

**Effective 9/1/2021**

**Title 80. Utah Juvenile Code**

**Chapter 1  
General Provisions**

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

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

- (1)
  - (a) "Abuse" means:
    - (i)
      - (A) nonaccidental harm of a child;
      - (B) threatened harm of a child;
      - (C) sexual exploitation;
      - (D) sexual abuse; or
      - (E) human trafficking of a child in violation of Section 76-5-308.5; or
    - (ii) that a child's natural parent:
      - (A) intentionally, knowingly, or recklessly causes the death of another parent of the child;
      - (B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or
      - (C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.
  - (b) "Abuse" does not include:
    - (i) reasonable discipline or management of a child, including withholding privileges;
    - (ii) conduct described in Section 76-2-401; or
    - (iii) the use of reasonable and necessary physical restraint or force on a child:
      - (A) in self-defense;
      - (B) in defense of others;
      - (C) to protect the child; or
      - (D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (1)(b)(iii)(A) through (C).
- (2) "Abused child" means a child who has been subjected to abuse.
- (3)
  - (a) "Adjudication" means a finding by the court, incorporated in a decree, that the facts alleged in the petition have been proved.
  - (b) "Adjudication" does not mean a finding of not competent to proceed in accordance with Section 80-6-402.
- (4)
  - (a) "Adult" means an individual who is 18 years old or older.
  - (b) "Adult" does not include an individual:
    - (i) who is 18 years old or older; and
    - (ii) who is a minor.
- (5) "Attorney guardian ad litem" means the same as that term is defined in Section 78A-2-801.
- (6) "Board" means the Board of Juvenile Court Judges.
- (7) "Child" means, except as provided in Section 80-2-905, an individual who is under 18 years old.
- (8) "Child and family plan" means a written agreement between a child's parents or guardian and the Division of Child and Family Services as described in Section 80-3-307.

- (9) "Child placing" means the same as that term is defined in Section 26B-2-101.
- (10) "Child-placing agency" means the same as that term is defined in Section 26B-2-101.
- (11) "Child protection team" means a team consisting of:
  - (a) the child welfare caseworker assigned to the case;
  - (b) if applicable, the child welfare caseworker who made the decision to remove the child;
  - (c) a representative of the school or school district where the child attends school;
  - (d) if applicable, the law enforcement officer who removed the child from the home;
  - (e) a representative of the appropriate Children's Justice Center, if one is established within the county where the child resides;
  - (f) if appropriate, and known to the division, a therapist or counselor who is familiar with the child's circumstances;
  - (g) if appropriate, a representative of law enforcement selected by the chief of police or sheriff in the city or county where the child resides; and
  - (h) any other individuals determined appropriate and necessary by the team coordinator and chair.
- (12)
  - (a) "Chronic abuse" means repeated or patterned abuse.
  - (b) "Chronic abuse" does not mean an isolated incident of abuse.
- (13)
  - (a) "Chronic neglect" means repeated or patterned neglect.
  - (b) "Chronic neglect" does not mean an isolated incident of neglect.
- (14) "Clandestine laboratory operation" means the same as that term is defined in Section 58-37d-3.
- (15) "Commit" or "committed" means, unless specified otherwise:
  - (a) with respect to a child, to transfer legal custody; and
  - (b) with respect to a minor who is at least 18 years old, to transfer custody.
- (16) "Community-based program" means a nonsecure residential or nonresidential program, designated to supervise and rehabilitate juvenile offenders, that prioritizes the least restrictive setting, consistent with public safety, and operated by or under contract with the Division of Juvenile Justice and Youth Services.
- (17) "Community placement" means placement of a minor in a community-based program described in Section 80-5-402.
- (18) "Correctional facility" means:
  - (a) a county jail; or
  - (b) a secure correctional facility as defined in Section 64-13-1.
- (19) "Criminogenic risk factors" means evidence-based factors that are associated with a minor's likelihood of reoffending.
- (20) "Department" means the Department of Health and Human Services created in Section 26B-1-201.
- (21) "Dependent child" or "dependency" means a child who is without proper care through no fault of the child's parent, guardian, or custodian.
- (22) "Deprivation of custody" means transfer of legal custody by the juvenile court from a parent or a previous custodian to another person, agency, or institution.
- (23) "Detention" means home detention or secure detention.
- (24) "Detention facility" means a facility, established by the Division of Juvenile Justice and Youth Services in accordance with Section 80-5-501, for minors held in detention.
- (25) "Detention risk assessment tool" means an evidence-based tool established under Section 80-5-203 that:

- (a) assesses a minor's risk of failing to appear in court or reoffending before adjudication; and
  - (b) is designed to assist in making a determination of whether a minor shall be held in detention.
- (26) "Developmental immaturity" means incomplete development in one or more domains that manifests as a functional limitation in the minor's present ability to:
- (a) consult with counsel with a reasonable degree of rational understanding; and
  - (b) have a rational as well as factual understanding of the proceedings.
- (27) "Disposition" means an order by a juvenile court, after the adjudication of a minor, under Section 80-3-405 or 80-4-305 or Chapter 6, Part 7, Adjudication and Disposition.
- (28) "Educational neglect" means that, after receiving a notice of compulsory education violation under Section 53G-6-202, the parent or guardian fails to make a good faith effort to ensure that the child receives an appropriate education.
- (29) "Educational series" means an evidence-based instructional series:
- (a) obtained at a substance abuse program that is approved by the Division of Integrated Healthcare in accordance with Section 26B-5-104; and
  - (b) designed to prevent substance use or the onset of a mental health disorder.
- (30) "Emancipated" means the same as that term is defined in Section 80-7-102.
- (31) "Evidence-based" means a program or practice that has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population or has been rated as effective by a standardized program evaluation tool.
- (32) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.
- (33) "Formal probation" means a minor is:
- (a) supervised in the community by, and reports to, a juvenile probation officer or an agency designated by the juvenile court; and
  - (b) subject to return to the juvenile court in accordance with Section 80-6-607.
- (34) "Group rehabilitation therapy" means psychological and social counseling of one or more individuals in the group, depending upon the recommendation of the therapist.
- (35) "Guardian" means a person appointed by a court to make decisions regarding a minor, including the authority to consent to:
- (a) marriage;
  - (b) enlistment in the armed forces;
  - (c) major medical, surgical, or psychiatric treatment; or
  - (d) legal custody, if legal custody is not vested in another individual, agency, or institution.
- (36) "Guardian ad litem" means the same as that term is defined in Section 78A-2-801.
- (37) "Harm" means:
- (a) physical or developmental injury or damage;
  - (b) emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;
  - (c) sexual abuse; or
  - (d) sexual exploitation.
- (38) "Home detention" means placement of a minor:
- (a) if prior to a disposition, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice and Youth Services or the juvenile court; or
  - (b) if after a disposition, and in accordance with Section 78A-6-353 or 80-6-704, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice and Youth Services or the juvenile court.
- (39)

- (a) "Incest" means engaging in sexual intercourse with an individual whom the perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin.
- (b) "Incest" includes:
  - (i) blood relationships of the whole or half blood, regardless of whether the relationship is legally recognized;
  - (ii) relationships of parent and child by adoption; and
  - (iii) relationships of stepparent and stepchild while the marriage creating the relationship of a stepparent and stepchild exists.
- (40) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.
- (41) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.
- (42) "Indigent defense service provider" means the same as that term is defined in Section 78B-22-102.
- (43) "Indigent defense services" means the same as that term is defined in Section 78B-22-102.
- (44) "Indigent individual" means the same as that term is defined in Section 78B-22-102.
- (45)
  - (a) "Intake probation" means a minor is:
    - (i) monitored by a juvenile probation officer; and
    - (ii) subject to return to the juvenile court in accordance with Section 80-6-607.
  - (b) "Intake probation" does not include formal probation.
- (46) "Intellectual disability" means a significant subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior that constitutes a substantial limitation to the individual's ability to function in society.
- (47) "Juvenile offender" means:
  - (a) a serious youth offender; or
  - (b) a youth offender.
- (48) "Juvenile probation officer" means a probation officer appointed under Section 78A-6-205.
- (49) "Juvenile receiving center" means a nonsecure, nonresidential program established by the Division of Juvenile Justice and Youth Services, or under contract with the Division of Juvenile Justice and Youth Services, that is responsible for minors taken into temporary custody under Section 80-6-201.
- (50) "Legal custody" means a relationship embodying:
  - (a) the right to physical custody of the minor;
  - (b) the right and duty to protect, train, and discipline the minor;
  - (c) the duty to provide the minor with food, clothing, shelter, education, and ordinary medical care;
  - (d) the right to determine where and with whom the minor shall live; and
  - (e) the right, in an emergency, to authorize surgery or other extraordinary care.
- (51) "Licensing Information System" means the Licensing Information System maintained by the Division of Child and Family Services under Section 80-2-1002.
- (52) "Management Information System" means the Management Information System developed by the Division of Child and Family Services under Section 80-2-1001.
- (53) "Mental illness" means:
  - (a) a psychiatric disorder that substantially impairs an individual's mental, emotional, behavioral, or related functioning; or
  - (b) the same as that term is defined in:
    - (i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or

- (ii) the current edition of the International Statistical Classification of Diseases and Related Health Problems.
- (54) "Minor" means, except as provided in Sections 80-6-501, 80-6-901, and 80-7-102:
- (a) a child; or
  - (b) an individual:
    - (i)
      - (A) who is at least 18 years old and younger than 21 years old; and
      - (B) for whom the Division of Child and Family Services has been specifically ordered by the juvenile court to provide services because the individual was an abused, neglected, or dependent child or because the individual was adjudicated for an offense;
    - (ii)
      - (A) who is at least 18 years old and younger than 25 years old; and
      - (B) whose case is under the jurisdiction of the juvenile court in accordance with Subsection 78A-6-103(1)(b); or
    - (iii)
      - (A) who is at least 18 years old and younger than 21 years old; and
      - (B) whose case is under the jurisdiction of the juvenile court in accordance with Subsection 78A-6-103(1)(c).
- (55) "Mobile crisis outreach team" means the same as that term is defined in Section 26B-5-101.
- (56) "Molestation" means that an individual, with the intent to arouse or gratify the sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child, or the breast of a female child, or takes indecent liberties with a child as defined in Section 76-5-401.1.
- (57)
- (a) "Natural parent" means, except as provided in Section 80-3-302, a minor's biological or adoptive parent.
  - (b) "Natural parent" includes the minor's noncustodial parent.
- (58)
- (a) "Neglect" means action or inaction causing:
    - (i) abandonment of a child, except as provided in Chapter 4, Part 5, Safe Relinquishment of a Newborn Child;
    - (ii) lack of proper parental care of a child by reason of the fault or habits of the parent, guardian, or custodian;
    - (iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary subsistence or medical care, or any other care necessary for the child's health, safety, morals, or well-being;
    - (iv) a child to be at risk of being neglected or abused because another child in the same home is neglected or abused;
    - (v) abandonment of a child through an unregulated child custody transfer under Section 78B-24-203; or
    - (vi) educational neglect.
  - (b) "Neglect" does not include:
    - (i) a parent or guardian legitimately practicing religious beliefs and who, for that reason, does not provide specified medical treatment for a child;
    - (ii) a health care decision made for a child by the child's parent or guardian, unless the state or other party to a proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed;
    - (iii) a parent or guardian exercising the right described in Section 80-3-304; or

- (iv) permitting a child, whose basic needs are met and who is of sufficient age and maturity to avoid harm or unreasonable risk of harm, to engage in independent activities, including:
  - (A) traveling to and from school, including by walking, running, or bicycling;
  - (B) traveling to and from nearby commercial or recreational facilities;
  - (C) engaging in outdoor play;
  - (D) remaining in a vehicle unattended, except under the conditions described in Subsection 76-10-2202(2);
  - (E) remaining at home unattended; or
  - (F) engaging in a similar independent activity.
- (59) "Neglected child" means a child who has been subjected to neglect.
- (60) "Nonjudicial adjustment" means closure of the case by the assigned juvenile probation officer, without an adjudication of the minor's case under Section 80-6-701, upon the consent in writing of:
  - (a) the assigned juvenile probation officer; and
  - (b)
    - (i) the minor; or
    - (ii) the minor and the minor's parent, guardian, or custodian.
- (61) "Not competent to proceed" means that a minor, due to a mental illness, intellectual disability or related condition, or developmental immaturity, lacks the ability to:
  - (a) understand the nature of the proceedings against the minor or of the potential disposition for the offense charged; or
  - (b) consult with counsel and participate in the proceedings against the minor with a reasonable degree of rational understanding.
- (62) "Parole" means a conditional release of a juvenile offender from residency in secure care to live outside of secure care under the supervision of the Division of Juvenile Justice and Youth Services, or another person designated by the Division of Juvenile Justice and Youth Services.
- (63) "Physical abuse" means abuse that results in physical injury or damage to a child.
- (64)
  - (a) "Probation" means a legal status created by court order, following an adjudication under Section 80-6-701, whereby the minor is permitted to remain in the minor's home under prescribed conditions.
  - (b) "Probation" includes intake probation or formal probation.
- (65) "Prosecuting attorney" means:
  - (a) the attorney general and any assistant attorney general;
  - (b) any district attorney or deputy district attorney;
  - (c) any county attorney or assistant county attorney; and
  - (d) any other attorney authorized to commence an action on behalf of the state.
- (66) "Protective custody" means the shelter of a child by the Division of Child and Family Services from the time the child is removed from the home until the earlier of:
  - (a) the day on which the shelter hearing is held under Section 80-3-301; or
  - (b) the day on which the child is returned home.
- (67) "Protective services" means expedited services that are provided:
  - (a) in response to evidence of neglect, abuse, or dependency of a child;
  - (b) to a cohabitant who is neglecting or abusing a child, in order to:
    - (i) help the cohabitant develop recognition of the cohabitant's duty of care and of the causes of neglect or abuse; and
    - (ii) strengthen the cohabitant's ability to provide safe and acceptable care; and
  - (c) in cases where the child's welfare is endangered:

- (i) to bring the situation to the attention of the appropriate juvenile court and law enforcement agency;
  - (ii) to cause a protective order to be issued for the protection of the child, when appropriate; and
  - (iii) to protect the child from the circumstances that endanger the child's welfare including, when appropriate:
    - (A) removal from the child's home;
    - (B) placement in substitute care; and
    - (C) petitioning the court for termination of parental rights.
- (68) "Protective supervision" means a legal status created by court order, following an adjudication on the ground of abuse, neglect, or dependency, whereby:
- (a) the minor is permitted to remain in the minor's home; and
  - (b) supervision and assistance to correct the abuse, neglect, or dependency is provided by an agency designated by the juvenile court.
- (69)
- (a) "Related condition" means a condition that:
    - (i) is found to be closely related to intellectual disability;
    - (ii) results in impairment of general intellectual functioning or adaptive behavior similar to that of an intellectually disabled individual;
    - (iii) is likely to continue indefinitely; and
    - (iv) constitutes a substantial limitation to the individual's ability to function in society.
  - (b) "Related condition" does not include mental illness, psychiatric impairment, or serious emotional or behavioral disturbance.
- (70)
- (a) "Residual parental rights and duties" means the rights and duties remaining with a parent after legal custody or guardianship, or both, have been vested in another person or agency, including:
    - (i) the responsibility for support;
    - (ii) the right to consent to adoption;
    - (iii) the right to determine the child's religious affiliation; and
    - (iv) the right to reasonable parent-time unless restricted by the court.
  - (b) If no guardian has been appointed, "residual parental rights and duties" includes the right to consent to:
    - (i) marriage;
    - (ii) enlistment; and
    - (iii) major medical, surgical, or psychiatric treatment.
- (71) "Runaway" means a child, other than an emancipated child, who willfully leaves the home of the child's parent or guardian, or the lawfully prescribed residence of the child, without permission.
- (72) "Secure care" means placement of a minor, who is committed to the Division of Juvenile Justice and Youth Services for rehabilitation, in a facility operated by, or under contract with, the Division of Juvenile Justice and Youth Services, that provides 24-hour supervision and confinement of the minor.
- (73) "Secure care facility" means a facility, established in accordance with Section 80-5-503, for juvenile offenders in secure care.
- (74) "Secure detention" means temporary care of a minor who requires secure custody in a physically restricting facility operated by, or under contract with, the Division of Juvenile Justice and Youth Services:
- (a) before disposition of an offense that is alleged to have been committed by the minor; or

- (b) under Section 80-6-704.
- (75) "Serious youth offender" means an individual who:
  - (a) is at least 14 years old, but under 25 years old;
  - (b) committed a felony listed in Subsection 80-6-503(1) and the continuing jurisdiction of the juvenile court was extended over the individual's case until the individual was 25 years old in accordance with Section 80-6-605; and
  - (c) is committed by the juvenile court to the Division of Juvenile Justice and Youth Services for secure care under Sections 80-6-703 and 80-6-705.
- (76) "Severe abuse" means abuse that causes or threatens to cause serious harm to a child.
- (77) "Severe neglect" means neglect that causes or threatens to cause serious harm to a child.
- (78)
  - (a) "Severe type of child abuse or neglect" means, except as provided in Subsection (78)(b):
    - (i) if committed by an individual who is 18 years old or older:
      - (A) chronic abuse;
      - (B) severe abuse;
      - (C) sexual abuse;
      - (D) sexual exploitation;
      - (E) abandonment;
      - (F) chronic neglect; or
      - (G) severe neglect; or
    - (ii) if committed by an individual who is under 18 years old:
      - (A) causing serious physical injury, as defined in Subsection 76-5-109(1), to another child that indicates a significant risk to other children; or
      - (B) sexual behavior with or upon another child that indicates a significant risk to other children.
  - (b) "Severe type of child abuse or neglect" does not include:
    - (i) the use of reasonable and necessary physical restraint by an educator in accordance with Subsection 53G-8-302(2) or Section 76-2-401;
    - (ii) an individual's conduct that is justified under Section 76-2-401 or constitutes the use of reasonable and necessary physical restraint or force in self-defense or otherwise appropriate to the circumstances to obtain possession of a weapon or other dangerous object in the possession or under the control of a child or to protect the child or another individual from physical injury; or
    - (iii) a health care decision made for a child by a child's parent or guardian, unless, subject to Subsection (78)(c), the state or other party to the proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed.
  - (c) Subsection (78)(b)(iii) does not prohibit a parent or guardian from exercising the right to obtain a second health care opinion.
- (79) "Sexual abuse" means:
  - (a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an adult directed towards a child;
  - (b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation committed by a child towards another child if:
    - (i) there is an indication of force or coercion;
    - (ii) the children are related, as described in Subsection (39), including siblings by marriage while the marriage exists or by adoption;
    - (iii) there have been repeated incidents of sexual contact between the two children, unless the children are 14 years old or older; or



- (iv) there is a disparity in chronological age of four or more years between the two children;
  - (c) engaging in any conduct with a child that would constitute an offense under any of the following, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense:
    - (i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the alleged perpetrator of an offense described in Section 76-5-401 is a minor;
    - (ii) child bigamy, Section 76-7-101.5;
    - (iii) incest, Section 76-7-102;
    - (iv) lewdness, Section 76-9-702;
    - (v) sexual battery, Section 76-9-702.1;
    - (vi) lewdness involving a child, Section 76-9-702.5; or
    - (vii) voyeurism, Section 76-9-702.7; or
  - (d) subjecting a child to participate in or threatening to subject a child to participate in a sexual relationship, regardless of whether that sexual relationship is part of a legal or cultural marriage.
- (80) "Sexual exploitation" means knowingly:
- (a) employing, using, persuading, inducing, enticing, or coercing any child to:
    - (i) pose in the nude for the purpose of sexual arousal of any individual; or
    - (ii) engage in any sexual or simulated sexual conduct for the purpose of photographing, filming, recording, or displaying in any way the sexual or simulated sexual conduct;
  - (b) displaying, distributing, possessing for the purpose of distribution, or selling material depicting a child:
    - (i) in the nude, for the purpose of sexual arousal of any individual; or
    - (ii) engaging in sexual or simulated sexual conduct; or
  - (c) engaging in any conduct that would constitute an offense under Section 76-5b-201, sexual exploitation of a minor, or Section 76-5b-201.1, aggravated sexual exploitation of a minor, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense.
- (81) "Shelter" means the temporary care of a child in a physically unrestricted facility pending a disposition or transfer to another jurisdiction.
- (82) "Shelter facility" means a nonsecure facility that provides shelter for a minor.
- (83) "Significant risk" means a risk of harm that is determined to be significant in accordance with risk assessment tools and rules established by the Division of Child and Family Services in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that focus on:
- (a) age;
  - (b) social factors;
  - (c) emotional factors;
  - (d) sexual factors;
  - (e) intellectual factors;
  - (f) family risk factors; and
  - (g) other related considerations.
- (84) "Single criminal episode" means the same as that term is defined in Section 76-1-401.
- (85) "Status offense" means an offense that would not be an offense but for the age of the offender.
- (86) "Substance abuse" means, except as provided in Section 80-2-603, the misuse or excessive use of alcohol or other drugs or substances.

- (87) "Substantiated" or "substantiation" means a judicial finding based on a preponderance of the evidence, and separate consideration of each allegation made or identified in the case, that abuse, neglect, or dependency occurred .
- (88) "Substitute care" means:
- (a) the placement of a minor in a family home, group care facility, or other placement outside the minor's own home, either at the request of a parent or other responsible relative, or upon court order, when it is determined that continuation of care in the minor's own home would be contrary to the minor's welfare;
  - (b) services provided for a minor in the protective custody of the Division of Child and Family Services, or a minor in the temporary custody or custody of the Division of Child and Family Services, as those terms are defined in Section 80-2-102; or
  - (c) the licensing and supervision of a substitute care facility.
- (89) "Supported" means a finding by the Division of Child and Family Services based on the evidence available at the completion of an investigation, and separate consideration of each allegation made or identified during the investigation, that there is a reasonable basis to conclude that abuse, neglect, or dependency occurred.
- (90) "Termination of parental rights" means the permanent elimination of all parental rights and duties, including residual parental rights and duties, by court order.
- (91) "Therapist" means:
- (a) an individual employed by a state division or agency for the purpose of conducting psychological treatment and counseling of a minor in the division's or agency's custody; or
  - (b) any other individual licensed or approved by the state for the purpose of conducting psychological treatment and counseling.
- (92) "Threatened harm" means actions, inactions, or credible verbal threats, indicating that the child is at an unreasonable risk of harm or neglect.
- (93) "Ungovernable" means a child in conflict with a parent or guardian, and the conflict:
- (a) results in behavior that is beyond the control or ability of the child, or the parent or guardian, to manage effectively;
  - (b) poses a threat to the safety or well-being of the child, the child's family, or others; or
  - (c) results in the situations described in Subsections (93)(a) and (b).
- (94) "Unsubstantiated" means a judicial finding that there is insufficient evidence to conclude that abuse, neglect, or dependency occurred.
- (95) "Unsupported" means a finding by the Division of Child and Family Services at the completion of an investigation, after the day on which the Division of Child and Family Services concludes the alleged abuse, neglect, or dependency is not without merit, that there is insufficient evidence to conclude that abuse, neglect, or dependency occurred.
- (96) "Validated risk and needs assessment" means an evidence-based tool that assesses a minor's risk of reoffending and a minor's criminogenic needs.
- (97) "Without merit" means a finding at the completion of an investigation by the Division of Child and Family Services, or a judicial finding, that the alleged abuse, neglect, or dependency did not occur, or that the alleged perpetrator was not responsible for the abuse, neglect, or dependency.
- (98) "Youth offender" means an individual who is:
- (a) at least 12 years old, but under 21 years old; and
  - (b) committed by the juvenile court to the Division of Juvenile Justice and Youth Services for secure care under Sections 80-6-703 and 80-6-705.

