

Wayne A. Harper proposes the following substitute bill:

1 **Child Welfare Amendments**

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor:

2 **LONG TITLE**

3 **General Description:**

4 This bill makes changes related to the Division of Child and Family Services and child
5 welfare processes.

7 **Highlighted Provisions:**

8 This bill:

9 ▶ allows the Division of Child and Family Services (DCFS) to share information with the
10 Division of Professional Licensing for certain purposes;

11 ▶ modifies the definition of "relative";

12 ▶ clarifies the timeline for certain rights for foster parents;

13 ▶ requires DCFS to notify all parties when DCFS files a court report or child and family
14 plan;

15 ▶ requires placement objections to be filed and resolved within a certain time;

16 ▶ addresses shelter removal findings; and

17 ▶ clarifies that a postadoption contact agreement is not limited to children who are in the
18 custody of DCFS.

19 **Money Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 None

23 **Utah Code Sections Affected:**

24 **AMENDS:**

25 **80-2-1005**, as last amended by Laws of Utah 2025, First Special Session, Chapter 17

26 **80-2a-101**, as last amended by Laws of Utah 2025, Chapter 426

27 **80-2a-304**, as last amended by Laws of Utah 2025, Chapter 426

28 **80-3-102**, as last amended by Laws of Utah 2025, Chapter 426

29 **80-3-107**, as last amended by Laws of Utah 2025, Chapter 426
30 **80-3-301**, as last amended by Laws of Utah 2025, Chapter 426
31 **80-3-302**, as last amended by Laws of Utah 2025, Chapter 426
32 **80-3-303**, as last amended by Laws of Utah 2025, Chapter 48
33 **81-13-216**, as renumbered and amended by Laws of Utah 2025, Chapter 426

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

36 Section 1. Section **80-2-1005** is amended to read:

37 **80-2-1005 . Classification of reports of alleged abuse or neglect -- Confidential
38 identity of a person who reports -- Access -- Admitting reports into evidence -- Unlawful
39 release and use -- Penalty.**

40 (1) Except as otherwise provided in this chapter or Chapter 2a, Removal and Protective
41 Custody of a Child, a report made under Part 6, Child Abuse and Neglect Reports, and
42 any other information in the possession of the division obtained as a result of the report
43 is a private, protected, or controlled record under Title 63G, Chapter 2, Government
44 Records Access and Management Act, and may only be made available to:
45 (a) a police or law enforcement agency investigating a report of known or suspected
46 abuse or neglect, including members of a child protection team;
47 (b) a physician who reasonably believes that a child may be the subject of abuse or
48 neglect;
49 (c) an agency that has responsibility or authority to care for, treat, or supervise a minor
50 who is the subject of a report;
51 (d) a contract provider that has a written contract with the division to render services to a
52 minor who is the subject of a report;
53 (e) the subject of the report, the parents of the child, an individual who has been awarded
54 permanent custody and guardianship of the child, and the guardian ad litem;
55 (f) a court, upon a finding that access to the records may be necessary for the
56 determination of an issue before the court, [provided that] if in a divorce, custody, or
57 related proceeding between private parties, the record alone is:
58 (i) limited to objective or undisputed facts that were verified at the time of the
59 investigation; and
60 (ii) devoid of conclusions drawn by the division or any of the division's workers on
61 the ultimate issue of whether[or not] an individual's acts or omissions constituted
62 any level of abuse or neglect of another individual;

63 (g) an office of the public prosecutor or the public prosecutor's deputies in performing an
64 official duty;

65 (h) a person authorized by a Children's Justice Center, for the purposes described in
66 Section 67-5b-102;

67 (i) a person engaged in bona fide research, when approved by the director of the
68 division, if the information does not include names and addresses;

69 (j) the State Board of Education, acting on behalf of itself or on behalf of a local
70 education agency, as defined in Section 63J-5-102, for the purpose of evaluating
71 whether an individual should be permitted to obtain or retain a license as an educator
72 or serve as an employee or volunteer in a school, limited to information with
73 substantiated or supported findings involving an alleged sexual offense, an alleged
74 felony or class A misdemeanor drug offense, or any alleged offense against the
75 person under Title 76, Chapter 5, Offenses Against the Individual, and with the
76 understanding that the office ~~[must]~~ shall provide the subject of a report received
77 under Subsection (1)(k) with an opportunity to respond to the report before making a
78 decision concerning licensure or employment;

79 (k) any individual identified in the report as a perpetrator or possible perpetrator of
80 abuse or neglect, after being advised of the screening prohibition in Subsection (2);

81 (l) a person filing a petition for a child protective order on behalf of a child who is the
82 subject of the report;

83 (m) a licensed child-placing agency or person who is performing a preplacement
84 adoptive evaluation in accordance with the requirements of Sections 81-13-403 and
85 81-13-405;

86 (n) an Indian tribe to:
87 (i) certify or license a foster home;
88 (ii) render services to a subject of a report; or
89 (iii) investigate an allegation of abuse, neglect, or dependency; ~~[or]~~

90 (o) the department or a local substance abuse authority, described in Section 17-77-201,
91 for the purpose of providing substance abuse treatment to a pregnant woman or a
92 parent of a newborn child, or the services described in Subsection 26B-5-102(2)(mm)~~(2)~~ ;
93 or

94 (p) an investigator with the Division of Professional Licensing to investigate reported
95 licensing violations related to child abuse or neglect.

96 (2) In accordance with Section 80-2-608 and except as provided in Section 80-2-611, the

97 division and a law enforcement agency shall ensure the anonymity of the person who
98 makes the initial report under Part 6, Child Abuse and Neglect Reports, and any other
99 person involved in the division's or law enforcement agency's subsequent investigation
100 of the report.

101 (3) Notwithstanding any other provision of law, excluding Section 80-3-107, but including
102 this chapter, Chapter 2a, Removal and Protective Custody of a Child, and Title 63G,
103 Chapter 2, Government Records Access and Management Act, if the division makes a
104 report or other information in the division's possession available under Subsection (1)(e)
105 to a subject of the report or a parent of a child, the division shall remove from the report
106 or other information only the names, addresses, and telephone numbers of individuals or
107 specific information that could:

- 108 (a) identify the referent;
- 109 (b) impede a criminal investigation; or
- 110 (c) endanger an individual's safety.

