

Karianne Lisonbee 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 represent the expressed interest of a minor that is at least 12 years old, rather than the minor's best interest;
- ▶ requires an attorney guardian ad litem to inform the court at each hearing of:
 - the minor's expressed wishes; and
 - the date of the attorney guardian ad litem's last interaction with the minor;
- ▶ addresses when a guardian ad litem is appointed;
- ▶ adjusts the responsibilities and obligations of an attorney guardian ad litem;
- ▶ directs a court to consider the best interest of a minor within the context of the principles and provisions in 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:

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **26B-1-506**, as last amended by Laws of Utah 2024, Chapter 288

33 **26B-1-507**, as last amended by Laws of Utah 2024, Chapter 288

34 **78A-2-104**, as last amended by Laws of Utah 2023, Chapter 394

35 **78A-2-702**, as last amended by Laws of Utah 2021, Chapter 262

36 **78A-2-704**, as last amended by Laws of Utah 2022, Chapter 335

37 **78A-2-802**, as last amended by Laws of Utah 2023, Chapter 394

38 **78A-2-803**, as last amended by Laws of Utah 2023, Chapter 280

39 **80-1-102**, as last amended by Laws of Utah 2025, Chapter 426

40 **80-2-102**, as last amended by Laws of Utah 2025, Chapter 48

41 **80-2a-101**, as last amended by Laws of Utah 2025, Chapter 426

42 **80-3-102**, as last amended by Laws of Utah 2025, Chapter 426

43 **80-3-104**, as last amended by Laws of Utah 2022, Chapter 334

44 **80-4-102**, as last amended by Laws of Utah 2022, Chapter 335

45 **81-13-202**, as renumbered and amended by Laws of Utah 2025, Chapter 426

46 ENACTS:

47 **78A-2-104.5**, Utah Code Annotated 1953

48

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

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

51 **26B-1-506 . Fatality review committee report -- Response to report.**

52 (1) Within 20 days after the day on which the committee proceedings described in Section

53 26B-1-505 end, the committee shall submit:

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

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

56 (ii) any recommendations regarding action that should be taken in relation to an

57 employee of the department or a person who contracts with the department; and

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

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

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

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

97 report or a document described in this Subsection (5)(a) is reviewed or discussed.

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

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

105 (i) a fatality review document; and

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

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

108 **26B-1-507 . Reporting to, and review by, legislative committees.**

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

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;
- 283 (c) a member of the Senate, whom the president of the Senate appoints;
- 284 (d) a member of the House of Representatives, whom the speaker of the House of
- 285 Representatives appoints; and
- 286 (e) the guardian ad litem director, described in Section 78A-2-802, or the director's
- 287 designee.
- 288 (3) The committee shall:
- 289 (a) oversee the statewide guardian ad litem program;
- 290 (b) evaluate the Office of Guardian ad Litem's compliance with the statutory obligations
- 291 described in Section 78A-2-802;
- 292 (c) assess the effectiveness of the statewide guardian ad litem program, including in:
- 293 (i) cases in which the minor is the subject of an abuse, neglect, or dependency
- 294 petition as described in Section 78A-2-803;
- 295 (ii) cases in which an attorney guardian ad litem is appointed by the district court as
- 296 described in Section 78A-2-703;
- 297 (iii) cases in which a private guardian ad litem is appointed, as described in Section
- 298 78A-2-705; and
- 299 (iv) any other cases in which a guardian ad litem represents a minor, including as
- 300 described in Section 78B-7-202, 80-4-106, 80-7-104, or 81-13-203;

- 301 (d) annually review a randomly selected sample of the statewide guardian ad litem
302 program cases, including attorney guardian ad litem and private guardian ad litem
303 cases;
- 304 (e) review the reports described in Sections 78A-2-802 and 80-2-1104; and
305 (f) make recommendations regarding the statewide guardian ad litem program.
- 306 (4) In reviewing cases as described in Subsection (3)(d), the committee shall assess:
- 307 (a) whether the office is adequately representing the minor's interests;
308 (b) compliance with the requirement to conduct an independent investigation, meet with
309 the minor, and keep the minor informed regarding the case; and
310 (c) the outcomes of cases for children and families.
- 311 (5) The committee may:
- 312 (a) replace the guardian ad litem director in accordance with Section 78A-2-802;
313 (b) establish policies, requirements, or guidelines for guardians ad litem; and
314 (c) subject to Subsection (6), review and discuss individual cases assigned to the Office
315 of Guardian ad Litem.
- 316 (6)(a) If the committee discusses an individual case, the committee shall close the
317 committee's meeting in accordance with Title 52, Chapter 4, Open and Public
318 Meetings Act.
- 319 (b) A record of the committee regarding an individual case:
- 320 (i) is classified as private under Section 63G-2-302; and
321 (ii) may be disclosed only in accordance with federal law and Title 63G, Chapter 2,
322 Government Records Access and Management Act.
- 323 (c) The committee shall have access to all of the Office of Guardian ad Litem's records,
324 including records regarding individual cases.
- 325 (d) Except as provided in Subsection (6)(c), and notwithstanding Title 63G, Chapter 2,
326 Government Records Access and Management Act, all records of an attorney
327 guardian ad litem are confidential and may not be released or made public upon
328 subpoena, search warrant, discovery proceedings, or otherwise.
- 329 (e) In accordance with Title 63G, Chapter 2, Government Records Access and
330 Management Act, all documents and information received by the committee from the
331 Office of Guardian ad Litem shall maintain the same classification under Title 63G,
332 Chapter 2, Government Records Access and Management Act, that was designated
333 by the Office of Guardian ad Litem.
- 334 (f) Subsection (6)(c) is an exception to Utah Rules of Professional Conduct, Rule 1.6, as

335 provided by Rule 1.6(b)(4), because of:
 336 (i) the unique role of an attorney guardian ad litem; and
 337 (ii) the state's role and responsibility to provide a guardian ad litem program, and as
 338 parens patriae, to protect minors.

339 (7) The committee shall meet at least quarterly.

340 (8) A member may not receive compensation or benefits for the member's service, but may
 341 receive per diem and travel expenses in accordance with:

342 (a) Section 63A-3-106;

343 (b) Section 63A-3-107; and

344 (c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and
 345 63A-3-107.

346 (9) On or before November 1, the committee shall provide an annual report to the Judicial
 347 Council and the Child Welfare Legislative Oversight Panel regarding the committee's
 348 activities, findings, and recommendations.

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

350 **78A-2-702 . Definitions.**

351 (1) As used in this part:

352 [(1)] (a) "Attorney guardian ad litem" means an attorney employed by the office.

353 [(2)] (b) "Director" means the director of the office.

354 (c) "Expressed interest" means the same as that term is defined in Section 80-1-102.

355 [(3)] (d) "Guardian ad litem" means an attorney guardian ad litem or a private attorney
 356 guardian ad litem.

357 [(4)] (e) "Office" means the Office of Guardian ad Litem, created in Section 78A-2-802.

358 [(5)] (f) "Private attorney guardian ad litem" means an attorney designated by the office
 359 in accordance with Section 78A-2-705 who is not an employee of the office.

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

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

364 **78A-2-704 . Public policy regarding attorney guardian ad litem -- Training.**

365 (1) An attorney guardian ad litem may not presume that a child and the child's parent are
 366 adversaries.

367 (2) An attorney guardian ad litem shall be trained on and implement into practice:

368 (a) the parental rights and child and family protection principles provided in Section

- 369 80-2a-201;
- 370 (b) the fundamental liberties of parents and the public policy of the state to support
371 family unification to the fullest extent possible;
- 372 (c) the constitutionally protected rights of parents, in cases where the state is a party;
- 373 (d) the use of a least restrictive means analysis regarding state claims of a compelling
374 child welfare interest;
- 375 (e) the priority of maintaining a child safely in the child's home, whenever possible;
- 376 (f) the importance of:
- 377 (i) kinship placement, ~~[in the event]~~ if the child is removed from the home;~~[-and]~~
- 378 (ii) keeping sibling groups together, whenever practicable and in the best interests of
379 the children;
- 380 (g) the preference for kinship adoption over nonkinship adoption, if the parent-child
381 relationship is legally terminated;
- 382 (h) the potential for a guardianship placement if the parent-child relationship is legally
383 terminated and no appropriate adoption placement is available; and
- 384 (i) the use of an individualized permanency plan, only as a last resort.

- 385 (3) The office shall implement policies and practice guidelines that reflect the priorities
386 described in Subsections (2)(e) through (i) for the placement of children.