Amended by Chapter 330, 2023 General Session

**80-1-103 Cooperation of political subdivisions and public or private agencies and organizations.**

- (1) Every county, municipality, and school district, and the Department of Health and Human Services, the Division of Juvenile Justice and Youth Services, the Division of Child and Family Services, the Office of Substance Use and Mental Health, the State Board of Education, and state and local law enforcement officers, shall render all assistance and cooperation within their jurisdiction and power to further the provisions of this title.
- (2) A juvenile court is authorized to seek the cooperation of all agencies and organizations, public or private, whose objective is the protection or aid of minors.

Amended by Chapter 330, 2023 General Session

**Chapter 2  
Child Welfare Services**

**Part 1  
General Provisions**

**80-2-102 Definitions.**

As used in this chapter:

- (1) "Consult" means an interaction between two persons in which the initiating person:
  - (a) provides information to another person;
  - (b) provides the other person an opportunity to respond; and
  - (c) takes the other person's response, if any, into consideration.
- (2) "Consumer" means a person who receives services offered by the division in accordance with this chapter.
- (3) "Council" means the Child Welfare Improvement Council created in Section 80-2-1101.
- (4) "Custody," with regard to the division, means the custody of a minor in the division as of the date of disposition.
- (5) "Day-care services" means care of a child for a portion of the day which is less than 24 hours:
  - (a) in the child's own home by a responsible individual; or
  - (b) outside of the child's home in a:
    - (i) day-care center;
    - (ii) family group home; or
    - (iii) family child care home.
- (6) "Director" means the director of the division appointed under Section 80-2-202.
- (7) "Division" means the Division of Child and Family Services created in Section 80-2-201.
- (8) "Domestic violence" means the same as that term is defined in Section 77-36-1.
- (9) "Domestic violence services" means:
  - (a) temporary shelter, treatment, and related services provided to:
    - (i) an individual who is a victim of abuse, as defined in Section 78B-7-102; and
    - (ii) the dependent children of an individual who is a victim of abuse, as defined in Section 78B-7-102; and
  - (b) treatment services for an individual who is alleged to have committed, has been convicted of, or has pled guilty to domestic violence.

- (10) "Homemaking services" means the care of an individual in the individual's domicile, and help given to an individual caretaker relative to achieve improved household and family management through the services of a trained homemaker.
- (11) "Mutual case" means a case that is:
  - (a) opened by the division under the division's discretion and procedures;
  - (b) opened by the law enforcement agency with jurisdiction over the case; and
  - (c) accepted for investigation by a child protection team, as applicable.
- (12)
  - (a) "Person responsible for the child's care" means the child's parent, guardian, or other person responsible for the child's care.
  - (b) "Person responsible for the child's care" includes a person responsible for the child's care in the same home as the child, a relative's home, a group, family, or day care facility, a foster care home, or a residential institution.
- (13) "Shelter care" means the temporary care of a minor in a nonsecure facility.
- (14) "Sibling" means a child who shares or has shared at least one parent in common either by blood or adoption.
- (15) "Sibling visitation" means services provided by the division to facilitate the interaction between a child in division custody with the child's sibling.
- (16)
  - (a) "Subject of the report" means a person reported under Part 6, Child Abuse and Neglect Reports.
  - (b) "Subject of the report" includes the child who is the alleged victim of the report and the person responsible for the child's care.
- (17) "Temporary custody" means, with regard to the division, the custody of a child from the day on which the shelter hearing described in Section 80-3-301 is held until the day on which the juvenile court enters a disposition under Section 80-3-405.
- (18) "Transportation services" means travel assistance given to an individual with escort service, if necessary, to and from community facilities and resources as part of a service plan.

Renumbered and Amended by Chapter 334, 2022 General Session

## **Part 2**

### **Division of Child and Family Services**

#### **80-2-201 Creation of division.**

- (1) There is created the Division of Child and Family Services within the department.
- (2) The division is under the administration and general supervision of the executive director of the department.
- (3) The division has all functions, powers, duties, rights, and responsibilities described in this chapter and Chapter 2a, Removal and Protective Custody of a Child, except those assumed by the department.

Renumbered and Amended by Chapter 334, 2022 General Session

#### **80-2-202 Division director -- Qualifications -- Responsibilities.**

- (1) The executive director of the department shall appoint the director of the division.

- (2) The director shall have a bachelor's degree from an accredited university or college, be experienced in administration, and be knowledgeable in the areas of child and family services, including child protective services, family preservation, and foster care.
- (3) The director is the administrative head of the division.

Renumbered and Amended by Chapter 334, 2022 General Session

### **Part 3**

#### **Division Responsibilities**

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

- (1) The division is the child, youth, and family services authority of the state.
- (2) The division shall:
  - (a) administer services to minors and families, including:
    - (i) child welfare services;
    - (ii) domestic violence services; and
    - (iii) all other responsibilities that the Legislature or the executive director of the department may assign to the division;
  - (b) provide the following services:
    - (i) financial and other assistance to an individual adopting a child with special needs under Sections 80-2-806 through 80-2-809, not to exceed the amount the division would provide for the child as a legal ward of the state;
    - (ii) non-custodial and in-home services in accordance with Section 80-2-306, including:
      - (A) services designed to prevent family break-up; and
      - (B) family preservation services;
    - (iii) reunification services to families whose children are in substitute care in accordance with this chapter, Chapter 2a, Removal and Protective Custody of a Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings;
    - (iv) protective supervision of a family, upon court order, in an effort to eliminate abuse or neglect of a child in that family;
    - (v) shelter care in accordance with this chapter, Chapter 2a, Removal and Protective Custody of a Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings;
    - (vi) domestic violence services, in accordance with the requirements of federal law;
    - (vii) protective services to victims of domestic violence and the victims' children, in accordance with this chapter, Chapter 2a, Removal and Protective Custody of a Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings;
    - (viii) substitute care for dependent, abused, and neglected children;
    - (ix) services for minors who are victims of human trafficking or human smuggling, as described in Sections 76-5-308 through 76-5-310.1, or who have engaged in prostitution or sexual solicitation, as defined in Sections 76-10-1302 and 76-10-1313; and
    - (x) training for staff and providers involved in the administration and delivery of services offered by the division in accordance with this chapter and Chapter 2a, Removal and Protective Custody of a Child;
  - (c) establish standards for all:
    - (i) contract providers of out-of-home care for minors and families;

- (ii) facilities that provide substitute care for dependent, abused, or neglected children placed in the custody of the division; and
  - (iii) direct or contract providers of domestic violence services described in Subsection (2)(b)(vi);
  - (d) have authority to:
    - (i) contract with a private, nonprofit organization to recruit and train foster care families and child welfare volunteers in accordance with Section 80-2-405; and
    - (ii) approve facilities that meet the standards established under Subsection (2)(c) to provide substitute care for dependent, abused, or neglected children placed in the custody of the division;
  - (e) cooperate with the federal government in the administration of child welfare and domestic violence programs and other human service activities assigned by the department;
  - (f) in accordance with Subsection (5)(a), promote and enforce state and federal laws enacted for the protection of abused, neglected, or dependent children, in accordance with this chapter and Chapter 2a, Removal and Protective Custody of a Child, unless administration is expressly vested in another division or department of the state;
  - (g) cooperate with the Workforce Development Division within the Department of Workforce Services in meeting the social and economic needs of an individual who is eligible for public assistance;
  - (h) compile relevant information, statistics, and reports on child and family service matters in the state;
  - (i) prepare and submit to the department, the governor, and the Legislature reports of the operation and administration of the division in accordance with the requirements of Sections 80-2-1102 and 80-2-1103;
  - (j) within appropriations from the Legislature, provide or contract for a variety of domestic violence services and treatment methods;
  - (k) enter into contracts for programs designed to reduce the occurrence or recurrence of abuse and neglect in accordance with Section 80-2-503;
  - (l) seek reimbursement of funds the division expends on behalf of a child in the protective custody, temporary custody, or custody of the division, from the child's parent or guardian in accordance with an order for child support under Section 78A-6-356;
  - (m) ensure regular, periodic publication, including electronic publication, regarding the number of children in the custody of the division who:
    - (i) have a permanency goal of adoption; or
    - (ii) have a final plan of termination of parental rights, under Section 80-3-409, and promote adoption of the children;
  - (n) subject to Subsections (5) and (7), refer an individual receiving services from the division to the local substance abuse authority or other private or public resource for a court-ordered drug screening test;
  - (o) report before November 30, 2020, and every third year thereafter, to the Social Services Appropriations Subcommittee regarding:
    - (i) the daily reimbursement rate that is provided to licensed foster parents based on level of care;
    - (ii) the amount of money spent on daily reimbursements for licensed foster parents during the previous fiscal year; and
    - (iii) any recommended changes to the division's budget to support the daily reimbursement rates described in Subsection (2)(o)(i); and
  - (p) perform other duties and functions required by law.
- (3)

- (a) The division may provide, directly or through contract, services that include the following:
  - (i) adoptions;
  - (ii) day-care services;
  - (iii) out-of-home placements for minors;
  - (iv) health-related services;
  - (v) homemaking services;
  - (vi) home management services;
  - (vii) protective services for minors;
  - (viii) transportation services; or
  - (ix) domestic violence services.
- (b) The division shall monitor services provided directly by the division or through contract to ensure compliance with applicable law and rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (c)
  - (i) Except as provided in Subsection (3)(c)(ii), if the division provides a service through a private contract, the division shall post the name of the service provider on the division's website.
  - (ii) Subsection (3)(c)(i) does not apply to a foster parent placement.
- (4)
  - (a) The division may:
    - (i) receive gifts, grants, devises, and donations;
    - (ii) encourage merchants and service providers to:
      - (A) donate goods or services; or
      - (B) provide goods or services at a nominal price or below cost;
    - (iii) distribute goods to applicants or consumers of division services free or for a nominal charge and tax free; and
    - (iv) appeal to the public for funds to meet needs of applicants or consumers of division services that are not otherwise provided by law, including Sub-for-Santa programs, recreational programs for minors, and requests for household appliances and home repairs.
  - (b) If requested by the donor and subject to state and federal law, the division shall use a gift, grant, devise, donation, or proceeds from the gift, grant, devise, or donation for the purpose requested by the donor.
- (5)
  - (a) In carrying out the requirements of Subsection (2)(f), the division shall:
    - (i) cooperate with the juvenile courts, the Division of Juvenile Justice Services, and with all public and private licensed child welfare agencies and institutions to develop and administer a broad range of services and support;
    - (ii) take the initiative in all matters involving the protection of abused or neglected children, if adequate provisions have not been made or are not likely to be made; and
    - (iii) make expenditures necessary for the care and protection of the children described in Subsection (5)(a)(ii), within the division's budget.
  - (b) If an individual is referred to a local substance abuse authority or other private or public resource for court-ordered drug screening under Subsection (2)(n), the court shall order the individual to pay all costs of the tests unless:
    - (i) the cost of the drug screening is specifically funded or provided for by other federal or state programs;
    - (ii) the individual is a participant in a drug court; or
    - (iii) the court finds that the individual is an indigent individual.

(6) Except to the extent provided by rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division is not required to investigate domestic violence in the presence of a child, as described in Section 76-5-114.

- (7)
- (a) Except as provided in Subsection (7)(b), the division may not:
    - (i) require a parent who has a child in the custody of the division to pay for some or all of the cost of any drug testing the parent is required to undergo; or
    - (ii) refer an individual who is receiving services from the division for drug testing by means of a hair, fingernail, or saliva test that is administered to detect the presence of drugs.
  - (b) Notwithstanding Subsection (7)(a)(ii), the division may refer an individual who is receiving services from the division for drug testing by means of a saliva test if:
    - (i) the individual consents to drug testing by means of a saliva test; or
    - (ii) the court, based on a finding that a saliva test is necessary in the circumstances, orders the individual to complete drug testing by means of a saliva test.

Amended by Chapter 280, 2023 General Session

**80-2-302 Division rulemaking authority -- Family impact statement.**

- (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules:
- (a) that establish the process for:
    - (i) determination of eligibility for services offered by the division in accordance with this chapter and Chapter 2a, Removal and Protective Custody of a Child; and
    - (ii) approval of fee schedules for programs within the division;
  - (b) to ensure that private citizens, consumers, foster parents, private contract providers, allied state and local agencies, and others are provided with an opportunity to comment and provide input regarding any new rule or proposed revision of an existing rule;
  - (c) that provide a mechanism for:
    - (i) systematic and regular review of existing rules, including an annual review of all division rules to ensure that the rules comply with applicable statutory provisions; and
    - (ii) consideration of rule changes proposed by the persons described in Subsection (1)(b);
  - (d) regarding:
    - (i) placement for adoption or foster care that are consistent with, and no more restrictive than, applicable statutory provisions;
    - (ii) abuse, neglect, and dependency proceedings; and
    - (iii) domestic violence services provided by the division; and
  - (e) that establish procedures to accommodate the moral and religious beliefs, and culture, of the minors and families that the division serves, including:
    - (i) the immediate family and other relatives of a minor who is in protective custody, temporary custody, or custody of the division, or otherwise under the jurisdiction of the juvenile court;
    - (ii) a foster and other out-of-home placement family; and
    - (iii) an adoptive family.
- (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules that establish:
- (a) eligibility standards for consumers of division services; or
  - (b) requirements for a program described in Subsection 80-2-301(4)(a)(iv).
- (3)



- (a) If the division establishes a rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall include an assessment of the impact of the rule on families, including the impact on the authority of a parent to oversee the care, supervision, upbringing, or education of a child in the parent's custody.
- (b) The division shall publish a family impact statement describing the assessment described in Subsection (3)(a) in the Utah State Bulletin within 90 days after the day on which the rule described in Subsection (3)(a) is established.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-2-303 Division enforcement authority -- Attorney general responsibilities.**

- (1) The division shall take legal action that is necessary to enforce this chapter and Chapter 2a, Removal and Protective Custody of a Child.
- (2)
  - (a) Subject to Section 67-5-17 and the attorney general's prosecutorial discretion in civil enforcement actions, the attorney general shall enforce this chapter, Chapter 2a, Removal and Protective Custody of a Child, Chapter 3, Abuse, Neglect, and Dependency Proceedings, and Chapter 4, Termination and Restoration of Parental Rights, relating to protection or custody of an abused, neglected, or dependent minor and the termination of parental rights.
  - (b) The attorney general may contract with the local county attorney to enforce this chapter, Chapter 2a, Removal and Protective Custody of a Child, Chapter 3, Abuse, Neglect, and Dependency Proceedings, and Chapter 4, Termination and Restoration of Parental Rights.
  - (c) It is the responsibility of the attorney general's office to:
    - (i) advise the division regarding decisions to remove a minor from the minor's home;
    - (ii) represent the division in all court and administrative proceedings related to abuse, neglect, or dependency including, but not limited to, shelter hearings, dispositional hearings, dispositional review hearings, periodic review hearings, and petitions for termination of parental rights; and
    - (iii) be available to and advise child welfare caseworkers on an ongoing basis.
  - (d)
    - (i) The attorney general shall designate no less than 16 full-time attorneys to advise and represent the division in abuse, neglect, and dependency proceedings, including petitions for termination of parental rights.
    - (ii) The attorneys described in Subsection (2)(d)(i) shall devote full time and attention to the representation described in Subsection (2)(d)(i) and, insofar as it is practicable, be housed in or near various offices of the division statewide.
- (3) The attorney general's office shall represent the division in an action:
  - (a) involving a minor who has not been adjudicated as abused or neglected, but who is placed in the custody of the division by the juvenile court primarily on the basis of delinquent behavior or a status offense; or
  - (b) for reimbursement of funds from a parent or guardian under Subsection 80-2-301(2)(I).
  - (c) This section does not affect the responsibility of the county attorney or district attorney to represent the state in the matters described in Subsection (3)(a).

Renumbered and Amended by Chapter 334, 2022 General Session

**80-2-304 Administrative proceedings.**

The department and division shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in the department's or division's adjudicative proceedings.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-2-305 Fraudulently obtained services -- Division recovery -- Agreement with Office of Recovery Services.**

- (1) If it is discovered that a person is fraudulently obtaining, or has fraudulently obtained, services offered by the division in accordance with this chapter or Chapter 2a, Removal and Protective Custody of a Child, the division shall take all necessary steps, including legal action through the attorney general, to recover all money or the value of services fraudulently obtained.
- (2) The division may establish an agreement with the Office of Recovery Services to fulfill the requirements of this section.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-2-306 Division in-home services for the preservation of families.**

- (1)
  - (a) Within appropriations from the Legislature and money obtained under Subsection (5), the division shall provide in-home services for the purpose of family preservation to any family with a child whose health and safety is not immediately endangered, if:
    - (i)
      - (A) the child is at risk of being removed from the home; or
      - (B) the family is in crisis; and
    - (ii) the division determines that in-home services are reasonable and appropriate.
  - (b) In determining whether in-home services are reasonable and appropriate, and in keeping with Subsection 80-2a-201(1), the child's health, safety, and welfare shall be the paramount concern.
  - (c) The division shall consider whether the services described in Subsection (1)(b):
    - (i) will be effective within a six-month period; and
    - (ii) are likely to prevent continued abuse or neglect of the child.
- (2)
  - (a) The division shall maintain a statewide inventory of in-home services available through public and private agencies or individuals for use by child welfare caseworkers.
  - (b) The inventory described in Subsection (2)(a) shall include:
    - (i) the method of accessing each service;
    - (ii) eligibility requirements for each service;
    - (iii) the geographic areas and the number of families that can be served by each service; and
    - (iv) information regarding waiting lists for each service.
- (3)
  - (a) As part of the division's in-home services for the preservation of families, the division shall provide in-home services in varying degrees of intensity and contact that are specific to the needs of each individual family.
  - (b) As part of the division's in-home services, the division shall:
    - (i) provide customized assistance;
    - (ii) provide support or interventions that are tailored to the needs of the family;
    - (iii) discuss the family's needs with the parent;

- (iv) discuss an assistance plan for the family with the parent; and
- (v) address:
  - (A) the safety of children;
  - (B) the needs of the family; and
  - (C) services necessary to aid in the preservation of the family and a child's ability to remain in the home.
- (c) The division shall, as practicable, provide in-home services within the region that the family resides, using existing division staff.
- (4)
  - (a) The division may use specially trained child welfare caseworkers, private providers, or other persons to provide the in-home services described in Subsection (3).
  - (b) The division shall allow a child welfare caseworker to be flexible in responding to the needs of each individual family, including:
    - (i) limiting the number of families assigned; and
    - (ii) being available to respond to assigned families within 24 hours.
- (5) To provide, expand, and improve the delivery of in-home services to prevent the removal of children from the children's homes and promote the preservation of families, the division shall make substantial effort to obtain funding, including:
  - (a) federal grants;
  - (b) federal waivers; and
  - (c) private money.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-2-307 Division reimbursement of motor vehicle insurance coverage for a foster child.**

- (1) Within the amounts appropriated to the division for the purposes described in this section, the division may reimburse a foster parent for providing owner's or operator's security covering a foster child's operation of a motor vehicle in amounts required under Section 31A-22-304 if the foster child is in the protective custody, temporary custody, or custody of the division.
- (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing:
  - (a) a procedure for providing the reimbursement to a foster parent described in Subsection (1);
  - (b) eligibility requirements for a foster parent to qualify for a reimbursement under this section; and
  - (c) a method for determining the amount of reimbursement that a foster parent is eligible to receive under this section.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-2-308 Division responsibility for normalizing lives of children -- Requirements for caregiver decision making.**

- (1) As used in this section:
  - (a) "Activity" means an extracurricular, enrichment, or social activity.
  - (b) "Age-appropriate" means a type of activity that is generally accepted as suitable for a child of the same age or level of maturity, based on the development of cognitive, emotional, physical, and behavioral capacity that is typical for the child's age or age group.
  - (c) "Caregiver" means a person with whom a child is placed in an out-of-home placement.

- (d) "Out-of-home placement" means the placement of a child in the division's custody outside of the child's home, including placement in a foster home, a residential treatment program, proctor care, or with kin.
  - (e) "Reasonable and prudent parent standard" means the standard characterized by careful and sensible parental decisions to maintain a child's health, safety, and best interest while at the same time encouraging the child's emotional and developmental growth.
- (2) A child who comes into protective custody or the division's temporary custody or custody under this chapter, Chapter 2a, Removal and Protective Custody of a Child, or Chapter 3, Abuse, Neglect, and Dependency Proceedings, is entitled to participate in age-appropriate activities for the child's emotional well-being and development of valuable life-coping skills.
- (3) The division shall:
- (a) make efforts to normalize the life of a child in protective custody or the division's temporary custody or custody and to empower a caregiver to approve or disapprove a child's participation in activities based on the caregiver's own assessment using a reasonable and prudent parent standard, without prior approval of the division; and
  - (b) allow a caregiver to make important decisions, similar to the decisions that a parent is entitled to make, regarding the child's participation in activities.
- (4)
- (a) A caregiver shall use a reasonable and prudent parent standard in determining whether to permit a child to participate in an activity.
  - (b) A caregiver shall consider:
    - (i) the child's age, maturity, and developmental level to maintain the overall health and safety of the child;
    - (ii) potential risk factors and the appropriateness of the activity;
    - (iii) the best interest of the child based on the caregiver's knowledge of the child;
    - (iv) the importance of encouraging the child's emotional and developmental growth;
    - (v) the importance of providing the child with the most family-like living experience possible; and
    - (vi) the behavioral history of the child and the child's ability to safely participate in the proposed activity.
  - (c) The division shall verify that a private agency providing out-of-home placement under contract with the division:
    - (i) promotes and protects the ability of a child to participate in age-appropriate activities; and
    - (ii) implements policies consistent with this section.
  - (d)
    - (i) A caregiver is not liable for harm caused to a child in an out-of-home placement if the child participates in an activity approved by the caregiver and the caregiver acted in accordance with a reasonable and prudent parent standard.
    - (ii) This section does not remove or limit any existing liability protection afforded by statute.
- (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall adopt rules establishing the procedures for verifying that a private agency providing out-of-home placement under contract with the division complies with and promotes this section.

Renumbered and Amended by Chapter 334, 2022 General Session

**Part 4**  
**Division Employees and Volunteers**

**80-2-401 Division employees -- Failure to comply with law or division rule or policy -- Termination.**

- (1) The director shall ensure that an employee is fully trained to comply with state and federal law, administrative rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and division policy in order to effectively carry out the employee's assigned duties and functions.
- (2) If, after training and supervision, an employee consistently fails to comply with laws, rules, or policies, the employee's employment with the division shall be terminated.

