

Anthony E. Loubet proposes the following substitute bill:

Division of Licensing and Background Checks Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Anthony E. Loubet

Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill addresses the Division of Licensing and Background Checks.

Highlighted Provisions:

This bill:

- clarifies the definition of an individual that is associated with a licensee;
- renumbers Section 26B-2-103, Division of Licensing and Background Check;
- renumbers Section 26B-2-104, Division responsibilities; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 26B-1-202**, as last amended by Laws of Utah 2025, Chapter 426
- 26B-2-101**, as last amended by Laws of Utah 2025, First Special Session, Chapter 16
- 26B-2-117**, as last amended by Laws of Utah 2025, Chapter 417
- 58-17b-309.7**, as last amended by Laws of Utah 2025, Chapter 141
- 80-2-1001**, as last amended by Laws of Utah 2024, Chapter 240
- 80-2-1002**, as last amended by Laws of Utah 2025, Chapter 447
- 81-14-307**, as renumbered and amended by Laws of Utah 2025, Chapter 426
- 81-14-308**, as renumbered and amended by Laws of Utah 2025, Chapter 426

RENUMBERS AND AMENDS:

- 26b-2-901**, (Renumbered from 26B-2-103, as last amended by Laws of Utah 2024, Chapter 240)

29 **26b-2-902**, (Renumbered from 26B-2-104, as last amended by Laws of Utah 2025,
30 Chapter 426)

31

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

33 Section 1. Section **26B-1-202** is amended to read:

34 **26B-1-202 . Department authority and duties.**

35 (1) As used in this section, "public funds" means the same as that term is defined in Section
36 26B-5-101.

37 (2) The department may, subject to applicable restrictions in state law and in addition to all
38 other authority and responsibility granted to the department by law:

- 39 (a) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative
40 Rulemaking Act, and not inconsistent with law, as the department may consider
41 necessary or desirable for providing health and social services to the people of this
42 state;
- 43 (b) establish and manage client trust accounts in the department's institutions and
44 community programs, at the request of the client or the client's legal guardian or
45 representative, or in accordance with federal law;
- 46 (c) purchase, as authorized or required by law, services that the department is
47 responsible to provide for legally eligible persons;
- 48 (d) conduct adjudicative proceedings for clients and providers in accordance with the
49 procedures of Title 63G, Chapter 4, Administrative Procedures Act;
- 50 (e) establish eligibility standards for the department's programs, not inconsistent with
51 state or federal law or regulations;
- 52 (f) take necessary steps, including legal action, to recover money or the monetary value
53 of services provided to a recipient who was not eligible;
- 54 (g) set and collect fees for the department's services;
- 55 (h) license agencies, facilities, and programs, except as otherwise allowed, prohibited, or
56 limited by law;
- 57 (i) acquire, manage, and dispose of any real or personal property needed or owned by
58 the department, not inconsistent with state law;
- 59 (j) receive gifts, grants, devises, and donations; gifts, grants, devises, donations, or the
60 proceeds thereof, may be credited to the program designated by the donor, and may
61 be used for the purposes requested by the donor, as long as the request conforms to
62 state and federal policy; all donated funds shall be considered private, nonlapsing

- 63 funds and may be invested under guidelines established by the state treasurer;
- 64 (k) accept and employ volunteer labor or services; the department is authorized to
65 reimburse volunteers for necessary expenses, when the department considers that
66 reimbursement to be appropriate;
- 67 (l) carry out the responsibility assigned in the workforce services plan by the State
68 Workforce Development Board;
- 69 (m) carry out the responsibility assigned by Section 26B-1-430 with respect to
70 coordination of services for students with a disability;
- 71 (n) provide training and educational opportunities for the department's staff;
- 72 (o) collect child support payments and any other money due to the department;
- 73 (p) apply the provisions of Title 81, Chapter 6, Child Support, and Title 81, Chapter 7,
74 Payment and Enforcement of Spousal and Child Support, to parents whose child lives
75 out of the home in a department licensed or certified setting;
- 76 (q) establish policy and procedures, within appropriations authorized by the Legislature,
77 in cases where the Division of Child and Family Services or the Division of Juvenile
78 Justice and Youth Services is given custody of a minor by the juvenile court under
79 Title 80, Utah Juvenile Code, or the department is ordered to prepare an attainment
80 plan for a minor found not competent to proceed under Section 80-6-403, including:
- 81 (i) designation of interagency teams for each juvenile court district in the state;
- 82 (ii) delineation of assessment criteria and procedures;
- 83 (iii) minimum requirements, and timeframes, for the development and
84 implementation of a collaborative service plan for each minor placed in
85 department custody; and
- 86 (iv) provisions for submittal of the plan and periodic progress reports to the court;
- 87 (r) carry out the responsibilities assigned to the department by statute;
- 88 (s) as further provided in Subsection (3), examine and audit the expenditures of any
89 public funds provided to a local health department, a local substance abuse authority,
90 a local mental health authority, a local area agency on aging, and any person, agency,
91 or organization that contracts with or receives funds from those authorities or
92 agencies;
- 93 (t) in accordance with Subsection [~~26B-2-104(1)(d)~~] 26B-2-902(1)(d), accredit one or
94 more agencies and persons to provide intercountry adoption services;
- 95 (u) within legislative appropriations, promote and develop a system of care and
96 stabilization services:

- 97 (i) in compliance with Title 63G, Chapter 6a, Utah Procurement Code; and
98 (ii) that encompasses the department, department contractors, and the divisions,
99 offices, or institutions within the department, to:
- 100 (A) navigate services, funding resources, and relationships to the benefit of the
101 children and families whom the department serves;
102 (B) centralize department operations, including procurement and contracting;
103 (C) develop policies that govern business operations and that facilitate a system of
104 care approach to service delivery;
105 (D) allocate resources that may be used for the children and families served by the
106 department or the divisions, offices, or institutions within the department,
107 subject to the restrictions in Section 63J-1-206;
108 (E) create performance-based measures for the provision of services; and
109 (F) centralize other business operations, including data matching and sharing
110 among the department's divisions, offices, and institutions;
- 111 (v) ensure that any training or certification required of a public official or public
112 employee, as those terms are defined in Section 63G-22-102, complies with Title
113 63G, Chapter 22, State Training and Certification Requirements, if the training or
114 certification is required:
- 115 (i) under this title;
116 (ii) by the department; or
117 (iii) by an agency or division within the department;
- 118 (w) enter into cooperative agreements with the Department of Environmental Quality to
119 delineate specific responsibilities to assure that assessment and management of risk
120 to human health from the environment are properly administered;
- 121 (x) consult with the Department of Environmental Quality and enter into cooperative
122 agreements, as needed, to ensure efficient use of resources and effective response to
123 potential health and safety threats from the environment, and to prevent gaps in
124 protection from potential risks from the environment to specific individuals or
125 population groups;
- 126 (y) to the extent authorized under state law or required by federal law, promote and
127 protect the health and wellness of the people within the state;
- 128 (z) establish, maintain, and enforce rules authorized under state law or required by
129 federal law to promote and protect the public health or to prevent disease and illness;
- 130 (aa) investigate the causes of epidemic, infectious, communicable, and other diseases