387 Section 7. Section **78A-2-802** is amended to read:

388 **78A-2-802 . Office of Guardian ad Litem -- Appointment of director -- Duties of**
389 **director -- Contracts in second, third, and fourth districts.**

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

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

395 (b) The guardian ad litem director shall:

- 396 (i) serve at the pleasure of the Guardian ~~[Ad]~~ ad Litem Oversight Committee, in
397 consultation with the state court administrator;
- 398 (ii) be an attorney licensed to practice law in this state and selected on the basis of:
- 399 (A) professional ability;
- 400 (B) experience in abuse, neglect, and dependency proceedings;
- 401 (C) familiarity with the role, purpose, and function of guardians ad litem in both
402 juvenile and district courts; and

- 403 (D) ability to develop training curricula and reliable methods for data collection
404 and evaluation; and
- 405 (iii) before or immediately after the director's appointment, be trained in nationally
406 recognized standards for an attorney guardian ad litem.
- 407 (3) The guardian ad litem director shall:
- 408 (a) establish policy and procedure for the management of a statewide guardian ad litem
409 program;
- 410 (b) manage the guardian ad litem program to assure that a minor receives qualified
411 guardian ad litem services in an abuse, neglect, or dependency proceeding under Title
412 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, in accordance with
413 state and federal law and policy;
- 414 (c) develop standards for contracts of employment and contracts with independent
415 contractors, and employ or contract with attorneys licensed to practice law in this
416 state, to act as attorney guardians ad litem in accordance with Section 78A-2-803;
- 417 (d) develop and provide training programs for volunteers in accordance with the United
418 States Department of Justice National Court Appointed Special ~~Advocates~~ Advocate
419 Association standards;
- 420 (e) develop, publish, and update a guardian ad litem manual that includes:
- 421 (i) best practices for an attorney guardian ad litem; and
422 (ii) statutory and case law relating to an attorney guardian ad litem;
- 423 (f) develop and provide a library of materials for the continuing education of attorney
424 guardians ad litem and volunteers;
- 425 (g) educate court personnel regarding the role and function of guardians ad litem;
- 426 (h) develop needs assessment strategies, perform needs assessment surveys, and ensure
427 that guardian ad litem training programs correspond with actual and perceived needs
428 for training;
- 429 (i) design and implement evaluation tools based on specific objectives targeted in the
430 needs assessments described in Subsection (3)(h);
- 431 (j) evaluate the performance of attorney guardians ad litem and private guardians ad
432 litem, including tracking the frequency of a guardian ad litem's interactions with a
433 minor and whether the interaction was:
- 434 (i) directly with the minor in person;
435 (ii) directly with the minor through telephone, video, or writing; or
436 (iii) indirectly with the minor through an assigned trained volunteer, in accordance

- 437 with Section 78A-2-803;
- 438 ~~[(j)]~~ (k) prepare and submit an annual report to the Guardian ad Litem Oversight
- 439 Committee and the Child Welfare Legislative Oversight Panel created in Section
- 440 36-33-102 regarding:
- 441 (i) the development, policy, and management of the statewide guardian ad litem
- 442 program;
- 443 (ii) the training and evaluation of attorney guardians ad litem and volunteers,
- 444 including needs assessment surveys and evaluation tools described in Subsections
- 445 (3)(h) and (i);
- 446 (iii) specific action the director has taken to:
- 447 (A) confirm that minor clients receive qualified guardian ad litem services; and
- 448 (B) audit and review cases assigned to the office for statutory compliance, best
- 449 practices, and outcomes;
- 450 (iv) guardians ad litem client interaction data; and
- 451 ~~[(iii)]~~ (v) the number of minors served by the office;
- 452 ~~[(k)]~~ (l) hire, train, and supervise investigators; and
- 453 ~~[(h)]~~ (m) administer the program of private attorney guardians ad litem established under
- 454 Section 78A-2-705.
- 455 (4) A contract of employment or independent contract described in Subsection (3)(c) shall
- 456 provide that an attorney guardian ad litem in the second, third, and fourth judicial
- 457 districts devote the attorney guardian's ad litem full time and attention to the role of
- 458 attorney guardian ad litem, having no clients other than the minors whose interest the
- 459 attorney guardian ad litem represents within the guardian ad litem program.
- 460 Section 8. Section **78A-2-803** is amended to read:
- 461 **78A-2-803 . Appointment of attorney guardian ad litem -- Duties and**
- 462 **responsibilities -- Training -- Trained staff and court-appointed special advocate**
- 463 **volunteers -- Costs -- Immunity -- Annual report.**
- 464 (1)(a) The court:
- 465 (i) may appoint an attorney guardian ad litem to represent ~~[the best interest of]~~ a
- 466 minor involved in any case before the court; and
- 467 (ii) shall consider the best interest of a minor, consistent with the provisions of
- 468 Section 80-2a-201, in determining whether to appoint a guardian ad litem.
- 469 (b) In all cases where an attorney guardian ad litem is appointed, the court shall make a
- 470 finding that establishes the necessity of the appointment within seven days of the

- 471 appointment.
- 472 (2) ~~[An]~~ Following appointment by the court, an attorney guardian ad litem shall represent
 473 the ~~[best interest of each-]~~minor who ~~[may become]~~ is the subject of an abuse, neglect, or
 474 dependency petition ~~[from the earlier of:]~~ in accordance with Subsection (8).
 475 ~~[(a) the day on which the minor is removed from the minor's home by the division; or]~~
 476 ~~[(b) the day on which the abuse, neglect, or dependency petition is filed.]~~
- 477 (3) The director shall ensure that each attorney guardian ad litem employed by the office:
 478 (a) represents the best interest of each client of the office in all venues, including:
 479 (i) court proceedings; and
 480 (ii) meetings to develop, review, or modify the child and family plan with the
 481 division in accordance with Section 80-3-307;
 482 (b) before representing any minor before the court, be trained in:
 483 (i) applicable statutory, regulatory, and case law; and
 484 (ii) nationally recognized standards for an attorney guardian ad litem;
 485 (c) conducts or supervises an ongoing, independent investigation in order to obtain,
 486 first-hand, a clear understanding of the situation~~[-and]~~ , needs, and wishes of the
 487 minor;
 488 (d)(i) personally meets with the minor, unless:
 489 (A) the minor is outside of the state; or
 490 (B) meeting with the minor would be detrimental to the minor;
 491 (ii) personally interviews the minor, unless:
 492 (A) the minor is not old enough to communicate;
 493 (B) the minor lacks the capacity to participate in a meaningful interview; or
 494 (C) the interview would be detrimental to the minor; and
 495 (iii) if the minor is placed in an out-of-home placement, or is being considered for
 496 placement in an out-of-home placement, unless it would be detrimental to the
 497 minor~~[:]~~ ,
 498 ~~[(A)]~~ to the extent possible, determines the minor's goals and concerns regarding
 499 placement~~[:and]~~ ;
 500 ~~[(B) personally assesses or supervises an assessment of the appropriateness and~~
 501 ~~safety of the minor's environment in each placement;]~~
 502 (e) personally attends all review hearings pertaining to the minor's case;
 503 (f) participates in all appeals, unless excused by order of the court;
 504 (g) is familiar with local experts who can provide consultation and testimony regarding

- 505 the reasonableness and appropriateness of efforts made by the division to:
- 506 (i) maintain a minor in the minor's home; or
- 507 (ii) reunify a minor with a minor's parent;
- 508 (h) to the extent possible, and unless it would be detrimental to the minor, personally or
- 509 through a trained volunteer, paralegal, or other trained staff, keeps the minor advised
- 510 of:
- 511 (i) the status of the minor's case;
- 512 (ii) all court and administrative proceedings;
- 513 (iii) discussions with, and proposals made by, other parties;
- 514 (iv) court action; and
- 515 (v) the psychiatric, medical, or other treatment or diagnostic services that are to be
- 516 provided to the minor;
- 517 (i) in cases where a child and family plan is required, personally or through a trained
- 518 volunteer, paralegal, or other trained staff, monitors implementation of a minor's
- 519 child and family plan and any dispositional orders to:
- 520 (i) determine whether services ordered by the court:
- 521 (A) are actually provided; and
- 522 (B) are provided in a timely manner; and
- 523 (ii) ~~[attempt to]~~ assess whether services ordered by the court are accomplishing the
- 524 intended goal of the services; and
- 525 (j) makes all necessary court filings to advance the ~~[guardian's ad litem position~~
- 526 ~~regarding the best interest of the minor]~~ orders and established goals of the court.
- 527 (4)(a) Consistent with this Subsection (4), an attorney guardian ad litem may use trained
- 528 volunteers, in accordance with Title 67, Chapter 20, Volunteer Government Workers
- 529 Act, trained paralegals, and other trained staff to assist in investigation and
- 530 preparation of information regarding the cases of individual minors before the court.
- 531 (b) A volunteer, paralegal, or other staff utilized under this section shall be trained in
- 532 and follow, at a minimum, the guidelines established by the United States
- 533 Department of Justice National Court Appointed Special Advocate Association.
- 534 (5) The attorney guardian ad litem shall continue to represent the best interest of the minor
- 535 until released from that duty by the court.
- 536 (6)(a) Consistent with Subsection (6)(b), the juvenile court is responsible for:
- 537 (i) all costs resulting from the appointment of an attorney guardian ad litem; and
- 538 (ii) the costs of volunteer, paralegal, and other staff appointment and training.