111 (4) A child-placing agency or person who receives a report from the division under
112 Subsection (1)(m) may provide the report to:

- 113 (a) the subject of the report;
- 114 (b) a person who is performing a preplacement adoptive evaluation in accordance with
115 Sections 81-13-403 and 81-13-405;
- 116 (c) [to] a licensed child-placing agency; or
- 117 (d) an attorney seeking to facilitate an adoption.

118 (5) A member of a child protection team may, before the day on which the child is
119 removed, share case-specific information obtained from the division under this section
120 with other members of the child protection team.

121 (6)(a) Except as provided in Subsection (6)(b), in a divorce, custody, or related
122 proceeding between private parties, a court may not receive into evidence a report
123 that:

- 124 (i) is provided to the court:
 - 125 (A) under Subsection (1)(f); or
 - 126 (B) by a parent of the child after the record is made available to the parent under
127 Subsection (1)(e);
- 128 (ii) describes a parent of the child as the alleged perpetrator; and
- 129 (iii) is found to be unsubstantiated, unsupported, or without merit.

130 (b)(i) After a motion to admit the report described in Subsection (6)(a) is made, the

131 court shall allow sufficient time for all subjects of the record to respond before
132 making a finding on the motion.

133 (ii) After considering the motion described in Subsection (6)(b)(i), the court may
134 receive the report into evidence upon a finding on the record of good cause.

135 (7)(a) A person may not:

136 (i) willfully permit, or aid and abet, the release of data or information in the
137 possession of the division or contained in the Management Information System in
138 violation of this part or Part 6, Child Abuse and Neglect Reports; or
139 (ii) if the person is not listed in Subsection (1), request another person to obtain or
140 release a report or other information that the other person obtained under
141 Subsection (1)(k) to screen for potential perpetrators of abuse or neglect.

142 (b) A person who violates Subsection (7)(a)(i), or violates Subsection (7)(a)(ii) knowing
143 the person's actions are a violation of Subsection (7)(a)(ii), is guilty of a class C
144 misdemeanor.

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

146 **80-2a-101 . Definitions.**

147 As used in this chapter:

148 (1) "Custody" means the same as that term is defined in Section 80-2-102.

149 (2) "Division" means the Division of Child and Family Services created in Section 80-2-201.

150 (3) "Friend" means an adult who:

151 (a) has an established relationship with the child or a family member of the child; and
152 (b) is not the parent of the child.

153 (4) "Nonrelative" means an individual who is not a noncustodial parent or relative.

154 (5) "Relative" means an adult who:

155 (a) is the child's [grandparent, great grandparent, aunt, great aunt, uncle, great uncle,
156 brother-in-law, sister-in-law, stepparent, first cousin, stepsibling, or sibling] relation
157 by blood, marriage, or adoption;

158 [(b) is the first cousin of the child's parent;]
159 [(e)] (b) is a permanent guardian or parent of the child's sibling;[or]
160 (c) has an established relationship with the child or the child's immediate family

161 member, and who possesses historical knowledge of the child's culture, family
162 traditions, or heritage sufficient to support and maintain the child's connection to the
163 child's familial or cultural identity; or

164 (d) in the case of a child who is an Indian child, is an extended family member as

165 defined in the Indian Child Welfare Act, 25 U.S.C. Sec. 1903.

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

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

168 Section 3. Section **80-2a-304** is amended to read:

169 **80-2a-304 . Removal of a child from foster family placement -- Procedural due
170 process.**

171 (1)(a) The Legislature finds that, except with regard to a child's parent or guardian, a
172 foster family has a very limited but recognized interest in the foster family's familial
173 relationship with a foster child who has been in the care and custody of the foster
174 family and in making determinations regarding removal of a child from a foster
175 home, the division may not dismiss the foster family as a mere collection of unrelated
176 individuals.

177 (b) The Legislature finds that children in the temporary custody and custody of the
178 division are experiencing multiple changes in foster care placements with little or no
179 documentation, and that numerous studies of child growth and development
180 emphasize the importance of stability in foster care living arrangements.

181 (c) For the reasons described in Subsections (1)(a) and (b), the division shall provide
182 procedural due process for a foster family before removal of a foster child from the
183 foster family's home, regardless of the length of time the child has been in the foster
184 family's home, unless removal is for the purpose of:

185 (i) returning the child to the child's parent or guardian;
186 (ii) immediately placing the child in an approved adoptive home;
187 (iii) placing the child with a relative who obtained custody or asserted an interest in
188 the child within the preference period described in Subsection 80-3-302(7); or
189 (iv) placing an Indian child in accordance with placement preferences and other
190 requirements described in the Indian Child Welfare Act, 25 U.S.C. Sec. 1915.

191 (2)(a) The division shall maintain and utilize due process procedures for removal of a
192 foster child from a foster home, in accordance with the procedures and requirements
193 of Title 63G, Chapter 4, Administrative Procedures Act.

194 (b) The procedures described in Subsection (2)(a) shall include requirements for:

195 (i) personal communication with, and a written explanation of the reasons for the
196 removal to, the foster parents before removal of the child; and
197 (ii) an opportunity for foster parents to:
198 (A) present the foster parents' information and concerns to the division; and

199 (B) request a review, to be held before removal of the child, by a third party
200 neutral fact finder or if the child is placed with the foster parents for a period of [
201 at least two years] 12 months or longer, request a review, to be held before
202 removal of the child, by the juvenile court judge currently assigned to the
203 child's case or, if the juvenile court judge currently assigned to the child's case
204 is not available, another juvenile court judge.

205 (c) If the division determines that there is a reasonable basis to believe that the child is in
206 danger or that there is a substantial threat of danger to the health or welfare of the
207 child, the division shall place the child in emergency foster care during the pendency
208 of the procedures described in this Subsection (2), instead of making another foster
209 care placement.

210 (3)(a) If the division removes a child from a foster home based on the child's statement
211 alone, the division shall initiate and expedite the processes described in Subsection (2).

212 (b) The division may not take formal action with regard to the foster parent's license
213 until after the processes described in Subsection (2), in addition to any other
214 procedure or hearing required by law, are completed.

215 (4) If a complaint is made to the division by a foster child against a foster parent, the
216 division shall, within 30 business days after the day on which the complaint is received,
217 provide the foster parent with information regarding the specific nature of the complaint,
218 the time and place of the alleged incident, and who was alleged to have been involved.