Renumbered and Amended by Chapter 334, 2022 General Session

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

- (1) There is created within the division a full-time position of a child welfare training coordinator.
- (2) The child welfare training coordinator is not responsible for direct casework services or the supervision of casework services, but is required to:
  - (a) develop child welfare curriculum that:
    - (i) is current and effective, consistent with the division's mission and purpose for child welfare; and
    - (ii) utilizes curriculum and resources from a variety of sources including those from:
      - (A) the public sector;
      - (B) the private sector; and
      - (C) inside and outside of the state;
  - (b) recruit, select, and supervise child welfare trainers;
  - (c) develop a statewide training program, including a budget and identification of sources of funding to support that training;
  - (d) evaluate the efficacy of training in improving job performance;
  - (e) assist child protective services and foster care workers in developing and fulfilling their individual training plans;
  - (f) monitor staff compliance with division training requirements and individual training plans; and
  - (g) expand the collaboration between the division and schools of social work within institutions of higher education in developing child welfare services curriculum, and in providing and evaluating training.
- (3) The director shall, with the assistance of the child welfare training coordinator, establish and ensure child welfare caseworker competency regarding a core curriculum for child welfare services that:
  - (a) is driven by child safety and family well-being;
  - (b) emphasizes child and family voice;
  - (c) is trauma-informed, as defined in Section 63M-7-209; and
  - (d) is consistent with national child welfare practice standards.
- (4) A child welfare caseworker shall complete training in:
  - (a) the legal duties of a child welfare caseworker;
  - (b) the responsibility of a child welfare caseworker to protect the safety and legal rights of children, parents, and families at all stages of a case, including:
    - (i) initial contact;
    - (ii) safety and risk assessment, as described in Section 80-2-403; and
    - (iii) intervention;

- (c) recognizing situations involving:
  - (i) substance abuse;
  - (ii) domestic violence;
  - (iii) abuse; and
  - (iv) neglect; and
- (d) the relationship of the Fourth and Fourteenth Amendments of the Constitution of the United States to the child welfare caseworker's job, including:
  - (i) search and seizure of evidence;
  - (ii) the warrant requirement;
  - (iii) exceptions to the warrant requirement; and
  - (iv) removing a child from the custody of the child's parent or guardian.
- (5) The division shall train the division's child welfare caseworkers to:
  - (a) apply the risk assessment tools and rules described in Subsection 80-1-102(83); and
  - (b) develop child and family plans that comply with:
    - (i) federal mandates; and
    - (ii) the specific needs of the child and the child's family.
- (6) The division shall use the training of child welfare caseworkers to emphasize:
  - (a) the importance of maintaining the parent-child relationship;
  - (b) the preference for providing in-home services over taking a child into protective custody, both for the emotional well-being of the child and the efficient allocation of resources; and
  - (c) the importance and priority of:
    - (i) kinship placement in the event a child must be taken into protective custody; and
    - (ii) guardianship placement, in the event the parent-child relationship is legally terminated and no appropriate adoptive placement is available.
- (7) If a child welfare caseworker is hired, before assuming independent casework responsibilities, the division shall ensure that the child welfare caseworker has:
  - (a) completed the training described in Subsections (4), (5), and (6); and
  - (b) participated in sufficient skills development for a child welfare caseworker.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-2-403 Child welfare caseworker safety and risk assessments.**

- (1) A child welfare caseworker within the division shall use evidence-informed or evidence-based safety and risk assessments to guide decisions concerning a child throughout a child protection investigation or proceeding.
- (2) As part of an evidence-informed or evidence-based safety and risk assessment, the child welfare caseworker shall assess at least the following:
  - (a) threat to the child's safety;
  - (b) protective capabilities of a parent or guardian, including the parent or guardian's readiness, willingness, and ability to plan for the child's safety;
  - (c) the child's particular vulnerabilities;
  - (d) interventions required to protect the child; and
  - (e) likelihood of future harm to the child.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-2-404 Division volunteers -- Reimbursement.**

- (1) The division may:

- (a) accept and use volunteer labor or services;
  - (b) reimburse volunteers for necessary expenses, including transportation, and provide recognition awards and meals for services rendered; and
  - (c) cooperate with volunteer organizations in collecting funds to be used in the volunteer program.
- (2) The funds donated under Section (1)(c) are considered private, nonlapsing funds until used by the division, and may be invested under guidelines established by the state treasurer.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-2-405 Private recruitment and training of foster care parents and child welfare volunteers -- Extension of immunity.**

- (1) As used in this section:
- (a) "Referring entity" means:
    - (i) an incorporated or unincorporated organization or association whether formally incorporated or otherwise established and operating for religious, charitable, or educational purposes, that does not distribute any of the organization's or association's income or assets to the organization's or association's members, directors, officers, or other participants;
    - (ii) an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986 and is exempt from tax under Section 501 of the Internal Revenue Code; or
    - (iii) any not-for-profit organization which is formed and conducted for public benefit and operated primarily for charitable, civic, educational, religious, benevolent, welfare, or health purposes.
  - (b) "Referring individual" means an individual:
    - (i) with the authority to act on behalf of a referring entity in making a referral; and
    - (ii) who may or may not be compensated by the referring entity.
- (2) The division may contract with one or more private, nonprofit organizations to recruit and train foster care parents and child welfare volunteers on a statewide or regional basis.
- (3) An organization that contracts with the division under Subsection (2) shall agree to:
- (a) increase the number of licensed and trained foster care parents in the geographic area covered by:
    - (i) developing a strategic plan;
    - (ii) assessing the needs, perceptions, and qualities of potential foster care parents;
    - (iii) assessing the needs, perceptions, and qualities of children in state custody;
    - (iv) identifying potential foster care parents through public and private resources;
    - (v) screening foster care parent applicants;
    - (vi) providing preservice, ongoing, and customized training to foster care parents;
    - (vii) developing a competency-based training curriculum with input from public and private resources and approved by the division;
    - (viii) focusing training exercises on skill development; and
    - (ix) supporting foster care parents by supplying staff support, identifying common issues, encouraging peer support, and connecting available resources;
  - (b) increase the number of child welfare volunteers in the geographical area covered by:
    - (i) developing a strategic plan;
    - (ii) seeking the participation of established volunteer organizations;
    - (iii) designing and offering initial orientation sessions to child welfare volunteers;
    - (iv) informing volunteers of options for service as specified by the division; and
    - (v) facilitating the placement and certification of child welfare volunteers;

- (c) coordinate efforts, if appropriate, with the division;
  - (d) seek private contributions in furtherance of the organization's activities under this Subsection (3);
  - (e) perform other related services and activities as may be required by the division; and
  - (f) establish a system for evaluating performance and obtaining feedback on the activities performed under this Subsection (3).
- (4) Notwithstanding Subsection (3), the department shall retain ultimate authority over and responsibility for:
- (a) initial and ongoing training content, material, curriculum, and techniques, and certification standards used by an organization; and
  - (b) screening, investigation, licensing, certification, referral, and placement decisions with respect to any individual recruited or trained by an organization.
- (5)
- (a) An organization under contract with the department and the department's directors, trustees, officers, employees, and agents, whether compensated or not, may not be held civilly liable for any act or omission on a matter for which the department retains ultimate authority and responsibility under Subsection (4).
  - (b) Subsection (5)(a) does not alter the abuse and neglect reporting requirements of Section 80-2-602, regardless of whether the facts that give rise to such a report occur before or after a screening, investigation, licensing, or placement decision of the department.
- (6) A referring entity or a referring individual that voluntarily and without remuneration assists an organization to identify and recruit foster care parents or child welfare volunteers is not liable in any civil action for any act or omission of:
- (a) the referring entity or referring individual that is performed in good faith and in furtherance of the entity's assistance to the organization; or
  - (b) any individual directly or indirectly referred to the organization by the entity as a foster care parent or child welfare volunteer, if the referring individual was without actual knowledge of any substantiated fact that would have disqualified the individual who was referred from such a position at the time the referral was made.

Renumbered and Amended by Chapter 334, 2022 General Session

## **Part 5**

### **Funds, Accounts, and Grant Programs**

#### **80-2-501 Children's Account.**

- (1) There is created a restricted account within the General Fund known as the "Children's Account."
- (2) The account shall be funded by:
  - (a) appropriations to the account by the Legislature;
  - (b) revenues received under Section 26B-8-112; and
  - (c) transfers, grants, gifts, bequests, or any money made available from any source for the abuse and neglect prevention programs described in Section 80-2-503.
- (3) The Legislature shall appropriate money in the account to the division.
- (4)



- (a) The director shall consult with the executive director of the department before using the funds in the account as described in this section.
- (b) Except as provided in Subsection (5), the account may be used only to implement prevention programs described in Section 80-2-503, and may only be allocated to an entity that provides a one-to-one match, comprising a match from the community of at least 50% in cash and up to 50% in in-kind donations, which is 25% of the total funding received from the account.
- (5) Upon recommendation of the executive director of the department and the council, the division may reduce or waive the match requirements described in Subsection (4) for an entity, if the division determines that imposing the requirements would prohibit or limit the provision of services needed in a particular geographic area.

Amended by Chapter 139, 2023 General Session

Amended by Chapter 330, 2023 General Session

**80-2-503 Division contracts for prevention and treatment of child abuse and neglect -- Requirements -- Public hearing -- Funding provided by contractor.**

- (1)
  - (a) The Legislature finds that there is a need to assist private and public agencies in identifying and establishing community-based education, service, and treatment programs to prevent the occurrence and recurrence of abuse and neglect.
  - (b) It is the purpose of this section to provide a means to increase prevention and treatment programs designed to reduce the occurrence or recurrence of child abuse and neglect.
- (2) The division shall contract with public or private nonprofit organizations, agencies, or schools, or with qualified individuals to establish voluntary community-based educational and service programs designed to reduce or prevent the occurrence or recurrence of abuse and neglect.
- (3)
  - (a) A program that the division contracts with under this section shall provide voluntary primary abuse and neglect prevention, and voluntary or court-ordered treatment services.
  - (b) A program described in Subsection (3)(a) includes:
    - (i) a program related to prenatal care, perinatal bonding, child growth and development, basic child care, care of children with special needs, and coping with family stress;
    - (ii) a program related to crisis care, aid to parents, abuse counseling, support groups for abusive or potentially abusive parents and abusive parents' children, and early identification of families where the potential for abuse and neglect exists;
    - (iii) a program clearly designed to prevent the occurrence or recurrence of abuse, neglect, sexual abuse, sexual exploitation, or medical or educational neglect;
    - (iv) a program that the division and council consider potentially effective in reducing the incidence of family problems leading to abuse or neglect; and
    - (v) a program designed to establish and assist community resources that prevent abuse and neglect.
- (4) The division shall:
  - (a) consult with appropriate state agencies, commissions, and boards to help determine the probable effectiveness, fiscal soundness, and need for proposed education and service programs for the prevention and treatment of abuse and neglect;
  - (b) develop policies to determine whether a program will be discontinued or receive continuous funding;
  - (c) facilitate the exchange of information between and among groups concerned with families and children;

- (d) establish flexible fees and fee schedules based on the recipient's ability to pay for part or all of the costs of service received;
  - (e) before awarding a contract for an abuse or neglect prevention or treatment program or service:
    - (i) conduct a public hearing to receive public comment on the program or service and ensure the council conducted a public hearing on the program or service in accordance with Subsection (6);
    - (ii) if the program or service is intended for presentation in public schools, receive evidence that the program or service is approved by the local board of education of each school district that will be utilizing the program or service, or under the direction of the local board of education, the state superintendent; and
    - (iii) consider need, diversity of geographic locations, the program's or services' coordination with or enhancement of existing services, and the program's or services' extensive use of volunteers;
  - (f) award a contract under this section for services to prevent abuse and neglect on the basis of probability of success, based in part on sound research data; and
  - (g) adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to carry out the purposes of this section.
- (5) The division may:
- (a) require that 25% of the funding for a program contracted for under this section be provided by the contractor operating the program; and
  - (b) consider a contribution of materials, supplies, or physical facilities as all or part of the funding provided by the contractor under Subsection (5)(a).
- (6) The council shall conduct a public hearing to receive public comment on the program or service before the division may enter into a contract under this section.
- (7) A contract entered into under this section shall contain a provision for the evaluation of services provided under the contract.
- (8) Contract funds awarded under this section for the treatment of victims of abuse or neglect are not a collateral source as defined in Section 63M-7-502.

Amended by Chapter 139, 2023 General Session

**80-2-503.5 Psychotropic medication oversight pilot program.**

- (1) As used in this section, "psychotropic medication" means medication prescribed to affect or alter thought processes, mood, or behavior, including antipsychotic, antidepressant, anxiolytic, or behavior medication.
- (2) The division shall, through contract with the Department of Health and Human Services, establish and operate a psychotropic medication oversight pilot program for children in foster care to ensure that foster children are being prescribed psychotropic medication consistent with the foster children's needs.
- (3) The division shall establish an oversight team to manage the psychotropic medication oversight program, composed of at least the following individuals:
  - (a) an advanced practice registered nurse, as defined in Section 58-31b-102, contracted with the Department of Health and Human Services; and
  - (b) a child psychiatrist.
- (4) The oversight team shall monitor foster children:
  - (a) six years old or younger who are being prescribed one or more psychotropic medications; and
  - (b) seven years old or older who are being prescribed two or more psychotropic medications.

- (5) The oversight team shall, upon request, be given information or records related to the foster child's health care history, including psychotropic medication history and mental and behavioral health history, from:
  - (a) the foster child's current or past caseworker;
  - (b) the foster child; or
  - (c) the foster child's:
    - (i) current or past health care provider;
    - (ii) natural parents; or
    - (iii) foster parents.
- (6) The oversight team may review and monitor the following information about a foster child:
  - (a) the foster child's history;
  - (b) the foster child's health care, including psychotropic medication history and mental or behavioral health history;
  - (c) whether there are less invasive treatment options available to meet the foster child's needs;
  - (d) the dosage or dosage range and appropriateness of the foster child's psychotropic medication;
  - (e) the short-term or long-term risks associated with the use of the foster child's psychotropic medication; or
  - (f) the reported benefits of the foster child's psychotropic medication.
- (7)
  - (a) The oversight team may make recommendations to the foster child's health care providers concerning the foster child's psychotropic medication or the foster child's mental or behavioral health.
  - (b) The oversight team shall provide the recommendations made in Subsection (7)(a) to the foster child's parent or guardian after discussing the recommendations with the foster child's current health care providers.
- (8) The division may adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to administer this section.
- (9) The division shall report to the Child Welfare Legislative Oversight Panel regarding the psychotropic medication oversight pilot program by October 1 of each even numbered year.

Amended by Chapter 309, 2023 General Session

## **Part 6**

### **Child Abuse and Neglect Reports**

#### **80-2-601 Legislative purpose.**

It is the purpose of this part to protect the best interests of children, offer protective services to prevent harm to children, stabilize the home environment, preserve family life whenever possible, and encourage cooperation among the states in dealing with the problem of abuse or neglect.

Renumbered and Amended by Chapter 334, 2022 General Session

#### **80-2-602 Child abuse and neglect reporting requirements -- Exceptions.**

- (1) Except as provided in Subsection (3), if a person, including an individual licensed under Title 58, Chapter 31b, Nurse Practice Act, or Title 58, Chapter 67, Utah Medical Practice Act, has

reason to believe that a child is, or has been, the subject of abuse or neglect, or observes a child being subjected to conditions or circumstances that would reasonably result in abuse or neglect, the person shall immediately report the suspected abuse or neglect to the division or to the nearest peace officer or law enforcement agency.

- (2)
  - (a)
    - (i) If a peace officer or law enforcement agency receives a report under Subsection (1), the peace officer or law enforcement agency shall immediately notify the nearest office of the division.
    - (ii) If the division receives a report under Subsection (1), the division shall immediately notify the appropriate local law enforcement agency.
  - (b)
    - (i) The division shall, in addition to the division's own investigation in accordance with Section 80-2-701, coordinate with the law enforcement agency on an investigation undertaken by the law enforcement agency to investigate the report of abuse or neglect under Subsection (1).
    - (ii) If a law enforcement agency undertakes an investigation of a report under Subsection (1), the law enforcement agency shall provide a final investigatory report to the division upon request.
- (3) Subject to Subsection (4), the reporting requirement described in Subsection (1) does not apply to:
  - (a) a member of the clergy, with regard to any confession made to the member of the clergy while functioning in the ministerial capacity of the member of the clergy and without the consent of the individual making the confession, if:
    - (i) the perpetrator made the confession directly to the member of the clergy; and
    - (ii) the member of the clergy is, under canon law or church doctrine or practice, bound to maintain the confidentiality of the confession; or
  - (b) an attorney, or an individual employed by the attorney, if the knowledge or belief of the suspected abuse or neglect of a child arises from the representation of a client, unless the attorney is permitted to reveal the suspected abuse or neglect of the child to prevent reasonably certain death or substantial bodily harm in accordance with Utah Rules of Professional Conduct, Rule 1.6.
- (4)
  - (a) When a member of the clergy receives information about abuse or neglect from any source other than confession of the perpetrator, the member of the clergy is required to report the information even if the member of the clergy also received information about the abuse or neglect from the confession of the perpetrator.
  - (b) Exemption of the reporting requirement for an individual described in Subsection (3) does not exempt the individual from any other efforts required by law to prevent further abuse or neglect by the perpetrator.
- (5) The physician-patient privilege does not:
  - (a) excuse an individual who is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, from reporting under this section; or
  - (b) constitute grounds for excluding evidence regarding the child's injuries, or the cause of the child's injuries, in a judicial or administrative proceeding resulting from a report under this section.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-2-603 Fetal alcohol syndrome or spectrum disorder and drug dependency reporting requirements.**

- (1) As used in this section:
  - (a) "Health care provider" means:
    - (i) an individual licensed under:
      - (A) Title 58, Chapter 31b, Nurse Practice Act;
      - (B) Title 58, Chapter 44a, Nurse Midwife Practice Act;
      - (C) Title 58, Chapter 67, Utah Medical Practice Act;
      - (D) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;
      - (E) Title 58, Chapter 70a, Utah Physician Assistant Act; or
      - (F) Title 58, Chapter 77, Direct-Entry Midwife Act; or
    - (ii) an unlicensed individual who practices midwifery.
  - (b) "Newborn child" means a child who is 30 days old or younger.
  - (c) "Recommending medical provider" means the same as that term is defined in Section 26B-4-201.
  - (d)
    - (i) "Substance abuse" means, except as provided in Subsection (1)(d)(ii), the same as that term is defined in Section 80-1-102.
    - (ii) "Substance abuse" does not include use of drugs or other substances that are:
      - (A) obtained by lawful prescription and used as prescribed; or
      - (B) obtained in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, and used as recommended by a recommending medical provider.
- (2) A health care provider who attends the birth of a newborn child or cares for a newborn child and determines the following, shall report the determination to the division as soon as possible:
  - (a) the newborn child:
    - (i) is adversely affected by the child's mother's substance abuse during pregnancy;
    - (ii) has fetal alcohol syndrome or fetal alcohol spectrum disorder; or
    - (iii) demonstrates drug or alcohol withdrawal symptoms; or
  - (b) the parent of the newborn child or a person responsible for the child's care demonstrates functional impairment or an inability to care for the child as a result of the parent's or person's substance abuse.
- (3) The physician-patient privilege does not:
  - (a) excuse an individual who is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, from reporting under this section; or
  - (b) constitute grounds for excluding evidence regarding the child's injuries, or the cause of the child's injuries, in a judicial or administrative proceeding resulting from a report under this section.

Amended by Chapter 330, 2023 General Session

**80-2-604 Death of a child reporting requirements.**

- (1) A person who has reason to believe that a child has died as a result of abuse or neglect shall report that fact to:
  - (a) the local law enforcement agency; and

- (b) the appropriate medical examiner in accordance with Title 26B, Chapter 8, Part 2, Utah Medical Examiner.
- (2) After receiving a report described in Subsection (1):
  - (a) the local law enforcement agency shall report to the county attorney or district attorney as provided under Section 17-18a-202 or 17-18a-203; and
  - (b) the medical examiner shall investigate and report the medical examiner's findings to:
    - (i) the police;
    - (ii) the appropriate county attorney or district attorney;
    - (iii) the attorney general's office;
    - (iv) the division; and
    - (v) if the institution making the report is a hospital, to the hospital.

Amended by Chapter 330, 2023 General Session

**80-2-605 Physician removal of a child -- Reporting requirements.**

- (1) Subject to Subsection (3), a physician examining or treating a child may take the child into custody, without the consent of the child's parent, guardian, or any other person responsible for the child's care or exercising temporary or permanent control over the child, if the physician has reason to believe that the child's life or safety will be in danger unless the child is taken into custody.
- (2)
  - (a) Subject to Subsection (3), the person in charge of a hospital or similar medical facility may retain custody of a child taken into custody under Subsection (1) if the person reasonably believes the circumstances warrant retention of custody.
  - (b) The person may take the action described in Subsection (2)(a) regardless of whether additional medical treatment is required for the child or the person responsible for the child's care requests the child's return.
- (3) Custody of a child under this section may not exceed 72 hours without an order of the juvenile court.
- (4) A person who takes a child into, or retains a child in, custody under this section shall:
  - (a) immediately notify the division that the child is in the person's custody; and
  - (b) document:
    - (i) the grounds upon which the child was taken into, or retained in, custody; and
    - (ii) the nature of, and necessity for, any medical care or treatment provided to the child.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-2-606 Written reports.**

- (1)
  - (a) A person who orally reports under Section 80-2-602, 80-2-603, or 80-2-604 shall, upon request of the division, provide the division with a written version of the oral report.
  - (b) The person shall provide the written report within 48 hours after the division's request.
- (2) If, in connection with an intended or completed abortion, a physician is required to make a report of incest or abuse of a minor, the report may not include information that would in any way disclose that the report was made in connection with:
  - (a) an abortion; or
  - (b) a consultation regarding an abortion.

- (3) The division shall, immediately after receipt, forward a copy of a written report to the state child abuse and neglect registry on a form supplied by the registry.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-2-607 Health care provider photographs of child abuse or neglect.**

- (1) A licensed physician, licensed physician assistant, medical examiner, peace officer, or public health officer or official may take a photograph of the areas of trauma visible on a child and, if medically indicated, perform radiological examinations.
- (2) A photograph may be taken of the premises or of an object relevant to a reported circumstance of child abuse or neglect.
- (3) A photograph, X-ray, or other medical record pertinent to an investigation for child abuse or neglect shall be made available to the division, law enforcement agencies, and the court.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-2-608 Confidential identity of person who reports.**

Except as provided in Sections 80-2-611 and 80-2-1005, the division and a law enforcement agency shall ensure the anonymity of the person who makes the initial report under this part and any other person involved in the division's or law enforcement agency's subsequent investigation of the report.

Enacted by Chapter 334, 2022 General Session

**80-2-609 Failure to report -- Threats and intimidation -- Penalty.**

- (1) If the division has substantial grounds to believe that a person knowingly failed to report under Section 80-2-602 or 80-2-603, the division shall file a complaint with:
  - (a) the Division of Professional Licensing if the person is a health care provider, as defined in Subsection 80-2-603(1)(a)(i), or a mental health therapist, as defined in Section 58-60-102;
  - (b) the appropriate law enforcement agency if the person is a law enforcement officer, as defined in Section 53-13-103; or
  - (c) the State Board of Education if the person is an educator, as defined in Section 53E-6-102.
- (2)
  - (a) A person is guilty of a class B misdemeanor if the person willfully fails to report under Section 80-2-602 or 80-2-603.
  - (b) If a person is convicted under Subsection (2)(a), the court may order the person, in addition to any other sentence the court imposes, to:
    - (i) complete community service hours; or
    - (ii) complete a program on preventing abuse and neglect of children.
  - (c) In determining whether it would be appropriate to charge a person with a violation of Subsection (2)(a), the prosecuting attorney shall take into account whether a reasonable person would not have reported suspected abuse or neglect of a child because reporting would have placed the person in immediate danger of death or serious bodily injury.
  - (d) Notwithstanding any contrary provision of law, a prosecuting attorney may not use a person's violation of Subsection (2)(a) as the basis for charging the person with another offense.
  - (e) A prosecution for failure to report under Subsection (2)(a) shall be commenced within two years after the day on which the person had knowledge of the suspected abuse or neglect or the circumstances described in Subsection 80-2-603(2) and willfully failed to report.

- (3) Under circumstances not amounting to a violation of Section 76-8-508, a person is guilty of a class B misdemeanor if the person threatens, intimidates, or attempts to intimidate a child who is the subject of the report under Section 80-2-602 or 80-2-603, the person who made the report, a witness, or any other person cooperating with an investigation conducted in accordance with this chapter or Chapter 2a, Removal and Protective Custody of a Child.