- 539 (b) The court shall use funds appropriated by the Legislature for the guardian ad litem
 540 program to cover the costs described in Subsection (6)(a).
- 541 (c)(i) When the court appoints an attorney guardian ad litem under this section, the
 542 court may assess all or part of the attorney fees, court costs, and paralegal, staff,
 543 and volunteer expenses against the minor's parents, parent, or legal guardian in a
 544 proportion that the court determines to be just and appropriate, taking into
 545 consideration costs already borne by the parents, parent, or legal guardian,
 546 including:
- 547 (A) private attorney fees;
 - 548 (B) counseling for the minor;
 - 549 (C) counseling for the parent, if mandated by the court or recommended by the
 550 division; and
 - 551 (D) any other cost the court determines to be relevant.
- 552 (ii) The court may not assess the fees or costs described in Subsection (6)(c)(i)
 553 against:
- 554 (A) a legal guardian, when that guardian is the state; or
 - 555 (B) consistent with Subsection (6)(d), a parent who is found to be an indigent
 556 individual.
- 557 (d) For purposes of Subsection (6)(c)(ii)(B), if an individual claims to be an indigent
 558 individual, the court shall:
- 559 (i) require the individual to submit an affidavit of indigency as provided in Section
 560 78A-2-302; and
 - 561 (ii) follow the procedures and make the determinations as provided in Section
 562 78A-2-304.
- 563 (e) The minor's parents, parent, or legal guardian may appeal the court's determination,
 564 under Subsection (6)(c), of fees, costs, and expenses.
- 565 (7) An attorney guardian ad litem appointed under this section, when serving in the scope
 566 of the attorney guardian's ad litem duties as guardian ad litem is considered an employee
 567 of the state for purposes of indemnification under Title 63G, Chapter 7, Governmental
 568 Immunity Act of Utah.
- 569 ~~[(8)(a) An attorney guardian ad litem shall represent the best interest of a minor.]~~
- 570 ~~[(b) If the minor's wishes differ from the attorney's determination of the minor's best~~
 571 ~~interest, the attorney guardian ad litem shall communicate the minor's wishes to the~~
 572 ~~court in addition to presenting the attorney's determination of the minor's best interest.]~~

- 573 [(e) A difference between the minor's wishes and the attorney's determination of best
574 interest may not be considered a conflict of interest for the attorney.]
- 575 ~~[(d) The guardian ad litem shall disclose the wishes of the minor unless the minor:]~~
- 576 ~~[(i) instructs the guardian ad litem to not disclose the minor's wishes; or]~~
- 577 ~~[(ii) has not expressed any wishes.]~~
- 578 [(e) The court may appoint one attorney guardian ad litem to represent the best interests
579 of more than one minor of a marriage.]
- 580 (8)(a) An attorney guardian ad litem appointed in accordance with this section shall:
- 581 (i) represent the minor's best interest for a minor that is less than 12 years old;
- 582 (ii) represent the minor's expressed interest for a minor that is 12 years old or older;
- 583 and
- 584 (iii) transition from representing a minor's best interest to representing a minor's
585 expressed interest if the minor turns 12 years old during the representation.
- 586 (b)(i) An attorney guardian ad litem that represents a minor's best interest shall notify
587 the court if the minor's expressed interest is in conflict with the attorney guardian
588 ad litem's assessment of the minor's best interest, but continue to represent the
589 minor's best interest.
- 590 (ii) An attorney guardian ad litem that represents a minor's expressed interest shall
591 notify the court if the attorney guardian ad litem disagrees with the minor's
592 expressed interest.
- 593 (c) An attorney guardian ad litem may continue to represent a minor despite a
594 disagreement described in Subsection (8)(b), unless the court finds that there is a
595 specific conflict of interest.
- 596 (9)(a) At each hearing, the attorney guardian ad litem shall inform the court:
- 597 (i) of the minor's wishes and desired outcome;
- 598 (ii) whether the minor expressed a desire to be present at the hearing; and
- 599 (iii) of the date that the attorney guardian ad litem most recently spoke with the
600 minor, including whether the interaction was:
- 601 (A) directly with the minor in person;
- 602 (B) directly with the minor through telephone, video, or writing; or
- 603 (C) indirectly with the minor through an assigned trained volunteer, in accordance
604 with Subsection (4).
- 605 (b) The guardian ad litem shall disclose the wishes of the minor unless the minor:
- 606 (i) instructs the guardian ad litem to not disclose the minor's wishes; or

- 607 (ii) has not expressed any wishes.
- 608 (10)(a) A minor may request a change in an appointed attorney guardian ad litem
609 directly or through any party if there is good cause.
- 610 (b) The court shall determine whether to change the appointed attorney guardian ad
611 litem.
- 612 (11) The court may appoint one attorney guardian ad litem to represent minor siblings if no
613 conflict is present.
- 614 ~~[(9)]~~ (12) The division shall provide an attorney guardian ad litem access to all division
615 records regarding the minor at issue and the minor's family.
- 616 ~~[(10)]~~ (13)(a) An attorney guardian ad litem shall conduct an independent investigation
617 regarding the minor at issue, the minor's family, and what is in the best interest of the
618 minor.
- 619 (b) An attorney guardian ad litem may interview the minor's child welfare caseworker,
620 but may not:
- 621 (i) rely exclusively on the conclusions and findings of the division; or
- 622 (ii) except as provided in Subsection ~~[(10)(e)]~~ (13)(c), conduct a visit with the client
623 in conjunction with the visit of a child welfare caseworker.
- 624 (c)(i) An attorney guardian ad litem may meet with a client during a team meeting,
625 court hearing, or similar venue when a child welfare caseworker is present for a
626 purpose other than the attorney guardian ad litem's meeting with the client.
- 627 (ii) A party and the party's counsel may attend a team meeting in accordance with the
628 Utah Rules of Professional Conduct.
- 629 ~~[(11)]~~ (14)(a) An attorney guardian ad litem shall maintain current and accurate records
630 regarding:
- 631 (i) the number of times the attorney has had contact with each minor; and
- 632 (ii) the actions the attorney has taken in representation of the minor's best interest.
- 633 (b) In every hearing where the attorney guardian ad litem makes a recommendation
634 regarding the best interest of the minor, the court shall require the attorney guardian
635 ad litem to disclose the activities and sources of the attorney guardian ad litem's
636 independent investigation and factors that form the basis of the recommendation.
- 637 ~~[(12)]~~ (15)(a) Except as provided in Subsection ~~[(12)(b)]~~ (15)(b), and notwithstanding
638 Title 63G, Chapter 2, Government Records Access and Management Act, all records
639 of an attorney guardian ad litem are confidential and may not be released or made
640 public upon subpoena, search warrant, discovery proceedings, or otherwise.

- 641 (b) Consistent with Subsection [~~(12)(d)~~] (15)(d), all records of an attorney guardian ad
642 litem:
- 643 (i) are subject to legislative subpoena, under Title 36, Chapter 14, Legislative
644 Subpoena Powers; and
- 645 (ii) shall be released to the Legislature.
- 646 (c)(i) Except as provided in Subsection [~~(12)(e)(ii)~~] (15)(c)(ii), the Legislature shall
647 maintain records released in accordance with Subsection [~~(12)(b)~~] (15)(b) as
648 confidential.
- 649 (ii) Notwithstanding Subsection [~~(12)(e)(i)~~] (15)(c)(i), the Office of the Legislative
650 Auditor General may include summary data and nonidentifying information in the
651 office's audits and reports to the Legislature.
- 652 (d)(i) Subsection [~~(12)(b)~~] (15)(b) is an exception to Utah Rules of Professional
653 Conduct, Rule 1.6, as provided by Rule 1.6(b)(4), because of:
- 654 (A) the unique role of an attorney guardian ad litem described in Subsection (8);
655 and
- 656 (B) the state's role and responsibility to provide a guardian ad litem program, and
657 as parens patriae, to protect minors.
- 658 (ii) A claim of attorney-client privilege does not bar access to the records of an
659 attorney guardian ad litem by the Legislature, through legislative subpoena.
- 660 (16)(a) An attorney guardian ad litem shall respond to case-related discovery.
- 661 (b) Interrogatories, requests for admissions, or depositions may not be imposed on a
662 minor.
- 663 (17)(a) An attorney guardian ad litem should make a best interest recommendation based
664 on the attorney guardian ad litem's direct knowledge and independent and personal
665 investigation.
- 666 (b) The Office of Guardian ad Litem's director or a managing attorney shall preserve the
667 independent investigation of an attorney guardian ad litem as required in Subsection
668 (13)(a) and may not direct an attorney guardian ad litem to take a certain position or
669 make a particular recommendation.
- 670 (18) When making a ruling, the juvenile court shall consider:
- 671 (a) a minor's expressed interest if the minor is sufficiently mature to express reasoned
672 and independent preferences; and
- 673 (b) the best interest of a minor in accordance with Sections 80-2a-201 and 80-4-104.
- 674 Section 9. Section **80-1-102** is amended to read:

675 **80-1-102 . Juvenile Code definitions.**

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

677 (1)(a) "Abuse" means:

678 (i)(A) nonaccidental harm of a child;

679 (B) threatened harm of a child;

680 (C) sexual exploitation;

681 (D) sexual abuse; or

682 (E) human trafficking of a child in violation of Section 76-5-308.5; or

683 (ii) that a child's parent:

684 (A) intentionally, knowingly, or recklessly causes the death of another parent of
685 the child;686 (B) is identified by a law enforcement agency as the primary suspect in an
687 investigation for intentionally, knowingly, or recklessly causing the death of
688 another parent of the child; or689 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or
690 recklessly causing the death of another parent of the child.

691 (b) "Abuse" does not include:

692 (i) reasonable discipline or management of a child, including withholding privileges;

693 (ii) conduct described in Section 76-2-401; or

694 (iii) the use of reasonable and necessary physical restraint or force on a child:

695 (A) in self-defense;

696 (B) in defense of others;

697 (C) to protect the child; or

698 (D) to remove a weapon in the possession of a child for any of the reasons
699 described in Subsections (1)(b)(iii)(A) through (C).

700 (2) "Abused child" means a child who has been subjected to abuse.