- 131 affecting the public health;
- 132 (bb) provide for the detection and reporting of communicable, infectious, acute, chronic,
133 or any other disease or health hazard which the department considers to be
134 dangerous, important, or likely to affect the public health;
- 135 (cc) collect and report information on causes of injury, sickness, death, and disability
136 and the risk factors that contribute to the causes of injury, sickness, death, and
137 disability within the state;
- 138 (dd) collect, prepare, publish, and disseminate information to inform the public
139 concerning the health and wellness of the population, specific hazards, and risks that
140 may affect the health and wellness of the population and specific activities which
141 may promote and protect the health and wellness of the population;
- 142 (ee) abate nuisances when necessary to eliminate sources of filth and infectious and
143 communicable diseases affecting the public health;
- 144 (ff) make necessary sanitary and health investigations and inspections in cooperation
145 with local health departments as to any matters affecting the public health;
- 146 (gg) establish laboratory services necessary to support public health programs and
147 medical services in the state;
- 148 (hh) establish and enforce standards for laboratory services which are provided by any
149 laboratory in the state when the purpose of the services is to protect the public health;
- 150 (ii) cooperate with the Labor Commission to conduct studies of occupational health
151 hazards and occupational diseases arising in and out of employment in industry, and
152 make recommendations for elimination or reduction of the hazards;
- 153 (jj) cooperate with the local health departments, the Department of Corrections, the
154 Administrative Office of the Courts, the Division of Juvenile Justice and Youth
155 Services, and the Utah Office for Victims of Crime to conduct testing for HIV
156 infection of alleged sexual offenders, convicted sexual offenders, and any victims of
157 a sexual offense;
- 158 (kk) investigate the causes of maternal and infant mortality;
- 159 (ll) establish, maintain, and enforce a procedure requiring the blood of adult pedestrians
160 and drivers of motor vehicles killed in highway accidents be examined for the
161 presence and concentration of alcohol, and provide the Commissioner of Public
162 Safety with monthly statistics reflecting the results of these examinations, with
163 necessary safeguards so that information derived from the examinations is not used
164 for a purpose other than the compilation of these statistics;

- 165 (mm) establish a uniform public health program throughout the state which includes
166 continuous service, employment of qualified employees, and a basic program of
167 disease control, vital and health statistics, sanitation, public health nursing, and other
168 preventive health programs necessary or desirable for the protection of public health;
- 169 (nn) conduct health planning for the state;
- 170 (oo) monitor the costs of health care in the state and foster price competition in the
171 health care delivery system;
- 172 (pp) establish methods or measures for health care providers, public health entities, and
173 health care insurers to coordinate among themselves to verify the identity of the
174 individuals the providers serve;
- 175 (qq) designate Alzheimer's disease and related dementia as a public health issue and,
176 within budgetary limitations, implement a state plan for Alzheimer's disease and
177 related dementia by incorporating the plan into the department's strategic planning
178 and budgetary process;
- 179 (rr) coordinate with other state agencies and other organizations to implement the state
180 plan for Alzheimer's disease and related dementia;
- 181 (ss) ensure that any training or certification required of a public official or public
182 employee, as those terms are defined in Section 63G-22-102, complies with Title
183 63G, Chapter 22, State Training and Certification Requirements, if the training or
184 certification is required by the agency or under this Title 26B, Utah Health and
185 Human Services Code;
- 186 (tt) oversee public education vision screening as described in Section 53G-9-404;
- 187 (uu) issue code blue alerts in accordance with Title 35A, Chapter 16, Part 7, Code Blue
188 Alert; and
- 189 (vv) as allowed by state and federal law, share data with the Office of Families that is
190 relevant to the duties described in Subsection 26B-1-243(4), which may include, to
191 the extent available:
- 192 (i) demographic data concerning family structures in the state; and
193 (ii) data regarding the family structure associated with:
- 194 (A) suicide, depression, or anxiety; and
195 (B) various health outcomes.
- 196 (3)(a) Under Subsection (2)(s), those local departments, local authorities, area agencies,
197 and any person or entity that contracts with or receives funds from those departments,
198 authorities, or area agencies, shall provide the department with any information the

199 department considers necessary.

200 (b) The department is further authorized to issue directives resulting from any
 201 examination or audit to a local department, local authority, an area agency, and
 202 persons or entities that contract with or receive funds from those departments,
 203 authorities, or agencies with regard to any public funds.

204 (c) If the department determines that it is necessary to withhold funds from a local health
 205 department, local mental health authority, or local substance abuse authority based on
 206 failure to comply with state or federal law, policy, or contract provisions, the
 207 department may take steps necessary to ensure continuity of services.

208 Section 2. Section **26B-2-101** is amended to read:

209 **26B-2-101 . Definitions.**

210 As used in this part:

211 (1) "Abuse" means the same as that term is defined in Section 80-1-102.

212 (2) "Adoption services" means the same as that term is defined in Section 80-2-801.

213 (3) "Adult day care" means nonresidential care and supervision:

214 (a) for three or more adults for at least four but less than 24 hours a day; and

215 (b) that meets the needs of functionally impaired adults through a comprehensive
 216 program that provides a variety of health, social, recreational, and related support
 217 services in a protective setting.

218 (4) "Applicant" means a person that applies for an initial license or a license renewal under
 219 this part.

220 (5)[(a) "~~Associated with the licensee~~" means that an individual is:]

221 [~~(i) affiliated with a licensee as an owner, director, member of the governing body,
 222 employee, agent, provider of care, department contractor, or volunteer; or]~~

223 [~~(ii) applying to become affiliated with a licensee in a capacity described in
 224 Subsection (5)(a)(i).]~~

225 [(b)] (a) "Associated with the licensee" means an individual who, regardless of title,
 226 holds or held a position of management, control, or significant influence over the
 227 licensee's operations or compliance as demonstrated by being:

228 (i) an owner, partner, corporate officer, director, or member of the governing body;

229 (ii) a managerial or supervisory employee with responsibility for the licensee's daily
 230 operations or compliance with governing rules;

231 (iii) an individual who exercises significant control over the management, policies, or
 232 operations of the licensee, whether through financial interest, contract, familial

- 233 relationship, or other formal arrangement; or
234 (iv) an individual applying to be in a capacity described in this Subsection (5)(a).
235 (b) "Associated with the licensee" does not include:
236 (i) service on the following bodies, unless that service includes direct access to a
237 child or a vulnerable adult:
238 (A) a local mental health authority described in Section 17-77-301;
239 (B) a local substance abuse authority described in Section 17-77-201; or
240 (C) a board of an organization operating under a contract to provide mental health
241 or substance use programs, or services for the local mental health authority or
242 substance abuse authority; or
243 (ii) a guest or visitor whose access to a child or a vulnerable adult is directly
244 supervised at all times.
- 245 (6) "Behavioral health receiving center" means a 23-hour non-secure program or facility
246 that is responsible for, and provides mental health crisis services to, an individual
247 experiencing a mental health crisis.
- 248 (7)(a) "Boarding school" means a private school that:
249 (i) uses a regionally accredited education program;
250 (ii) provides a residence to the school's students:
251 (A) for the purpose of enabling the school's students to attend classes at the
252 school; and
253 (B) as an ancillary service to educating the students at the school;
254 (iii) has the primary purpose of providing the school's students with an education, as
255 defined in Subsection (7)(b)(i); and
256 (iv)(A) does not provide the treatment or services described in Subsection (49)(a);
257 or
258 (B) provides the treatment or services described in Subsection (49)(a) on a limited
259 basis, as described in Subsection (7)(b)(ii).
- 260 (b)(i) For purposes of Subsection (7)(a)(iii), "education" means a course of study for
261 one or more grades from kindergarten through grade 12.
262 (ii) For purposes of Subsection (7)(a)(iv)(B), a private school provides the treatment
263 or services described in Subsection (49)(a) on a limited basis if:
264 (A) the treatment or services described in Subsection (49)(a) are provided only as
265 an incidental service to a student; and
266 (B) the school does not:

- 267 (I) specifically solicit a student for the purpose of providing the treatment or
 268 services described in Subsection (49)(a); or
- 269 (II) have a primary purpose of providing the treatment or services described in
 270 Subsection (49)(a).
- 271 (c) "Boarding school" does not include a therapeutic school.
- 272 (8) "Certification" means a less restrictive level of licensure issued by the department.
- 273 (9) "Child" means an individual under 18 years old.
- 274 (10) "Child placing" means receiving, accepting, or providing custody or care for any child,
 275 temporarily or permanently, for the purpose of:
- 276 (a) finding a person to adopt the child;
- 277 (b) placing the child in a home for adoption; or
- 278 (c) foster home placement.
- 279 (11) "Child-placing agency" means a person that engages in child placing.
- 280 (12) "Client" means an individual who receives or has received services from a licensee.
- 281 (13)(a) "Congregate care program" means any of the following that provide services to a
 282 child:
- 283 (i) an outdoor youth program;
- 284 (ii) a residential support program;
- 285 (iii) a residential treatment program; or
- 286 (iv) a therapeutic school.
- 287 (b) "Congregate care program" does not include a human services program that:
- 288 (i) is licensed to serve adults; and
- 289 (ii) is approved by the office to service a child for a limited time.
- 290 (14)(a) "Day treatment" means specialized treatment that is provided to:
- 291 ~~[(a)]~~ (i) a client less than 24 hours a day; and
- 292 ~~[(b)]~~ (ii) four or more persons who are receiving services individually or in a group
 293 setting during any 30-day period and who:
- 294 ~~[(+)]~~ (A) are unrelated to the owner or provider; and
- 295 ~~[(+)]~~ (B) have emotional, psychological, developmental, physical, or behavioral
 296 dysfunctions, impairments, or chemical dependencies.
- 297 (b) A person providing Applied Behavior Analysis to clients as described in Subsection
 298 (14)(a) is presumed to be providing day treatment unless the person is able to
 299 demonstrate to the office that the services meet the definition of outpatient treatment
 300 described in Subsection (42).

- 301 (15) "Department contractor" means an individual who:
302 (a) provides services under a contract with the department; and
303 (b) due to the contract with the department, has or will likely have direct access to a
304 child or vulnerable adult.
- 305 (16) "Direct access" means that an individual has, or likely will have:
306 (a) contact with or access to a child or vulnerable adult that provides the individual with
307 an opportunity for personal communication or touch; or
308 (b) an opportunity to view medical, financial, or other confidential personal identifying
309 information of the child, the child's parents or legal guardians, or the vulnerable adult.
- 310 (17) "Directly supervised" means that an individual is being supervised under the
311 uninterrupted visual and auditory surveillance of another individual who has a current
312 background check approval issued by the office.
- 313 (18) "Director" means the director of the office.
- 314 (19) "Division" means the Division of Licensing and Background Checks created under
315 Section [~~26B-2-103~~] 26B-2-901.
- 316 (20) "Domestic violence" means the same as that term is defined in Section 77-36-1.
- 317 (21) "Domestic violence treatment program" means a nonresidential program designed to
318 provide psychological treatment and educational services to perpetrators and victims of
319 domestic violence.
- 320 (22) "Elder adult" means a person 65 years old or older.
- 321 (23) "Emergency safety intervention" means a tactic used to protect staff or a client from
322 being physically injured, utilized by an appropriately trained direct care staff and only
323 performed in accordance with a nationally or regionally recognized curriculum in the
324 least restrictive manner to restore staff or client safety.
- 325 (24) "Foster home" means a residence that is licensed or certified by the office for the
326 full-time substitute care of a child.
- 327 (25) "Harm" means the same as that term is defined in Section 80-1-102.
- 328 (26) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.
- 329 (27) "Health care provider" means the same as that term is defined in Section 78B-3-403.
- 330 (28) "Health insurer" means:
331 (a) an insurer who offers health care insurance as that term is defined in Section
332 31A-1-301;
333 (b) health benefits offered to state employees under Section 49-20-202; and
334 (c) a workers' compensation insurer:

- 335 (i) authorized to provide workers' compensation insurance in the state; or
336 (ii) that is a self-insured employer as defined in Section 34A-2-201.5.
- 337 (29)(a) "Human services program" means:
- 338 (i) a foster home;
339 (ii) a therapeutic school;
340 (iii) a youth program;
341 (iv) an outdoor youth program;
342 (v) a residential treatment program;
343 (vi) a residential support program;
344 (vii) a resource family home;
345 (viii) a recovery residence;
346 (ix) a behavioral health receiving center; or
347 (x) a facility or program that provides:
- 348 (A) adult day care;
349 (B) day treatment;
350 (C) outpatient treatment;
351 (D) domestic violence treatment;
352 (E) child-placing services;
353 (F) social detoxification; or
354 (G) any other human services that are required by contract with the department to
355 be licensed with the department.
- 356 (b) "Human services program" does not include:
- 357 (i) a boarding school;
358 (ii) a residential vocational or life skills program, as defined in Section 13-53-102; or
359 (iii) a short-term relief care provider.
- 360 (30) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.
361 (31) "Indian country" means the same as that term is defined in 18 U.S.C. Sec. 1151.
362 (32) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.
363 (33) "Intermediate secure treatment" means 24-hour specialized residential treatment or
364 care for an individual who:
365 (a) cannot live independently or in a less restrictive environment; and
366 (b) requires, without the individual's consent or control, the use of locked doors to care
367 for the individual.
- 368 (34) "Licensee" means an individual or a human services program licensed by the office.

- 369 (35) "Local government" means a city, town, or county.
- 370 (36) "Mental health treatment program" means a program that:
- 371 (a) is a structured intervention; and
- 372 (b) is used to improve mental health, prevent mental disorders, and treat mental health
- 373 conditions.
- 374 (37) "Medication assisted treatment" means the use of a prescribed medication approved by
- 375 the United States Food and Drug Administration, such as buprenorphine, methadone, or
- 376 naltrexone, to treat substance use withdrawal symptoms or a substance use disorder.
- 377 (38) "Minor" means child.
- 378 (39) "Office" means, except as provided in Section 26B-2-120, the Office of Licensing
- 379 within the department.
- 380 (40) "Ombudsman" means the congregate care ombudsman created in Section 26B-2-124.2.
- 381 (41) "Outdoor youth program" means a program that provides:
- 382 (a) services to a child who has:
- 383 (i) a chemical dependency; or
- 384 (ii) a dysfunction or impairment that is emotional, psychological, developmental,
- 385 physical, or behavioral;
- 386 (b) a 24-hour outdoor group living environment; and
- 387 (c)(i) regular therapy, including group, individual, or supportive family therapy; or
- 388 (ii) informal therapy or similar services, including wilderness therapy, adventure
- 389 therapy, or outdoor behavioral healthcare.
- 390 (42) "Outpatient treatment" means individual, family, or group therapy or counseling
- 391 designed to improve and enhance social or psychological functioning for those whose
- 392 physical and emotional status allows them to continue functioning in their usual living
- 393 environment.
- 394 (43) "Practice group" or "group practice" means two or more health care providers legally
- 395 organized as a partnership, professional corporation, or similar association, for which:
- 396 (a) substantially all of the services of the health care providers who are members of the
- 397 group are provided through the group and are billed in the name of the group and
- 398 amounts received are treated as receipts of the group; and
- 399 (b) the overhead expenses of and the income from the practice are distributed in
- 400 accordance with methods previously determined by members of the group.
- 401 (44) "Private-placement child" means a child whose parent or guardian enters into a
- 402 contract with a congregate care program for the child to receive services.