Renumbered and Amended by Chapter 334, 2022 General Session  
Amended by Chapter 415, 2022 General Session

**80-2-610 Immunity from liability for a report -- Exception.**

- (1)
- (a) A person who in good faith makes a report under Section 80-2-602, 80-2-603, or 80-2-604, or who otherwise notifies the division or a peace officer or law enforcement agency of suspected abuse or neglect of a child, is immune from civil and criminal liability in connection with the report or notification.
  - (b) Except as provided in Subsection (3), a person taking a photograph or X-ray, assisting an investigator from the division, serving as a member of a child protection team, or taking a child into protective custody in accordance with Chapter 2a, Removal and Protective Custody of a Child, is immune from civil or criminal liability in connection with those actions.
- (2) This section does not provide immunity with respect to an act or omission of a governmental employee except as provided in Title 63G, Chapter 7, Governmental Immunity Act of Utah.
- (3) The immunity described in Subsection (1)(b) does not apply if the person:
- (a) acted or failed to act through fraud or willful misconduct;
  - (b) in a judicial or administrative proceeding, intentionally or knowingly gave, upon a lawful oath or in any form allowed by law as a substitute for an oath, false testimony material to the issue or matter of inquiry in the proceeding;
  - (c) intentionally or knowingly fabricated evidence; or
  - (d) except as provided in Subsection (4), intentionally or knowingly with a conscious disregard for the rights of others, failed to disclose evidence that was known by the person to be relevant to a material issue or matter of inquiry in:
    - (i) a pending judicial or administrative proceeding if the person knew of the pending judicial or administrative proceeding; or
    - (ii) a judicial or administrative proceeding, if disclosure of the evidence was requested of the employee by a party to the proceeding or counsel for a party to the proceeding.
- (4) Immunity is not lost under Subsection (3)(d), if the person:
- (a) failed to disclose evidence described in Subsection (3)(d), because the person is prohibited by law from disclosing the evidence; or
  - (b)
    - (i) in accordance with the provisions of 45 C.F.R. 164.502(g)(5), refused to disclose evidence described in Subsection (3)(d) to another person who requested the evidence; and
    - (ii) after refusing to disclose the evidence under Subsection (4)(b)(i), complied with or responded to a valid court order or valid subpoena received by the person to disclose the evidence described in Subsection (3)(d).

Renumbered and Amended by Chapter 334, 2022 General Session

**80-2-611 False reports -- Investigation -- Notice of penalty.**



- (1) The division may conduct an investigation to determine whether a report under Section 80-2-602 or 80-2-603 is false.
- (2) The division shall send a certified letter to a person who makes a report of abuse or neglect that is placed into or included in any part of the Management Information System, if the division determines, at the conclusion of the division's investigation, that:
  - (a) the report is false;
  - (b) it is more likely than not that the person knew the report was false at the time that person made the report; and
  - (c) the reporting person's address is known or reasonably available.
- (3) The certified letter described in Subsection (2) shall inform the reporting person of:
  - (a) the division's determination made under Subsection (2);
  - (b) the penalty for submitting false information under Section 76-8-506 and other applicable laws; and
  - (c) the obligation or ability of the division under Subsection (4) to inform law enforcement and the person alleged to have committed abuse or neglect:
    - (i) in the present instance if the division considers an immediate referral of the reporting person to law enforcement to be justified by the facts; or
    - (ii) if the reporting person submits a subsequent false report involving the same alleged perpetrator or victim.
- (4) The division:
  - (a) may inform law enforcement and the alleged perpetrator of a report for which a certified letter is required to be sent under Subsection (2), if an immediate referral is justified by the facts;
  - (b) shall inform law enforcement and the alleged perpetrator of a report for which a certified letter is required to be sent under Subsection (2) if a second letter is sent to the reporting person involving the same alleged perpetrator or victim; and
  - (c) shall determine, in consultation with law enforcement:
    - (i) what information should be given to an alleged perpetrator relating to a false report; and
    - (ii) whether good cause exists, as defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for not informing an alleged perpetrator about a false report.
- (5) This section does not require the division to conduct an investigation beyond what is described in Subsections (1) and (2), to determine whether a report is false.

Renumbered and Amended by Chapter 334, 2022 General Session

## **Part 7**

### **Child Abuse and Neglect Investigation**

#### **80-2-701 Division preremoval investigation -- Supported or unsupported reports -- Convening of child protection team -- Coordination with law enforcement -- Consultation with child protection team before close of investigation.**

- (1)
  - (a) The division shall conduct a thorough preremoval investigation upon receiving a report under Section 80-2-602 or 80-2-603 if there is reasonable cause to suspect that a situation of abuse, neglect, or the circumstances described in Subsection 80-2-603(2) exist.

- (b) The primary purpose of the preremoval investigation described in Subsection (1)(a) shall be protection of the child.
- (2) The preremoval investigation described in Subsection (1)(a) shall meet the reasonable professional standards described in Section 80-2-702.
- (3) The division shall make a written report of the division's preremoval investigation under Subsection (1)(a) that includes a determination regarding whether the alleged abuse or neglect in the report described in Subsection (1)(a) is supported, unsupported, or without merit.
- (4) The division:
  - (a) shall use an interdisciplinary approach if appropriate in dealing with a report made under Section 80-2-602, 80-2-603, or 80-2-604;
  - (b) in accordance with Section 80-2-706, shall convene a child protection team to assist the division in the division's protective, diagnostic, assessment, treatment, and coordination services; and
  - (c) may include a member of the child protection team in the division's protective, diagnostic, assessment, treatment, or coordination services.
- (5) If a report of neglect is based on or includes an allegation of educational neglect, the division shall immediately consult with school authorities to verify the child's status in accordance with Sections 53G-6-201 through 53G-6-206.
- (6) Upon completion of the initial preremoval investigation under this section, the division shall give notice of the completion to the person who made the initial report described in Subsection (1)(a).
- (7) A division child welfare caseworker:
  - (a) has authority to:
    - (i) enter upon public or private premises, using appropriate legal processes; and
    - (ii) to investigate a report of alleged child abuse or neglect, upon notice to a parent of the parent's rights under the Child Abuse Prevention and Treatment Act, 42 U.S.C. Sec. 5106, or any successor thereof; and
  - (b) may take a child into protective custody in accordance with Chapter 2a, Removal and Protective Custody of a Child.
- (8) In a case, if law enforcement has investigated or is conducting an investigation of alleged abuse or neglect of a child, the division:
  - (a) shall coordinate with law enforcement to ensure that there is an adequate safety plan to protect the child from further abuse or neglect; and
  - (b) is not required to duplicate an aspect of the investigation that, in the division's determination, has been satisfactorily completed by law enforcement.
- (9) In a mutual case in which a child protection team is involved in the investigation of alleged abuse or neglect of a child, the division shall consult with the child protection team before closing the case.

Amended by Chapter 308, 2022 General Session

Renumbered and Amended by Chapter 334, 2022 General Session

Amended by Chapter 334, 2022 General Session, (Coordination Clause)

**80-2-702 Division post-removal investigation -- Supported or unsupported reports -- Convening of child protection team -- Cooperation with law enforcement -- Close of investigation.**

- (1) If a child is taken into protective custody in accordance with Section 80-2a-202 or 80-3-204 or the division takes any other action that requires a shelter hearing under Subsection 80-3-301(1), the division shall immediately initiate an investigation of:
  - (a) the circumstances of the child; and
  - (b) the grounds upon which the decision to place the child into protective custody was made.
- (2) The division's investigation under Subsection (1) shall conform to reasonable professional standards and include:
  - (a) a search for and review of any records of past reports of abuse or neglect involving:
    - (i) the same child;
    - (ii) any sibling or other child residing in the same household as the child; and
    - (iii) the alleged perpetrator;
  - (b) with regard to a child who is five years old or older, a personal interview with the child:
    - (i) outside of the presence of the alleged perpetrator; and
    - (ii) conducted in accordance with the requirements of Section 80-2-704;
  - (c) if a parent or guardian is located, an interview with at least one of the child's parents or guardian;
  - (d) an interview with the person who reported the abuse, unless the report was made anonymously;
  - (e) if possible and appropriate, interviews with other third parties who have had direct contact with the child, including:
    - (i) school personnel; and
    - (ii) the child's health care provider;
  - (f) an unscheduled visit to the child's home, unless:
    - (i) there is a reasonable basis to believe that the reported abuse was committed by a person who:
      - (A) is not the child's parent; and
      - (B) does not live in the child's home or otherwise have access to the child in the child's home;or
    - (ii) an unscheduled visit is not necessary to obtain evidence for the investigation; and
  - (g) if appropriate and indicated in any case alleging physical injury, sexual abuse, or failure to meet the child's medical needs, a medical examination, obtained no later than 24 hours after the child is placed in protective custody.
- (3) The division may rely on a written report of a prior interview rather than conducting an additional interview under Subsection (2), if:
  - (a) law enforcement:
    - (i) previously conducted a timely and thorough investigation regarding the alleged abuse, neglect, or dependency; and
    - (ii) produced a written report;
  - (b) the investigation described in Subsection (3)(a)(i) included one or more of the interviews described in Subsection (2); and
  - (c) the division finds that an additional interview is not in the best interest of the child.
- (4)
  - (a)
    - (i) The division shall:
      - (A) make a determination after the division's investigation under Subsection (1) regarding whether the report is supported, unsupported, or without merit; and
      - (B) base the determination on the facts of the case at the time the report is made.

- (ii) The division's determination of whether a report is supported or unsupported may be based on the child's statements alone.
- (b) The division may not:
  - (i) use the inability to identify or locate the perpetrator as a basis for:
    - (A) determining that a report is unsupported; or
    - (B) closing the case; or
  - (ii) determine a case is unsupported or identify a case as unsupported solely because the perpetrator is an out-of-home perpetrator.
- (5) The division shall maintain protective custody of the child if the division finds that one or more of the following conditions exist:
  - (a) the child does not have a natural parent, guardian, or responsible relative who is able and willing to provide safe and appropriate care for the child;
  - (b)
    - (i) shelter of the child is a matter of necessity for the protection of the child; and
    - (ii) there are no reasonable means by which the child can be protected in:
      - (A) the child's home; or
      - (B) the home of a responsible relative;
  - (c) there is substantial evidence that the parent or guardian is likely to flee the jurisdiction of the juvenile court; or
  - (d) the child has left a previously court ordered placement.
- (6) Within 24 hours after receipt of a child into protective custody, excluding weekends and holidays, the division shall:
  - (a) convene a child protection team in accordance with Section 80-2-706; and
  - (b) prepare the testimony and evidence that will be required of the division at the shelter hearing, in accordance with Section 80-3-301.
- (7) The division shall cooperate with a law enforcement investigation and with the members of a child protection team, if applicable, regarding the alleged perpetrator.
- (8) The division may not close an investigation solely on the grounds that the division is unable to locate the child until all reasonable efforts have been made to locate the child and family members including:
  - (a) visiting the home at times other than normal work hours;
  - (b) contacting local schools;
  - (c) contacting local, county, and state law enforcement agencies; and
  - (d) checking public assistance records.

Amended by Chapter 308, 2022 General Session

Renumbered and Amended by Chapter 334, 2022 General Session

Amended by Chapter 334, 2022 General Session, (Coordination Clause)

**80-2-703 Conflict child protective services investigations -- Authority of investigators.**

- (1)
  - (a) The department, through the Office of Quality and Design created in Section 62A-18-103, shall conduct an independent child protective service investigation to investigate reports of abuse or neglect if:
    - (i) the report occurs while the child is in the custody of the division; or
    - (ii) the executive director of the department determines that, if the division conducts the investigation, the division would have an actual or potential conflict of interest in the results of the investigation.

- (b) If a report is made while a child is in the custody of the division that indicates the child is abused or neglected:
  - (i) the attorney general may, in accordance with Section 67-5-16, and with the consent of the department, employ a child protective services investigator to conduct a conflict investigation of the report; or
  - (ii) a law enforcement officer, as defined in Section 53-13-103, may, with the consent of the department, conduct a conflict investigation of the report.
- (c) Subsection (1)(b)(ii) does not prevent a law enforcement officer from, without the consent of the department, conducting a criminal investigation of abuse or neglect under Title 53, Public Safety Code.
- (2) An investigator described in Subsection (1) may also investigate allegations of abuse or neglect of a child by a department employee or a licensed substitute care provider.
- (3) An investigator described in Subsection (1), if not a law enforcement officer, shall have the same rights, duties, and authority of a child welfare caseworker to:
  - (a) make a thorough investigation under Section 80-2-701 upon receiving a report of alleged abuse or neglect of a child, with the primary purpose of the investigation being the protection of the child;
  - (b) make an inquiry into the child's home environment, emotional, or mental health, the nature and extent of the child's injuries, and the child's physical safety;
  - (c) make a written report of the investigator's investigation, including determination regarding whether the alleged abuse or neglect is supported, unsupported, or without merit, and forward a copy of the report to the division within the time mandates for investigations established by the division; and
  - (d) immediately consult with school authorities to verify the child's status in accordance with Sections 53G-6-201 through 53G-6-206 if a report is based on or includes an allegation of educational neglect.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-2-704 Division interview of a child -- Support person for the child -- Notice -- Recording.**

- (1) The division may conduct an investigative interview of a child who:
  - (a) except as provided in Subsection (5), is the subject of the report or identified during an investigation under Subsection 80-2-701(1)(b); or
  - (b) is in protective custody before the day on which the adjudication hearing is held under Section 80-3-401.
- (2)
  - (a) If the division interviews a child under Subsection (1), the division shall, except as provided in Subsection (6), audiotape or videotape the interview.
  - (b) The interviewer under Subsection (1) shall say at the beginning of the audiotape or videotape:
    - (i) the time, date, and place of the interview; and
    - (ii) the full name and age of the child being interviewed.
- (3)
  - (a) Before conducting an interview under Subsection (1), the interviewer shall:
    - (i) assess the child's level of comfort with the interview and make reasonable efforts to ensure the child is comfortable during the interview; and
    - (ii) unless the interview is conducted at a Children's Justice Center, ask the child whether the child is comfortable being alone in the interview with the interviewer.
  - (b)

- (i) If a child who is interviewed under Subsection (1)(a) is not comfortable being alone in the interview with the interviewer, the child is allowed to have a support person of the child's choice present in an interview who:
  - (A) is 18 years old or older;
  - (B) is readily available; and
  - (C) is willing and able to be present in the interview without influencing the child through statements or reactions.
- (ii) If a child who is interviewed under Subsection (1)(b) is not comfortable being alone in the interview with the interviewer, the interviewer shall conduct the interview with a support person of the child's choice present who meets the requirements of Subsections (3)(b)(i)(A) through (C).
- (c) A support person described in this Subsection (3):
  - (i) may be:
    - (A) a school teacher;
    - (B) a school administrator;
    - (C) a guidance counselor;
    - (D) a child care provider;
    - (E) a family member;
    - (F) a family advocate;
    - (G) a member of the clergy; or
    - (H) another individual chosen by the child; and
  - (ii) may not be an individual who:
    - (A) is alleged to be, or potentially may be, the perpetrator; or
    - (B) is protective of the perpetrator or unsupportive of the child.
- (4)
  - (a) Except as provided in Subsection (4)(b), the division shall notify the child's parent before the time at which the interview under Subsection (1)(a) is held of:
    - (i) the specific allegations concerning the child; and
    - (ii) the time and place of the interview.
  - (b)
    - (i) The division is not required to provide notice under Subsection (4)(a) if the child's parent or stepparent or the parent's paramour is identified as the alleged perpetrator.
    - (ii) If the alleged perpetrator is unknown, or the alleged perpetrator's relationship to the child's family is unknown, the division may conduct a minimal interview or conversation with the child that does not exceed 15 minutes before providing notice under Subsection (4)(a).
    - (iii) The division shall notify the parent of a child who is interviewed under Subsection (4)(b)(i) or (ii) as soon as practicable after the interview is conducted and no later than 24 hours after the interview is conducted.
  - (c) The division shall notify the child's parent of the time and place of all subsequent interviews of the child.
- (5)
  - (a)
    - (i) Except as provided in Subsections (5)(a)(ii) and (6), the division may interview a child under Subsection (1)(a) during an investigation under Section 80-2-701 that involves allegations of sexual abuse, sexual exploitation, severe abuse, or severe neglect of the child only if:
      - (A) the interview is recorded visually and aurally on film, videotape, or by other electronic means;

- (B) both the interviewer and the child are simultaneously recorded and visible on the final product;
  - (C) the time and date of the interview is continuously and clearly visible to any subsequent viewer of the recording; and
  - (D) the recording equipment runs continuously for the duration of the interview.
- (ii) Subsection (5)(a)(i) does not apply to initial or minimal interviews conducted in accordance with Subsection (4)(b)(ii).
- (b) The division shall conduct an interview under Subsection (5)(a) in an existing Children's Justice Center or in a soft interview room, if available.
- (c) If a Children's Justice Center or a soft interview room is not available, the division shall use the best setting available under the circumstances.
- (d) Except as provided in Subsection (6), if the equipment required under Subsection (5)(a) is not available, the division shall audiotape the interview and the child welfare caseworker shall clearly say at the beginning of the tape:
- (i) the time, date, and place of the interview;
  - (ii) the full name and age of the child being interviewed; and
  - (iii) that the equipment required under Subsection (5)(a) is not available and why.
- (6)
- (a) Subject to Subsection (6)(b), the division may conduct an interview under Subsection (1) or (5) without taping the interview if the child:
- (i) is at least nine years old;
  - (ii) refuses to have the interview audiotaped; and
  - (iii) refuses to have the interview videotaped.
- (b) If, under Subsection (6)(a), an interview is conducted without being taped, the division shall document the child's refusal to have the interview taped as follows:
- (i) the interviewer shall attempt to get the child's refusal on tape, including the reasons for the refusal; or
  - (ii) if the child does not allow the refusal, or the reasons for the refusal, to be taped, the interviewer shall:
    - (A) state on the tape that the child is present, but has refused to have the interview, refusal, or the reasons for the refusal taped; or
    - (B) if complying with Subsection (6)(b)(ii)(A) will result in the child, who would otherwise consent to be interviewed, to refuse to be interviewed, the interviewer shall document, in writing, that the child refused to allow the interview to be taped and the reasons for that refusal.
- (c) The division shall track the number of interviews under this section that are not taped, and the number of refusals that are not taped, for each interviewer, in order to determine whether a particular interviewer has a higher incidence of refusals, or taped refusals, than other interviewers.

Renumbered and Amended by Chapter 334, 2022 General Session  
Amended by Chapter 334, 2022 General Session, (Coordination Clause)

**80-2-705 Law enforcement interview of a child in division's custody.**

- (1) Except as provided in Subsection (2), the division may not consent to the interview of a child in protective custody or the division's temporary custody or custody by a law enforcement officer, unless consent for the interview is obtained from the child's guardian ad litem.
- (2) Subsection (1) does not apply if a guardian ad litem is not appointed for the child.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-2-706 Child protection team convened during division investigation -- Coordination of team -- Timing of team meetings.**

- (1)
  - (a) The division shall convene a child protection team for a particular case:
    - (i) in accordance with Section 80-2-701;
    - (ii) if the child is taken into protective custody, for the purpose of reviewing the circumstances regarding removal of the child from the child's home or school; or
    - (iii) if the division files an abuse, neglect, or dependency petition, as defined in Section 80-3-102, for the purposes of:
      - (A) reviewing the circumstances of the filing of the abuse, neglect, or dependency petition; and
      - (B) developing or reviewing implementation of a safety plan to protect the child from further abuse, neglect, or dependency.
  - (b) The division may convene a child protection team for a particular case if:
    - (i) the case demonstrates:
      - (A) the likelihood of severe child abuse or neglect; or
      - (B) a high risk of repetition as evidenced by previous involvements with law enforcement or the division; and
    - (ii) the child protection team is assembled for the purpose of information sharing and identification of resources, services, or actions that support the child and the child's family.
- (2)
  - (a) A representative of the division shall serve as coordinator and chair of a child protection team convened under Subsection (1).
  - (b) A member of the child protection team shall serve at the coordinator's invitation.
  - (c) If possible, the child protection team coordinator and chair shall include on the child protection team a representative of:
    - (i) health, mental health, education, and law enforcement agencies;
    - (ii) the child;
    - (iii) a parent and family support group unless the parent is alleged to be the perpetrator; and
    - (iv) other appropriate agencies and individuals.
- (3) The division shall hold the child protection team meeting under Subsection (1)(a)(ii) or (iii) within the shorter of:
  - (a) 24 hours after receipt of the child into protective custody, excluding weekends and holidays, if the child is taken into protective custody;
  - (b) 24 hours after the abuse, neglect, or dependency petition, as defined in Section 80-3-102, is filed, excluding weekends and holidays, if the child who is the subject of the abuse, neglect, or dependency petition will likely be taken into protective custody unless there is an expedited hearing and services ordered under the protective supervision of the juvenile court; or
  - (c) 14 days after the day on which the abuse, neglect, or dependency petition, as defined in Section 80-3-102, is filed.
- (4) At a child protection team meeting, the division shall have available and the child protection team shall review the complete child protective services and foster care history of the child and the child's parents and siblings.

Renumbered and Amended by Chapter 334, 2022 General Session



**80-2-707 Supported finding of child abuse or neglect after division investigation -- Notice to alleged perpetrator -- Rights of alleged perpetrator -- Administrative review -- Joinder in juvenile court.**

- (1)
  - (a) Except as provided in Subsection (2), if, after investigation, the division makes a supported finding, the division shall send a notice of agency action to the alleged perpetrator.
  - (b) If the alleged perpetrator described in Subsection (1)(a) is under 18 years old, the division shall:
    - (i) make reasonable efforts to identify the alleged perpetrator's parent or guardian; and
    - (ii) send a notice to each parent or guardian identified under Subsection (1)(b)(i) that lives at a different address, unless there is good cause, as defined by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for not sending a notice to the parent or guardian.
  - (c) This section does not affect:
    - (i) the manner in which the division conducts an investigation; or
    - (ii) the use or effect, in any other setting, of a supported finding by the division at the completion of an investigation for any purpose other than for notification under Subsection (1) (a) or (b).
- (2) Subsection (1) does not apply to an alleged perpetrator who is served with notice under Section 80-2-708.
- (3) The notice described in Subsection (1) shall state that:
  - (a) the division conducted an investigation regarding alleged abuse, neglect, or dependency;
  - (b) the division made a supported finding of abuse, neglect, or dependency;
  - (c) facts gathered by the division support the supported finding;
  - (d) the alleged perpetrator has the right to request:
    - (i) a copy of the report; and
    - (ii) an opportunity to challenge the supported finding by the division; and
  - (e) failure to request an opportunity to challenge the supported finding within 30 days after the day on which the notice is received will result in an unappealable supported finding of abuse, neglect, or dependency unless the alleged perpetrator can show good cause for why compliance within the 30-day requirement is virtually impossible or unreasonably burdensome.
- (4)
  - (a) Except as provided in Subsection (7), an alleged perpetrator may make a request to challenge a supported finding within 30 days after the day on which the alleged perpetrator receives a notice under this section.
  - (b) Upon receipt of a request under Subsection (4)(a), the Office of Administrative Hearings shall hold an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act.
- (5)
  - (a) In an adjudicative proceeding held under this section, the division has the burden of proving, by a preponderance of the evidence, that abuse, neglect, or dependency occurred and that the alleged perpetrator is substantially responsible for the abuse or neglect that occurred.
  - (b) Any party has the right of judicial review of final agency action, in accordance with Title 63G, Chapter 4, Administrative Procedures Act.
  - (c) A proceeding for judicial review of a final agency action under this section shall be closed to the public.
  - (d) The Judicial Council shall make rules that ensure the confidentiality of the proceeding described in Subsection (5)(c) and the records related to the proceedings.