701 (3)(a) "Adjudication" means, except as provided in Subsection (3)(b):

702 (i) for a delinquency petition or criminal information under Chapter 6, Juvenile
703 Justice:704 (A) a finding by the juvenile court that the facts alleged in a delinquency petition
705 or criminal information alleging that a minor committed an offense have been
706 proved;707 (B) an admission by a minor in the juvenile court as described in Section 80-6-306;
708 or

- 709 (C) a plea of no contest by minor in the juvenile court; or
710 (ii) for all other proceedings under this title, a finding by the juvenile court that the
711 facts alleged in the petition have been proved.
- 712 (b) "Adjudication" does not include:
713 (i) an admission by a minor described in Section 80-6-306 until the juvenile court
714 enters the minor's admission; or
715 (ii) a finding of not competent to proceed in accordance with Section 80-6-402.
- 716 (4)(a) "Adult" means an individual who is 18 years old or older.
717 (b) "Adult" does not include an individual:
718 (i) who is 18 years old or older; and
719 (ii) who is a minor.
- 720 (5) "Attorney guardian ad litem" means the same as that term is defined in Section
721 78A-2-801.
- 722 (6) "Board" means the Board of Juvenile Court Judges.
- 723 (7) "Child" means, except as provided in Section 80-2-905, an individual who is under 18
724 years old.
- 725 (8) "Child and family plan" means a written agreement between a child's parents or
726 guardian and the Division of Child and Family Services as described in Section 80-3-307.
- 727 (9) "Child placing" means the same as that term is defined in Section 26B-2-101.
- 728 (10) "Child-placing agency" means the same as that term is defined in Section 26B-2-101.
- 729 (11) "Child protection team" means a team consisting of:
730 (a) the child welfare caseworker assigned to the case;
731 (b) if applicable, the child welfare caseworker who made the decision to remove the
732 child;
733 (c) a representative of the school or school district where the child attends school;
734 (d) if applicable, the law enforcement officer who removed the child from the home;
735 (e) a representative of the appropriate Children's Justice Center, if one is established
736 within the county where the child resides;
737 (f) if appropriate, and known to the division, a therapist or counselor who is familiar
738 with the child's circumstances;
739 (g) if appropriate, a representative of law enforcement selected by the chief of police or
740 sheriff in the city or county where the child resides; and
741 (h) any other individuals determined appropriate and necessary by the team coordinator
742 and chair.

- 743 (12)(a) "Chronic abuse" means repeated or patterned abuse.
744 (b) "Chronic abuse" does not mean an isolated incident of abuse.
- 745 (13)(a) "Chronic neglect" means repeated or patterned neglect.
746 (b) "Chronic neglect" does not mean an isolated incident of neglect.
- 747 (14) "Clandestine laboratory operation" means the same as that term is defined in Section
748 58-37d-3.
- 749 (15) "Commit" or "committed" means, unless specified otherwise:
750 (a) with respect to a child, to transfer legal custody; and
751 (b) with respect to a minor who is at least 18 years old, to transfer custody.
- 752 (16) "Community-based program" means a nonsecure residential or nonresidential program,
753 designated to supervise and rehabilitate juvenile offenders, that prioritizes the least
754 restrictive setting, consistent with public safety, and operated by or under contract with
755 the Division of Juvenile Justice and Youth Services.
- 756 (17) "Community placement" means placement of a minor in a community-based program
757 described in Section 80-5-402.
- 758 (18) "Correctional facility" means:
759 (a) a county jail; or
760 (b) a secure correctional facility as defined in Section 64-13-1.
- 761 (19) "Criminogenic risk factors" means evidence-based factors that are associated with a
762 minor's likelihood of reoffending.
- 763 (20) "Department" means the Department of Health and Human Services created in Section
764 26B-1-201.
- 765 (21) "Dependent child" or "dependency" means a child who is without proper care through
766 no fault of the child's parent, guardian, or custodian.
- 767 (22) "Deprivation of custody" means transfer of legal custody by the juvenile court from a
768 parent or a previous custodian to another person, agency, or institution.
- 769 (23) "Detention" means home detention or secure detention.
- 770 (24) "Detention facility" means a facility, established by the Division of Juvenile Justice
771 and Youth Services in accordance with Section 80-5-501, for minors held in detention.
- 772 (25) "Detention risk assessment tool" means an evidence-based tool established under
773 Section 80-5-203 that:
774 (a) assesses a minor's risk of failing to appear in court or reoffending before
775 adjudication; and
776 (b) is designed to assist in making a determination of whether a minor shall be held in

- 777 detention.
- 778 (26) "Developmental immaturity" means incomplete development in one or more domains
779 that manifests as a functional limitation in the minor's present ability to:
- 780 (a) consult with counsel with a reasonable degree of rational understanding; and
781 (b) have a rational as well as factual understanding of the proceedings.
- 782 (27) "Disposition" means an order by a juvenile court, after the adjudication of a minor,
783 under Section 80-3-405 or 80-4-305 or Chapter 6, Part 7, Adjudication and Disposition.
- 784 (28) "Educational neglect" means that, after receiving a notice of compulsory education
785 violation under Section 53G-6-202, the parent or guardian fails to make a good faith
786 effort to ensure that the child receives an appropriate education.
- 787 (29) "Educational series" means an evidence-based instructional series:
- 788 (a) obtained at a substance abuse program that is approved by the Division of Integrated
789 Healthcare in accordance with Section 26B-5-104; and
790 (b) designed to prevent substance use or the onset of a mental health disorder.
- 791 (30) "Emancipated" means the same as that term is defined in Section 80-7-102.
- 792 (31) "Evidence-based" means a program or practice that has had multiple randomized
793 control studies or a meta-analysis demonstrating that the program or practice is effective
794 for a specific population or has been rated as effective by a standardized program
795 evaluation tool.
- 796 (32) "Expressed interest" means the goals, desires, outcomes, or wishes that a minor has
797 expressed.
- 798 [~~(32)~~] (33) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.
- 799 [~~(33)~~] (34) "Formal probation" means a minor is:
- 800 (a) supervised in the community by, and reports to, a juvenile probation officer or an
801 agency designated by the juvenile court; and
802 (b) subject to return to the juvenile court in accordance with Section 80-6-607.
- 803 [~~(34)~~] (35) "Gender identity" means the same as that term is defined in Section 34A-5-102.
- 804 [~~(35)~~] (36) "Group rehabilitation therapy" means psychological and social counseling of one
805 or more individuals in the group, depending upon the recommendation of the therapist.
- 806 [~~(36)~~] (37) "Guardian" means a person appointed by a court to make decisions regarding a
807 minor, including the authority to consent to:
- 808 (a) marriage;
809 (b) enlistment in the armed forces;
810 (c) major medical, surgical, or psychiatric treatment; or

- 811 (d) legal custody, if legal custody is not vested in another individual, agency, or
812 institution.
- 813 ~~[(37)]~~ (38) "Guardian ad litem" means the same as that term is defined in Section 78A-2-801.
- 814 ~~[(38)]~~ (39) "Harm" means:
- 815 (a) physical or developmental injury or damage;
- 816 (b) emotional damage that results in a serious impairment in the child's growth,
817 development, behavior, or psychological functioning;
- 818 (c) sexual abuse; or
- 819 (d) sexual exploitation.
- 820 ~~[(39)]~~ (40) "Home detention" means placement of a minor:
- 821 (a) if prior to a disposition, in the minor's home, or in a surrogate home with the consent
822 of the minor's parent, guardian, or custodian, under terms and conditions established
823 by the Division of Juvenile Justice and Youth Services or the juvenile court; or
- 824 (b) if after a disposition, and in accordance with Section 78A-6-353 or 80-6-704, in the
825 minor's home, or in a surrogate home with the consent of the minor's parent,
826 guardian, or custodian, under terms and conditions established by the Division of
827 Juvenile Justice and Youth Services or the juvenile court.
- 828 ~~[(40)]~~ (41)(a) "Incest" means engaging in sexual intercourse with an individual whom the
829 perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle,
830 aunt, nephew, niece, or first cousin.
- 831 (b) "Incest" includes:
- 832 (i) blood relationships of the whole or half blood, regardless of whether the
833 relationship is legally recognized;
- 834 (ii) relationships of parent and child by adoption; and
- 835 (iii) relationships of stepparent and stepchild while the marriage creating the
836 relationship of a stepparent and stepchild exists.
- 837 ~~[(41)]~~ (42) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.
- 838 ~~[(42)]~~ (43) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.
- 839 ~~[(43)]~~ (44) "Indigent defense service provider" means the same as that term is defined in
840 Section 78B-22-102.
- 841 ~~[(44)]~~ (45) "Indigent defense services" means the same as that term is defined in Section
842 78B-22-102.
- 843 ~~[(45)]~~ (46) "Indigent individual" means the same as that term is defined in Section
844 78B-22-102.