219 (5) If the division places a child in a foster home, the division shall provide the foster
220 parents with:

221 (a) notification of the requirements of this section;
222 (b) a written description of the procedures enacted by the division under Subsection (2)
223 and how to access the procedures; and
224 (c) written notification of the foster parents' ability to petition the juvenile court directly
225 for review of a decision to remove a foster child who, subject to Section 80-3-502,
226 has been in the foster parents' custody for 12 months or longer.

227 (6) This section does not apply to the removal of a child based on a foster parent's request
228 for the removal.

229 (7) It is unlawful for a person, with the intent to avoid compliance with the requirements of
230 this section, to:

231 (a) take action, or encourage another to take action, against the license of a foster parent;
232 or

233 (b) remove a child from a foster home before the child is placed with the foster parents
234 for two years.

235 (8) The division may not remove a foster child from a foster parent who is a relative of the
236 child on the basis of the age or health of the foster parent without determining:

237 (a) by clear and convincing evidence that the foster parent is incapable of caring for the
238 foster child, if the alternative foster parent would not be another relative of the child;
239 or

240 (b) by a preponderance of the evidence that the foster parent is incapable of caring for
241 the foster child, if the alternative foster parent would be another relative of the child.

242 Section 4. Section **80-3-102** is amended to read:

243 **80-3-102 . Definitions.**

244 As used in this chapter:

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

247 (a) abused;

248 (b) neglected; or

249 (c) dependent.

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

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

252 (4) "Friend" means an adult who:

253 (a) has an established relationship with the child or a family member of the child; and

254 (b) is not the parent of the child.

255 (5) "Immediate family member" means a spouse, child, parent, sibling, grandparent, or
256 grandchild.

257 (6) "Relative" means an adult who:

258 (a) is the child's [grandparent, great grandparent, aunt, great aunt, uncle, great uncle,
259 brother-in-law, sister-in-law, stepparent, first cousin, stepsibling, or sibling] relation
260 by blood, marriage, or adoption;

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

262 [(e)] (b) is a permanent guardian or parent of the child's sibling;[-or]

263 (c) has an established relationship with the child or the child's immediate family
264 member, and who possesses historical knowledge of the child's culture, family
265 traditions, or heritage sufficient to support and maintain the child's connection to the
266 child's familial or cultural identity; or

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

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

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

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

272 Section 5. Section **80-3-107** is amended to read:

273 **80-3-107 . Disclosure of records -- Record sharing.**

274 (1)(a) Except as provided in Subsections [(1)(e) through] (1)(d) and (e), in an abuse,
275 neglect, or dependency proceeding occurring after the commencement of a shelter
276 hearing under Section 80-3-301, or the filing of an abuse, neglect, or dependency
277 petition, each party to the proceeding shall provide in writing to any other party or
278 the other party's counsel any information that the party:

279 (i) plans to report to the juvenile court at the proceeding; or

280 (ii) could reasonably expect would be requested of the party by the juvenile court at
281 the proceeding.

282 (b) A party providing the disclosure required under Subsection (1)(a) shall make the
283 disclosure:

284 (i) for a dispositional hearing under Part 4, Adjudication, Disposition, and
285 Permanency, no less than five days before the day on which the dispositional
286 hearing is held; and

287 (ii) for all other proceedings, no less than five days before the day on which the
288 proceeding is held.

289 [(e) The division is not required to provide a court report or a child and family plan
290 described in Section 80-3-307 to each party to the proceeding if:]
291 [(i) the information is electronically filed with the juvenile court; and]
292 [(ii) each party to the proceeding has access to the electronically filed information.]

293 (c) The division shall notify each party to the proceeding when the division files a court
294 report or a child and family plan, described in Section 80-3-307.

295 (d) If a party to a proceeding obtains information after the deadline described in
296 Subsection (1)(b), the information is exempt from the disclosure required under
297 Subsection (1)(a) if the party certifies to the juvenile court that the information was
298 obtained after the deadline.

299 (e) Subsection (1)(a) does not apply to:
300 (i) pretrial hearings; and

(ii) the frequent, periodic review hearings held in a dependency drug court case to assess and promote the parent's progress in substance use disorder treatment.

(2)(a) Except as provided in Subsection (2)(b), and notwithstanding any other provision of law:

- (i) counsel for all parties to the action shall be given access to all records, maintained by the division or any other state or local public agency, that are relevant to the abuse, neglect, or dependency proceeding under this chapter; and
- (ii) if the parent of a child is not represented by counsel, the parent shall have access to the records described in Subsection (2)(a)(i).

(b) The disclosures described in Subsection (2)(a) are not required if:

- (i) subject to Subsection (2)(c), the division or other state or local public agency did not originally create the record being requested;
- (ii) disclosure of the record would jeopardize the life or physical safety of a child who has been a victim of abuse or neglect, or any individual who provided substitute care for the child;
- (iii) disclosure of the record would jeopardize the anonymity of the individual making the initial report of abuse or neglect or any others involved in the subsequent investigation;
- (iv) disclosure of the record would jeopardize the life or physical safety of an individual who has been a victim of domestic violence; or
- (v) the record is a Children's Justice Center interview, including a video or audio recording, and a transcript of the recording, the release of which is governed by Section 77-37-4.

(c) If a disclosure is denied under Subsection (2)(b)(i), the division shall inform the individual making the request:

- (i) of the existence of all records in the possession of the division or any other state or local public agency;
- (ii) of the name and address of the individual or agency that originally created the record; and
- (iii) that the individual making the request must seek access to the record from the individual or agency that originally created the record.

335 child within 72 hours, excluding weekends and holidays, after any one or all of the
336 following occur:

337 (a) removal of the child from the child's home by the division;
338 (b) placement of the child in protective custody;
339 (c) emergency placement under Subsection 80-2a-202(5);
340 (d) as an alternative to removal of the child, a parent enters a domestic violence shelter
341 at the request of the division; or
342 (e) a motion for expedited placement in temporary custody is filed under Section
343 80-3-203.