- (6) Except as otherwise provided in this chapter, an alleged perpetrator who, after receiving notice, fails to challenge a supported finding in accordance with this section:
  - (a) may not further challenge the finding; and
  - (b) shall have no right to:
    - (i) agency review of the finding;
    - (ii) an adjudicative hearing on the finding; or
    - (iii) judicial review of the finding.
- (7)
  - (a) Except as provided in Subsection (7)(b), an alleged perpetrator may not make a request under Subsection (4) to challenge a supported finding if a court of competent jurisdiction entered a finding, in a proceeding in which the alleged perpetrator was a party, that the alleged perpetrator is substantially responsible for the abuse, neglect, or dependency that is the subject of the supported finding.
  - (b) Subsection (7)(a) does not apply to pleas in abeyance or diversion agreements.
  - (c) An adjudicative proceeding under Subsection (5) may be stayed during the time a judicial action on the same matter is pending.
- (8) Under Section 80-3-404, an adjudicative proceeding on a supported finding of a type of abuse or neglect that does not constitute a severe type of child abuse or neglect may be joined in the juvenile court with an adjudication on a supported finding of a severe type of child abuse or neglect.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-2-708 Supported finding of a severe type of child abuse or neglect after division investigation -- Notation in Licensing Information System -- Juvenile court petition or notice to alleged perpetrator -- Rights of alleged perpetrator.**

- (1) If, after investigation, the division makes a supported finding that an individual committed a severe type of child abuse or neglect, the division shall:
  - (a) serve notice of the supported finding on the alleged perpetrator;
  - (b) enter the information described in Subsections 80-2-1002(2)(a) and (b) into the Licensing Information System; and
  - (c) if the division considers it advisable, file a petition for substantiation within one year after the day on which the division makes the supported finding.
- (2) The notice described in Subsection (1)(a):
  - (a) shall state that:
    - (i) the division conducted an investigation regarding alleged abuse or neglect;
    - (ii) the division made a supported finding that the alleged perpetrator described in Subsection (1) committed a severe type of child abuse or neglect;
    - (iii) facts gathered by the division support the supported finding;
    - (iv) as a result of the supported finding, the alleged perpetrator's name and other identifying information have been listed in the Licensing Information System in accordance with Subsection (1)(b);
    - (v) the alleged perpetrator may be disqualified from adopting a child, receiving state funds as a child care provider, or being licensed by:
      - (A) the department;
      - (B) a human services licensee;
      - (C) a child care provider or program; or
      - (D) a covered health care facility;

- (vi) the alleged perpetrator has the rights described in Subsection (3); and
- (vii) failure to take the action described in Subsection (3)(a) within one year after the day on which the notice is served will result in the action described in Subsection (3)(b);
- (b) shall include a general statement of the nature of the supported finding; and
- (c) may not include:
  - (i) the name of a victim or witness; or
  - (ii) any privacy information related to the victim or a witness.
- (3)
  - (a) Upon receipt of the notice described in Subsection (2), the alleged perpetrator has the right to:
    - (i) file a written request asking the division to review the supported finding made under Subsection (1);
    - (ii) except as provided in Subsection (3)(b), immediately petition the juvenile court under Section 80-3-404; or
    - (iii) sign a written consent to:
      - (A) the supported finding made under Subsection (1); and
      - (B) entry into the Licensing Information System of the alleged perpetrator's name and other information regarding the supported finding made under Subsection (1).
  - (b) The alleged perpetrator has no right to petition the juvenile court under Subsection (3)(a)(ii) if the juvenile court previously held a hearing on the same alleged incident of abuse or neglect after the filing of an abuse, neglect, or dependency petition, as defined in Section 80-3-102, by another party.
  - (c) The child's parent or guardian shall give the consent for a child under Subsection (3)(a)(iii).
- (4) Service of the notice described in Subsections (1)(a) and (2):
  - (a) shall be personal service in accordance with Utah Rules of Civil Procedure, Rule 4; and
  - (b) does not preclude civil or criminal action against the alleged perpetrator.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-2-709 Division access to criminal background information for background screening and investigation.**

- (1) The division shall have direct access to criminal background information maintained under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification, for the purpose of:
  - (a) background screening under this chapter, Chapter 2a, Removal and Protective Custody of a Child, or Chapter 3, Abuse, Neglect, and Dependency Proceedings, including background screening of an individual who has direct access, as defined in Section 62A-2-101, to a minor:
    - (i) who is alleged to be or has been abused, neglected, or dependent; and
    - (ii) for whom the division has an open case; or
  - (b) investigation of abuse or neglect under this chapter, Chapter 2a, Removal and Protective Custody of a Child, or Chapter 3, Abuse, Neglect, and Dependency Proceedings.
- (2) Except as provided in Section 80-3-305, the division and the Office of Guardian Ad Litem are authorized to request the Department of Public Safety to conduct a complete Federal Bureau of Investigation criminal background check through the national criminal history system (NCIC).

Renumbered and Amended by Chapter 334, 2022 General Session

**Part 8**  
**Division Child Placing and Adoption Services**

**80-2-801 Definitions.**

As used in this part:

- (1) "Adoptable child" means a child:
  - (a) who is in the custody of the division; and
  - (b)
    - (i) who has permanency goals of adoption; or
    - (ii) for whom a final plan for pursuing termination of parental rights is approved in accordance with Section 80-3-409.
- (2)
  - (a) "Adoption assistance" means, except as provided in Section 80-2-809, direct financial subsidies and support to adoptive parents of a child with special needs or whose need or condition has created a barrier that would prevent a successful adoption.
  - (b) "Adoption assistance" includes state medical assistance, reimbursement of nonrecurring adoption expenses, or monthly subsidies.
- (3) "Adoption services" means, except as used in Section 80-2-806:
  - (a) placing children for adoption;
  - (b) subsidizing adoptions under Section 80-2-301;
  - (c) supervising adoption placements until the adoption is finalized by a court;
  - (d) conducting adoption studies;
  - (e) preparing adoption reports upon request of the court; and
  - (f) providing postadoptive placement services, upon request of a family, for the purpose of stabilizing a possible disruptive placement.
- (4) "Child who has a special need" means a child who:
  - (a) cannot or should not be returned to the home of the child's biological parents; and
  - (b)
    - (i) is five years old or older;
    - (ii) is under 18 years old with a physical, emotional, or mental disability; or
    - (iii) is a member of a sibling group placed together for adoption.
- (5) "Monthly subsidy" means financial support to assist with the costs of adopting and caring for a child who has a special need.
- (6) "Nonrecurring adoption expenses" means reasonably necessary adoption fees, court costs, attorney's fees, and other expenses which are directly related to the legal adoption of a child who has a special need.
- (7) "State medical assistance" means the Medicaid program and medical assistance as those terms are defined in Section 26-18-2.
- (8) "Supplemental adoption assistance" means financial support for extraordinary, infrequent, or uncommon documented needs not otherwise covered by a monthly subsidy, state medical assistance, or other public benefits for which a child who has a special need is eligible.
- (9) "Vendor services" means services that a person provides under contract with the division.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-2-802 Division child placing and adoption services -- Restrictions on placement of a child.**

- (1) Except as provided in Subsection (3), the division may provide adoption services and, as a licensed child-placing agency under Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities, engage in child placing in accordance with this chapter, Chapter 2a, Removal and Protective Custody of a Child, Chapter 3, Abuse, Neglect, and Dependency Proceedings, and Chapter 4, Termination and Restoration of Parental Rights.
- (2) The division shall base the division's decision for placement of an adoptable child for adoption on the best interest of the adoptable child.
- (3) The division may not:
  - (a) in accordance with Subsection 26B-2-127(6), place a child for adoption, either temporarily or permanently, with an individual who does not qualify for adoptive placement under Sections 78B-6-102, 78B-6-117, and 78B-6-137;
  - (b) consider a potential adoptive parent's willingness or unwillingness to enter a postadoption contact agreement under Section 78B-6-146 as a condition of placing a child with a potential adoptive parent; or
  - (c) except as required under the Indian Child Welfare Act, 25 U.S.C. Secs. 1901 through 1963, base the division's decision for placement of an adoptable child on the race, color, ethnicity, or national origin of either the child or the potential adoptive parent.
- (4) The division shall establish a rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, providing that, subject to Subsection (3) and Section 78B-6-117, priority of placement shall be provided to a family in which a couple is legally married under the laws of the state.
- (5) Subsections (3) and (4) do not limit the placement of a child with the child's biological or adoptive parent, a relative, or in accordance with the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et seq.

Amended by Chapter 330, 2023 General Session

**80-2-803 Division promotion of adoption -- Adoption research and informational pamphlet.**

The division shall:

- (1) actively promote the adoption of all children in the division's custody who have a final plan for termination of parental rights under Section 80-3-409 or a primary permanency plan of adoption;
- (2) develop plans for the effective use of cross-jurisdictional resources to facilitate timely adoptive or permanent placements for waiting children;
- (3) obtain information or conduct research regarding prior adoptive families to determine what families may do to be successful with an adoptive child;
- (4) make the information or research described in Subsection (3) available to potential adoptive parents;
- (5) prepare a pamphlet that explains the information that a child-placing agency is required to provide a potential adoptive parent under Section 78B-24-303;
- (6) regularly distribute copies of the pamphlet described in Subsection (5) to child-placing agencies; and
- (7) respond to an inquiry made as a result of the notice provided by a child-placing agency under Section 78B-24-303.

Amended by Chapter 330, 2023 General Session

**80-2-804 Adoptive placement time frame -- Division contracts with child-placing agencies.**

- (1) Subject to this part, for a child who has a primary permanency plan of adoption or for whom a final plan for pursuing termination of parental rights is approved in accordance with Section 80-3-409, the division shall make intensive efforts to place the child in an adoptive home within 30 days after the earlier of the day on which:
  - (a) the final plan is approved; or
  - (b) the primary permanency plan is established.
- (2) If within the time periods described in Subsection (1) the division is unable to locate a suitable adoptive home, the division shall contract with a variety of child-placing agencies licensed under Title 26B, Chapter 2, Part 1, Human Services Programs and Facilities, to search for an appropriate adoptive home for the child, and to place the child for adoption.

Amended by Chapter 330, 2023 General Session

**80-2-805 Division post-adoption services and contracts -- Access to health care for an adopted child.**

- (1) Unless a parent or guardian of a child who is adopted from the custody of the division expressly requests otherwise, the division may not, solely on the basis that the parent or guardian contacts the division regarding services or requests services from the division:
  - (a) remove or facilitate the removal of a child from the child's home;
  - (b) file a petition for removal of a child from the child's home;
  - (c) file a petition for a child protective order;
  - (d) make a supported finding;
  - (e) seek a substantiated finding;
  - (f) file an abuse, neglect, or dependency petition, as defined in Section 80-3-102, or a petition alleging that a child is abandoned; or
  - (g) file a petition for termination of parental rights, as defined in Section 80-4-102.
- (2)
  - (a) The division shall, to the extent that sufficient funds are available, use out-of-home services funds or division-designated post-adopt funds to provide services to a child who is adopted from the custody of the division, without requiring that the child's parent terminate parental rights, or that the child's parent or legal guardian transfer or surrender custodial rights, in order to receive the services.
  - (b) The division may not require, request, or recommend that a parent terminate parental rights, or that a parent or guardian transfer or surrender custodial rights, in order to receive services, using out-of-home services funds, for a child who is adopted from the custody of the division.
- (3)
  - (a) If a parent or guardian of a child who is adopted from the custody of the division requests vendor services from the division, the division shall refer the parent or guardian to a provider of vendor services, at the parent's or guardian's expense, if:
    - (i)
      - (A) the parent, guardian, or child is not eligible to receive the vendor services from the division; or
      - (B) the division does not have sufficient funds to provide the services to the parent, guardian, or child;
    - (ii) the parent, guardian, or child does not have insurance or other funds available to receive the services without the referral; and
    - (iii) the parent or guardian desires the referral.

- (b) If the division awards, extends, or renews a contract with a vendor for vendor services, the division shall include in the contract a requirement that, if the division makes a referral under Subsection (3)(a), the vendor shall:
  - (i) provide services to the parent, guardian, or child at a rate that does not exceed the rate that the vendor charges the division for the services; and
  - (ii) may not charge the parent, guardian, or child any fee that the vendor does not charge the division.
- (4) The division shall ensure that a child who is adopted and was previously in the division's custody, continues to receive the medical and mental health coverage that the child is entitled to under state and federal law.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-2-806 Division adoption assistance -- Eligibility -- Limitations.**

- (1) The purpose of this section is to provide adoption assistance to eligible adoptive families to establish and maintain a permanent adoptive placement for a child who has a special need and who qualifies under state and federal law.
- (2)
  - (a) The division may provide adoption assistance to an adoptive family who is eligible under this section.
  - (b) The division shall establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, eligibility criteria for the receipt of adoption assistance and supplemental adoption assistance.
  - (c) The division shall base a determination of eligibility for the receipt of adoption assistance or supplemental adoption assistance on:
    - (i) the needs of the child;
    - (ii) the resources available to the child; and
    - (iii) the federal requirements of Section 473, Social Security Act.
  - (d) The division:
    - (i) may, to the extent funds are available, use state funds appropriated for adoption assistance to provide post-adoption services to a child who is adopted from the custody of the division; and
    - (ii) unless a parent or guardian of a child who is adopted from the custody of the division expressly requests otherwise, may not require, request, or recommend that a parent terminate parental rights, or that a parent or guardian transfer or surrender custodial rights, in order to receive post-adoption services for the child, regardless of whether funds for the post-adoption services come from funds appropriated for adoption assistance or post-adoption services.
- (3)
  - (a) Except as provided in Subsection (3)(c) and under the federal requirements of Social Security Act, 42 U.S.C. Sec. 670 et seq., the division:
    - (i) shall provide for:
      - (A) payment of nonrecurring adoption expenses for an eligible child who has a special need; and
      - (B) state medical assistance when required by federal law; and
    - (ii) may provide for monthly subsidies for an eligible child who has a special need.
  - (b)
    - (i) The division shall base the level of monthly subsidy under Subsection (3)(a) on:

- (A) the child's present and long-term treatment and care needs; and
- (B) the family's ability to meet the needs of the child.
- (ii) The level of monthly subsidy under Subsection (3)(b)(i) may increase or decrease when the child's level of need or the family's ability to meet the child's need changes.
- (iii) The family or the division may initiate changes to the monthly subsidy.
- (c)
  - (i) Payment of nonrecurring adoption expenses under Subsection (3)(a) may not exceed \$2,000 and shall be limited to costs incurred before the day on which the adoption is finalized.
  - (ii) Financial support provided under Subsection (3)(a) may not exceed the maximum foster care payment that would be paid at the time the subsidy amount is initiated or revised or if the eligible child had been in a foster family home.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-2-807 Division supplemental adoption assistance -- Department advisory committee.**

- (1)
  - (a) The division may, based on annual legislative appropriations for adoption assistance and, subject to Subsection (2)(c), division rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide supplemental adoption assistance for a child who has a special need.
  - (b) The division shall provide supplemental adoption assistance under Subsection (1)(a) only after all other resources for which the child is eligible are exhausted.
- (2)
  - (a) The department shall, by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish at least one advisory committee to review and make recommendations to the division on individual requests for supplemental adoption assistance.
  - (b) The advisory committee shall be comprised of:
    - (i) an adoption expert;
    - (ii) an adoptive parent;
    - (iii) a division representative;
    - (iv) a foster parent; and
    - (v) an adoption caseworker.
  - (c) The division rules described in Subsection (1) shall include a provision that establishes a threshold amount for requests for supplemental adoption assistance that require review by the advisory committee.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-2-808 Division termination or modification of adoption assistance.**

- (1) The division may not terminate or modify adoption assistance unless the division gives the adoptive parents notice and opportunity for a hearing as required in Title 63G, Chapter 4, Administrative Procedures Act.
- (2) The division shall terminate adoption assistance if any of the following occur:
  - (a) the adoptive parents request termination;
  - (b) subject to Subsection (3), the child reaches 18 years old, unless the division gives approval to continue beyond 18 years old due to mental or physical disability;
  - (c) the child dies;
  - (d) the adoptive parents die;



- (e) the adoptive parents' legal responsibility for the child ceases;
  - (f) the state determines that the child is no longer receiving support from the adoptive parents;
  - (g) the child marries; or
  - (h) the child enters military service.
- (3) Adoption assistance may not continue after the day on which the child reaches 21 years old.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-2-809 Interstate compact adoption assistance agreements.**

- (1) Notwithstanding Section 80-2-801, as used in this section:
- (a) "Adoption assistance" means financial support to an adoptive parent provided under the Adoption Assistance and Child Welfare Act of 1980, Title IV (e) of the Social Security Act, and Title XIX of the Social Security Act.
  - (b) "Adoption assistance agreement" means a written agreement between the division and adoptive parents, or between any other state and adoptive parents, providing for adoption assistance.
- (2) The division may develop and negotiate an interstate compact for the provision of medical identification and assistance to an adoptive parent who receives adoption assistance.
- (3) An interstate compact under Subsection (2) shall include:
- (a) a provision:
    - (i) for joinder by all states;
    - (ii) for withdrawal from the compact upon written notice to the parties, with a period of one year between the date of the notice and the effective date of withdrawal;
    - (iii) that a child who is the subject of an adoption assistance agreement with another party state, and who subsequently becomes a resident of this state, shall receive medical identification and assistance in this state under the Adoption Assistance and Child Welfare Act of 1980, Title IV (e) of the Social Security Act, and Title XIX of the Social Security Act, based on the child's adoption assistance agreement; and
    - (iv) that a child who is the subject of an adoption assistance agreement with the division, and who subsequently becomes a resident of another party state, shall receive medical identification and assistance from that state under the Adoption and Child Welfare Act of 1980, Title IV (e) of the Social Security Act, and Title XIX of the Social Security Act, based on his adoption assistance agreement; and
  - (b) a requirement that:
    - (i) each instance of adoption assistance to which the compact applies be covered by an adoption assistance agreement between the adoptive parents and the agency of the state that initially agrees to provide adoption assistance;
    - (ii) any agreement is expressly for the benefit of the adopted child and is enforceable by the adoptive parent, and by the state agency providing adoption assistance; and
    - (iii) the protections of the interstate compact continue for the duration of the adoption assistance and apply to all children and the children's adoptive parents who receive adoption assistance from a party state other than the state in which the children reside.
- (4)
- (a) The division:
    - (i) shall provide services to a child who is the subject of an adoption assistance agreement executed by the division, and who is a resident of another state, if the services are not provided by the child's residence state under an interstate compact; and

- (ii) may reimburse the adoptive parent upon receipt of evidence of the adoptive parent's payment for services for which the child is eligible, which were not paid by the residence state, and are not covered by insurance or other third party medical contract.
- (b) The services provided under this subsection are the services for which there is no federal contribution, or which, if federally aided, are not provided by the residence state.

Renumbered and Amended by Chapter 334, 2022 General Session

## **Part 9**

### **Interstate Compact on Placement of Children**

#### **80-2-901 Definitions.**

As used in this part:

- (1) "State" means:
  - (a) a state of the United States;
  - (b) the District of Columbia;
  - (c) the Commonwealth of Puerto Rico;
  - (d) the Virgin Islands;
  - (e) Guam;
  - (f) the Commonwealth of the Northern Mariana Islands; or
  - (g) a territory or possession administered by the United States.
- (2) "State plan" means the written description of the programs for children, youth, and family services administered by the division in accordance with federal law.

Enacted by Chapter 334, 2022 General Session

#### **80-2-902 Division authority under Article III of Interstate Compact.**

- (1) The "appropriate public authorities," as used in Article III of the Interstate Compact on the Placement of Children shall, with reference to this state, mean the division.
- (2) The division shall receive and act with reference to notices required by Article III of the compact.

Renumbered and Amended by Chapter 334, 2022 General Session

#### **80-2-903 Director authority under Article V of Interstate Compact.**

As used in Paragraph (1) of Article V of the Interstate Compact on the Placement of Children, "appropriate authority in the receiving state," with reference to this state, means the director of the division.

Renumbered and Amended by Chapter 334, 2022 General Session

#### **80-2-904 Executive director authority under Article VII of Interstate Compact.**

- (1) As used in Article VII of the Interstate Compact on the Placement of Children, "executive" means the executive director of the department.
- (2) The executive director of the department is authorized to appoint a compact administrator in accordance with the terms of Article VII of the compact.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-2-905 Interstate Compact on Placement of Children -- Text.**

The Interstate Compact on the Placement of Children is hereby enacted and entered into with all other jurisdictions that legally join in the compact which is, in form, substantially as follows:  
INTERSTATE COMPACT ON PLACEMENT OF CHILDREN ARTICLE I Purpose and Policy

It is the purpose and policy of the party states to cooperate with each other in the interstate placement of children so that:

(1)

Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide necessary and desirable care.

(2)

The appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child.

(3)

The proper authorities of the state from which the placement is made may obtain the most complete information on the basis of which to evaluate a projected placement before it is made.

(4)

Appropriate jurisdictional arrangements for the care of the children will be promoted. ARTICLE II Definitions

As used in this compact:

(1) "Child" means a person who, by reason of minority, is legally subject to parental, guardianship, or similar control.

(2)

"Sending agency" means a party state, officer, or employee thereof; a subdivision of a party state, or officer or employee thereof; a court of a party state; a person, corporation, association, Indian tribe, charitable agency, or other entity which sends, brings, or causes to be sent or brought any child to another party state.

(3)

"Receiving state" means the state to which a child is sent, brought or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state or local public authorities or for placement with private agencies or persons.

(4)

"Placement" means the arrangement for the care of a child in a family free, adoptive, or boarding home, or in a child-caring agency or institution but does not include any institution caring for the mentally ill, mentally defective or epileptic or any institution, primarily educational in character, and any hospital or other medical facility. ARTICLE III Conditions for Placement

(1) No sending agency shall send, bring, or cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply with each and every requirement set forth in this article and with the applicable laws of the receiving state governing the placement of children therein.

(2)

Prior to sending, bringing, or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall

furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state. The notice shall contain:

(a) The name, date, and place of birth of the child.

(b)

The identity and address or addresses of the parents or legal guardian.

(c)

The name and address of the person, agency, or institution to or with which the sending agency proposes to send, bring, or place the child.

(d)

A full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

(e)

Any public officer or agency in a receiving agency state which is in receipt of a notice pursuant to Paragraph (2) of this article may request of the sending agency, or any other appropriate officer or agency of or in the sending agency's state, and shall be entitled to receive therefrom, such supporting or additional information as it may deem necessary under the circumstances to carry out the purpose and policy of this compact.

(f)

The child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child.

#### ARTICLE IV Penalty for Illegal Placement

The sending, bringing, or causing to be sent or brought into any receiving state of a child in violation of the terms of this compact shall constitute a violation of the laws respecting the placement of children of both the state in which the sending agency is located or from which it sends or brings the child and of the receiving state. Such violation may be punished or subjected to penalty in either jurisdiction in accordance with its laws. In addition to liability for any such punishment or penalty, any violation shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or other legal authorization held by the sending agency which empowers or allows it to place, or care for children.

ARTICLE V Retention of Jurisdiction  
(1) The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment, and disposition of the child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting, or is discharged with the concurrence of the appropriate authority in the receiving state. Such jurisdiction shall also include the power to effect or cause the return of the child or its transfer to another location and custody pursuant to law.

The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein.

(2) When the sending agency is a public agency, it may enter into an agreement with an authorized public or private agency in the receiving state providing for the performance of one or more services in respect of such case by the latter as agent for the sending agency.

(3)

Nothing in this compact shall be construed to prevent any agency authorized to place children in the receiving agency from performing services or acting as agent in the receiving agency jurisdiction for a private charitable agency of the sending agency; nor to prevent the receiving agency from discharging financial responsibility for the support and maintenance of a child who

has been placed on behalf of the sending agency without relieving the responsibility set forth in Paragraph (1) above. ARTICLE VI Institutional Care of Delinquent Children

A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this compact, but no such placement shall be made unless the child is given a court hearing on notice to the parent or guardian with opportunity to be heard, prior to his being sent to such other party jurisdiction for institutional care and the court finds that:

(1) equivalent facilities for the child are not available in the sending agency's jurisdiction; and

(2) institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship. ARTICLE VII Compact Administrator

The executive head of each jurisdiction party to this compact shall designate an officer who shall be general coordinator of activities under this compact in his jurisdiction and who, acting jointly with like officers of the party jurisdictions, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact. ARTICLE VIII Limitations

This compact shall not apply to:

(1) The sending or bringing of a child into a receiving state by his parent, step-parent, grandparent, adult brother or sister, adult uncle or aunt, or his guardian and leaving the child with any such relative or nonagency guardian in the receiving state.

(2) Any placement, sending or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party or to any other agreement between said states which has the force of law.