- 403 (45) "Qualifying residential treatment program" means a residential treatment program that
404 is licensed under this part and:
- 405 (a) is operated as a nonprofit corporation or foreign nonprofit corporation, as those terms
406 are defined in Section 16-6a-102; or
 - 407 (b) receives any local, state, or federal government funding, government grant money, or
408 any other form of government assistance to operate or provide services or training in
409 the ordinary course of business.
- 410 (46) "Qualifying recovery residence" means a recovery residence that is licensed under this
411 part and:
- 412 (a) is operated as a nonprofit corporation or foreign nonprofit corporation, as those terms
413 are defined in Section 16-6a-102; or
 - 414 (b) receives any local, state, or federal government funding, government grant money, or
415 any other form of government assistance to operate or provide services or training in
416 the ordinary course of business.
- 417 (47)(a) "Recovery residence" means a home, residence, or facility that meets at least two
418 of the following requirements:
- 419 (i) provides a supervised living environment for individuals recovering from a
420 substance use disorder;
 - 421 (ii) provides a living environment in which more than half of the individuals in the
422 residence are recovering from a substance use disorder;
 - 423 (iii) provides or arranges for residents to receive services related to the resident's
424 recovery from a substance use disorder, either on or off site;
 - 425 (iv) is held out as a living environment in which individuals recovering from
426 substance abuse disorders live together to encourage continued sobriety; or
 - 427 (v)(A) receives public funding; or
428 (B) is run as a business venture, either for-profit or not-for-profit.
- 429 (b) "Recovery residence" does not mean:
- 430 (i) a residential treatment program;
 - 431 (ii) residential support program;
 - 432 (iii) a residential vocational or life skills program; or
 - 433 (iv) a home, residence, or facility, in which:
 - 434 (A) residents, by a majority vote of the residents, establish, implement, and
435 enforce policies governing the living environment, including the manner in
436 which applications for residence are approved and the manner in which

437 residents are expelled;

438 (B) residents equitably share rent and housing-related expenses; and

439 (C) a landlord, owner, or operator does not receive compensation, other than fair

440 market rental income, for establishing, implementing, or enforcing policies

441 governing the living environment.

442 (48) "Regular business hours" means:

443 (a) the hours during which services of any kind are provided to a client; or

444 (b) the hours during which a client is present at the facility of a licensee.

445 (49)(a) "Residential support program" means a program that arranges for or provides the

446 necessities of life as a protective service to individuals or families who have a

447 disability or who are experiencing a dislocation or emergency that prevents them

448 from providing these services for themselves or their families.

449 (b) "Residential support program" includes a program that provides a supervised living

450 environment for individuals with dysfunctions or impairments that are:

451 (i) emotional;

452 (ii) psychological;

453 (iii) developmental; or

454 (iv) behavioral.

455 (c) Treatment is not a necessary component of a residential support program.

456 (d) "Residential support program" does not include:

457 (i) a recovery residence; or

458 (ii) a program that provides residential services that are performed:

459 (A) exclusively under contract with the department and provided to individuals

460 through the Division of Services for People with Disabilities; or

461 (B) in a facility that serves fewer than four individuals.

462 (50)(a) "Residential treatment" means a 24-hour group living environment for four or

463 more individuals unrelated to the owner or provider that offers room or board and

464 specialized treatment, behavior modification, rehabilitation, discipline, emotional

465 growth, or habilitation services for persons with emotional, psychological,

466 developmental, or behavioral dysfunctions, impairments, or chemical dependencies.

467 (b) "Residential treatment" does not include a:

468 (i) boarding school;

469 (ii) foster home; or

470 (iii) recovery residence.

- 471 (51) "Residential treatment program" means a program or facility that provides:
- 472 (a) residential treatment; or
- 473 (b) intermediate secure treatment.
- 474 (52) "Seclusion" means the involuntary confinement of an individual in a room or an area:
- 475 (a) away from the individual's peers; and
- 476 (b) in a manner that physically prevents the individual from leaving the room or area.
- 477 (53) "Short-term relief care provider" means an individual who:
- 478 (a) provides short-term and temporary relief care to a foster parent:
- 479 (i) for less than six consecutive nights; and
- 480 (ii) in the short-term relief care provider's home;
- 481 (b) is an immediate family member or relative, as those terms are defined in Section
- 482 80-3-102, of the foster parent;
- 483 (c) is direct access qualified, as that term is defined in Section 26B-2-120;
- 484 (d) has been approved to provide short-term relief care by the department;
- 485 (e) is not reimbursed by the department for the temporary relief care provided; and
- 486 (f) is not an immediate family member or relative, as those terms are defined in Section
- 487 80-3-102, of the foster child.
- 488 (54) "Social detoxification" means short-term residential services for persons who are
- 489 experiencing or have recently experienced drug or alcohol intoxication, that are provided
- 490 outside of a health care facility licensed under Part 2, Health Care Facility Licensing and
- 491 Inspection, and that include:
- 492 (a) room and board for persons who are unrelated to the owner or manager of the facility;
- 493 (b) specialized rehabilitation to acquire sobriety; and
- 494 (c) aftercare services.
- 495 (55) "Substance abuse disorder" or "substance use disorder" mean the same as "substance
- 496 use disorder" is defined in Section 26B-5-501.
- 497 (56) "Substance abuse treatment program" or "substance use disorder treatment program"
- 498 means a program:
- 499 (a) designed to provide:
- 500 (i) specialized drug or alcohol treatment;
- 501 (ii) rehabilitation; or
- 502 (iii) habilitation services; and
- 503 (b) that provides the treatment or services described in Subsection (56)(a) to persons
- 504 with:

- 505 (i) a diagnosed substance use disorder; or
506 (ii) chemical dependency disorder.
- 507 (57) "Therapeutic school" means a residential group living facility:
- 508 (a) for four or more individuals that are not related to:
- 509 (i) the owner of the facility; or
510 (ii) the primary service provider of the facility;
- 511 (b) that serves students who have a history of failing to function:
- 512 (i) at home;
513 (ii) in a public school; or
514 (iii) in a nonresidential private school; and
- 515 (c) that offers:
- 516 (i) room and board; and
517 (ii) an academic education integrated with:
- 518 (A) specialized structure and supervision; or
519 (B) services or treatment related to:
- 520 (I) a disability;
521 (II) emotional development;
522 (III) behavioral development;
523 (IV) familial development; or
524 (V) social development.
- 525 (58) "Unrelated persons" means persons other than parents, legal guardians, grandparents,
526 brothers, sisters, uncles, or aunts.
- 527 (59) "Vulnerable adult" means an elder adult or an adult who has a temporary or permanent
528 mental or physical impairment that substantially affects the person's ability to:
- 529 (a) provide personal protection;
530 (b) provide necessities such as food, shelter, clothing, or mental or other health care;
531 (c) obtain services necessary for health, safety, or welfare;
532 (d) carry out the activities of daily living;
533 (e) manage the adult's own resources; or
534 (f) comprehend the nature and consequences of remaining in a situation of abuse,
535 neglect, or exploitation.
- 536 (60)(a) "Youth program" means a program designed to provide behavioral, substance
537 use, or mental health services to minors that:
- 538 (i) serves adjudicated or nonadjudicated youth;

- 539 (ii) charges a fee for the program's services;
 540 (iii) may provide host homes or other arrangements for overnight accommodation of
 541 the youth;
 542 (iv) may provide all or part of the program's services in the outdoors;
 543 (v) may limit or censor access to parents or guardians; and
 544 (vi) prohibits or restricts a minor's ability to leave the program at any time of the
 545 minor's own free will.

546 (b) "Youth program" does not include recreational programs such as Boy Scouts, Girl
 547 Scouts, 4-H, and other such organizations.

548 (61)(a) "Youth transportation company" means any person that transports a child for
 549 payment to or from a congregate care program in Utah.

550 (b) "Youth transportation company" does not include:

- 551 (i) a relative of the child;
 552 (ii) a state agency; or
 553 (iii) a congregate care program's employee who transports the child from the
 554 congregate care program that employs the employee and returns the child to the
 555 same congregate care program.

556 Section 3. Section **26B-2-117** is amended to read:

557 **26B-2-117 . Licensing residential treatment programs and recovery residences --**
 558 **Notification of local government.**

559 (1)(a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
 560 the office shall make rules that establish categories of residential treatment and
 561 recovery residence licenses based on differences in the types of residential treatment
 562 programs and recovery residences.

563 (b) The categories referred to in Subsection (1)(a) may be based on differences in:

- 564 (i) services offered;
 565 (ii) types of clients served;
 566 (iii) risks posed to the community; or
 567 (iv) other factors that make regulatory differences advisable.

568 (2) Subject to the requirements of federal and state law, and [~~pursuant to~~] in accordance with
 569 the authority granted by Section [~~26B-2-104~~] 26B-2-902, the office shall establish and
 570 enforce rules that:

571 (a)(i) relate generally to all categories of residential treatment program and recovery
 572 residence licenses; and

- 573 (ii) relate to specific categories of residential treatment program and recovery
574 residence licenses on the basis of the regulatory needs, as determined by the
575 office, of residential treatment programs and recovery residences within those
576 specific categories;
- 577 (b) preclude each qualified residential treatment program and each qualified recovery
578 residence from refusing to accept a client based solely on the client's use of
579 medication assisted treatment consistent with the recommendation of a licensed
580 prescriber or provider;
- 581 (c) require each qualified residential treatment program and each qualified recovery
582 residence to allow a client to receive medication assisted treatment as recommended
583 by a licensed prescriber or provider; and
- 584 (d) require that each Medicaid provider contract with a qualified residential treatment
585 program or a qualified recovery residence includes a provision obligating the
586 provider to comply with rules enacted [~~pursuant to~~] in accordance with Subsections
587 (2)(b) and (c), subject to the sanctions provided [~~pursuant to~~] in accordance with
588 Subsection 26B-3-108(6).
- 589 (3)(a) Beginning July 1, 2014, the office shall charge an annual licensing fee, set by the
590 office in accordance with the procedures described in Section 63J-1-504, to a
591 recovery residence in an amount that will pay for the cost of the licensing and
592 inspection requirements described in this section and in Section [~~26B-2-104~~]
593 26B-2-902.
- 594 (b) The office shall deposit the licensing fees described in this section [~~in~~] into the
595 General Fund as a dedicated credit to be used solely to pay for the cost of the
596 licensing and inspection requirements described in this section and in Section [~~26B-2-104~~]
597 26B-2-902.
- 598 (4) Before submitting an application for a license to operate a residential treatment
599 program, the applicant shall serve notice of its intent to operate a residential treatment
600 program on the governing body of:
- 601 (a) the city in which the residential treatment program will be located; or
602 (b) if the residential treatment program will be located in the unincorporated area of a
603 county, the county in which the residential treatment program will be located.
- 604 (5) The notice described in Subsection (4) shall include the following information relating
605 to the residential treatment program:
- 606 (a) an accurate description of the residential treatment program;

- 607 (b) the location where the residential treatment program will be operated;
- 608 (c) the services that will be provided by the residential treatment program;
- 609 (d) the type of clients that the residential treatment program will serve;
- 610 (e) the category of license for which the residential treatment program is applying to the
- 611 office;
- 612 (f) the name, telephone number, and address of a person that may be contacted to make
- 613 inquiries about the residential treatment program; and
- 614 (g) any other information that the office may require by rule.
- 615 (6) When submitting an application for a license to operate a residential treatment program,
- 616 the applicant shall include with the application:
- 617 (a) a copy of the notice described in Subsection (4); and
- 618 (b) proof that the applicant served the notice described in Subsection (4) on the
- 619 governing body described in Subsection (4).

620 Section 4. Section **26b-2-901**, which is renumbered from Section 26B-2-103 is renumbered

621 and amended to read:

622 **Part 9. Division of Licensing and Background Checks**

623 **[26B-2-103] 26b-2-901 . Division of Licensing and Background Checks.**

- 624 (1) There is created the Division of Licensing and Background Checks within the
- 625 department.
- 626 (2) The division shall be the licensing and background screening authority for the
- 627 department, and is vested with all the powers, duties, and responsibilities described in:
- 628 (a) this part;
- 629 (b) Part 2, Health Care Facility Licensing and Inspection;
- 630 (c) Part 4, Child Care Licensing; and
- 631 (d) Part 6, Mammography Quality Assurance.
- 632 (3) The executive director shall appoint the director of the division.
- 633 (4) There are created within the division the Office of Licensing and the Office of
- 634 Background Processing.

