 (ii) in other actions initiated under this chapter when appointed by the court under
 1017 Section 78A-2-803 or as otherwise provided by law.

1018 (4) Subject to Section 67-5-17 and the attorney general's prosecutorial discretion in civil
 1019 enforcement actions, the attorney general shall, in accordance with Section 80-2-303,
 1020 enforce this chapter, Chapter 2, Child Welfare Services, and Chapter 2a, Removal and
 1021 Protective Custody of a Child, relating to protection or custody of an abused, neglected,
 1022 or dependent minor and the termination of parental rights.

1023 (5)(a) The juvenile court shall admit any individual to a hearing under this chapter,
 1024 including a hearing under Section 80-3-205, unless the juvenile court makes a finding
 1025 upon the record that the individual's presence at the hearing would:

- 1026 (i) be detrimental to the best interest of a minor who is a party to the proceeding;
- 1027 (ii) impair the fact-finding process; or
- 1028 (iii) be otherwise contrary to the interests of justice.

1029 (b) The juvenile court may exclude an individual from a hearing under Subsection (5)(a)
 1030 on the juvenile court's own motion or by motion of a party to the proceeding.

1031 (6) A determination of a minor's best interest under this chapter shall be made in
 1032 accordance with Sections 80-2a-201, 80-4-104, and any other section of this title
 1033 consistent with those sections.

1034 Section 16. Section **80-4-102** is amended to read:

1035 **80-4-102 . Definitions.**

1036 (1) As used in this chapter:

1037 [(1)] (a) "Division" means the Division of Child and Family Services created in Section
 1038 80-2-201.

1039 [(2)] (b) "Failure of parental adjustment" means that a parent or parents are unable or
 1040 unwilling within a reasonable time to substantially correct the circumstances,
 1041 conduct, or conditions that led to placement of their child outside of their home,
 1042 notwithstanding reasonable and appropriate efforts made by the division to return the
 1043 child to the home.

1044 [(3)] (c) "Former parent" means an individual whose legal parental rights were
 1045 terminated under this chapter.

1046 [(4)] (d) "Petition to restore parental rights" means a petition filed in accordance with this
 1047 chapter to restore the rights of a parent with regard to a child.

1048 [(5)] (e) "Petition for termination of parental rights" means a petition filed in accordance

1049 with this chapter to terminate the parental rights of a parent.

1050 [~~(6)~~] (f) "Temporary custody" means the same as that term is defined in Section 80-2-102.

1051 (2) A determination of a minor's best interest under this chapter shall be made in
1052 accordance with Sections 80-2a-201, 80-4-104, and any other section of this title
1053 consistent with those sections.

1054 Section 17. Section **81-13-202** is amended to read:

1055 **81-13-202 . Legislative findings -- Best interest of the minor child -- Interests of**
1056 **each party.**

1057 (1)(a) In every adoption of a minor child that, the best interest of the minor child should
1058 govern and be of foremost concern in a court's determination.

1059 (b) A determination of a minor child's best interest shall be made in accordance with
1060 Sections 80-2a-201, 80-4-104, and any other section of this title consistent with those
1061 sections.

1062 (2) The court shall make a specific finding regarding the best interest of the minor child,
1063 taking into consideration information provided to the court [~~pursuant to~~] in accordance
1064 with the requirements of this chapter relating to the health, safety, and welfare of the
1065 minor child and the moral climate of the potential adoptive placement.

1066 (3) The Legislature finds that the rights and interests of all parties affected by an adoption
1067 proceeding [~~must~~] shall be considered and balanced in determining what constitutional
1068 protections and processes are necessary and appropriate.

1069 (4)(a) The Legislature specifically finds that it is not in a minor child's best interest to be
1070 adopted by a person or persons who are cohabiting in a relationship that is not a
1071 legally valid and binding marriage under the laws of this state.

1072 (b) Nothing in this section limits or prohibits the court's placement of a minor child with
1073 a single adult who is not cohabiting or a person who is a relative of the minor child or
1074 a recognized placement under the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et
1075 seq.