- 845 [~~(46)~~] (47)(a) "Intake probation" means a minor is:
- 846 (i) monitored by a juvenile probation officer; and
- 847 (ii) subject to return to the juvenile court in accordance with Section 80-6-607.
- 848 (b) "Intake probation" does not include formal probation.
- 849 [~~(47)~~] (48) "Intellectual disability" means a significant subaverage general intellectual
- 850 functioning existing concurrently with deficits in adaptive behavior that constitutes a
- 851 substantial limitation to the individual's ability to function in society.
- 852 [~~(48)~~] (49) "Juvenile offender" means:
- 853 (a) a serious youth offender; or
- 854 (b) a youth offender.
- 855 [~~(49)~~] (50) "Juvenile probation officer" means a probation officer appointed under Section
- 856 78A-6-205.
- 857 [~~(50)~~] (51) "Juvenile receiving center" means a nonsecure, nonresidential program
- 858 established by the Division of Juvenile Justice and Youth Services, or under contract
- 859 with the Division of Juvenile Justice and Youth Services, that is responsible for minors
- 860 taken into temporary custody under Section 80-6-201.
- 861 [~~(51)~~] (52) "Legal custody" means a relationship embodying:
- 862 (a) the right to physical custody of the minor;
- 863 (b) the right and duty to protect, train, and discipline the minor;
- 864 (c) the duty to provide the minor with food, clothing, shelter, education, and ordinary
- 865 medical care;
- 866 (d) the right to determine where and with whom the minor shall live; and
- 867 (e) the right, in an emergency, to authorize surgery or other extraordinary care.
- 868 [~~(52)~~] (53) "Licensing Information System" means the Licensing Information System
- 869 maintained by the Division of Child and Family Services under Section 80-2-1002.
- 870 [~~(53)~~] (54) "Management Information System" means the Management Information System
- 871 developed by the Division of Child and Family Services under Section 80-2-1001.
- 872 [~~(54)~~] (55) "Mental illness" means:
- 873 (a) a psychiatric disorder that substantially impairs an individual's mental, emotional,
- 874 behavioral, or related functioning; or
- 875 (b) the same as that term is defined in:
- 876 (i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders
- 877 published by the American Psychiatric Association; or
- 878 (ii) the current edition of the International Statistical Classification of Diseases and

879 Related Health Problems.

880 [~~(55)~~] (56) "Minor" means, except as provided in Sections 80-6-501, 80-6-901, and 80-7-102:

881 (a) a child; or

882 (b) an individual:

883 (i)(A) who is at least 18 years old and younger than 21 years old; and

884 (B) for whom the Division of Child and Family Services has been specifically
885 ordered by the juvenile court to provide services because the individual was an
886 abused, neglected, or dependent child or because the individual was
887 adjudicated for an offense;

888 (ii)(A) who is at least 18 years old and younger than 25 years old; and

889 (B) whose case is under the jurisdiction of the juvenile court in accordance with
890 Subsection 78A-6-103(1)(b); or

891 (iii)(A) who is at least 18 years old and younger than 21 years old; and

892 (B) whose case is under the jurisdiction of the juvenile court in accordance with
893 Subsection 78A-6-103(1)(c).

894 [~~(56)~~] (57) "Mobile crisis outreach team" means the same as that term is defined in Section
895 26B-5-101.

896 [~~(57)~~] (58) "Molestation" means that an individual, with the intent to arouse or gratify the
897 sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of
898 any child, or the breast of a female child, or takes indecent liberties with a child as
899 defined in Section 76-5-401.1.

900 [~~(58)~~] (59)(a) "Neglect" means action or inaction causing:

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

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

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

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

910 (v) abandonment of a child through an unregulated child custody transfer under
911 Section 81-14-203; or

912 (vi) educational neglect.

- 913 (b) "Neglect" does not include:
- 914 (i) a parent or guardian legitimately practicing religious beliefs and who, for that
- 915 reason, does not provide specified medical treatment for a child;
- 916 (ii) a health care decision made for a child by the child's parent or guardian, unless
- 917 the state or other party to a proceeding shows, by clear and convincing evidence,
- 918 that the health care decision is not reasonable and informed;
- 919 (iii) a parent or guardian exercising the right described in Section 80-3-304; or
- 920 (iv) permitting a child, whose basic needs are met and who is of sufficient age and
- 921 maturity to avoid harm or unreasonable risk of harm, to engage in independent
- 922 activities, including:
- 923 (A) traveling to and from school, including by walking, running, or bicycling;
- 924 (B) traveling to and from nearby commercial or recreational facilities;
- 925 (C) engaging in outdoor play;
- 926 (D) remaining in a vehicle unattended, except under the conditions described in
- 927 Subsection 76-5-115(2);
- 928 (E) remaining at home unattended; or
- 929 (F) engaging in a similar independent activity.

930 [~~59~~] (60) "Neglected child" means a child who has been subjected to neglect.

931 [~~60~~] (61) "Nonjudicial adjustment" means closure of the case by the assigned juvenile

932 probation officer, without an adjudication of the minor's case under Section 80-6-701,

933 upon the consent in writing of:

934 (a) the assigned juvenile probation officer; and

935 (b)(i) the minor; or

936 (ii) the minor and the minor's parent, guardian, or custodian.

937 [~~61~~] (62) "Not competent to proceed" means that a minor, due to a mental illness,

938 intellectual disability or related condition, or developmental immaturity, lacks the ability

939 to:

940 (a) understand the nature of the proceedings against the minor or of the potential

941 disposition for the offense charged; or

942 (b) consult with counsel and participate in the proceedings against the minor with a

943 reasonable degree of rational understanding.

944 [~~62~~] (63)(a) "Parent" means, except as provided in Section 80-3-302, an individual with

945 a parent-child relationship to a minor under Section 81-5-201.

946 (b) "Parent" includes the minor's noncustodial parent as defined in Section 81-1-101.

- 947 ~~[(63)]~~ (64) "Parole" means a conditional release of a juvenile offender from residency in
948 secure care to live outside of secure care under the supervision of the Division of
949 Juvenile Justice and Youth Services, or another person designated by the Division of
950 Juvenile Justice and Youth Services.
- 951 ~~[(64)]~~ (65) "Physical abuse" means abuse that results in physical injury or damage to a child.
- 952 ~~[(65)]~~ (66)(a) "Probation" means a legal status created by court order, following an
953 adjudication under Section 80-6-701, whereby the minor is permitted to remain in the
954 minor's home under prescribed conditions.
- 955 (b) "Probation" includes intake probation or formal probation.
- 956 ~~[(66)]~~ (67) "Prosecuting attorney" means:
- 957 (a) the attorney general and any assistant attorney general;
958 (b) any district attorney or deputy district attorney;
959 (c) any county attorney or assistant county attorney; and
960 (d) any other attorney authorized to commence an action on behalf of the state.
- 961 ~~[(67)]~~ (68) "Protective custody" means the shelter of a child by the Division of Child and
962 Family Services from the time the child is removed from the home until the earlier of:
963 (a) the day on which the shelter hearing is held under Section 80-3-301; or
964 (b) the day on which the child is returned home.
- 965 ~~[(68)]~~ (69) "Protective services" means expedited services that are provided:
- 966 (a) in response to evidence of neglect, abuse, or dependency of a child;
967 (b) to a cohabitant who is neglecting or abusing a child, in order to:
- 968 (i) help the cohabitant develop recognition of the cohabitant's duty of care and of the
969 causes of neglect or abuse; and
970 (ii) strengthen the cohabitant's ability to provide safe and acceptable care; and
971 (c) in cases where the child's welfare is endangered:
- 972 (i) to bring the situation to the attention of the appropriate juvenile court and law
973 enforcement agency;
974 (ii) to cause a protective order to be issued for the protection of the child, when
975 appropriate; and
976 (iii) to protect the child from the circumstances that endanger the child's welfare
977 including, when appropriate:
- 978 (A) removal from the child's home;
979 (B) placement in substitute care; and
980 (C) petitioning the court for termination of parental rights.

981 [(69)] (70) "Protective supervision" means a legal status created by court order, following an
982 adjudication on the ground of abuse, neglect, or dependency, whereby:

- 983 (a) the minor is permitted to remain in the minor's home; and
984 (b) supervision and assistance to correct the abuse, neglect, or dependency is provided
985 by an agency designated by the juvenile court.

986 [(70)] (71)(a) "Related condition" means a condition that:

- 987 (i) is found to be closely related to intellectual disability;
988 (ii) results in impairment of general intellectual functioning or adaptive behavior
989 similar to that of an intellectually disabled individual;
990 (iii) is likely to continue indefinitely; and
991 (iv) constitutes a substantial limitation to the individual's ability to function in society.
992 (b) "Related condition" does not include mental illness, psychiatric impairment, or
993 serious emotional or behavioral disturbance.

994 [(71)] (72)(a) "Residual parental rights and duties" means the rights and duties remaining
995 with a parent after legal custody or guardianship, or both, have been vested in another
996 person or agency, including:

- 997 (i) the responsibility for support;
998 (ii) the right to consent to adoption;
999 (iii) the right to determine the child's religious affiliation; and
1000 (iv) the right to reasonable parent-time unless restricted by the court.
1001 (b) If no guardian has been appointed, "residual parental rights and duties" includes the
1002 right to consent to:
1003 (i) marriage;
1004 (ii) enlistment; and
1005 (iii) major medical, surgical, or psychiatric treatment.

1006 [(72)] (73) "Runaway" means a child, other than an emancipated child, who willfully leaves
1007 the home of the child's parent or guardian, or the lawfully prescribed residence of the
1008 child, without permission.

1009 [(73)] (74) "Secure care" means placement of a minor, who is committed to the Division of
1010 Juvenile Justice and Youth Services for rehabilitation, in a facility operated by, or under
1011 contract with, the Division of Juvenile Justice and Youth Services, that provides 24-hour
1012 supervision and confinement of the minor.

1013 [(74)] (75) "Secure care facility" means a facility, established in accordance with Section
1014 80-5-503, for juvenile offenders in secure care.

1015 [~~(75)~~] (76) "Secure detention" means temporary care of a minor who requires secure custody
 1016 in a physically restricting facility operated by, or under contract with, the Division of
 1017 Juvenile Justice and Youth Services:

- 1018 (a) before disposition of an offense that is alleged to have been committed by the minor;
 1019 or
 1020 (b) under Section 80-6-704.