635 Section 5. Section **26b-2-902**, which is renumbered from Section 26B-2-104 is renumbered

636 and amended to read:

637 **[26B-2-104] 26b-2-902 . Division responsibilities.**

- 638 (1) Subject to the requirements of federal and state law, the office shall:
- 639 (a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
- 640 Rulemaking Act, to establish:

- 641 (i) except as provided in Subsection (1)(a)(ii), basic health and safety standards for
642 licensees, that shall be limited to:
- 643 (A) fire safety;
 - 644 (B) food safety;
 - 645 (C) sanitation;
 - 646 (D) infectious disease control;
 - 647 (E) safety of the:
 - 648 (I) physical facility and grounds; and
 - 649 (II) area and community surrounding the physical facility;
 - 650 (F) transportation safety;
 - 651 (G) emergency preparedness and response;
 - 652 (H) the administration of medical standards and procedures, consistent with the
653 related provisions of this title;
 - 654 (I) staff and client safety and protection;
 - 655 (J) the administration and maintenance of client and service records;
 - 656 (K) staff qualifications and training, including standards for permitting experience
657 to be substituted for education, unless prohibited by law;
 - 658 (L) staff to client ratios;
 - 659 (M) access to firearms; and
 - 660 (N) the prevention of abuse, neglect, exploitation, harm, mistreatment, or fraud;
- 661 (ii) basic health and safety standards for therapeutic schools, that shall be limited to:
- 662 (A) fire safety, except that the standards are limited to those required by law or
663 rule under Title 53, Chapter 7, Part 2, Fire Prevention and Fireworks Act;
 - 664 (B) food safety;
 - 665 (C) sanitation;
 - 666 (D) infectious disease control, except that the standards are limited to:
 - 667 (I) those required by law or rule under this title, or Title 26A, Local Health
668 Authorities; and
 - 669 (II) requiring a separate room for clients who are sick;
 - 670 (E) safety of the physical facility and grounds, except that the standards are
671 limited to those required by law or rule under Title 53, Chapter 7, Part 2, Fire
672 Prevention and Fireworks Act;
 - 673 (F) transportation safety;
 - 674 (G) emergency preparedness and response;

- 675 (H) access to appropriate medical care, including:
- 676 (I) subject to the requirements of law, designation of a person who is
- 677 authorized to dispense medication; and
- 678 (II) storing, tracking, and securing medication;
- 679 (I) staff and client safety and protection that permits the school to provide for the
- 680 direct supervision of clients at all times;
- 681 (J) the administration and maintenance of client and service records;
- 682 (K) staff qualifications and training, including standards for permitting experience
- 683 to be substituted for education, unless prohibited by law;
- 684 (L) staff to client ratios;
- 685 (M) access to firearms; and
- 686 (N) the prevention of abuse, neglect, exploitation, harm, mistreatment, or fraud;
- 687 (iii) procedures and standards for permitting a licensee to:
- 688 (A) provide in the same facility and under the same conditions as children,
- 689 residential treatment services to a person 18 years old or older who:
- 690 (I) begins to reside at the licensee's residential treatment facility before the
- 691 person's 18th birthday;
- 692 (II) has resided at the licensee's residential treatment facility continuously since
- 693 the time described in Subsection (1)(a)(iii)(A)(I);
- 694 (III) has not completed the course of treatment for which the person began
- 695 residing at the licensee's residential treatment facility; and
- 696 (IV) voluntarily consents to complete the course of treatment described in
- 697 Subsection (1)(a)(iii)(A)(III); or
- 698 (B)(I) provide residential treatment services to a child who is:
- 699 (Aa) at least 12 years old or, as approved by the division, younger than 12
- 700 years old; and
- 701 (Bb) under the custody of the department, or one of its divisions; and
- 702 (II) provide, in the same facility as a child described in Subsection
- 703 (1)(a)(iii)(B)(I), residential treatment services to a person who is:
- 704 (Aa) at least 18 years old, but younger than 21 years old; and
- 705 (Bb) under the custody of the department, or one of its divisions;
- 706 (iv) minimum administration and financial requirements for licensees;
- 707 (v) guidelines for variances from rules established under this Subsection (1);
- 708 (vi) ethical standards, as described in Section 81-13-104, and minimum

- 709 responsibilities of a child-placing agency that provides adoption services and that
710 is licensed under this part;
- 711 (vii) what constitutes an "outpatient treatment program" for purposes of this part;
- 712 (viii) a procedure requiring a licensee to provide an insurer the licensee's records
713 related to any services or supplies billed to the insurer and a procedure allowing
714 the licensee and the insurer to contact the Insurance Department to resolve any
715 disputes;
- 716 (ix) a protocol for the office to investigate and process complaints about licensees;
- 717 (x) a procedure for a licensee to:
- 718 (A) report the use of a restraint or seclusion within one business day after the day
719 on which the use of the restraint or seclusion occurs;
- 720 (B) report a critical incident within one business day after the day on which the
721 incident occurs; and
- 722 (C) comply with any requirements of this part;
- 723 (xi) guidelines for the policies and procedures described in Sections 26B-2-109 and
724 26B-2-123;
- 725 (xii) a procedure for the division to review and approve the policies and procedures
726 described in Sections 26B-2-109 and 26B-2-123;
- 727 (xiii) a requirement that each human services program publicly post information that
728 informs an individual how to submit a complaint about a human services program
729 to the division; and
- 730 (xiv) requirements for disruption plans under Section 26B-2-124;
- 731 (b) enforce rules relating to the division;
- 732 (c) issue licenses in accordance with this part;
- 733 (d) if the United States Department of State executes an agreement with the division that
734 designates the division to act as an accrediting entity in accordance with the
735 Intercountry Adoption Act of 2000, Pub. L. No. 106-279, accredit one or more
736 agencies and persons to provide intercountry adoption services pursuant to:
- 737 (i) the Intercountry Adoption Act of 2000, Pub. L. No. 106-279; and
- 738 (ii) the implementing regulations for the Intercountry Adoption Act of 2000, Pub. L.
739 No. 106-279;
- 740 (e) make rules to implement the provisions of Subsection (1)(d);
- 741 (f) conduct surveys and inspections of licensees and facilities in accordance with Section
742 26B-2-107;

- 743 (g) collect licensure fees;
- 744 (h) notify licensees of the name of a person within the department to contact when filing
745 a complaint;
- 746 (i) investigate complaints regarding any licensee or human services program;
- 747 (j) have access to all records, correspondence, and financial data required to be
748 maintained by a licensee;
- 749 (k) have authority to interview any client, family member of a client, employee, or
750 officer of a licensee;
- 751 (l) have authority to deny, condition, revoke, suspend, or extend any license issued by
752 the department under this part by following the procedures and requirements of Title
753 63G, Chapter 4, Administrative Procedures Act;
- 754 (m) cooperate with the Division of Child and Family Services to condition, revoke, or
755 suspend the license of a foster home when a child welfare caseworker from the
756 Division of Child and Family Services identifies a safety concern with the foster
757 home;
- 758 (n) electronically post notices of agency action issued to a human services program, with
759 the exception of a foster home, on the division's website, in accordance with Title
760 63G, Chapter 2, Government Records Access and Management Act; and
- 761 (o) upon receiving a local government's request under Section 26B-2-118, notify the
762 local government of new human services program license applications, except for
763 foster homes, for human services programs located within the local government's
764 jurisdiction.
- 765 (2) In establishing rules under Subsection (1)(a)(ii)(G), the division shall require a licensee
766 to establish and comply with an emergency response plan that requires clients and staff
767 to:
- 768 (a) immediately report to law enforcement any significant criminal activity, as defined
769 by rule, committed:
- 770 (i) on the premises where the licensee operates its human services program;
- 771 (ii) by or against its clients; or
- 772 (iii) by or against a staff member while the staff member is on duty;
- 773 (b) immediately report to emergency medical services any medical emergency, as
774 defined by rule:
- 775 (i) on the premises where the licensee operates a program;
- 776 (ii) involving its clients; or

777 (iii) involving a staff member while the staff member is on duty; and
778 (c) immediately report other emergencies that occur on the premises where the licensee
779 operates its human services program to the appropriate emergency services agency.