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

346 (a) the name and address of the individual to whom the notice is directed;
347 (b) the date, time, and place of the shelter hearing;
348 (c) the name of the child on whose behalf an abuse, neglect, or dependency petition is
349 brought;
350 (d) a concise statement regarding:
351 (i) the reasons for removal or other action of the division under Subsection (1); and
352 (ii) the allegations and code sections under which the proceeding is instituted;
353 (e) a statement that the parent or guardian to whom notice is given, and the child, are
354 entitled to have an attorney present at the shelter hearing, and that if the parent or
355 guardian is an indigent individual and cannot afford an attorney, and desires to be
356 represented by an attorney, one will be provided in accordance with Title 78B,
357 Chapter 22, Indigent Defense Act; and
358 (f) a statement that the parent or guardian is liable for the cost of support of the child in
359 the protective custody, temporary custody, and custody of the division, and the cost
360 for legal counsel appointed for the parent or guardian under Subsection (2)(e),
361 according to the financial ability of the parent or guardian.

362 (3) The notice described in Subsection (2) shall be personally served as soon as possible,
363 but no later than one business day after the day on which the child is removed from the
364 child's home, or the day on which a motion for expedited placement in temporary
365 custody under Section 80-3-203 is filed, on:
366 (a) the appropriate guardian ad litem; and
367 (b) both parents and any guardian of the child, unless the parents or guardians cannot be
368 located.

369 (4) Notwithstanding Section 80-3-104, the following individuals shall be present at the
370 shelter hearing:
371 (a) the child, unless it would be detrimental for the child;
372 (b) the child's parents or guardian, unless the parents or guardian cannot be located, or
373 fail to appear in response to the notice;
374 (c) counsel for the parents, if one is requested;
375 (d) the child's guardian ad litem;
376 (e) the child welfare caseworker from the division who is assigned to the case; and
377 (f) the attorney from the attorney general's office who is representing the division.

378 (5)(a) At the shelter hearing, the juvenile court shall:

379 (i) provide an opportunity to provide relevant testimony to:
380 (A) the child's parent or guardian, if present; and
381 (B) any other individual with relevant knowledge;
382 (ii) subject to Section 80-3-108, provide an opportunity for the child to testify; and
383 (iii) in accordance with Subsections 80-3-302(7)(c) and (d), grant preferential
384 consideration to a relative or friend for the temporary placement of the child.

385 (b) The juvenile court:

386 (i) may consider all relevant evidence, in accordance with the Utah Rules of Juvenile
387 Procedure;
388 (ii) shall hear relevant evidence presented by the child, the child's parent or guardian,
389 the requesting party, or the requesting party's counsel, including relevant evidence
390 regarding harm the specific child has suffered or will suffer due to the separation
391 or continued separation from the child's parent or guardian; and
392 (iii) may in the juvenile court's discretion limit testimony and evidence to only that
393 which goes to the issues of removal and the child's need for continued protection.

394 (6) If the child is in protective custody, the division shall report to the juvenile court:

395 (a) the reason why the child was removed from the parent's or guardian's custody;
396 (b) any services provided to the child and the child's family in an effort to prevent
397 removal;
398 (c) the need, if any, for continued shelter;
399 (d) the available services that could facilitate the return of the child to the custody of the
400 child's parent or guardian; and
401 (e) subject to Subsections 80-3-302(7)(c) and (d), whether any relatives of the child or
402 friends of the child's parents may be able and willing to accept temporary placement

403 of the child.

404 (7) The juvenile court shall consider all relevant evidence provided by an individual or
405 entity authorized to present relevant evidence under this section.

406 (8)(a) If necessary to protect the child, preserve the rights of a party, or for other good
407 cause shown, the juvenile court may grant no more than one continuance, not to
408 exceed five judicial days.

409 (b) A juvenile court shall honor, as nearly as practicable, the request by a parent or
410 guardian for a continuance under Subsection (8)(a).

411 (c) Notwithstanding Subsection (8)(a), if the division fails to provide the notice
412 described in Subsection (2) within the time described in Subsection (3), the juvenile
413 court may grant the request of a parent or guardian for a continuance, not to exceed
414 five judicial days.

415 (9)(a) If the child is in protective custody, the juvenile court shall order that the child be
416 returned to the custody of the parent or guardian unless the juvenile court finds, by a
417 preponderance of the evidence, consistent with the protections and requirements
418 provided in Subsection 80-2a-201(1), that any one of the following exists:

419 (i) subject to Subsection (9)(b)(i), there is a serious danger to the physical health or
420 safety of the child and the child's physical health or safety may not be protected
421 without removing the child from the custody of the child's parent;

422 (ii)(A) the child is suffering emotional damage that results in a serious impairment
423 in the child's growth, development, behavior, or psychological functioning;
424 (B) the parent or guardian is unwilling or unable to make reasonable changes that
425 would sufficiently prevent future damage; and

426 (C) there are no reasonable means available by which the child's emotional health
427 may be protected without removing the child from the custody of the child's
428 parent or guardian;

429 (iii) there is a substantial risk that the child will suffer abuse or neglect if the child is
430 not removed from the custody of the child's parent or guardian;

431 (iv) subject to Subsection (9)(b)(ii), the child or a minor residing in the same
432 household has been, or is considered to be at substantial risk of being, physically
433 abused, sexually abused, or sexually exploited by:

434 (A) a parent or guardian;

435 (B) a member of the parent's household or the guardian's household; or

436 (C) an individual known to the parent or guardian;

437 (v) the parent or guardian is unwilling to have physical custody of the child;

438 (vi) the parent or guardian is unable to have physical custody of the child;

439 (vii) the child is without any provision for the child's support;

440 (viii) a parent who is incarcerated or institutionalized has not or cannot arrange for
441 safe and appropriate care for the child;

442 (ix)(A) a relative or other adult custodian with whom the child is left by the parent
443 or guardian is unwilling or unable to provide care or support for the child;

444 (B) the whereabouts of the parent or guardian are unknown; and

445 (C) reasonable efforts to locate the parent or guardian are unsuccessful;

446 (x) subject to Subsection 80-1-102(58)(b)(i) and Sections 80-3-109 and 80-3-304, the
447 child is in immediate need of medical care;

448 (xi)(A) the physical environment or the fact that the child is left unattended
449 beyond a reasonable period of time poses a threat to the child's health or safety;
450 and

451 (B) the parent or guardian is unwilling or unable to make reasonable changes that
452 would remove the threat;

453 (xii)(A) the child or a minor residing in the same household has been neglected;
454 and

455 (B) the parent or guardian is unwilling or unable to make reasonable changes that
456 would prevent the neglect;

457 (xiii) the parent, guardian, or an adult residing in the same household as the parent or
458 guardian, is charged or arrested [pursuant to] in accordance with Title 58, Chapter
459 37d, Clandestine Drug Lab Act, and any clandestine laboratory operation was
460 located in the residence or on the property where the child resided;

461 (xiv)(A) the child's welfare is substantially endangered; and

462 (B) the parent or guardian is unwilling or unable to make reasonable changes that
463 would remove the danger; or

464 (xv) the child's parent:

465 (A) intentionally, knowingly, or recklessly causes the death of another parent of
466 the child;

467 (B) is identified by a law enforcement agency as the primary suspect in an
468 investigation for intentionally, knowingly, or recklessly causing the death of
469 another parent of the child; or

470 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or

recklessly causing the death of another parent of the child.