1021 [~~(76)~~] (77) "Serious youth offender" means an individual who:

- 1022 (a) is at least 14 years old, but under 25 years old;
 1023 (b) committed a felony listed in Subsection 80-6-503(1) and the continuing jurisdiction
 1024 of the juvenile court was extended over the individual's case until the individual was
 1025 25 years old in accordance with Section 80-6-605; and
 1026 (c) is committed by the juvenile court to the Division of Juvenile Justice and Youth
 1027 Services for secure care under Sections 80-6-703 and 80-6-705.

1028 [~~(77)~~] (78) "Severe abuse" means abuse that causes or threatens to cause serious harm to a
 1029 child.

1030 [~~(78)~~] (79) "Severe neglect" means neglect that causes or threatens to cause serious harm to
 1031 a child.

1032 [~~(79)~~] (80)(a) "Severe type of child abuse or neglect" means, except as provided in
 1033 Subsection [~~(79)~~](b)] (80(b):

- 1034 (i) if committed by an individual who is 18 years old or older:
 1035 (A) chronic abuse;
 1036 (B) severe abuse;
 1037 (C) sexual abuse;
 1038 (D) sexual exploitation;
 1039 (E) abandonment;
 1040 (F) chronic neglect; or
 1041 (G) severe neglect; or
 1042 (ii) if committed by an individual who is under 18 years old:
 1043 (A) causing serious injury, as defined in Subsection 76-5-109(1), to another child
 1044 that indicates a significant risk to other children; or
 1045 (B) sexual behavior with or upon another child that indicates a significant risk to
 1046 other children.

1047 (b) "Severe type of child abuse or neglect" does not include:

- 1048 (i) the use of reasonable and necessary physical restraint by an educator in

- 1049 accordance with Section 53G-8-301 or Section 76-2-401;
- 1050 (ii) an individual's conduct that is justified under Section 76-2-401 or constitutes the
- 1051 use of reasonable and necessary physical restraint or force in self-defense or
- 1052 otherwise appropriate to the circumstances to obtain possession of a weapon or
- 1053 other dangerous object in the possession or under the control of a child or to
- 1054 protect the child or another individual from physical injury; or
- 1055 (iii) a health care decision made for a child by a child's parent or guardian, unless,
- 1056 subject to Subsection [~~(79)(e)~~] (80)(c), the state or other party to the proceeding
- 1057 shows, by clear and convincing evidence, that the health care decision is not
- 1058 reasonable and informed.
- 1059 (c) Subsection [~~(79)(b)(iii)~~] (80)(b)(iii) does not prohibit a parent or guardian from
- 1060 exercising the right to obtain a second health care opinion.
- 1061 [~~(80)~~] (81)(a) "Sexual abuse" means:
- 1062 (i) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an
- 1063 adult directed towards a child;
- 1064 (ii) an act or attempted act of sexual intercourse, sodomy, incest, or molestation
- 1065 committed by a child towards another child if:
- 1066 (A) there is an indication of force or coercion;
- 1067 (B) the children are related, as described in Subsection [~~(40)~~] (41), including
- 1068 siblings by marriage while the marriage exists or by adoption; or
- 1069 (C) the act or attempted act constitutes unlawful sexual activity as described in
- 1070 Section 76-5-401.3.
- 1071 (iii) engaging in any conduct with a child that would constitute an offense under any
- 1072 of the following, regardless of whether the individual who engages in the conduct
- 1073 is actually charged with, or convicted of, the offense:
- 1074 (A) Title 76, Chapter 5, Part 4, Sexual Offenses;
- 1075 (B) child bigamy, Section 76-7-101.5;
- 1076 (C) incest, Section 76-7-102;
- 1077 (D) voyeurism, Section 76-12-306;
- 1078 (E) recorded or photographed voyeurism, Section 76-12-307; or
- 1079 (F) distribution of images obtained through voyeurism, Section 76-12-308; or
- 1080 (iv) subjecting a child to participate in or threatening to subject a child to participate
- 1081 in a sexual relationship, regardless of whether that sexual relationship is part of a
- 1082 legal or cultural marriage.

- 1083 (b) "Sexual abuse" does not include engaging in any conduct with a child that would
 1084 constitute an offense described in:
- 1085 (i) Section 76-5-401, unlawful sexual activity with a minor, if the alleged perpetrator
 1086 of the offense is a minor; or
- 1087 (ii) Section 76-5-417, enticing a minor.
- 1088 [~~(81)~~] (82) "Sexual exploitation" means knowingly:
- 1089 (a) employing, using, persuading, inducing, enticing, or coercing any child to:
- 1090 (i) pose in the nude for the purpose of sexual arousal of any individual; or
- 1091 (ii) engage in any sexual or simulated sexual conduct for the purpose of
 1092 photographing, filming, recording, or displaying in any way the sexual or
 1093 simulated sexual conduct;
- 1094 (b) displaying, distributing, possessing for the purpose of distribution, or selling material
 1095 depicting a child:
- 1096 (i) in the nude, for the purpose of sexual arousal of any individual; or
- 1097 (ii) engaging in sexual or simulated sexual conduct; or
- 1098 (c) engaging in any conduct that would constitute an offense under Section 76-5b-201,
 1099 sexual exploitation of a minor, or Section 76-5b-201.1, aggravated sexual
 1100 exploitation of a minor, regardless of whether the individual who engages in the
 1101 conduct is actually charged with, or convicted of, the offense.
- 1102 [~~(82)~~] (83) "Shelter" means the temporary care of a child in a physically unrestricted facility
 1103 pending a disposition or transfer to another jurisdiction.
- 1104 [~~(83)~~] (84) "Shelter facility" means a nonsecure facility that provides shelter for a minor.
- 1105 [~~(84)~~] (85) "Significant risk" means a risk of harm that is determined to be significant in
 1106 accordance with risk assessment tools and rules established by the Division of Child and
 1107 Family Services in accordance with Title 63G, Chapter 3, Utah Administrative
 1108 Rulemaking Act, that focus on:
- 1109 (a) age;
- 1110 (b) social factors;
- 1111 (c) emotional factors;
- 1112 (d) sexual factors;
- 1113 (e) intellectual factors;
- 1114 (f) family risk factors; and
- 1115 (g) other related considerations.
- 1116 [~~(85)~~] (86) "Single criminal episode" means the same as that term is defined in Section

1117 76-1-401.

1118 [(86)] (87) "Status offense" means an offense that would not be an offense but for the age of
1119 the offender.

1120 [(87)] (88) "Substance abuse" means, except as provided in Section 80-2-603, the misuse or
1121 excessive use of alcohol or other drugs or substances.

1122 [(88)] (89) "Substantiated" or "substantiation" means a judicial finding based on a
1123 preponderance of the evidence, and separate consideration of each allegation made or
1124 identified in the case, that abuse, neglect, or dependency occurred.

1125 [(89)] (90) "Substitute care" means:

1126 (a) the placement of a minor in a family home, group care facility, or other placement
1127 outside the minor's own home, either at the request of a parent or other responsible
1128 relative, or upon court order, when it is determined that continuation of care in the
1129 minor's own home would be contrary to the minor's welfare;

1130 (b) services provided for a minor in the protective custody of the Division of Child and
1131 Family Services, or a minor in the temporary custody or custody of the Division of
1132 Child and Family Services, as those terms are defined in Section 80-2-102; or

1133 (c) the licensing and supervision of a substitute care facility.

1134 [(90)] (91) "Supported" means a finding by the Division of Child and Family Services based
1135 on the evidence available at the completion of an investigation, and separate
1136 consideration of each allegation made or identified during the investigation, that there is
1137 a reasonable basis to conclude that abuse, neglect, or dependency occurred.

1138 [(91)] (92) "Termination of parental rights" means the permanent elimination of all parental
1139 rights and duties, including residual parental rights and duties, by court order.

1140 [(92)] (93) "Therapist" means:

1141 (a) an individual employed by a state division or agency for the purpose of conducting
1142 psychological treatment and counseling of a minor in the division's or agency's
1143 custody; or

1144 (b) any other individual licensed or approved by the state for the purpose of conducting
1145 psychological treatment and counseling.

1146 [(93)] (94) "Threatened harm" means actions, inactions, or credible verbal threats, indicating
1147 that the child is at an unreasonable risk of harm or neglect.

1148 [(94)] (95) "Torture" means:

1149 (a) the infliction of a serious injury upon a child in an exceptionally cruel or
1150 exceptionally depraved manner that causes the child to experience extreme physical

1151 or psychological pain or anguish; or
 1152 (b) the infliction of a serious injury, or more than one serious injury, upon a child as part
 1153 of a course of conduct or over a prolonged period of time.

1154 ~~[(95)]~~ (96) "Ungovernable" means a child in conflict with a parent or guardian, and the
 1155 conflict:

1156 (a) results in behavior that is beyond the control or ability of the child, or the parent or
 1157 guardian, to manage effectively;

1158 (b) poses a threat to the safety or well-being of the child, the child's family, or others; or

1159 (c) results in the situations described in Subsections ~~[(95)(a)]~~ (96)(a) and (b).

1160 ~~[(96)]~~ (97) "Unsubstantiated" means a judicial finding that there is insufficient evidence to
 1161 conclude that abuse, neglect, or dependency occurred.

1162 ~~[(97)]~~ (98) "Unsupported" means a finding by the Division of Child and Family Services at
 1163 the completion of an investigation, after the day on which the Division of Child and
 1164 Family Services concludes the alleged abuse, neglect, or dependency is not without
 1165 merit, that there is insufficient evidence to conclude that abuse, neglect, or dependency
 1166 occurred.