780 Section 6. Section **58-17b-309.7** is amended to read:

781 **58-17b-309.7 . Opioid treatment program -- Mobile medication assisted**
782 **treatment units.**

783 (1) As used in this section:

784 (a) "Covered provider" means an individual who is licensed to engage in:

785 (i) the practice of advanced practice registered nursing as defined in Section
786 58-31b-102;

787 (ii) the practice of registered nursing as defined in Section 58-31b-102; or

788 (iii) practice as a physician assistant as defined in Section 58-70a-102.

789 (b) "Mobile unit" means a mobile unit that provides medication, such as buprenorphine,
790 methadone, or naltrexone, to treat substance use withdrawal symptoms or a substance
791 use disorder.

792 (c) "Opioid treatment program" means a program or practitioner that is:

793 (i) engaged in dispensing an opiate medication assisted treatment for opioid use
794 disorder;

795 (ii) registered under 21 U.S.C. Sec. 823(g)(1);

796 (iii) licensed by the Division of Licensing and Background Checks within the
797 Department of Health and Human Services created in Section [26B-2-103]
798 26B-2-901; and

799 (iv) certified by the federal Substance Abuse and Mental Health Services
800 Administration in accordance with 42 C.F.R. 8.11.

801 (2) A covered provider may dispense opiate medication assisted treatment at an opioid
802 treatment program if the covered provider:

803 (a) is operating under the direction of a pharmacist;

804 (b) dispenses the opiate medication assisted treatment under the direction of a
805 pharmacist; and

806 (c) acts in accordance with division rules made under Subsection (4).

807 (3)(a) An opioid treatment program may operate one or more mobile units to serve
808 individuals without a fixed address and other individuals as appropriate.

809 (b) A mobile unit shall operate as an extension of, and under the registration, license,
810 and certification held by, the opioid treatment program.

- 811 (c) The pharmacist-in-charge who is responsible for directing the operation of the opioid
 812 treatment program shall determine the number of mobile units that may be operated
 813 as an extension of the opioid treatment program.
- 814 (d) A covered provider may dispense prescription medication assisted treatment only:
 815 (i) [~~pursuant to~~] in accordance with a valid prescription; and
 816 (ii) in compliance with the requirements described in Subsection (2).
- 817 (e) Medication may not be left in a mobile unit during the hours that the mobile unit is
 818 not in operation.
- 819 (f) An opioid treatment program that intends to operate a mobile unit shall notify the
 820 division and board of that intention as soon as possible, but not later than one
 821 business day before the mobile unit begins operating.
- 822 (g) An opioid treatment program that intends to discontinue operation of a mobile unit
 823 shall notify the division and board of that intention as soon as possible, but not later
 824 than one business day before the mobile unit discontinues operating.
- 825 (h) The Department of Health and Human Services may make rules, in accordance with
 826 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this
 827 section, to establish requirements for the operation of a mobile unit.
- 828 (4) The division shall, in consultation with practitioners who work in an opioid treatment
 829 program, make rules in accordance with Title 63G, Chapter 3, Utah Administrative
 830 Rulemaking Act, to establish guidelines under which a covered provider may dispense
 831 opiate medication assisted treatment to a patient in an opioid treatment program under
 832 this section.

833 Section 7. Section **80-2-1001** is amended to read:

834 **80-2-1001 . Management Information System -- Contents -- Classification of**
 835 **records -- Access.**

- 836 (1) The division shall develop and implement a Management Information System that
 837 meets the requirements of this section and the requirements of federal law and regulation.
- 838 (2) The Management Information System shall:
- 839 (a) contain all key elements of each family's current child and family plan, including:
 840 (i) the dates and number of times the plan has been administratively or judicially
 841 reviewed;
 842 (ii) the number of times the parent failed the child and family plan; and
 843 (iii) the exact length of time the child and family plan has been in effect; and
 844 (b) alert child welfare caseworkers regarding deadlines for completion of and

- 845 compliance with policy, including child and family plans.
- 846 (3) For a child welfare case, the Management Information System shall provide each child
847 welfare caseworker and the Division of Licensing and Background Checks created in
848 Section [~~26B-2-103~~] 26B-2-901, exclusively for the purposes of foster parent licensure
849 and monitoring, with a complete history of each child in the child welfare caseworker's
850 caseload, including:
- 851 (a) a record of all past action taken by the division with regard to the child and the
852 child's siblings;
 - 853 (b) the complete case history and all reports and information in the control or keeping of
854 the division regarding the child and the child's siblings;
 - 855 (c) the number of times the child has been in the protective custody, temporary custody,
856 and custody of the division;
 - 857 (d) the cumulative period of time the child has been in the custody of the division;
 - 858 (e) a record of all reports of abuse or neglect received by the division with regard to the
859 child's parent or guardian including:
 - 860 (i) for each report, documentation of the:
 - 861 (A) latest status; or
 - 862 (B) final outcome or determination; and
 - 863 (ii) information that indicates whether each report was found to be:
 - 864 (A) supported;
 - 865 (B) unsupported;
 - 866 (C) substantiated;
 - 867 (D) unsubstantiated; or
 - 868 (E) without merit;
 - 869 (f) the number of times the child's parent failed any child and family plan; and
 - 870 (g) the number of different child welfare caseworkers who have been assigned to the
871 child in the past.
- 872 (4) For child protective services cases, the Management Information System shall:
- 873 (a) monitor the compliance of each case with:
 - 874 (i) division rule;
 - 875 (ii) state law; and
 - 876 (iii) federal law and regulation; and
 - 877 (b) include the age and date of birth of the alleged perpetrator at the time the abuse or
878 neglect is alleged to have occurred, in order to ensure accuracy regarding the

- 879 identification of the alleged perpetrator.
- 880 (5) Information or a record contained in the Management Information System is:
- 881 (a) a private, controlled, or protected record under Title 63G, Chapter 2, Government
- 882 Records Access and Management Act; and
- 883 (b) available only:
- 884 (i) to a person or government entity with statutory authorization under Title 63G,
- 885 Chapter 2, Government Records Access and Management Act, to review the
- 886 information or record;
- 887 (ii) to a person who has specific statutory authorization to access the information or
- 888 record for the purpose of assisting the state with state or federal requirements to
- 889 maintain information solely for the purpose of protecting minors and providing
- 890 services to families in need;
- 891 (iii) to the extent required by Title IV(b) or IV(e) of the Social Security Act:
- 892 (A) to comply with abuse and neglect registry checks requested by other states; or
- 893 (B) to the United States Department of Health and Human Services for purposes
- 894 of maintaining an electronic national registry of supported or substantiated
- 895 cases of abuse and neglect;
- 896 (iv) to the department, upon the approval of the executive director of the department,
- 897 on a need-to-know basis;
- 898 (v) as provided in Subsection (6) or Section 80-2-1002; or
- 899 (vi) to a citizen review panel for the purpose of fulfilling the panel's duties as
- 900 described in Section 80-2-1101.
- 901 (6)(a) The division may allow a division contract provider, court clerk designated by the
- 902 Administrative Office of the Courts, the Office of Guardian Ad Litem, or Indian tribe
- 903 to have limited access to the Management Information System.
- 904 (b) A division contract provider or Indian tribe has access only to information about a
- 905 person who is currently receiving services from the specific contract provider or
- 906 Indian tribe.
- 907 (c) A court clerk may only have access to information necessary to comply with
- 908 Subsection 78B-7-202(2).
- 909 (d)(i) The Office of Guardian Ad Litem may only access:
- 910 (A) the information that is entered into the Management Information System on or
- 911 after July 1, 2004, and relates to a child or family where the Office of Guardian
- 912 Ad Litem is appointed by a court to represent the interests of the child; or

913 (B) any abuse or neglect referral about a child or family where the office has been
 914 appointed by a court to represent the interests of the child, regardless of the
 915 date that the information is entered into the Management Information System.