(b)(i) Prima facie evidence of the finding described in Subsection (9)(a)(i) is established if:

- (A) a court previously adjudicated that the child suffered abuse, neglect, or dependency involving the parent; and
- (B) a subsequent incident of abuse, neglect, or dependency involving the parent occurs.

(ii) For purposes of Subsection (9)(a)(iv), if the juvenile court finds that the parent knowingly allowed the child to be in the physical care of an individual after the parent received actual notice that the individual physically abused, sexually abused, or sexually exploited the child, that fact is *prima facie* evidence that there is a substantial risk that the child will be physically abused, sexually abused, or sexually exploited.

(10)(a)(i) The juvenile court shall make a determination on the record as to whether reasonable efforts were made to prevent or eliminate the need for removal of the child from the child's home and whether there are available services that would prevent the need for continued removal.

(ii) If the juvenile court finds that the child can be safely returned to the custody of the child's parent or guardian through the provision of the services described in Subsection (10)(a)(i), the juvenile court shall place the child with the child's parent or guardian and order that the services be provided by the division.

(b) In accordance with federal law, the juvenile court shall consider the child's health, safety, and welfare as the paramount concern when making the determination described in Subsection (10)(a), and in ordering and providing the services described in Subsection (10)(a).

(11) If [the division's first contact with the family occurred during], at the time of the child's removal, an emergency situation existed in which the child could not safely remain at home, the juvenile court shall make a finding on the record that any lack of preplacement preventive efforts, as described in Section 80-2a-302, was appropriate.

(12) In cases where sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved, the juvenile court and the division do not have any duty to make reasonable efforts or to, in any other way, attempt to maintain a child in the child's home, return a child to the child's home, provide reunification services, or attempt to rehabilitate the offending parent or parents.

505 (13) The juvenile court may not order continued removal of a child solely on the basis of
506 educational neglect, truancy, or failure to comply with a court order to attend school.
507 (14)(a) If a juvenile court orders continued removal of a child under this section, the
508 juvenile court shall state the facts on which the decision is based.
509 (b) If no continued removal is ordered and the child is returned home, the juvenile court
510 shall state the facts on which the decision is based.
511 (15) If the juvenile court finds that continued removal and temporary custody are necessary
512 for the protection of a child under Subsection (9)(a), the juvenile court shall order
513 continued removal regardless of:
514 (a) any error in the initial removal of the child;
515 (b) the failure of a party to comply with notice provisions; or
516 (c) any other procedural requirement of this chapter, Chapter 2, Child Welfare Services,
517 or Chapter 2a, Removal and Protective Custody of a Child.

518 Section 7. Section **80-3-302** is amended to read:

519 **80-3-302 . Shelter hearing -- Placement of a child.**

520 (1) As used in this section:
521 (a) "Asserted an interest" means to communicate, verbally or in writing, to the division
522 or the court, that the relative or friend is interested in becoming a placement for the
523 child.
524 (b)(i) "Parent" does not include an unmarried biological father, as defined in Section
525 81-13-101, who has not strictly complied with Sections 81-13-212 and 81-13-213
526 before the removal of the child or voluntary surrender of the child by the custodial
527 parent.
528 (ii) "Parent" includes, except as provided in Subsection (1)(b)(i), an individual with a
529 parent-child relationship to the child under Section 81-5-201 regardless of whether
530 the child has been or will be placed with adoptive parents or whether adoption has
531 been or will be considered as a long-term goal for the child.
532 (2)(a) At the shelter hearing, if the juvenile court orders that a child be removed from the
533 custody of the child's parent in accordance with Section 80-3-301, the juvenile court
534 shall first determine whether there is another parent with whom the child was not
535 residing at the time the events or conditions that brought the child within the juvenile
536 court's jurisdiction occurred, who desires to assume custody of the child.
537 (b) Subject to Subsection (7) (2)(c), if another parent requests custody desires to
538 assume custody under Subsection (2)(a), the juvenile court shall place the child [with]

539 in that [parent] parent's temporary custody unless the juvenile court finds that the
540 placement would be unsafe or otherwise detrimental to the child.

541 (c) [The] In determining whether placement in the other parent's temporary custody
542 would be unsafe or otherwise detrimental, the juvenile court:

543 (i) shall make a specific finding regarding the fitness of the parent described in
544 Subsection (2)(b) to assume temporary custody, and the safety and
545 appropriateness of the placement;

546 (ii) shall, at a minimum, order the division to visit the parent's home, comply with the
547 criminal background check provisions described in Section 80-3-305, and check
548 the Management Information System for any previous reports of abuse or neglect
549 received by the division regarding the parent at issue;

550 (iii) may order the division to conduct any further investigation regarding the safety
551 and appropriateness of the placement; and

552 (iv) may place the child in the temporary custody of the division, pending the
553 juvenile court's determination regarding the placement.

554 (d) The division shall report the division's findings from an investigation under
555 Subsection (2)(c)[-regarding the child] in writing to the juvenile court within 14 days
556 after the day on which the juvenile court orders the investigation.

557 (3) If the juvenile court orders placement with a parent under Subsection (2):

558 (a) the child and the parent are under the continuing jurisdiction of the juvenile court;

559 (b) the juvenile court may order:

560 (i) that the parent take custody subject to the supervision of the juvenile court; and

561 (ii) that services be provided to the parent from whose custody the child was
562 removed, the parent who has assumed custody, or both; and

563 (c) the juvenile court shall order reasonable parent-time with the parent from whose
564 custody the child was removed, unless parent-time is not in the best interest of the
565 child.