1076 (5) The Legislature also finds that:

1077 (a) the state has a compelling interest in providing a stable and permanent home for a
1078 child adoptee in a prompt manner, in preventing the disruption of an adoptive
1079 placement, and in holding parents accountable for meeting the needs of a child
1080 adoptee;

1081 (b) an unmarried birth mother, faced with the responsibility of making crucial decisions
1082 about the future of a newborn child, is entitled to privacy, and has the right to make

- 1083 timely and appropriate decisions regarding her future and the future of the newborn
1084 child, and is entitled to assurance regarding the permanence of an adoptive placement;
- 1085 (c) a child adoptee has a right to permanence and stability in an adoptive placement;
- 1086 (d) adoptive parents have a constitutionally protected liberty and privacy interest in
1087 retaining custody of a child adoptee;
- 1088 (e) an unmarried biological father has an inchoate interest that acquires constitutional
1089 protection only when the unmarried biological father demonstrates a timely and full
1090 commitment to the responsibilities of parenthood, both during pregnancy and upon
1091 the child adoptee's birth; and
- 1092 (f) the state has a compelling interest in requiring an unmarried biological father to
1093 demonstrate commitment by providing appropriate medical care and financial
1094 support and by establishing legal parentage in accordance with the requirements of
1095 this chapter.
- 1096 (6)(a) In enacting this chapter, the Legislature has prescribed the conditions for
1097 determining whether an unmarried biological father's action is sufficiently prompt
1098 and substantial to require constitutional protection.
- 1099 (b) If an unmarried biological father fails to grasp the opportunities to establish a
1100 relationship with the child adoptee that are available to the unmarried biological
1101 father, the unmarried biological father's parental interest may be lost entirely, or
1102 greatly diminished in constitutional significance by the unmarried biological father's
1103 failure to timely exercise the unmarried biological father's parental interest, or by the
1104 unmarried biological father's failure to strictly comply with the available legal steps
1105 to substantiate the parental interest.
- 1106 (c)(i) A certain degree of finality is necessary in order to facilitate the state's
1107 compelling interest.
- 1108 (ii) The Legislature finds that the interests of the state, the birth mother, the child
1109 adoptee, and the adoptive parents described in this section outweigh the interest of
1110 an unmarried biological father who does not timely grasp the opportunity to
1111 establish and demonstrate a relationship with the child adoptee in accordance with
1112 the requirements of this chapter.
- 1113 (d)(i) The Legislature finds no practical way to remove all risk of fraud or
1114 misrepresentation in adoption proceedings, and has provided a method for
1115 absolute protection of an unmarried biological father's rights by compliance with
1116 the provisions of this chapter.

- 1117 (ii) In balancing the rights and interests of the state, and of all parties affected by
1118 fraud, specifically the child adoptee, the adoptive parents, and the unmarried
1119 biological father, the Legislature has determined that the unmarried biological
1120 father is in the best position to prevent or ameliorate the effects of fraud and that,
1121 therefore, the burden of fraud shall be borne by the unmarried biological father.
- 1122 (e) An unmarried biological father has the primary responsibility to protect the
1123 unmarried biological father's rights.
- 1124 (f) An unmarried biological father is presumed to know that the child adoptee may be
1125 adopted without the unmarried biological father's consent unless the unmarried
1126 biological father strictly complies with the provisions of this chapter, manifests a
1127 prompt and full commitment to the unmarried biological father's parental
1128 responsibilities, and establishes paternity.
- 1129 (7) The Legislature finds that an unmarried birth mother has:
- 1130 (a) a right of privacy with regard to the unmarried birth mother's pregnancy and adoption
1131 plan;
- 1132 (b) no legal obligation to disclose the identity of an unmarried biological father before or
1133 during an adoption proceeding; and
- 1134 (c) no obligation to volunteer information to the court with respect to the father.

1135 **Section 18. Effective Date.**

1136 This bill takes effect on May 6, 2026.