916 (ii) The division may use the information in the Management Information System to
 917 screen an individual as described in Subsection 80-2-1002(4)(b)(ii)(A) at the
 918 request of the Office of Guardian Ad Litem.

919 (e) A contract provider or designated representative of the Office of Guardian Ad Litem
 920 or an Indian tribe who requests access to information contained in the Management
 921 Information System shall:

922 (i) take all necessary precautions to safeguard the security of the information
 923 contained in the Management Information System;

924 (ii) train its employees regarding:

925 (A) requirements for protecting the information contained in the Management
 926 Information System under this chapter and under Title 63G, Chapter 2,
 927 Government Records Access and Management Act; and

928 (B) the criminal penalties under Sections 63G-2-801 and 80-2-1005 for improper
 929 release of information; and

930 (iii) monitor its employees to ensure that the employees protect the information
 931 contained in the Management Information System as required by law.

932 (7) The division shall take:

933 (a) all necessary precautions, including password protection and other appropriate and
 934 available technological techniques, to prevent unauthorized access to or release of
 935 information contained in the Management Information System; and

936 (b) reasonable precautions to ensure that the division's contract providers comply with
 937 Subsection (6).

938 Section 8. Section **80-2-1002** is amended to read:

939 **80-2-1002 . Licensing Information System -- Contents -- Classification of records**
 940 **-- Access -- Unlawful release -- Penalty.**

941 (1)(a) The division shall maintain a sub-part of the Management Information System as
 942 the Licensing Information System to be used:

943 (i) for licensing purposes; or

944 (ii) as otherwise provided by law.

945 (b) Notwithstanding Subsection (1)(a), the department's access to information in the
 946 Management Information System for the licensure and monitoring of a foster parent

- 947 is governed by Sections 80-2-1001 and 26B-2-121.
- 948 (2) The Licensing Information System shall include only the following information:
- 949 (a) the name and other identifying information of the alleged perpetrator in a supported
950 finding, without identifying the alleged perpetrator as a perpetrator or alleged
951 perpetrator;
- 952 (b) a notation to the effect that an investigation regarding the alleged perpetrator
953 described in Subsection (2)(a) is pending;
- 954 (c) the information described in Subsection (3);
- 955 (d) consented-to supported findings by an alleged perpetrator under Subsection
956 80-2-708(3)(a)(iii);
- 957 (e) a finding from the juvenile court under Section 80-3-404 or 80-3-504; and
- 958 (f) the information in the licensing part of the division's Management Information
959 System as of May 6, 2002.
- 960 (3) Subject to Section 80-2-1003, upon receipt of a finding from the juvenile court under
961 Section 80-3-404 or 80-3-504, the division shall:
- 962 (a) promptly amend the Licensing Information System to include the finding; and
- 963 (b) enter the finding in the Management Information System.
- 964 (4) Information or a record contained in the Licensing Information System is:
- 965 (a) a protected record under Title 63G, Chapter 2, Government Records Access and
966 Management Act; and
- 967 (b) notwithstanding Title 63G, Chapter 2, Government Records Access and
968 Management Act, accessible only:
- 969 (i) to the Division of Licensing and Background Checks created in Section [
970 ~~26B-2-103~~ 26B-2-901:
- 971 (A) for licensing purposes; or
- 972 (B) as otherwise specifically provided for by law;
- 973 (ii) to the division to:
- 974 (A) screen an individual at the request of the Office of Guardian Ad Litem at the
975 time the individual seeks a paid or voluntary position with the Office of
976 Guardian Ad Litem and annually throughout the time that the individual
977 remains with the Office of Guardian Ad Litem; and
- 978 (B) respond to a request for information from an individual whose name is listed
979 in the Licensing Information System;
- 980 (iii) to a person designated by the Department of Health and Human Services, only

981 for the following purposes:

982 (A) licensing a child care program or provider; or

983 (B) determining whether an individual associated with a child care facility,
984 program, or provider, who is exempt from being licensed or certified by the
985 Department of Health and Human Services under Title 26B, Chapter 2, Part 4,
986 Child Care Licensing, has a supported finding of a severe type of child abuse
987 or neglect;

988 (iv) to a person designated by the Department of Workforce Services and approved
989 by the Department of Health and Human Services for the purpose of qualifying a
990 child care provider under Section 35A-3-310.5;

991 (v) to the Bureau of Emergency Medical Services, within the Department of Public
992 Safety, in determining whether an individual who is seeking an emergency
993 medical services license has a supported finding of a severe type of child abuse or
994 neglect;

995 (vi) as provided in Section 26B-2-121; or

996 (vii) to the department or another person, as provided in this chapter.

997 (5) A person designated by the Department of Health and Human Services, the Department
998 of Workforce Services, or the Bureau of Emergency Medical Services under Subsection
999 (4) shall adopt measures to:

1000 (a) protect the security of the Licensing Information System; and

1001 (b) strictly limit access to the Licensing Information System to persons allowed access
1002 by statute.

1003 (6) The department shall approve a person allowed access by statute to information or a
1004 record contained in the Licensing Information System and provide training to the person
1005 with respect to:

1006 (a) accessing the Licensing Information System;

1007 (b) maintaining strict security; and

1008 (c) the criminal provisions of Sections 63G-2-801 and 80-2-1005 pertaining to the
1009 improper release of information.

1010 (7)(a) Except as authorized by this chapter, a person may not request another person to
1011 obtain or release any other information in the Licensing Information System to screen
1012 for potential perpetrators of abuse or neglect.

1013 (b) A person who requests information knowing that the request is a violation of this
1014 Subsection (7) is subject to the criminal penalties described in Sections 63G-2-801

1015 and 80-2-1005.

1016 Section 9. Section **81-14-307** is amended to read:

1017 **81-14-307 . Child-placing agency compliance.**

1018 (1) The Division of Licensing and Background Checks, created in Section [~~26B-2-103~~]
1019 26B-2-901, may investigate an allegation that a child-placing agency has failed to
1020 comply with this part and commence an action for injunctive or other relief or initiate
1021 administrative proceedings against the child-placing agency to enforce this part.

1022 (2)(a) The Office of Licensing may initiate a proceeding to determine whether a
1023 child-placing agency has failed to comply with this part.

1024 (b) If the Office of Licensing finds that the child-placing agency has failed to comply,
1025 the Office of Licensing may suspend or revoke the child-placing agency's license or
1026 take other action permitted by law of the state.

1027 Section 10. Section **81-14-308** is amended to read:

1028 **81-14-308 . Rulemaking by Division of Licensing and Background Checks.**

1029 The Division of Licensing and Background Checks, created in Section [~~26B-2-103~~]
1030 26B-2-901, may adopt rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
1031 to implement Sections 81-14-303, 81-14-304, 81-14-305, and 81-14-306.

1032 Section 11. **Effective Date.**

1033 This bill takes effect on May 6, 2026.