566 (4) The juvenile court shall periodically review an order described in Subsection (3) to
567 determine whether:

568 (a) placement with the parent continues to be in the child's best interest;

569 (b) the child should be returned to the original custodial parent;

570 (c) the child should be placed with a relative under Subsections (6) through (9); or

571 (d) the child should be placed in the temporary custody of the division.

572 (5)(a) Legal custody of the child is not affected by an order entered under Subsection (2)

573 or (3).

574 (b) To affect a previous court order regarding legal custody, the party shall petition the
575 court for modification of legal custody.

576 (6) Subject to Subsection (7), if, at the time of the shelter hearing, a child is removed from
577 the custody of the child's parent and is not placed in the custody of the child's other
578 parent, the juvenile court:

579 (a) shall, at that time, determine whether there is a relative or a friend who is able and
580 willing to care for the child, which may include asking a child, who is of sufficient
581 maturity to articulate the child's wishes in relation to a placement, if there is a relative
582 or friend with whom the child would prefer to reside;

583 (b) may order the division to conduct a reasonable search to determine whether there are
584 relatives or friends who are willing and appropriate, in accordance with the
585 requirements of this chapter, Chapter 2, Child Welfare Services, and Chapter 2a,
586 Removal and Protective Custody of a Child, for placement of the child;

587 (c) shall order the parents to cooperate with the division, within five working days, to
588 provide information regarding relatives or friends who may be able and willing to
589 care for the child; and

590 (d) may order that the child be placed in the temporary custody of the division pending
591 the determination under Subsection (6)(a).

592 (7)(a)(i) Subject to Subsection (7)(b), and if the provisions of this section are
593 satisfied, the division and the juvenile court shall give preferential consideration to
594 a relative's or a friend's request for placement of the child, if the placement is in
595 the best interest of the child.

596 (ii) If a relative or friend verbally communicates to the division or court that the
597 relative or friend is interested in becoming a placement for the child, the division
598 or court shall make a written record of the communication and include that written
599 record in the report the division submits at the initial dispositional hearing, a
600 report the division submits under Section 80-3-408, or the court's legal file.

601 (b)(i)(A) The preferential consideration that the juvenile court or division initially
602 grants a friend under Subsection (7)(a)(i) expires 120 days after the day on
603 which the shelter hearing occurs.

604 (B) After the day on which the time period described in Subsection (7)(b)(i)(A)
605 expires, the division or the juvenile court may not grant preferential
606 consideration to a friend, who has not obtained custody or asserted an interest

in the child.

(ii)(A) Until eight months after the day on which the shelter hearing occurs, the preferential consideration that the juvenile court or division grants a relative under Subsection (7)(a)(i) is a rebuttable presumption that placement of the child with a relative is in the best interest of the child.

(B) After the rebuttable presumption described in Subsection (7)(b)(ii)(A) expires, the juvenile court or division shall give preferential consideration to a relative's request for placement of the child, if the placement is in the best interest of the child considering the totality of the circumstances.

(C) If a relative asserts an interest in becoming a placement for the child more than one year after the day on which the shelter hearing occurs, the juvenile court may not give the relative the preferential consideration described in Subsection (7)(b)(ii)(B).

The following order of preference shall be applied when determining the individual with whom a child will be placed, ~~[provided that]~~ if the individual is willing and able to care for the child:

- (i) a noncustodial parent of the child;
- (ii) a relative of the child;
- (iii) subject to Subsection (7)(d), a friend if the friend is a licensed foster parent; and
- (iv) other placements that are consistent with the requirements of law.

In determining whether a friend is a willing, able, and appropriate placement for a child, the juvenile court or the division:

- (i) subject to Subsections (7)(d)(ii) through (iv), shall consider the child's preferences or level of comfort with the friend;
- (ii) is required to consider no more than one friend designated by each parent of the child and one friend designated by the child if the child is of sufficient maturity to articulate the child's wishes in relation to a placement;
- (iii) may limit the number of designated friends to two, one of whom shall be a friend designated by the child if the child is of sufficient maturity to articulate the child's wishes in relation to a placement; and
- (iv) shall give preference to a friend designated by the child if:
 - (A) the child is of sufficient maturity to articulate the child's wishes; and
 - (B) the basis for removing the child under Section 80-3-301 is sexual abuse of the child.

641 (e)(i) If a parent of the child or the child, if the child is of sufficient maturity to
642 articulate the child's wishes in relation to a placement, is not able to designate a
643 friend who is a licensed foster parent for placement of the child, but is able to
644 identify a friend who is willing to become licensed as a foster parent, the
645 department shall fully cooperate to expedite the licensing process for the friend.

646 (ii) If the friend described in Subsection (7)(e)(i) becomes licensed as a foster parent
647 within the time frame described in Subsection (7)(b)(i), the juvenile court shall
648 determine whether it is in the best interest of the child to place the child with the
649 friend.

650 (8)(a) If a relative or friend who is willing to cooperate with the child's permanency goal
651 is identified under Subsection (6)(a), the juvenile court:
652 (i) shall make a specific finding regarding:
653 (A) the fitness of that relative or friend as a placement for the child; and
654 (B) the safety and appropriateness of placement with the relative or friend; and
655 (ii) may not consider a request for guardianship or adoption of the child by an
656 individual who is not a relative of the child, or prevent the division from placing
657 the child in the custody of a relative of the child in accordance with this part, until
658 after the day on which the juvenile court makes the findings under Subsection
659 (8)(a)(i).

660 (b) In making the finding described in Subsection (8)(a), the juvenile court shall, at a
661 minimum, order the division to:
662 (i) if the child may be placed with a relative, conduct a background check that
663 includes:
664 (A) completion of a nonfingerprint-based, Utah Bureau of Criminal Identification
665 background check of the relative;
666 (B) a completed search, relating to the relative, of the Management Information
667 System; and
668 (C) a background check that complies with the criminal background check
669 provisions described in Section 80-3-305, of each nonrelative of the child who
670 resides in the household where the child may be placed;
671 (ii) if the child will be placed with a noncustodial parent, complete a background
672 check that includes:
673 (A) the background check requirements applicable to an emergency placement
674 with a noncustodial parent that are described in Subsections 80-2a-301(4) and

675 (6);

676 (B) a completed search, relating to the noncustodial parent of the child, of the
677 Management Information System; and

678 (C) a background check that complies with the criminal background check
679 provisions described in Section 80-3-305, of each nonrelative of the child who
680 resides in the household where the child may be placed;