1167 ~~[(98)]~~ (99) "Validated risk and needs assessment" means an evidence-based tool that
 1168 assesses a minor's risk of reoffending and a minor's criminogenic needs.

1169 ~~[(99)]~~ (100) "Without merit" means a finding at the completion of an investigation by the
 1170 Division of Child and Family Services, or a judicial finding, that the alleged abuse,
 1171 neglect, or dependency did not occur, or that the alleged perpetrator was not responsible
 1172 for the abuse, neglect, or dependency.

1173 ~~[(100)]~~ (101) "Youth offender" means an individual who is:

1174 (a) at least 12 years old, but under 21 years old; and

1175 (b) committed by the juvenile court to the Division of Juvenile Justice and Youth
 1176 Services for secure care under Sections 80-6-703 and 80-6-705.

1177 Section 10. Section **80-2-102** is amended to read:

1178 **80-2-102 . Definitions.**

1179 (1) As used in this chapter:

1180 ~~[(1)]~~ (a) "Consult" means an interaction between two persons in which the initiating
 1181 person:

1182 ~~[(a)]~~ (i) provides information to another person;

1183 ~~[(b)]~~ (ii) provides the other person an opportunity to respond; and

1184 ~~[(c)]~~ (iii) takes the other person's response, if any, into consideration.

- 1185 [(2)] (b) "Consumer" means a person who receives services offered by the division in
1186 accordance with this chapter.
- 1187 [(3)] (c) "Council" means the Child Welfare Improvement Council created in Section
1188 80-2-1101.
- 1189 [(4)] (d) "Custody," with regard to the division, means the custody of a minor in the
1190 division as of the date of disposition.
- 1191 [(5)] (e) "Day-care services" means care of a child for a portion of the day which is less
1192 than 24 hours:
- 1193 [(a)] (i) in the child's own home by a responsible individual; or
1194 [(b)] (ii) outside of the child's home in a:
- 1195 [(i)] (A) day-care center;
1196 [(ii)] (B) family group home; or
1197 [(iii)] (C) family child care home.
- 1198 [(6)] (f) "Director" means the director of the division appointed under Section 80-2-202.
- 1199 [(7)] (g) "Division" means the Division of Child and Family Services created in Section
1200 80-2-201.
- 1201 [(8)] (h) "Domestic violence" means the same as that term is defined in Section 77-36-1.
- 1202 [(9)] (i) "Domestic violence services" means:
- 1203 [(a)] (i) temporary shelter, treatment, and related services provided to:
- 1204 [(i)] (A) an individual who is a victim of abuse, as defined in Section 78B-7-102;
1205 and
1206 [(ii)] (B) the dependent children of an individual who is a victim of abuse, as
1207 defined in Section 78B-7-102; and
- 1208 [(b)] (ii) treatment services for an individual who is alleged to have committed, has
1209 been convicted of, or has pled guilty to domestic violence.
- 1210 [(10)] (j) "Homemaking services" means the care of an individual in the individual's
1211 domicile, and help given to an individual caretaker relative to achieve improved
1212 household and family management through the services of a trained homemaker.
- 1213 [(11)] (k) "Hormonal transgender treatment" means the same as that term is defined in
1214 Section 58-1-603.
- 1215 [(12)] (l) "Mutual case" means a case that is:
- 1216 [(a)] (i) opened by the division under the division's discretion and procedures;
1217 [(b)] (ii) opened by the law enforcement agency with jurisdiction over the case; and
1218 [(c)] (iii) accepted for investigation by a child protection team, as applicable.

- 1219 ~~[(13)]~~ ~~(m)~~~~(a)~~ (i) "Person responsible for the child's care" means the child's parent,
 1220 guardian, or other person responsible for the child's care.
- 1221 ~~[(b)]~~ (ii) "Person responsible for the child's care" includes a person responsible for the
 1222 child's care in the same home as the child, a relative's home, a group, family, or
 1223 day care facility, a foster care home, or a residential institution.
- 1224 ~~[(14)]~~ (n) "Primary sex characteristic surgical procedure" means the same as that term is
 1225 defined in Section 58-67-102.
- 1226 ~~[(15)]~~ (o) "Secondary sex characteristic surgical procedure" means the same as that term
 1227 is defined in Section 58-67-102.
- 1228 ~~[(16)]~~ (p) "Shelter care" means the temporary care of a minor in a nonsecure facility.
- 1229 ~~[(17)]~~ (q) "Sibling" means a child who shares or has shared at least one parent in
 1230 common either by blood or adoption.
- 1231 ~~[(18)]~~ (r) "Sibling visitation" means services provided by the division to facilitate the
 1232 interaction between a child in division custody with the child's sibling.
- 1233 ~~[(19)]~~ (s)~~(a)~~ (i) "Subject of the report" means a person reported under Part 6, Child
 1234 Abuse and Neglect Reports.
- 1235 ~~[(b)]~~ (ii) "Subject of the report" includes the child who is the alleged victim of the
 1236 report and the person responsible for the child's care.
- 1237 ~~[(20)]~~ (t) "Temporary custody" means, with regard to the division, the custody of a child
 1238 from the day on which the shelter hearing described in Section 80-3-301 is held until
 1239 the day on which the juvenile court enters a disposition under Section 80-3-405.
- 1240 ~~[(21)]~~ (u) "Transportation services" means travel assistance given to an individual with
 1241 escort service, if necessary, to and from community facilities and resources as part of
 1242 a service plan.
- 1243 (2) A determination of a minor's best interest under this chapter shall be made in
 1244 accordance with Sections 80-2a-201, 80-4-104, and any other section of this title
 1245 consistent with those sections.
- 1246 Section 11. Section **80-2a-101** is amended to read:
- 1247 **80-2a-101 . Definitions.**
- 1248 (1) "Custody" means the same as that term is defined in Section 80-2-102.
- 1249 (2) "Division" means the Division of Child and Family Services created in Section 80-2-201.
- 1250 (3) "Friend" means an adult who:
- 1251 (a) has an established relationship with the child or a family member of the child; and
- 1252 (b) is not the parent of the child.

- 1253 (4) "Nonrelative" means an individual who is not a noncustodial parent or relative.
 1254 (5) "Relative" means an adult who:
 1255 (a) is the child's grandparent, great grandparent, aunt, great aunt, uncle, great uncle,
 1256 brother-in-law, sister-in-law, stepparent, first cousin, stepsibling, or sibling;
 1257 (b) is the first cousin of the child's parent;
 1258 (c) is a permanent guardian or parent of the child's sibling; or
 1259 (d) in the case of a child who is an Indian child, is an extended family member as
 1260 defined in the Indian Child Welfare Act, 25 U.S.C. Sec. 1903.
 1261 (6) "Sibling" means the same as that term is defined in Section 80-2-102.
 1262 (7) "Temporary custody" means the same as that term is defined in Section 80-2-102.
 1263 (8) A determination of a minor's best interest under this chapter shall be made in
 1264 accordance with Sections 80-2a-201, 80-4-104, and any other section of this title
 1265 consistent with those sections.

1266 Section 12. Section **80-3-102** is amended to read:

1267 **80-3-102 . Definitions.**

1268 (1) As used in this chapter:

1269 [(1)] (a) "Abuse, neglect, or dependency petition" means a petition filed in accordance
 1270 with this chapter to commence proceedings in a juvenile court alleging that a child is:

1271 [(a)] (i) abused;

1272 [(b)] (ii) neglected; or

1273 [(c)] (iii) dependent.

1274 [(2)] (b) "Custody" means the same as that term is defined in Section 80-2-102.

1275 [(3)] (c) "Division" means the Division of Child and Family Services created in Section
 1276 80-2-201.

1277 [(4)] (d) "Friend" means an adult who:

1278 [(a)] (i) has an established relationship with the child or a family member of the child;

1279 and

1280 [(b)] (ii) is not the parent of the child.

1281 [(5)] (e) "Immediate family member" means a spouse, child, parent, sibling, grandparent,
 1282 or grandchild.

1283 [(6)] (f) "Relative" means an adult who:

1284 [(a)] (i) is the child's grandparent, great grandparent, aunt, great aunt, uncle, great

1285 uncle, brother-in-law, sister-in-law, stepparent, first cousin, stepsibling, or sibling;

1286 [(b)] (ii) is a first cousin of the child's parent;

- 1287 [~~(e)~~] (iii) is a permanent guardian or parent of the child's sibling; or
 1288 [~~(d)~~] (iv) in the case of a child who is an Indian child, is an extended family member
 1289 as defined in the Indian Child Welfare Act, 25 U.S.C. Sec. 1903.
 1290 [(7)] (g) "Sibling" means the same as that term is defined in Section 80-2-102.
 1291 [(8)] (h) "Sibling visitation" means the same as that term is defined in Section 80-2-102.
 1292 [(9)] (i) "Temporary custody" means the same as that term is defined in Section 80-2-102.
 1293 (2) A determination of a minor's best interest under this chapter shall be made in
 1294 accordance with Sections 80-2a-201, 80-4-104, and any other section of this title
 1295 consistent with those sections.