ARTICLE IX Enactment and Withdrawal

This compact shall be open to joinder by any state, territory, or possession of the United States, the District of Columbia, the commonwealth of Puerto Rico, and with the consent of Congress, the government of Canada or any province thereof. It shall become effective with respect to any such jurisdiction when such jurisdiction has enacted the same into law. Withdrawal from this compact shall be by the enactment of a statute repealing the same but shall not take effect until two years after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other party jurisdiction. Withdrawal of a party state shall not affect the rights, duties, and obligations under this compact of any sending agency therein with respect to a placement made prior to the effective date of withdrawal. ARTICLE X Construction and Severability

The provisions of this compact shall be liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States, the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-2-906 Financial responsibility for child placed under Interstate Compact.**

(1) Financial responsibility for a child placed under the provisions of the Interstate Compact on the Placement of Children shall, in the first instance, be determined in accordance with the provisions of Article V of the compact.

(2) In the event of partial or complete default of performance under the compact, the provisions of Title 78B, Chapter 12, Utah Child Support Act, may also be invoked.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-2-907 Fulfillment of requirements under Interstate Compact.**

Requirements for visitation, inspection, or supervision of children, homes, institutions, or other agencies in another party state which may apply under this chapter or Chapter 2a, Removal and Protective Custody of a Child, shall be deemed to be met if performed under an agreement entered into by appropriate officers or agencies of this state, or a subdivision thereof, as contemplated by Paragraph (2) of Article V of the Interstate Compact on the Placement of Children.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-2-908 Jurisdiction over delinquent children under Interstate Compact.**

Any court having jurisdiction to place delinquent children may place such a child in an institution in another state, under Article VI of the Interstate Compact on the Placement of Children, and shall retain jurisdiction as provided in Article V of the compact.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-2-909 Existing authority for child placement continues.**

Any person who, under any law of this state other than this part or the Interstate Compact on the Placement of Children established under Section 80-2-905, has authority to make or assist in making the placement of a child, shall continue to have the ability lawfully to make or assist in making that placement, and the provisions of Sections 26B-2-127, 26B-2-131, 26B-2-132, 26B-2-133, Subsections 80-2-802(3)(a) and (4) and 80-2-803(1), (2), and (5) through (7), and Title 78B, Chapter 6, Part 1, Utah Adoption Act, continue to apply.

Amended by Chapter 330, 2023 General Session

**80-2-910 Interjurisdictional home study report.**

- (1) The state of Utah may request a home study report from another state or an Indian Tribe for purposes of assessing the safety and suitability of placing a child in a home outside of the jurisdiction of the state of Utah.
- (2) The state of Utah may not impose any restriction on the ability of a state agency administering, or supervising the administration of, a state program operated under a state plan approved under Section 42 U.S.C. 671 to contract with a private agency to conduct a home study report described in Subsection (1).
- (3) If the state of Utah receives a home study report described in Subsection (1), the home study report shall be considered to meet all requirements imposed by the state of Utah for completion of a home study before a child is placed in a home, unless, within 14 days after the day on which the report is received, the state of Utah determines, based on grounds that are specific to the content of the report, that making a decision in reliance on the report would be contrary to the welfare of the child.

Renumbered and Amended by Chapter 334, 2022 General Session

**Part 10**  
**Division and Child Welfare Records**

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

- (1) The division shall develop and implement a Management Information System that meets the requirements of this section and the requirements of federal law and regulation.
- (2) The Management Information System shall:
  - (a) contain all key elements of each family's current child and family plan, including:
    - (i) the dates and number of times the plan has been administratively or judicially reviewed;
    - (ii) the number of times the parent failed the child and family plan; and
    - (iii) the exact length of time the child and family plan has been in effect; and
  - (b) alert child welfare caseworkers regarding deadlines for completion of and compliance with policy, including child and family plans.
- (3) For a child welfare case, the Management Information System shall provide each child welfare caseworker and the Office of Licensing created in Section 26B-2-103, exclusively for the purposes of foster parent licensure and monitoring, with a complete history of each child in the child welfare caseworker's caseload, including:
  - (a) a record of all past action taken by the division with regard to the child and the child's siblings;
  - (b) the complete case history and all reports and information in the control or keeping of the division regarding the child and the child's siblings;
  - (c) the number of times the child has been in the protective custody, temporary custody, and custody of the division;
  - (d) the cumulative period of time the child has been in the custody of the division;
  - (e) a record of all reports of abuse or neglect received by the division with regard to the child's parent or guardian including:
    - (i) for each report, documentation of the:
      - (A) latest status; or
      - (B) final outcome or determination; and
    - (ii) information that indicates whether each report was found to be:
      - (A) supported;
      - (B) unsupported;
      - (C) substantiated;
      - (D) unsubstantiated; or
      - (E) without merit;
  - (f) the number of times the child's parent failed any child and family plan; and
  - (g) the number of different child welfare caseworkers who have been assigned to the child in the past.
- (4) For child protective services cases, the Management Information System shall:
  - (a) monitor the compliance of each case with:
    - (i) division rule;
    - (ii) state law; and
    - (iii) federal law and regulation; and
  - (b) include the age and date of birth of the alleged perpetrator at the time the abuse or neglect is alleged to have occurred, in order to ensure accuracy regarding the identification of the alleged perpetrator.

- (5) Information or a record contained in the Management Information System is:
- (a) a private, controlled, or protected record under Title 63G, Chapter 2, Government Records Access and Management Act; and
  - (b) available only:
    - (i) to a person or government entity with statutory authorization under Title 63G, Chapter 2, Government Records Access and Management Act, to review the information or record;
    - (ii) to a person who has specific statutory authorization to access the information or record for the purpose of assisting the state with state or federal requirements to maintain information solely for the purpose of protecting minors and providing services to families in need;
    - (iii) to the extent required by Title IV(b) or IV(e) of the Social Security Act:
      - (A) to comply with abuse and neglect registry checks requested by other states; or
      - (B) to the United States Department of Health and Human Services for purposes of maintaining an electronic national registry of supported or substantiated cases of abuse and neglect;
    - (iv) to the department, upon the approval of the executive director of the department, on a need-to-know basis;
    - (v) as provided in Subsection (6) or Section 80-2-1002; or
    - (vi) to a citizen review panel for the purpose of fulfilling the panel's duties as described in Section 80-2-1101.
- (6)
- (a) The division may allow a division contract provider, court clerk designated by the Administrative Office of the Courts, the Office of Guardian Ad Litem, or Indian tribe to have limited access to the Management Information System.
  - (b) A division contract provider or Indian tribe has access only to information about a person who is currently receiving services from the specific contract provider or Indian tribe.
  - (c) A court clerk may only have access to information necessary to comply with Subsection 78B-7-202(2).
  - (d)
    - (i) The Office of Guardian Ad Litem may only access:
      - (A) the information that is entered into the Management Information System on or after July 1, 2004, and relates to a child or family where the Office of Guardian Ad Litem is appointed by a court to represent the interests of the child; or
      - (B) any abuse or neglect referral about a child or family where the office has been appointed by a court to represent the interests of the child, regardless of the date that the information is entered into the Management Information System.
    - (ii) The division may use the information in the Management Information System to screen an individual as described in Subsection 80-2-1002(4)(b)(ii)(A) at the request of the Office of Guardian Ad Litem.
  - (e) A contract provider or designated representative of the Office of Guardian Ad Litem or an Indian tribe who requests access to information contained in the Management Information System shall:
    - (i) take all necessary precautions to safeguard the security of the information contained in the Management Information System;
    - (ii) train its employees regarding:
      - (A) requirements for protecting the information contained in the Management Information System under this chapter and under Title 63G, Chapter 2, Government Records Access and Management Act; and



- (B) the criminal penalties under Sections 63G-2-801 and 80-2-1005 for improper release of information; and
  - (iii) monitor its employees to ensure that the employees protect the information contained in the Management Information System as required by law.
- (7) The division shall take:
- (a) all necessary precautions, including password protection and other appropriate and available technological techniques, to prevent unauthorized access to or release of information contained in the Management Information System; and
  - (b) reasonable precautions to ensure that the division's contract providers comply with Subsection (6).

Amended by Chapter 309, 2023 General Session

Amended by Chapter 330, 2023 General Session

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

- (1)
- (a) The division shall maintain a sub-part of the Management Information System as the Licensing Information System to be used:
    - (i) for licensing purposes; or
    - (ii) as otherwise provided by law.
  - (b) Notwithstanding Subsection (1)(a), the department's access to information in the Management Information System for the licensure and monitoring of a foster parent is governed by Sections 80-2-1001 and 26B-2-121.
- (2) The Licensing Information System shall include only the following information:
- (a) the name and other identifying information of the alleged perpetrator in a supported finding, without identifying the alleged perpetrator as a perpetrator or alleged perpetrator;
  - (b) a notation to the effect that an investigation regarding the alleged perpetrator described in Subsection (2)(a) is pending;
  - (c) the information described in Subsection (3);
  - (d) consented-to supported findings by an alleged perpetrator under Subsection 80-2-708(3)(a)(iii);
  - (e) a finding from the juvenile court under Section 80-3-404; and
  - (f) the information in the licensing part of the division's Management Information System as of May 6, 2002.
- (3) Subject to Section 80-2-1003, upon receipt of a finding from the juvenile court under Section 80-3-404, the division shall:
- (a) promptly amend the Licensing Information System to include the finding; and
  - (b) enter the finding in the Management Information System.
- (4) Information or a record contained in the Licensing Information System is:
- (a) a protected record under Title 63G, Chapter 2, Government Records Access and Management Act; and
  - (b) notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, accessible only:
    - (i) to the Office of Licensing created in Section 26B-2-103:
      - (A) for licensing purposes; or
      - (B) as otherwise specifically provided for by law;
    - (ii) to the division to:

- (A) screen an individual at the request of the Office of Guardian Ad Litem at the time the individual seeks a paid or voluntary position with the Office of Guardian Ad Litem and annually throughout the time that the individual remains with the Office of Guardian Ad Litem; and
- (B) respond to a request for information from an individual whose name is listed in the Licensing Information System;
- (iii) to a person designated by the Department of Health and Human Services, only for the following purposes:
  - (A) licensing a child care program or provider;
  - (B) determining whether an individual associated with a child care facility, program, or provider, who is exempt from being licensed or certified by the Department of Health and Human Services under Title 26B, Chapter 2, Part 4, Child Care Licensing, has a supported finding of a severe type of child abuse or neglect; or
  - (C) determining whether an individual who is seeking an emergency medical services license has a supported finding of a severe type of child abuse or neglect;
- (iv) to a person designated by the Department of Workforce Services and approved by the Department of Health and Human Services for the purpose of qualifying a child care provider under Section 35A-3-310.5;
- (v) as provided in Section 26B-2-121; or
- (vi) to the department or another person, as provided in this chapter.
- (5) A person designated by the Department of Health and Human Services or the Department of Workforce Services under Subsection (4) shall adopt measures to:
  - (a) protect the security of the Licensing Information System; and
  - (b) strictly limit access to the Licensing Information System to persons allowed access by statute.
- (6) The department shall approve a person allowed access by statute to information or a record contained in the Licensing Information System and provide training to the person with respect to:
  - (a) accessing the Licensing Information System;
  - (b) maintaining strict security; and
  - (c) the criminal provisions of Sections 63G-2-801 and 80-2-1005 pertaining to the improper release of information.
- (7)
  - (a) Except as authorized by this chapter, a person may not request another person to obtain or release any other information in the Licensing Information System to screen for potential perpetrators of abuse or neglect.
  - (b) A person who requests information knowing that the request is a violation of this Subsection (7) is subject to the criminal penalties described in Sections 63G-2-801 and 80-2-1005.

Amended by Chapter 330, 2023 General Session

**80-2-1003 Deletion, expungement, or notation of information or reports in Management Information System or Licensing Information System.**

- (1)
  - (a) The division shall delete any reference in the Management Information System or Licensing Information System to a report that:
    - (i) the division determines is without merit, if no subsequent report involving the same alleged perpetrator occurs within one year after the day on which the division makes the determination; or

- (ii) a court of competent jurisdiction determines is unsubstantiated or without merit, if no subsequent report involving the same alleged perpetrator occurs within five years after the day on which the juvenile court makes the determination.
- (b) Except as provided in Subsection (1)(c), the information described in Subsections 80-2-1002(2)(a) and (b) shall remain in the Licensing Information System:
  - (i) if the alleged perpetrator fails to take the action described in Subsection 80-2-708(3)(a) within one year after the day on which the notice described in Subsections 80-2-708(1)(a) and (2) is served;
  - (ii) during the time that the division awaits a response from the alleged perpetrator under Subsection 80-2-708(3)(a); and
  - (iii) until a juvenile court determines that the severe type of child abuse or neglect upon which the Licensing Information System entry was based is unsubstantiated or without merit.
- (c) Regardless of whether an appeal on the matter is pending:
  - (i) the division shall remove the information described in Subsections 80-2-1002(2)(a) and (b) from the Licensing Information System if the severe type of child abuse or neglect upon which the Licensing Information System entry is based:
    - (A) is found to be unsubstantiated or without merit by the juvenile court under Section 80-3-404; or
    - (B) is found to be substantiated, but is subsequently reversed on appeal; and
  - (ii) the division shall place back on the Licensing Information System an alleged perpetrator's name and information that is removed from the Licensing Information System under Subsection (1)(c)(i) if the court action that was the basis for removing the alleged perpetrator's name and information is subsequently reversed on appeal.
- (2)
  - (a) The division shall maintain a separation of reports as follows:
    - (i) those that are supported;
    - (ii) those that are unsupported;
    - (iii) those that are without merit;
    - (iv) those that are unsubstantiated under the law in effect before May 6, 2002;
    - (v) those that are substantiated under the law in effect before May 6, 2002; and
    - (vi) those that are consented-to supported findings under Subsection 80-2-708(3)(a)(iii).
  - (b) Only a person with statutory authority may access the information contained in a report described in Subsection (2)(a).
- (3) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the expungement of supported reports or unsupported reports in the Management Information System and the Licensing Information System that:
  - (a) in relation to an unsupported report or a supported report, identify the types of child abuse or neglect reports that the division:
    - (i) shall expunge within five years after the last date on which the individual's name is placed in the information system, without requiring the subject of the report to request expungement;
    - (ii) shall expunge within 10 years after the last date on which the individual's name is placed in the information system, without requiring the subject of the report to request expungement;
    - (iii) may expunge following an individual's request for expungement in accordance with Subsection (4); and
    - (iv) may not expunge due to the serious nature of the specified types of child abuse or neglect;
  - (b) establish an administrative process and a standard of review for the subject of a report to make an expungement request; and

- (c) define the term "expunge" or "expungement" to clarify the administrative process for removing a record from the information system.
- (4)
  - (a) If an individual's name is in the Management Information System or Licensing Information System for a type of child abuse or neglect report identified under Subsection (3)(a)(iii), the individual may request to have the report expunged 10 years after the last date on which the individual's name is placed in the information system for a supported or unsupported report.
  - (b) If an individual's expungement request is denied, the individual shall wait at least one year after the day on which the denial is issued before the individual may again request to have the individual's report expunged.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-2-1004 Request for division removal of name from Licensing Information System -- Petition for evidentiary hearing or substantiation.**

- (1) Except as provided in Subsection (2), an individual whose name is listed on the Licensing Information System as of May 6, 2002, may at any time:
  - (a) request review by the division of the individual's case and removal of the individual's name from the Licensing Information System under Subsection (3); or
  - (b) file a petition for substantiation and a request for a finding of unsubstantiated or without merit in accordance with Section 80-3-504.
- (2) Subsection (1) does not apply to an individual who has been the subject of any of the following court determinations with respect to the alleged incident of abuse or neglect:
  - (a) conviction;
  - (b) adjudication under Section 80-3-402 or 80-6-701;
  - (c) plea of guilty;
  - (d) plea of guilty with a mental condition; or
  - (e) no contest.
- (3) If an alleged perpetrator listed on the Licensing Information System before May 6, 2002, requests removal of the alleged perpetrator's name from the Licensing Information System, the division shall, within 30 days after the day on which the request is made:
  - (a)
    - (i) review the case to determine whether the incident of alleged abuse or neglect qualifies as:
      - (A) a severe type of child abuse or neglect;
      - (B) chronic abuse; or
      - (C) chronic neglect; and
    - (ii) if the alleged abuse or neglect does not qualify as a type of abuse or neglect described in Subsections (3)(a)(i)(A) through (C), remove the alleged perpetrator's name from the Licensing Information System; or
  - (b) determine whether to file a petition for substantiation in accordance with Section 80-3-504.

Amended by Chapter 184, 2023 General Session

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

- (1) Except as otherwise provided in this chapter or Chapter 2a, Removal and Protective Custody of a Child, a report made under Part 6, Child Abuse and Neglect Reports, and any other

information in the possession of the division obtained as a result of the report is a private, protected, or controlled record under Title 63G, Chapter 2, Government Records Access and Management Act, and may only be made available to:

- (a) a police or law enforcement agency investigating a report of known or suspected abuse or neglect, including members of a child protection team;
  - (b) a physician who reasonably believes that a child may be the subject of abuse or neglect;
  - (c) an agency that has responsibility or authority to care for, treat, or supervise a minor who is the subject of a report;
  - (d) a contract provider that has a written contract with the division to render services to a minor who is the subject of a report;
  - (e) the subject of the report, the natural parents of the child, and the guardian ad litem;
  - (f) a court, upon a finding that access to the records may be necessary for the determination of an issue before the court, provided that in a divorce, custody, or related proceeding between private parties, the record alone is:
    - (i) limited to objective or undisputed facts that were verified at the time of the investigation; and
    - (ii) devoid of conclusions drawn by the division or any of the division's workers on the ultimate issue of whether or not an individual's acts or omissions constituted any level of abuse or neglect of another individual;
  - (g) an office of the public prosecutor or the public prosecutor's deputies in performing an official duty;
  - (h) a person authorized by a Children's Justice Center, for the purposes described in Section 67-5b-102;
  - (i) a person engaged in bona fide research, when approved by the director of the division, if the information does not include names and addresses;
  - (j) the State Board of Education, acting on behalf of itself or on behalf of a local education agency, as defined in Section 63J-5-102, for the purpose of evaluating whether an individual should be permitted to obtain or retain a license as an educator or serve as an employee or volunteer in a school, limited to information with substantiated or supported findings involving an alleged sexual offense, an alleged felony or class A misdemeanor drug offense, or any alleged offense against the person under Title 76, Chapter 5, Offenses Against the Individual, and with the understanding that the office must provide the subject of a report received under Subsection (1)(k) with an opportunity to respond to the report before making a decision concerning licensure or employment;
  - (k) any individual identified in the report as a perpetrator or possible perpetrator of abuse or neglect, after being advised of the screening prohibition in Subsection (2);
  - (l) a person filing a petition for a child protective order on behalf of a child who is the subject of the report;
  - (m) a licensed child-placing agency or person who is performing a preplacement adoptive evaluation in accordance with the requirements of Sections 78B-6-128 and 78B-6-130;
  - (n) an Indian tribe to:
    - (i) certify or license a foster home;
    - (ii) render services to a subject of a report; or
    - (iii) investigate an allegation of abuse, neglect, or dependency; or
  - (o) the department or a local substance abuse authority, described in Section 17-43-201, for the purpose of providing substance abuse treatment to a pregnant woman or a parent of a newborn child, or the services described in Subsection 26B-5-211(2)(p).
- (2) In accordance with Section 80-2-608 and except as provided in Section 80-2-611, the division and a law enforcement agency shall ensure the anonymity of the person who makes the initial

- report under Part 6, Child Abuse and Neglect Reports, and any other person involved in the division's or law enforcement agency's subsequent investigation of the report.
- (3) Notwithstanding any other provision of law, excluding Section 80-3-107, but including this chapter, Chapter 2a, Removal and Protective Custody of a Child, and Title 63G, Chapter 2, Government Records Access and Management Act, if the division makes a report or other information in the division's possession available under Subsection (1)(e) to a subject of the report or a parent of a child, the division shall remove from the report or other information only the names, addresses, and telephone numbers of individuals or specific information that could:
- (a) identify the referent;
  - (b) impede a criminal investigation; or
  - (c) endanger an individual's safety.
- (4) A child-placing agency or person who receives a report from the division under Subsection (1)(m) may provide the report to:
- (a) the subject of the report;
  - (b) a person who is performing a preplacement adoptive evaluation in accordance with Sections 78B-6-128 and 78B-6-130;
  - (c) to a licensed child-placing agency; or
  - (d) an attorney seeking to facilitate an adoption.
- (5) A member of a child protection team may, before the day on which the child is removed, share case-specific information obtained from the division under this section with other members of the child protection team.
- (6)
- (a) Except as provided in Subsection (6)(b), in a divorce, custody, or related proceeding between private parties, a court may not receive into evidence a report that:
    - (i) is provided to the court:
      - (A) under Subsection (1)(f); or
      - (B) by a parent of the child after the record is made available to the parent under Subsection (1)(e);
    - (ii) describes a parent of the child as the alleged perpetrator; and
    - (iii) is found to be unsubstantiated, unsupported, or without merit.
  - (b)
    - (i) After a motion to admit the report described in Subsection (6)(a) is made, the court shall allow sufficient time for all subjects of the record to respond before making a finding on the motion.
    - (ii) After considering the motion described in Subsection (6)(b)(i), the court may receive the report into evidence upon a finding on the record of good cause.
- (7)
- (a) A person may not:
    - (i) willfully permit, or aid and abet, the release of data or information in the possession of the division or contained in the Management Information System in violation of this part or Part 6, Child Abuse and Neglect Reports; or
    - (ii) if the person is not listed in Subsection (1), request another person to obtain or release a report or other information that the other person obtained under Subsection (1)(k) to screen for potential perpetrators of abuse or neglect.
  - (b) A person who violates Subsection (7)(a)(i), or violates Subsection (7)(a)(ii) knowing the person's actions are a violation of Subsection (7)(a)(ii), is guilty of a class C misdemeanor.

Amended by Chapter 330, 2023 General Session

**80-2-1006 Sharing of records with Indian tribe under agreement.**

If the division has a privacy agreement with an Indian tribe to protect the confidentiality of division records regarding an Indian child to the same extent that the division is required to protect other division records, the division shall cooperate with and share all appropriate information in the division's possession regarding an Indian child, the Indian child's parent or guardian, or a proposed placement for the Indian child with the Indian tribe that is affiliated with the Indian child.

Enacted by Chapter 334, 2022 General Session

**80-2-1007 Request to examine division services payment -- Access to related records -- Unlawful use -- Penalty.**

- (1)
  - (a) An individual who is a taxpayer and resident of this state and who desires to examine a payment for services offered by the division in accordance with this chapter or Chapter 2a, Removal and Protective Custody of a Child, shall sign a statement using a form prescribed by the division that includes:
    - (i) an assertion that the individual is a taxpayer and a resident of the state; and
    - (ii) a commitment that any information obtained will not be used for commercial or political purposes.
  - (b) An individual may not make a partial or complete list of names, addresses, or amounts of payment under Subsection (1)(a) or remove information regarding names, addresses, or amounts of payment under Subsection (1)(a) from an office of the division.
- (2) The division shall:
  - (a) after due consideration of the public interest, define the nature of confidential information to be safeguarded by the division; and
  - (b) establish rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:
    - (i) govern the custody and disclosure of the confidential information; and
    - (ii) provide access to information regarding payments for services offered by the division.
- (3) This section does not prohibit:
  - (a) the division or an agent of the division, or an individual, commission, or agency duly authorized for the purpose, from making a special study or issuing or publishing statistical material or a report of a general character; or
  - (b) the division or a division representative or employee from conveying or providing to a local, state, or federal governmental agency written information that would affect an individual's eligibility or ineligibility for financial service, or other beneficial program offered by the governmental agency.
- (4) A person may access a division program plan, policy, or record, including a consumer record or data, in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.
- (5) A person who violates this section is guilty of a class B misdemeanor.