681 (iii) if the child may be placed with an individual other than a noncustodial parent or
682 a relative, conduct a criminal background check of the individual, and each adult
683 that resides in the household where the child may be placed, that complies with
684 the criminal background check provisions described in Section 80-3-305;

685 (iv) visit the relative's or friend's home;

686 (v) check the Management Information System for any previous reports of abuse or
687 neglect regarding the relative or friend at issue;

688 (vi) report the division's findings in writing to the juvenile court; and

689 (vii) provide sufficient information so that the juvenile court may determine whether:
690 (A) the relative or friend has any history of abusive or neglectful behavior toward
691 other children that may indicate or present a danger to this child;

692 (B) the child is comfortable with the relative or friend;

693 (C) the relative or friend recognizes the parent's history of abuse and is committed
694 to protect the child;

695 (D) the relative or friend is strong enough to resist inappropriate requests by the
696 parent for access to the child, in accordance with court orders;

697 (E) the relative or friend is committed to caring for the child as long as necessary;
698 and

699 (F) the relative or friend can provide a secure and stable environment for the child.

700 (c) The division may determine to conduct, or the juvenile court may order the division
701 to conduct, any further investigation regarding the safety and appropriateness of the
702 placement described in Subsection (8)(a).

703 (d) The division shall complete and file the division's assessment regarding placement
704 with a relative or friend under Subsections (8)(a) and (b) as soon as practicable, in an
705 effort to facilitate placement of the child with a relative or friend.

706 (9)(a) The juvenile court may place a child described in Subsection (2)(a) in the
707 temporary custody of the division, pending the division's investigation under
708 Subsection (8), and the juvenile court's determination regarding the appropriateness

709 of the placement.

710 (b) The juvenile court shall ultimately base the juvenile court's determination regarding
711 the appropriateness of a placement with a relative or friend on the best interest of the
712 child.

713 (10) If a juvenile court places a child described in Subsection (6) with the child's relative or
714 friend:

715 (a) the juvenile court shall:

716 (i) order the relative or friend take custody, subject to the continuing supervision of

717 the juvenile court;

718 (ii) provide for reasonable parent-time with the parent or parents from whose custody
719 the child is removed, unless parent-time is not in the best interest of the child; and

720 (iii) conduct a periodic review no less often than every six months, to determine
721 whether:

722 (A) placement with a relative or friend continues to be in the child's best interest;

723 (B) the child should be returned home; or

724 (C) the child should be placed in the custody of the division;

725 (b) the juvenile court may enter an order:

726 (i) requiring the division to provide necessary services to the child and the child's
727 relative or friend, including the monitoring of the child's safety and well-being; or

728 (ii) that the juvenile court considers necessary for the protection and best interest of
729 the child; and

730 (c) the child and the relative or friend in whose custody the child is placed are under the
731 continuing jurisdiction of the juvenile court.

732 (11) No later than 12 months after the day on which the child is removed from the home,
733 the juvenile court shall schedule a hearing for the purpose of entering a permanent order
734 in accordance with the best interest of the child.

735 (12) The time limitations described in Section 80-3-406, with regard to reunification
736 efforts, apply to a child placed with a previously noncustodial parent under Subsection
737 (2) or with a relative or friend under Subsection (6).

738 (13)(a) If the juvenile court awards temporary custody of a child to the division, and the
739 division places the child with a relative, the division shall:

740 (i) conduct a criminal background check of the relative that complies with the
741 criminal background check provisions described in Section 80-3-305; and

742 (ii) if the results of the criminal background check described in Subsection (13)(a)(i)

would prohibit the relative from having direct access to the child under Section 26B-2-120, the division shall:

- (A) take the child into physical custody; and
- (B) within three days, excluding weekends and holidays, after the day on which the child is taken into physical custody under Subsection (13)(a)(ii)(A), give written notice to the juvenile court, and all parties to the proceedings, of the division's action.

- (b) Subsection (13)(a) does not prohibit the division from placing a child with a relative, pending the results of the background check described in Subsection (13)(a) on the relative.

(14) If the juvenile court orders that a child be removed from the custody of the child's parent and does not award custody and guardianship to another parent, relative, or friend under this section, the juvenile court shall order that the child be placed in the temporary custody of the division, to proceed to adjudication and disposition and to be provided with care and services in accordance with this chapter, Chapter 2, Child Welfare Services, and Chapter 2a, Removal and Protective Custody of a Child.

(15)(a) If a child reenters the temporary custody or the custody of the division and the child is not placed with an individual who is a parent, relative, or friend, the division shall:

- (i) notify the child's former foster parents; and
- (ii) upon a determination of the former foster parents' willingness and ability to safely and appropriately care for the child, give the former foster parents preference for placement of the child.

(b) If, after the shelter hearing, the child is placed with an individual who is not a parent, a relative, a friend, or a former foster parent of the child, priority shall be given to a foster placement with a married couple, unless it is in the best interests of the child to place the child with a single foster parent.

(16) In determining the placement of a child, the juvenile court and the division may not take into account, or discriminate against, the religion of an individual with whom the child may be placed, unless the purpose of taking religion into account is to place the child with an individual or family of the same religion as the child.

(17) If the juvenile court's decision differs from a child's express wishes if the child is of sufficient maturity to articulate the wishes in relation to the child's placement, the juvenile court shall make findings explaining why the juvenile court's decision differs

777 from the child's wishes.

778 (18) This section does not guarantee that an identified relative or friend will receive custody
779 of the child.

780 (19)(a) If, for a relative placement, an interstate placement requested under the Interstate
781 Compact on the Placement of Children has been initiated by the division or is ordered
782 by or pending before the juvenile court, the court may not finalize a non-relative
783 placement unless the court gives due weight to:

784 (i) the preferential consideration granted to a relative in Section 80-3-302;
785 (ii) the rebuttable presumption in Section 80-3-302; and
786 (iii) the division's placement authority under Subsections 80-1-102(51) and
787 80-3-303(1).

788 (b) Nothing in this section affects the ability of a foster parent to petition the juvenile
789 court under Subsection 80-3-502(3).

790 Section 8. Section **80-3-303** is amended to read:

791 **80-3-303 . Post-shelter hearing placement of a child in division's temporary
792 custody.**

793 (1) If the juvenile court awards temporary custody of a child to the division under Section
794 80-3-302, or as otherwise permitted by law, the division shall determine ongoing
795 placement of the child.