1296 Section 13. Section **80-3-104** is amended to read:

1297 **80-3-104 . Individuals entitled to be present at proceedings -- Legal**
 1298 **representation -- Attorney general responsibilities.**

- 1299 (1)(a) A minor who is the subject of a juvenile court hearing, any person entitled to
 1300 notice under Section 80-3-201 or 80-3-301, preadoptive parents, foster parents, and
 1301 any relative providing care for the minor, are:
 1302 (i) entitled to notice of, and to be present at, each hearing and proceeding held under
 1303 this chapter, including administrative reviews; and
 1304 (ii) have a right to be heard at each hearing and proceeding described in Subsection
 1305 (1)(a)(i).
 1306 (b) A child's right to be present at a hearing under Subsection (1)(a) is subject to the
 1307 discretion of the guardian ad litem appointed under Subsection (3) or the juvenile
 1308 court regarding any possible detriment to the child.
 1309 (2)(a) The parent or guardian of a minor who is the subject of an abuse, neglect, or
 1310 dependency petition has the right to be represented by counsel, and to present
 1311 evidence, at each hearing.
 1312 (b) If a parent or guardian is the subject of an abuse, neglect, or dependency petition, the
 1313 juvenile court shall:
 1314 (i) appoint an indigent defense service provider for a parent or guardian determined
 1315 to be an indigent individual in accordance with Title 78B, Chapter 22, Part 2,
 1316 Appointment of Counsel; and
 1317 (ii) order indigent defense services for the parent or guardian who is determined to be
 1318 an indigent individual in accordance with Title 78B, Chapter 22, Part 2,
 1319 Appointment of Counsel.
 1320 (3)(a) In an abuse, neglect, or dependency proceeding under this chapter, the juvenile

- 1321 court shall order that the child be represented by an attorney guardian ad litem, in
 1322 accordance with Section 78A-2-803.
- 1323 (b) A guardian ad litem appointed under Subsection (3)(a) shall represent the best
 1324 interest of the minor, in accordance with the requirements of Section 78A-2-803:
- 1325 (i) at the shelter hearing and at all subsequent court and administrative proceedings,
 1326 including any proceeding for termination of parental rights in accordance with
 1327 Chapter 4, Termination and Restoration of Parental Rights; and
- 1328 (ii) in other actions initiated under this chapter when appointed by the court under
 1329 Section 78A-2-803 or as otherwise provided by law.
- 1330 (4) Subject to Section 67-5-17 and the attorney general's prosecutorial discretion in civil
 1331 enforcement actions, the attorney general shall, in accordance with Section 80-2-303,
 1332 enforce this chapter, Chapter 2, Child Welfare Services, and Chapter 2a, Removal and
 1333 Protective Custody of a Child, relating to protection or custody of an abused, neglected,
 1334 or dependent minor and the termination of parental rights.
- 1335 (5)(a) The juvenile court shall admit any individual to a hearing under this chapter,
 1336 including a hearing under Section 80-3-205, unless the juvenile court makes a finding
 1337 upon the record that the individual's presence at the hearing would:
- 1338 (i) be detrimental to the best interest of a minor who is a party to the proceeding;
 1339 (ii) impair the fact-finding process; or
 1340 (iii) be otherwise contrary to the interests of justice.
- 1341 (b) The juvenile court may exclude an individual from a hearing under Subsection (5)(a)
 1342 on the juvenile court's own motion or by motion of a party to the proceeding.
- 1343 (6) A determination of a minor's best interest under this chapter shall be made in
 1344 accordance with Sections 80-2a-201, 80-4-104, and any other section of this title
 1345 consistent with those sections.
- 1346 Section 14. Section **80-4-102** is amended to read:
- 1347 **80-4-102 . Definitions.**
- 1348 (1) As used in this chapter:
- 1349 [(+) (a) "Division" means the Division of Child and Family Services created in Section
 1350 80-2-201.
- 1351 [(2) (b) "Failure of parental adjustment" means that a parent or parents are unable or
 1352 unwilling within a reasonable time to substantially correct the circumstances,
 1353 conduct, or conditions that led to placement of their child outside of their home,
 1354 notwithstanding reasonable and appropriate efforts made by the division to return the

1355 child to the home.

1356 [(3)] (c) "Former parent" means an individual whose legal parental rights were
1357 terminated under this chapter.

1358 [(4)] (d) "Petition to restore parental rights" means a petition filed in accordance with this
1359 chapter to restore the rights of a parent with regard to a child.

1360 [(5)] (e) "Petition for termination of parental rights" means a petition filed in accordance
1361 with this chapter to terminate the parental rights of a parent.

1362 [(6)] (f) "Temporary custody" means the same as that term is defined in Section 80-2-102.

1363 (2) A determination of a minor's best interest under this chapter shall be made in
1364 accordance with Sections 80-2a-201, 80-4-104, and any other section of this title
1365 consistent with those sections.

1366 Section 15. Section **81-13-202** is amended to read:

1367 **81-13-202 . Legislative findings -- Best interest of the minor child -- Interests of**
1368 **each party.**

1369 (1)(a) In every adoption of a minor child that, the best interest of the minor child should
1370 govern and be of foremost concern in a court's determination.

1371 (b) A determination of a minor child's best interest shall be made in accordance with
1372 Sections 80-2a-201, 80-4-104, and any other section of this title consistent with those
1373 sections.

1374 (2) The court shall make a specific finding regarding the best interest of the minor child,
1375 taking into consideration information provided to the court [~~pursuant to~~] in accordance
1376 with the requirements of this chapter relating to the health, safety, and welfare of the
1377 minor child and the moral climate of the potential adoptive placement.

1378 (3) The Legislature finds that the rights and interests of all parties affected by an adoption
1379 proceeding [~~must~~] shall be considered and balanced in determining what constitutional
1380 protections and processes are necessary and appropriate.

1381 (4)(a) The Legislature specifically finds that it is not in a minor child's best interest to be
1382 adopted by a person or persons who are cohabiting in a relationship that is not a
1383 legally valid and binding marriage under the laws of this state.

1384 (b) Nothing in this section limits or prohibits the court's placement of a minor child with
1385 a single adult who is not cohabiting or a person who is a relative of the minor child or
1386 a recognized placement under the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et
1387 seq.

1388 (5) The Legislature also finds that:

- 1389 (a) the state has a compelling interest in providing a stable and permanent home for a
1390 child adoptee in a prompt manner, in preventing the disruption of an adoptive
1391 placement, and in holding parents accountable for meeting the needs of a child
1392 adoptee;
- 1393 (b) an unmarried birth mother, faced with the responsibility of making crucial decisions
1394 about the future of a newborn child, is entitled to privacy, and has the right to make
1395 timely and appropriate decisions regarding her future and the future of the newborn
1396 child, and is entitled to assurance regarding the permanence of an adoptive placement;
- 1397 (c) a child adoptee has a right to permanence and stability in an adoptive placement;
- 1398 (d) adoptive parents have a constitutionally protected liberty and privacy interest in
1399 retaining custody of a child adoptee;
- 1400 (e) an unmarried biological father has an inchoate interest that acquires constitutional
1401 protection only when the unmarried biological father demonstrates a timely and full
1402 commitment to the responsibilities of parenthood, both during pregnancy and upon
1403 the child adoptee's birth; and
- 1404 (f) the state has a compelling interest in requiring an unmarried biological father to
1405 demonstrate commitment by providing appropriate medical care and financial
1406 support and by establishing legal parentage in accordance with the requirements of
1407 this chapter.
- 1408 (6)(a) In enacting this chapter, the Legislature has prescribed the conditions for
1409 determining whether an unmarried biological father's action is sufficiently prompt
1410 and substantial to require constitutional protection.
- 1411 (b) If an unmarried biological father fails to grasp the opportunities to establish a
1412 relationship with the child adoptee that are available to the unmarried biological
1413 father, the unmarried biological father's parental interest may be lost entirely, or
1414 greatly diminished in constitutional significance by the unmarried biological father's
1415 failure to timely exercise the unmarried biological father's parental interest, or by the
1416 unmarried biological father's failure to strictly comply with the available legal steps
1417 to substantiate the parental interest.
- 1418 (c)(i) A certain degree of finality is necessary in order to facilitate the state's
1419 compelling interest.
- 1420 (ii) The Legislature finds that the interests of the state, the birth mother, the child
1421 adoptee, and the adoptive parents described in this section outweigh the interest of
1422 an unmarried biological father who does not timely grasp the opportunity to

1423 establish and demonstrate a relationship with the child adoptee in accordance with
1424 the requirements of this chapter.

1425 (d)(i) The Legislature finds no practical way to remove all risk of fraud or
1426 misrepresentation in adoption proceedings, and has provided a method for
1427 absolute protection of an unmarried biological father's rights by compliance with
1428 the provisions of this chapter.

1429 (ii) In balancing the rights and interests of the state, and of all parties affected by
1430 fraud, specifically the child adoptee, the adoptive parents, and the unmarried
1431 biological father, the Legislature has determined that the unmarried biological
1432 father is in the best position to prevent or ameliorate the effects of fraud and that,
1433 therefore, the burden of fraud shall be borne by the unmarried biological father.

1434 (e) An unmarried biological father has the primary responsibility to protect the
1435 unmarried biological father's rights.

1436 (f) An unmarried biological father is presumed to know that the child adoptee may be
1437 adopted without the unmarried biological father's consent unless the unmarried
1438 biological father strictly complies with the provisions of this chapter, manifests a
1439 prompt and full commitment to the unmarried biological father's parental
1440 responsibilities, and establishes paternity.

1441 (7) The Legislature finds that an unmarried birth mother has:

1442 (a) a right of privacy with regard to the unmarried birth mother's pregnancy and adoption
1443 plan;

1444 (b) no legal obligation to disclose the identity of an unmarried biological father before or
1445 during an adoption proceeding; and

1446 (c) no obligation to volunteer information to the court with respect to the father.

1447 **Section 16. Effective Date.**

1448 This bill takes effect on May 6, 2026.