Renumbered and Amended by Chapter 334, 2022 General Session

**Part 11**

## **Child Welfare Services Improvement and Oversight**

### **80-2-1101 Citizen review panel -- Child Welfare Improvement Council -- Duties.**

- (1)
  - (a) The division may establish one or more citizen review panels to:
    - (i) assist and advise the division as determined by the division; and
    - (ii) comply with 42 U.S.C. Sec. 5106a(c).
  - (b) Each panel shall be composed of volunteer members, including former consumers of services, who broadly represent the geographic community or topic area for which the panel is established.
  - (c) A member of a citizen review panel may receive per diem and travel expenses in accordance with:
    - (i) Section 63A-3-106;
    - (ii) Section 63A-3-107; and
    - (iii) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
  - (d) The division shall provide staff to assist a citizen review panel in completing the panel's duties.
  - (e)
    - (i) A citizen review panel member or division staff assisting a citizen review panel may not disclose to a person or government entity identifying information about a specific child protection case that is provided to the citizen review panel.
    - (ii) A citizen review panel member or division staff member who violates Subsection (1)(e)(i) may be subject to a civil fine not to exceed \$500 for each violation.
- (2) There is established the Child Welfare Improvement Council as a citizen review panel.
- (3) The division may designate a child fatality committee, created in Section 26B-1-503, as a citizen review panel.
- (4) A citizen review panel designated by the division to fulfill the requirements of 42 U.S.C. Sec. 5106a:
  - (a) shall meet at least quarterly;
  - (b) may examine specific cases to evaluate the extent to which an agency is effectively discharging the agency's responsibilities in accordance with the state's plan submitted in accordance with 42 U.S.C. Sec. 5106a(b)(1) and the child protection standards set forth in 42 U.S.C. Sec. 5106a(b);
  - (c) shall annually review findings related to the division made by the Division of Continuous Quality Improvement created in Subsection 26B-1-204(3); and
  - (d) shall facilitate public outreach and comment in order to assess the impact of current procedures and practices upon children and families in the community.

Amended by Chapter 309, 2023 General Session

### **80-2-1102 Performance monitoring system -- Report.**

- (1) As used in this section:
  - (a) "Performance indicators" means actual performance in a program, activity, or other function for which there is a performance standard.
  - (b) "Performance standards" means the targeted or expected level of performance of each area in the child welfare system, including:
    - (i) child protection services;



- (ii) adoption;
  - (iii) in-home services;
  - (iv) foster care;
  - (v) other substitute care.
  - (vi) qualitative case review; and
  - (vii) case review process.
- (2)
- (a) The division shall create performance standards.
  - (b) The division may not amend performance standards unless the amendment is:
    - (i) necessary and proper for the effective administration of the division; or
    - (ii) necessary to comply with, or implement changes in, the law.
  - (c) Before amending the performance standards, the division shall provide written notice of the proposed amendment to the council.
  - (d) The notice described in Subsection (2)(c) shall include:
    - (i) the proposed amendment;
    - (ii) a summary of the reason for the proposed amendment; and
    - (iii) the proposed effective date of the amendment.
  - (e) Within 45 days after the day on which the division provides the notice described in Subsection (2)(c) to the council, the council shall provide to the division written comments on the proposed amendment.
  - (f) The division may not implement a proposed amendment to the performance standards until the earlier of:
    - (i) seven days after the day on which the division receives the written comments regarding the proposed change described in Subsection (2)(e); or
    - (ii) 52 days after the day on which the division provides the notice described in Subsection (2)(c) to the council.
  - (g) The division shall:
    - (i) give full, fair, and good faith consideration to all comments and objections received from the council;
    - (ii) notify the council in writing of:
      - (A) the division's decision regarding the proposed amendment; and
      - (B) the reasons that support the decision;
    - (iii) include complete information on all amendments to the performance standards in the report described in Subsection (4); and
    - (iv) post the changes on the division's website.
- (3) The division shall maintain a performance monitoring system to regularly:
- (a) collect information on performance indicators; and
  - (b) compare performance indicators to performance standards.
- (4) Before January 1 of each year, the director shall submit a written report to the Child Welfare Legislative Oversight Panel and the Social Services Appropriations Subcommittee that includes:
- (a) a comparison between the performance indicators for the prior fiscal year and the performance standards;
  - (b) for each performance indicator that does not meet the performance standard:
    - (i) the reason the standard was not met;
    - (ii) the measures that need to be taken to meet the standard; and
    - (iii) the division's plan to comply with the standard for the current fiscal year;

- (c) data on the extent to which new and experienced division employees have received training under statute, administrative rule, and division policy; and
- (d) an analysis of the use and efficacy of in-home services, both before and after removal of a child from the child's home.

Amended by Chapter 287, 2022 General Session

Renumbered and Amended by Chapter 334, 2022 General Session

**80-2-1103 Annual review of child welfare referrals and cases by department -- Review by legislative auditor general -- Reports.**

- (1) The division shall use principles of quality management systems, including statistical measures of processes of service, and the routine reporting of performance data to employees.
- (2)
  - (a) The department shall:
    - (i) develop quantifiable outcome measures and performance measures in accordance with Section 80-2-1102; and
    - (ii) annually review a randomly selected sample of child welfare referrals to and cases handled by the division.
  - (b) In conducting the review described in Subsection (2)(a)(ii), the department shall:
    - (i) assess whether the division is adequately protecting children and providing appropriate services to families, in accordance with this chapter, Chapter 2a, Removal and Protective Custody of a Child, Chapter 3, Abuse, Neglect, and Dependency Proceedings, and Chapter 4, Termination and Restoration of Parental Rights; and
    - (ii) focus directly on the outcome of cases to children and families, and not simply on procedural compliance with specified criteria.
  - (c) The department shall report on the review described in Subsection (2)(a) to the legislative auditor general and the Child Welfare Legislative Oversight Panel.
  - (d) Information obtained as a result of the review described in Subsection (2)(a) shall be provided to child welfare caseworkers, supervisors, and division personnel involved in the respective cases, for purposes of education, training, and performance evaluation.
- (3) The review and report to the legislative auditor general and the Child Welfare Legislative Oversight Panel under Subsection (2) shall include:
  - (a) the criteria used by the department in making the evaluation;
  - (b) findings regarding whether state statutes, division rule, legislative policy, and division policy were followed in each sample case;
  - (c) findings regarding whether, in each sample case, referrals, removals, or cases were appropriately handled by the division and the division's employees, and whether children were adequately and appropriately protected and appropriate services provided to families, in accordance with the provisions of this chapter, Chapter 2a, Removal and Protective Custody of a Child, Chapter 3, Abuse, Neglect, and Dependency Proceedings, Chapter 4, Termination and Restoration of Parental Rights, and division rule;
  - (d) an assessment of the division's intake procedures and decisions, including an assessment of the appropriateness of decisions not to accept referrals; and
  - (e) an assessment of the appropriateness of the division's assignment of priority.
- (4)
  - (a) In addition to the review under Subsection (2), the legislative auditor general shall audit, subject to the prioritization of the Legislative Audit Subcommittee, a sample of child welfare

referrals to and cases handled by the division and report the findings to the Child Welfare Legislative Oversight Panel.

- (b) An audit under Subsection (4)(a) may be initiated by:
  - (i) the Audit Subcommittee of the Legislative Management Committee;
  - (ii) the Child Welfare Legislative Oversight Panel; or
  - (iii) the legislative auditor general, based on the results of the executive director's review under Subsection (2).
- (c) With regard to the sample of referrals, removals, and cases, the Legislative Auditor General's report may include:
  - (i) findings regarding whether state statutes, division rule, legislative policy, and division policy were followed by the division and the division's employees;
  - (ii) a determination regarding whether referrals, removals, and cases were appropriately handled by the division and the division's employees, and whether children were adequately and appropriately protected and appropriate services provided for families, in accordance with the provisions of this chapter, Chapter 2a, Removal and Protective Custody of a Child, Chapter 3, Abuse, Neglect, and Dependency Proceedings, Chapter 4, Termination and Restoration of Parental Rights, and division rule;
  - (iii) an assessment of the division's intake procedures and decisions, including an assessment of the appropriateness of decisions not to accept referrals;
  - (iv) an assessment of the appropriateness of the division's assignment of priority;
  - (v) a determination regarding whether the department's review process is effecting beneficial change within the division and accomplishing the mission established by the Legislature and the department for that review process; and
  - (vi) findings regarding any other issues identified by the auditor or others under this Subsection (4).

Renumbered and Amended by Chapter 334, 2022 General Session

**80-2-1104 Child protection ombudsman -- Responsibility -- Authority -- Report.**

- (1) As used in this section:
  - (a) "Complainant" means a person who initiates a complaint with the ombudsman.
  - (b) "Complaint" means a complaint regarding an act or omission by the division with respect to a particular child.
  - (c) "Ombudsman" means the child protection ombudsman appointed under this section.
- (2)
  - (a) There is created within the department the position of child protection ombudsman.
  - (b) The executive director of the department shall:
    - (i) appoint an ombudsman who has:
      - (A) recognized executive and administrative capacity; and
      - (B) experience in child welfare, and in state laws and policies governing abused, neglected, and dependent children; and
    - (ii) select the ombudsman solely with regard to qualifications and fitness to discharge the duties of the ombudsman.
  - (c) The ombudsman shall:
    - (i) serve at the pleasure of the executive director of the department; and
    - (ii) devote full-time to the duties described in this section.
- (3) The ombudsman shall:

- (a) unless the ombudsman decides not to investigate the complaint, upon receipt of a complaint, investigate whether an act or omission of the division with respect to a particular child:
    - (i) is contrary to statute, rule, or policy;
    - (ii) places a child's health or safety at risk;
    - (iii) is made without an adequate statement of reason; or
    - (iv) is based on irrelevant, immaterial, or erroneous grounds;
  - (b) notify the complainant and the division of:
    - (i) the ombudsman's decision to investigate or not investigate the complaint; and
    - (ii) if the ombudsman decides not to investigate the complaint, the reason for the decision;
  - (c) if the ombudsman finds that a person's act or omission violates state or federal criminal law, immediately report the finding to the appropriate county or district attorney or to the attorney general;
  - (d) immediately notify the division if the ombudsman finds that a child needs protective custody;
  - (e) prepare a written report of the findings and recommendations, if any, of each investigation;
  - (f) make recommendations to the division if the ombudsman finds that:
    - (i) a matter should be further considered by the division;
    - (ii) an administrative act should be addressed, modified, or canceled;
    - (iii) action should be taken by the division with regard to one of the division's employees; or
    - (iv) any other action should be taken by the division;
  - (g) subject to Subsection (3), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that govern the following:
    - (i) receiving and processing a complaint;
    - (ii) notifying a complainant and the division regarding a decision to investigate or to decline to investigate a complaint;
    - (iii) prioritizing workload;
    - (iv) maximum time within which an investigation is required to be completed;
    - (v) conducting an investigation;
    - (vi) notifying a complainant and the division regarding the results of an investigation; and
    - (vii) making recommendations based on the findings and results of investigations;
  - (h) within appropriations from the Legislature, employ staff as may be necessary to carry out the ombudsman's duties under this section;
  - (i) provide information regarding the role, duties, and functions of the ombudsman to public agencies, private entities, and individuals;
  - (j) provide an annual report regarding the ombudsman's duties and recommendations for improvements to the child welfare system to:
    - (i) the Child Welfare Legislative Oversight Panel;
    - (ii) the governor;
    - (iii) the division; and
    - (iv) the executive director of the department; and
  - (k) as appropriate, make recommendations to the division regarding individual child welfare cases, and the rules, policies, and operations of the division.
- (4)
- (a) The ombudsman may:
    - (i) decline to investigate a complaint or continue an investigation of a complaint;
    - (ii) conduct an investigation on the ombudsman's own initiative;
    - (iii) conduct further investigation upon the request of the complainant or upon the ombudsman's own initiative; and

- (iv) advise a complainant to pursue administrative remedies or channels of a complaint before pursuing a complaint with the ombudsman.
  - (b) Subsection (4)(a)(iv) does not prevent a complainant from making a complaint directly to the ombudsman before pursuing an administrative remedy.
- (5)
- (a) A record of the ombudsman regarding an individual child welfare case shall be classified in accordance with federal law and Title 63G, Chapter 2, Government Records Access and Management Act.
  - (b) The ombudsman shall have access to all of the department's written and electronic records and databases, including those regarding individual child welfare cases.
  - (c) In accordance with Title 63G, Chapter 2, Government Records Access and Management Act, all documents and information received by the ombudsman shall maintain the same classification that was designated by the department.

Renumbered and Amended by Chapter 334, 2022 General Session

## **Chapter 2a Removal and Protective Custody of a Child**

### **Part 1 General Provisions**

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

- (1) "Custody" means the same as that term is defined in Section 80-2-102.
- (2) "Division" means the Division of Child and Family Services created in Section 80-2-201.
- (3) "Friend" means an adult who:
  - (a) has an established relationship with the child or a family member of the child; and
  - (b) is not the natural parent of the child.
- (4) "Nonrelative" means an individual who is not a noncustodial parent or relative.
- (5) "Relative" means an adult who:
  - (a) is the child's grandparent, great grandparent, aunt, great aunt, uncle, great uncle, brother-in-law, sister-in-law, stepparent, first cousin, stepsibling, or sibling;
  - (b) is the first cousin of the child's parent;
  - (c) is a permanent guardian or natural parent of the child's sibling; or
  - (d) in the case of a child who is an Indian child, is an extended family member as defined in the Indian Child Welfare Act, 25 U.S.C. Sec. 1903.
- (6) "Sibling" means the same as that term is defined in Section 80-2-102.
- (7) "Temporary custody" means the same as that term is defined in Section 80-2-102.

Amended by Chapter 334, 2022 General Session, (Coordination Clause)

Enacted by Chapter 334, 2022 General Session

### **Part 2 Warrants and Removal**

**80-2a-201 Rights of parents -- Children's rights -- Interest and responsibility of state.**

- (1)
- (a) Under both the United States Constitution and the constitution of this state, a parent possesses a fundamental liberty interest in the care, custody, and management of the parent's children. A fundamentally fair process must be provided to parents if the state moves to challenge or interfere with parental rights. A governmental entity must support any actions or allegations made in opposition to the rights and desires of a parent regarding the parent's child by sufficient evidence to satisfy a parent's constitutional entitlement to heightened protection against government interference with the parent's fundamental rights and liberty interests and, concomitantly, the right of the child to be reared by the child's natural parent.
  - (b) The fundamental liberty interest of a parent concerning the care, custody, and management of the parent's child is recognized, protected, and does not cease to exist simply because a parent may fail to be a model parent or because the parent's child is placed in the temporary custody of the state. At all times, a parent retains a vital interest in preventing the irretrievable destruction of family life. Before an adjudication of unfitness, government action in relation to a parent and the parent's child may not exceed the least restrictive means or alternatives available to accomplish a compelling state interest. Until the state proves parental unfitness, and the child suffers, or is substantially likely to suffer, serious detriment as a result, the child and the child's parent share a vital interest in preventing erroneous termination of their natural relationship and the state cannot presume that a child and the child's parent are adversaries.
  - (c) It is in the best interest and welfare of a child to be raised under the care and supervision of the child's natural parents. A child's need for a normal family life in a permanent home, and for positive, nurturing family relationships is usually best met by the child's natural parents. Additionally, the integrity of the family unit and the right of a parent to conceive and raise the parent's child are constitutionally protected. The right of a fit, competent parent to raise the parent's child without undue government interference is a fundamental liberty interest that has long been protected by the laws and Constitution and is a fundamental public policy of this state.
  - (d) The state recognizes that:
    - (i) a parent has the right, obligation, responsibility, and authority to raise, manage, train, educate, provide and care for, and reasonably discipline the parent's child; and
    - (ii) the state's role is secondary and supportive to the primary role of a parent.
  - (e) It is the public policy of this state that:
    - (i) a parent retains the fundamental right and duty to exercise primary control over the care, supervision, upbringing, and education of the parent's child;
    - (ii) a parent retains the right to have contact with the parent's child when the child is placed outside of the parent's home, and parent-time should be ordered by a court so long as the contact is not contrary to the best interest of the child; and
    - (iii) a child has the right to have contact with the child's sibling when the child is placed outside of the home and apart from the child's sibling, and sibling visits should be ordered by a court unless the contact would be contrary to the safety or well-being of the child.
  - (f) Subsections (2) through (7) shall be interpreted and applied consistent with this Subsection (1).
- (2) It is also the public policy of this state that children have the right to protection from abuse and neglect, and that the state retains a compelling interest in investigating, prosecuting, and punishing abuse and neglect. Therefore, the state, as *parens patriae*, has an interest in and responsibility to protect a child whose parent abuses the child or does not adequately provide

for the child's welfare. There may be circumstances where a parent's conduct or condition is a substantial departure from the norm and the parent is unable or unwilling to render safe and proper parental care and protection. Under those circumstances, the state may take action for the welfare and protection of the parent's child.

- (3) When the division intervenes on behalf of an abused, neglected, or dependent child, the division shall take into account the child's need for protection from immediate harm and the extent to which the child's extended family may provide needed protection. Throughout the division's involvement, the division shall utilize the least intrusive and least restrictive means available to protect a child, in an effort to ensure that children are brought up in stable, permanent families, rather than in temporary foster placements under the supervision of the state.
- (4) If circumstances within the family pose a threat to the child's immediate safety or welfare, the division may seek custody of the child for a planned, temporary period and place the child in a safe environment, subject to the requirements of this section and in accordance with Chapter 3, Abuse, Neglect, and Dependency Proceedings, and when safe and appropriate, return the child to the child's parent or as a last resort, pursue another permanency plan.
- (5) In determining and making reasonable efforts with regard to a child, under Section 80-2a-302, both the division's and the juvenile court's paramount concern shall be the child's health, safety, and welfare. The desires of a parent for the parent's child, and the constitutionally protected rights of a parent, as described in this section, shall be given full and serious consideration by the division and the juvenile court.
- (6) In accordance with Subsections 80-2a-302(4) and 80-3-301(12), in cases where sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved, the state has no duty to make reasonable efforts or to, in any other way, attempt to maintain a child in the child's home, provide reunification services, or rehabilitate the offending parent or parents. This Subsection (6) does not exempt the division from providing court-ordered services.
- (7)
  - (a) In accordance with Subsection (1), the division shall strive to achieve appropriate permanency for children who are abused, neglected, or dependent. The division shall provide in-home services, if appropriate and safe, in an effort to help a parent to correct the behavior that resulted in abuse, neglect, or dependency of the parent's child. The division may pursue a foster placement only if in-home services fail or are otherwise insufficient or inappropriate, kinship placement is not safe or appropriate, or in-home services and kinship placement fail and cannot be corrected. The division shall also seek qualified extended family support or a kinship placement to maintain a sense of security and stability for the child.
  - (b) If the use or continuation of reasonable efforts, as described in Subsections (5) and (6), is determined to be inconsistent with the permanency plan for a child, then measures shall be taken, in a timely manner, to place the child in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child.
  - (c) Subject to the parental rights recognized and protected under this section, if, because of a parent's conduct or condition, the parent is determined to be unfit or incompetent based on the grounds for termination of parental rights described in Chapter 4, Termination and Restoration of Parental Rights, the continuing welfare and best interest of the child is of paramount importance, and shall be protected in determining whether that parent's rights should be terminated.
- (8) The state's right to direct or intervene in the provision of medical or mental health care for a child is subject to Subsections 80-1-102(58)(b)(i) through (iii) and Sections 80-3-109 and 80-3-304.

Amended by Chapter 320, 2023 General Session

**80-2a-202 Removal of a child by a peace officer or child welfare caseworker -- Search warrants -- Protective custody and temporary care of a child.**

- (1) A peace officer or child welfare caseworker may remove a child or take a child into protective custody, temporary custody, or custody in accordance with this section.
- (2)
  - (a) Except as provided in Subsection (2)(b), a peace officer or a child welfare caseworker may not enter the home of a child whose case is not under the jurisdiction of the juvenile court, remove a child from the child's home or school, or take a child into protective custody unless:
    - (i) there exist exigent circumstances sufficient to relieve the peace officer or the child welfare caseworker of the requirement to obtain a search warrant under Subsection (3);
    - (ii) the peace officer or child welfare caseworker obtains a search warrant under Subsection (3);
    - (iii) the peace officer or child welfare caseworker obtains a court order after the child's parent or guardian is given notice and an opportunity to be heard; or
    - (iv) the peace officer or child welfare caseworker obtains the consent of the child's parent or guardian.
  - (b) A peace officer or a child welfare caseworker may not take action under Subsection (2)(a) solely on the basis of:
    - (i) educational neglect, truancy, or failure to comply with a court order to attend school; or
    - (ii) the possession or use, in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, as those terms are defined in Section 26B-4-201.
- (3)
  - (a) The juvenile court may issue a warrant authorizing a peace officer or a child welfare caseworker to search for a child and take the child into protective custody if it appears to the juvenile court upon a verified petition, recorded sworn testimony or an affidavit sworn to by a peace officer or another individual, and upon the examination of other witnesses if required by the juvenile court, that there is probable cause to believe that:
    - (i) there is a threat of substantial harm to the child's health or safety;
    - (ii) it is necessary to take the child into protective custody to avoid the harm described in Subsection (3)(a)(i); and
    - (iii) it is likely that the child will suffer substantial harm if the child's parent or guardian is given notice and an opportunity to be heard before the child is taken into protective custody.
  - (b) In accordance with Section 77-23-210, a peace officer making the search under Subsection (3)(a) may enter a house or premises by force, if necessary, in order to remove the child.
- (4)
  - (a) A child welfare caseworker may take action under Subsection (2) accompanied by a peace officer or without a peace officer if a peace officer is not reasonably available.
  - (b)
    - (i) Before taking a child into protective custody, and if possible and consistent with the child's safety and welfare, a child welfare caseworker shall determine whether there are services available that, if provided to a parent or guardian of the child, would eliminate the need to remove the child from the custody of the child's parent or guardian.



- (ii) In determining whether the services described in Subsection (4)(b)(i) are reasonably available, the child welfare caseworker shall consider the child's health, safety, and welfare as the paramount concern.
  - (iii) If the child welfare caseworker determines the services described in Subsection (4)(b)(i) are reasonably available, the services shall be utilized.
- (5)
  - (a) If a peace officer or a child welfare caseworker takes a child into protective custody under Subsection (2), the peace officer or child welfare caseworker shall:
    - (i) notify the child's parent or guardian in accordance with Section 80-2a-203; and
    - (ii) release the child to the care of the child's parent or guardian or another responsible adult, unless:
      - (A) the child's immediate welfare requires the child remain in protective custody; or
      - (B) the protection of the community requires the child's detention in accordance with Chapter 6, Part 2, Custody and Detention.
  - (b)
    - (i) If a peace officer or child welfare caseworker is executing a warrant under Subsection (3), the peace officer or child welfare caseworker shall take the child to:
      - (A) a shelter facility; or
      - (B) if the division makes an emergency placement under Section 80-2a-301, the emergency placement.
    - (ii) If a peace officer or a child welfare caseworker takes a child to a shelter facility under Subsection (5)(b)(i), the peace officer or the child welfare caseworker shall promptly file a written report that includes the child's information, on a form provided by the division, with the shelter facility.
  - (c) A child removed or taken into protective custody under this section may not be placed or kept in detention pending court proceedings, unless the child may be held in detention under Chapter 6, Part 2, Custody and Detention.
- (6)
  - (a) The juvenile court shall issue a warrant authorizing a peace officer or a child welfare worker to search for a child who is missing, has been abducted, or has run away, and take the child into physical custody if the juvenile court determines that the child is missing, has been abducted, or has run away from the protective custody, temporary custody, or custody of the division.
  - (b) If the juvenile court issues a warrant under Subsection (6)(a):
    - (i) the division shall notify the child's parent or guardian who has a right to parent-time with the child in accordance with Subsection 80-2a-203(5)(a);
    - (ii) the court shall order:
      - (A) the law enforcement agency that has jurisdiction over the location from which the child ran away to enter a record of the warrant into the National Crime Information Center database within 24 hours after the time in which the law enforcement agency receives a copy of the warrant; and
      - (B) the division to notify the law enforcement agency described in Subsection (6)(b)(ii)(A) of the order described in Subsection (6)(b)(ii)(A); and
  - (c) the court shall specify the location to which the peace officer or the child welfare caseworker shall transport the child.