796 (2) In placing a child under Subsection (1), the division:

797 (a) except as provided in Subsections (2)(b) and (e), shall comply with the applicable
798 background check provisions described in Section 80-3-302;

799 (b) is not required to receive approval from the juvenile court before making the
800 placement;

801 (c) shall consider the preferential consideration and rebuttable presumption described in
802 Subsection 80-3-302(7)(a);

803 (d) shall, within three days, excluding weekends and holidays, after the day on which the
804 placement is made, give written notice to the juvenile court, and the parties to the
805 proceedings, that the placement has been made;

806 (e) may place the child with a noncustodial parent, relative, or friend, using the same
807 criteria established for an emergency placement under Section 80-2a-301, pending
808 the results of:
809 (i) the background check described in Subsection 80-3-302(13)(a); and
810 (ii) evaluation with the noncustodial parent, relative, or friend to determine the

811 individual's capacity to provide ongoing care to the child; and

812 (f) shall take into consideration the will of the child, if the child is of sufficient maturity
813 to articulate the child's wishes in relation to the child's placement.

814 (3) If the division's placement decision differs from a child's express wishes and the child is
815 of sufficient maturity to state the child's wishes in relation to the child's placement, the
816 division shall:

817 (a) make written findings explaining why the division's decision differs from the child's
818 wishes; and

819 (b) provide the written findings to the juvenile court and the child's attorney guardian ad
820 litem.

821 (4)(a) An objection by a party to a placement determination or an actual placement with
822 a parent, relative, or friend that such placement is contrary to the best interest of the
823 child shall be filed with the juvenile court.

824 (b) An objection described in Subsection (4)(a) shall be resolved by the juvenile court:

825 (i) for an objection to a placement determination or actual placement with a parent,
826 within 15 days of the filing; or

827 (ii) for an objection to a placement determination or actual placement with a relative
828 or friend, within 30 days of the filing.

829 [(4)] (5)(a) If, for a relative placement, an interstate placement requested under the
830 Interstate Compact on the Placement of Children has been initiated by the division or
831 is ordered by or pending before the juvenile court, the court may not finalize a
832 non-relative placement unless the court gives due weight to:

833 (i) the preferential consideration granted to a relative in Section 80-3-302;

834 (ii) the rebuttable presumption in Section 80-3-302; and

835 (iii) the division's placement authority under Subsections 80-1-102(51) and
836 80-3-303(1).

837 (b) Nothing in this section affects the ability of a foster parent to petition the juvenile
838 court under Subsection 80-3-502(3).

839 Section 9. Section **81-13-216** is amended to read:

840 **81-13-216 . Postadoption contact agreement.**

841 (1) As used in this section:

842 (a) "Postadoption contact agreement" means a document, agreed upon [prior to] before
843 the finalization of an adoption of a minor child[in the custody of the division], that
844 outlines the relationship between an adoptive parent, birth parent, or other birth

relative, and the minor child after the finalization of adoption.

(b) "Other birth relative" means a grandparent, stepparent, sibling, stepsibling, aunt, or uncle of the child adoptee.

(2)(a) Notwithstanding any other provision in this chapter, if a child adoptee[in the custody of the division] is placed for adoption, the prospective adoptive parent and birth parent, or other birth relative, may enter into a postadoption contact agreement as provided in this section.

(b) A birth parent is not required to be a party to a postadoption contact agreement in order to permit an open adoption agreement between a prospective adoptive parent and another birth relative of the child adoptee.

(3) In order to be legally enforceable, a postadoption contact agreement shall be:

- (a) approved by the court before the finalization of the adoption, with the court making a specific finding that the agreement is in the best interest of the child adoptee;
- (b) signed by each party claiming a right or obligation in the agreement; and
- (c) if the child adoptee is 12 years old or older, approved by the child adoptee.

(4) A postadoption contact agreement shall:

(a) describe:

(i) visits, if any, that shall take place between the birth parent, other birth relative, adoptive parent, and child adoptee;

(ii) the degree of supervision, if any, that shall be required during a visit between a birth parent, other birth relative, and child adoptee;

(iii) the information, if any, that shall be provided to a birth parent, or other birth relative, about the child adoptee and how often that information shall be provided and

(iv) the grounds, if any, on which the adoptive parent may:

(A) decline to permit visits, described in Subsection (4)(a)(i), between the birth parent, or other birth relative, and child adoptee; or

(B) cease providing the information described in Subsection (4)(a)(iii) to the birth parent or other birth relative; and

(b) state that following the adoption, the court shall presume that the adoptive parent's judgment about the best interest of the child adoptee is correct in any action seeking to enforce, modify, or terminate the agreement.

(5) A postadoption contact agreement may not limit the adoptive parent's ability to move out of state.

879 (6) A postadoption contact agreement may only be modified with the consent of the
880 adoptive parent.

881 (7) In an action seeking enforcement of a postadoption contact agreement:
882 (a) an adoptive parent's judgment about the best interest of the child adoptee is entitled
883 to a presumption of correctness;
884 (b) if the party seeking to enforce the postadoption contact agreement successfully
885 rebuts the presumption described in Subsection (7)(a), the court shall consider
886 whether:
887 (i) the parties performed the duties outlined in the open adoption agreement in good
888 faith;
889 (ii) there is a reasonable alternative that fulfills the spirit of the open adoption
890 agreement without ordering mandatory compliance with the open adoption
891 agreement; and
892 (iii) enforcement of the open adoption agreement is in the best interest of the child
893 adoptee; and
894 (c) the court shall order the parties to attend mediation, if the presumption in Subsection
895 (7)(a) is successfully rebutted and mediation is in the child adoptee's best interest.

896 (8) An open adoption agreement that has been found not to be in the best interest of the
897 child adoptee shall not be enforced.

898 (9) Violation of an open adoption agreement is not grounds:
899 (a) to set aside an adoption; or
900 (b) for an award of money damages.

901 (10) Nothing in this section shall be construed to mean that an open adoption agreement is
902 required before an adoption may be finalized.

903 (11) Refusal or failure to agree to a postadoption contact agreement is not admissible in any
904 adoption proceeding.

905 (12) The court that approves a postadoption contact agreement retains jurisdiction over
906 modification, termination, and enforcement of an approved postadoption contact
907 agreement.

908 **Section 10. Effective Date.**

909 This bill takes effect on May 6, 2026.