Amended by Chapter 330, 2023 General Session

**80-2a-203 Notice upon issuance of a warrant or removal of a child -- Locating noncustodial parent -- Information provided to parent, guardian, or responsible relative.**

- (1)
  - (a) A peace officer or child welfare caseworker who takes a child into protective custody under Subsection 80-2a-202(1), shall immediately use reasonable efforts to locate and inform, through the most efficient means available, the child's parents, including a noncustodial parent, the child's guardian, or a responsible relative:
    - (i) that the child is in protective custody;
    - (ii) the reason for removal and placement of the child in protective custody;
    - (iii) that the parent, guardian, or relative will be provided with information on:
      - (A) the parent's or guardian's procedural rights; and
      - (B) the preliminary stages of the investigation and shelter hearing;
    - (iv) of a telephone number where the parent or guardian may access further information;
    - (v) that the child and the child's parent or guardian are entitled to have an attorney present at the shelter hearing;
    - (vi) that if the child's parent or guardian is an indigent individual and desires to have an attorney, one will be provided; and
    - (vii) that resources are available to assist the child's parent or guardian, including:
      - (A) a parent advocate;
      - (B) a qualified attorney; or
      - (C) potential expert witnesses to testify on behalf of the child or the child's parent, guardian, or family.
  - (b) For purposes of locating and informing the noncustodial parent under Subsection (1)(a), the division shall search for the noncustodial parent through the Federal Parent Locator Service if the division is unable to locate the noncustodial parent through other reasonable efforts.
- (2) At the time that a child is taken into protective custody under Subsection 80-2a-202(2), the division shall provide the child's parent or guardian an informational packet with:
  - (a) all of the information described in Subsection (1);
  - (b) information on the conditions under which a child may be released from protective custody;
  - (c) information on resources that are available to the parent or guardian, including:
    - (i) mental health resources;
    - (ii) substance abuse resources; and
    - (iii) parenting classes; and
  - (d) any other information considered relevant by the division.
- (3) The division shall ensure the informational packet described in Subsection (2) is:
  - (a) evaluated periodically for the effectiveness of the informational packet at conveying necessary information and revised accordingly;
  - (b) written in simple, easy-to-understand language;
  - (c) available in English and other languages as the division determines to be appropriate and necessary; and
  - (d) made available for distribution in:
    - (i) schools;
    - (ii) health care facilities;
    - (iii) local police and sheriff's offices;
    - (iv) the offices of the division; and
    - (v) any other appropriate office within the department.
- (4) If reasonable efforts are made by the peace officer or child welfare caseworker to notify the child's parent or guardian or a responsible relative under Subsection (1), failure to notify:

- (a) shall be considered to be due to circumstances beyond the control of the peace officer or child welfare caseworker; and
  - (b) may not be construed to:
    - (i) permit a new defense to any juvenile or judicial proceeding; or
    - (ii) interfere with any rights, procedures, or investigations provided for by this chapter, Chapter 3, Abuse, Neglect, and Dependency Proceedings, or Chapter 4, Termination and Restoration of Parental Rights.
- (5)
- (a) If the juvenile court issues a warrant under Subsection 80-2a-202(6), the division shall provide notice of the warrant to the child's parent or guardian who:
    - (i) has a right to parent-time with the child; and
    - (ii)
      - (A) is the child's primary caregiver; or
      - (B) has custody of the child when the warrant is sought.
  - (b) The division shall make a good faith effort to provide notice to the child's parent or guardian who:
    - (i) is not required to be notified under Subsection (5)(a); and
    - (ii) has a right to parent-time with the child.

Renumbered and Amended by Chapter 334, 2022 General Session

### **Part 3**

#### **Division Placement of a Child after Removal**

#### **80-2a-301 Division's emergency placement of a child -- Background checks.**

- (1) The division may place a child in an emergency placement if:
  - (a) the child welfare caseworker makes the determination that:
    - (i) the child's home is unsafe;
    - (ii) removal is necessary under Section 80-2a-202; and
    - (iii) the child's custodial parent or guardian will agree to not remove the child from the home of the individual that serves as the placement and not have any contact with the child until after the time at which the shelter hearing is held under Section 80-3-301;
  - (b) an individual, with preference being given in accordance with Subsection (4), can be identified who has the ability and is willing to provide care for the child who would otherwise be placed in shelter care, including:
    - (i) taking the child to medical, mental health, dental, and educational appointments at the request of the division; and
    - (ii) making the child available to division services and the guardian ad litem; and
  - (c) the individual described in Subsection (1)(b) agrees to care for the child on an emergency basis under the following conditions:
    - (i) the individual meets the criteria for an emergency placement under Subsection (2);
    - (ii) the individual agrees to not allow the custodial parent or guardian to have any contact with the child until after the time at which the shelter hearing is held unless authorized by the division in writing;
    - (iii) the individual agrees to contact law enforcement and the division if the custodial parent or guardian attempts to make unauthorized contact with the child;

- (iv) the individual agrees to allow the division and the child's guardian ad litem to have access to the child;
  - (v) the individual is informed and understands that the division may continue to search for other possible placements for long-term care of the child, if needed;
  - (vi) the individual is willing to assist the custodial parent or guardian in reunification efforts at the request of the division, and to follow all court orders; and
  - (vii) the child is comfortable with the individual.
- (2) Except as provided in Subsection (4), before the day on which the division places a child in an emergency placement, the division:
- (a) may request the name of a reference and may contact the reference to determine whether:
    - (i) the individual identified as a reference would place a child in the home of the emergency placement; and
    - (ii) there are any other relatives or friends to consider as a possible emergency or long-term placement for the child;
  - (b) in accordance with Subsection (4)(a), shall have the custodial parent or guardian sign an emergency placement agreement form during the investigation described in Subsection (2)(a);
  - (c)
    - (i) if the emergency placement will be with a relative, shall comply with the background check provisions described in Subsection (6); or
    - (ii) if the emergency placement will be with an individual other than a noncustodial parent or relative, shall comply with the background check provisions described in Subsection (7) for adults living in the household where the child will be placed;
  - (d) shall complete a limited home inspection of the home where the emergency placement is made; and
  - (e) shall require the child welfare caseworker to have the emergency placement approved by a supervisor designated by the division.
- (3)
- (a) The division shall apply the following order of preference when determining the person with whom a child will be placed in an emergency placement, provided that the individual is able and willing to care for the child:
    - (i) a noncustodial parent of the child in accordance with Section 80-3-302;
    - (ii) a relative;
    - (iii) subject to Subsection (3)(b), a friend designated by the custodial parent, guardian, or the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a placement;
    - (iv) a former foster placement designated by the division;
    - (v) a foster placement, that is not a former foster placement, designated by the division; and
    - (vi) a shelter facility designated by the division.
  - (b) In determining whether a friend is a willing and appropriate temporary emergency placement for a child, the division:
    - (i) subject to Subsections (3)(b)(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 or legal guardian 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 division's basis for removing the child under Section 80-2a-202 is sexual abuse of the child.
- (4)
- (a) The division may, pending the outcome of the investigation described in Subsections (4)(b) and (c), place a child in emergency placement with the child's noncustodial parent if, based on a limited investigation before the day on which the division makes the emergency placement, the division:
    - (i) determines that the noncustodial parent has regular, unsupervised visitation with the child that is not prohibited by law or court order;
    - (ii) determines that there is not reason to believe that the child's health or safety will be endangered during the emergency placement; and
    - (iii) has the custodial parent or guardian sign an emergency placement agreement.
  - (b) Either before or after the day on which the division makes an emergency placement with the noncustodial parent of the child, the division may conduct the investigation described in Subsection (2)(a) in relation to the noncustodial parent.
  - (c) Before, or within one day, excluding weekends and holidays, after the day on which the division places a child in an emergency placement with the noncustodial parent of the child, the division shall conduct a limited:
    - (i) background check of the noncustodial parent, under Subsection (6); and
    - (ii) inspection of the home where the emergency placement is made.
- (5) After an emergency placement, the child welfare caseworker must:
- (a) respond to the emergency placement's calls within one hour after the call is received if the custodial parent or guardian attempts to make unauthorized contact with the child or attempts to remove the child from the emergency placement;
  - (b) complete all removal paperwork, including the notice provided to the child's custodial parent or guardian under Section 80-3-301;
  - (c) if the child is not placed with a noncustodial parent, relative, or friend, file a report with the child welfare caseworker's supervisor that explains why a different placement is in the child's best interest;
  - (d) contact the attorney general to schedule a shelter hearing;
  - (e) complete the placement procedures required in Section 80-3-302; and
  - (f) continue to search for other relatives as a possible long-term placement for the child, if needed.
- (6)
- (a) The background check described in Subsections (2)(c)(i) and (4)(c)(i) shall include completion of:
    - (i) a name-based, Utah Bureau of Criminal Identification background check; and
    - (ii) a search of the Management Information System.
  - (b) The division shall determine whether an individual passes the background check described in Subsection (6)(a) in accordance with Section 26B-2-120.
  - (c) Notwithstanding Subsection (6)(b), the division may not place a child with an individual who is prohibited by court order from having access to the child.
- (7)

- (a) The background check described in Subsection (2)(c)(ii) shall include completion of:
  - (i) a name-based, Utah Bureau of Criminal Identification background check;
  - (ii) a federal name-based criminal background check; and
  - (iii) a search of the Management Information System.
- (b) The division shall determine whether an individual passes the background check described in Subsection (7)(a) in accordance with Section 26B-2-120.
- (c) If the division denies placement of a child as a result of a name-based criminal background check described in Subsection (7)(a), and the individual contests the denial, the individual shall submit a complete set of fingerprints with written permission to the Utah Bureau of Criminal Identification for submission to the Federal Bureau of Investigation for a fingerprint-based criminal background check.
- (d)
  - (i) Within 15 calendar days after the day on which the name-based background checks are completed, the division shall require the individual to provide a complete set of fingerprints with written permission to the Utah Bureau of Criminal Identification for submission to the Federal Bureau of Investigation for a fingerprint-based criminal background check.
  - (ii) If the individual fails to provide the fingerprints and written permission described in Subsection (7)(d)(i), the child shall immediately be removed from the child's home.

Amended by Chapter 330, 2023 General Session

**80-2a-302 Reasonable efforts to maintain a child in the home -- Exception -- Reasonable efforts for reunification.**

- (1) Because removal of a child from the child's home affects protected, constitutional rights of the parent and has a dramatic, long-term impact on a child, the division shall:
  - (a) if possible and appropriate, without danger to the child's welfare, make reasonable efforts to prevent or eliminate the need for removal of a child from the child's home before the day on which the child is placed in substitute care;
  - (b) determine whether there is substantial cause to believe that a child has been or is in danger of abuse or neglect, in accordance with the guidelines described in Chapter 3, Abuse, Neglect, and Dependency Proceedings, before removing the child from the child's home; and
  - (c) if possible and appropriate, and in accordance with the limitations and requirements of Sections 80-3-406 and 80-3-409, make reasonable efforts to make it possible for a child in substitute care to return to the child's home.
- (2)
  - (a) In determining the reasonableness of efforts needed to maintain a child in the child's home or to return a child to the child's home, in accordance with Subsection (1)(a) or (c), the child's health, safety, and welfare shall be the paramount concern.
  - (b) The division shall consider whether the efforts described in Subsections (1) and (2) are likely to prevent abuse or continued neglect of the child.
- (3) If removal and placement in substitute care is necessary to protect a child, the efforts described in Subsections (1) and (2):
  - (a) are not reasonable or appropriate; and
  - (b) should not be utilized.
- (4) Subject to Subsection (5), in cases where sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved, the state has no duty to make reasonable efforts to, in any way, attempt to:
  - (a) maintain a child in the child's home;

- (b) provide reunification services; or
  - (c) rehabilitate the offending parent or parents.
- (5) Subsection (4) does not exempt the division from providing court ordered services.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-2a-303 Child missing from division custody -- Placement after locating child.**

- (1) If the division receives information that a child in the protective custody, temporary custody, or custody of the division is missing, has been abducted, or has run away, the division shall:
- (a) within 24 hours after the time when the division has reason to believe that the information that the child is missing, has been abducted, or has run away is accurate, notify the National Center for Missing and Exploited Children; and
  - (b) pursue a warrant under Subsection 80-2a-202(6).
- (2) If the division locates a child described in Subsection (1), the division shall:
- (a) determine the primary factors that caused or contributed to the child's absence from care;
  - (b) determine the child's experiences while absent from care, including screening the child to determine if the child is a sex trafficking victim;
  - (c) to the extent possible, select a placement for the child that accommodates the child's needs and takes into consideration the factors and experiences described in Subsections (2)(a) and (b); and
  - (d) follow the requirements in Section 80-3-303 for determining an ongoing placement of the child.

Renumbered and Amended by Chapter 334, 2022 General Session

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

- (1)
- (a) The Legislature finds that, except with regard to a child's natural parent or guardian, a foster family has a very limited but recognized interest in the foster family's familial relationship with a foster child who has been in the care and custody of the foster family and in making determinations regarding removal of a child from a foster home, the division may not dismiss the foster family as a mere collection of unrelated individuals.
  - (b) The Legislature finds that children in the temporary custody and custody of the division are experiencing multiple changes in foster care placements with little or no documentation, and that numerous studies of child growth and development emphasize the importance of stability in foster care living arrangements.
  - (c) For the reasons described in Subsections (1)(a) and (b), the division shall provide procedural due process for a foster family before removal of a foster child from the foster family's home, regardless of the length of time the child has been in the foster family's home, unless removal is for the purpose of:
    - (i) returning the child to the child's natural parent or guardian;
    - (ii) immediately placing the child in an approved adoptive home;
    - (iii) placing the child with a relative who obtained custody or asserted an interest in the child within the preference period described in Subsection 80-3-302(7); or
    - (iv) placing an Indian child in accordance with placement preferences and other requirements described in the Indian Child Welfare Act, 25 U.S.C. Sec. 1915.
- (2)

- (a) The division shall maintain and utilize due process procedures for removal of a foster child from a foster home, in accordance with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.
  - (b) The procedures described in Subsection (2)(a) shall include requirements for:
    - (i) personal communication with, and a written explanation of the reasons for the removal to, the foster parents before removal of the child; and
    - (ii) an opportunity for foster parents to:
      - (A) present the foster parents' information and concerns to the division; and
      - (B) request a review, to be held before removal of the child, by a third party neutral fact finder or if the child is placed with the foster parents for a period of at least two years, request a review, to be held before removal of the child, by the juvenile court judge currently assigned to the child's case or, if the juvenile court judge currently assigned to the child's case is not available, another juvenile court judge.
  - (c) If the division determines that there is a reasonable basis to believe that the child is in danger or that there is a substantial threat of danger to the health or welfare of the child, the division shall place the child in emergency foster care during the pendency of the procedures described in this Subsection (2), instead of making another foster care placement.
- (3)
- (a) If the division removes a child from a foster home based on the child's statement alone, the division shall initiate and expedite the processes described in Subsection (2).
  - (b) The division may not take formal action with regard to the foster parent's license until after the processes described in Subsection (2), in addition to any other procedure or hearing required by law, are completed.
- (4) If a complaint is made to the division by a foster child against a foster parent, the division shall, within 30 business days after the day on which the complaint is received, provide the foster parent with information regarding the specific nature of the complaint, the time and place of the alleged incident, and who was alleged to have been involved.
- (5) If the division places a child in a foster home, the division shall provide the foster parents with:
- (a) notification of the requirements of this section;
  - (b) a written description of the procedures enacted by the division under Subsection (2) and how to access the procedures; and
  - (c) written notification of the foster parents' ability to petition the juvenile court directly for review of a decision to remove a foster child who, subject to Section 80-3-502, has been in the foster parents' custody for 12 months or longer.
- (6) This section does not apply to the removal of a child based on a foster parent's request for the removal.
- (7) It is unlawful for a person, with the intent to avoid compliance with the requirements of this section, to:
- (a) take action, or encourage another to take action, against the license of a foster parent; or
  - (b) remove a child from a foster home before the child is placed with the foster parents for two years.
- (8) The division may not remove a foster child from a foster parent who is a relative of the child on the basis of the age or health of the foster parent without determining:
- (a) by clear and convincing evidence that the foster parent is incapable of caring for the foster child, if the alternative foster parent would not be another relative of the child; or
  - (b) by a preponderance of the evidence that the foster parent is incapable of caring for the foster child, if the alternative foster parent would be another relative of the child.



Amended by Chapter 287, 2022 General Session  
Renumbered and Amended by Chapter 334, 2022 General Session

## **Chapter 3 Abuse, Neglect, and Dependency Proceedings**

### **Part 1 General Provisions**

#### **80-3-102 Definitions.**

As used in this chapter:

- (1) "Abuse, neglect, or dependency petition" means a petition filed in accordance with this chapter to commence proceedings in a juvenile court alleging that a child is:
  - (a) abused;
  - (b) neglected; or
  - (c) dependent.
- (2) "Custody" means the same as that term is defined in Section 80-2-102.
- (3) "Division" means the Division of Child and Family Services created in Section 80-2-201.
- (4) "Friend" means an adult who:
  - (a) has an established relationship with the child or a family member of the child; and
  - (b) is not the natural parent of the child.
- (5) "Immediate family member" means a spouse, child, parent, sibling, grandparent, or grandchild.
- (6) "Relative" means an adult who:
  - (a) is the child's grandparent, great grandparent, aunt, great aunt, uncle, great uncle, brother-in-law, sister-in-law, stepparent, first cousin, stepsibling, or sibling;
  - (b) is a first cousin of the child's parent;
  - (c) is a permanent guardian or natural parent of the child's sibling; or
  - (d) in the case of a child who is an Indian child, is an extended family member as defined in the Indian Child Welfare Act, 25 U.S.C. Sec. 1903.
- (7) "Sibling" means the same as that term is defined in Section 80-2-102.
- (8) "Sibling visitation" means the same as that term is defined in Section 80-2-102.
- (9) "Temporary custody" means the same as that term is defined in Section 80-2-102.

Amended by Chapter 287, 2022 General Session

Amended by Chapter 334, 2022 General Session

#### **80-3-103 Nature of proceedings -- Rules of procedure -- Ex parte communications.**

- (1) The proceedings under this chapter are civil in nature and are governed by the Utah Rules of Civil Procedure and the Utah Rules of Juvenile Procedure.
- (2) Any unauthorized ex parte communication concerning a pending case between a judge and a party to an abuse, neglect, or dependency proceeding shall be recorded for subsequent review, if necessary, by the Judicial Conduct Commission.

Renumbered and Amended by Chapter 261, 2021 General Session

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

- (1)
  - (a) A minor who is the subject of a juvenile court hearing, any person entitled to notice under Section 80-3-201 or 80-3-301, preadoptive parents, foster parents, and any relative providing care for the minor, are:
    - (i) entitled to notice of, and to be present at, each hearing and proceeding held under this chapter, including administrative reviews; and
    - (ii) have a right to be heard at each hearing and proceeding described in Subsection (1)(a)(i).
  - (b) A child's right to be present at a hearing under Subsection (1)(a) is subject to the discretion of the guardian ad litem appointed under Subsection (3) or the juvenile court regarding any possible detriment to the child.
- (2)
  - (a) The parent or guardian of a minor who is the subject of an abuse, neglect, or dependency petition has the right to be represented by counsel, and to present evidence, at each hearing.
  - (b) If a parent or guardian is the subject of an abuse, neglect, or dependency petition, the juvenile court shall:
    - (i) appoint an indigent defense service provider for a parent or guardian determined to be an indigent individual in accordance with Title 78B, Chapter 22, Part 2, Appointment of Counsel; and
    - (ii) order indigent defense services for the parent or guardian who is determined to be an indigent individual in accordance with Title 78B, Chapter 22, Part 2, Appointment of Counsel.
- (3)
  - (a) In an abuse, neglect, or dependency proceeding under this chapter, the juvenile court shall order that the child be represented by an attorney guardian ad litem, in accordance with Section 78A-2-803.
  - (b) A guardian ad litem appointed under Subsection (3)(a) shall represent the best interest of the minor, in accordance with the requirements of Section 78A-2-803:
    - (i) at the shelter hearing and at all subsequent court and administrative proceedings, including any proceeding for termination of parental rights in accordance with Chapter 4, Termination and Restoration of Parental Rights; and
    - (ii) in other actions initiated under this chapter when appointed by the court under Section 78A-2-803 or as otherwise provided by law.
- (4) Subject to Section 67-5-17 and the attorney general's prosecutorial discretion in civil enforcement actions, the attorney general shall, in accordance with Section 80-2-303, enforce this chapter, Chapter 2, Child Welfare Services, and Chapter 2a, Removal and Protective Custody of a Child, relating to protection or custody of an abused, neglected, or dependent minor and the termination of parental rights.
- (5)
  - (a) The juvenile court shall admit any individual to a hearing under this chapter, including a hearing under Section 80-3-205, unless the juvenile court makes a finding upon the record that the individual's presence at the hearing would:
    - (i) be detrimental to the best interest of a minor who is a party to the proceeding;
    - (ii) impair the fact-finding process; or
    - (iii) be otherwise contrary to the interests of justice.
  - (b) The juvenile court may exclude an individual from a hearing under Subsection (5)(a) on the juvenile court's own motion or by motion of a party to the proceeding.

Amended by Chapter 334, 2022 General Session

**80-3-105 Consolidation of proceedings.**

- (1) Subject to Subsection (2), when more than one child is involved in a home situation that may be found to constitute abuse, neglect, or dependency, the proceedings may be consolidated.
- (2) Separate hearings may be held in proceedings consolidated under Subsection (1) with respect to disposition.

Enacted by Chapter 261, 2021 General Session

**80-3-106 Record of proceedings.**

- (1) As used in this section:
  - (a) "Record of a proceeding" does not include documentary materials of any type submitted to the juvenile court as part of the proceeding, including items submitted under Utah Rules of Juvenile Procedure, Rule 45.
  - (b) "Subjects of the record" includes the child's attorney guardian ad litem, the child's guardian, the division, and any other party to the proceeding.
- (2)
  - (a) Except as provided in Subsection (2)(b), the juvenile court shall take a verbatim record of the proceedings under this chapter, unless dispensed with by the juvenile court.
  - (b) A juvenile court shall take a verbatim record of the proceedings in all cases under this chapter that might result in deprivation of custody.
- (3) Notwithstanding any other provision, including Title 63G, Chapter 2, Government Records Access and Management Act, the juvenile court shall release a record of a proceeding made under Subsection (2) to any person upon a finding on the record for good cause.
- (4) Following a petition for a record of a proceeding made under Subsection (2), the juvenile court shall:
  - (a) provide notice to all subjects of the record that a request for release of the record has been made; and
  - (b) allow sufficient time for the subjects of the record to respond before making a finding on the petition.
- (5) A record of a proceeding may not be released under this section if the juvenile court's jurisdiction over the subjects of the proceeding ended more than 12 months before the day on which the request is made.

Enacted by Chapter 261, 2021 General Session

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

- (1)
  - (a) Except as provided in Subsections (1)(c) through (e), in an abuse, neglect, or dependency proceeding occurring after the commencement of a shelter hearing under Section 80-3-301, or the filing of an abuse, neglect, or dependency petition, each party to the proceeding shall provide in writing to any other party or the other party's counsel any information that the party:
    - (i) plans to report to the juvenile court at the proceeding; or
    - (ii) could reasonably expect would be requested of the party by the juvenile court at the proceeding.
  - (b) A party providing the disclosure required under Subsection (1)(a) shall make the disclosure:

- (i) for a dispositional hearing under Part 4, Adjudication, Disposition, and Permanency, no less than five days before the day on which the dispositional hearing is held; and
  - (ii) for all other proceedings, no less than five days before the day on which the proceeding is held.
- (c) The division is not required to provide a court report or a child and family plan described in Section 80-3-307 to each party to the proceeding if:
- (i) the information is electronically filed with the juvenile court; and
  - (ii) each party to the proceeding has access to the electronically filed information.
- (d) If a party to a proceeding obtains information after the deadline described in Subsection (1)(b), the information is exempt from the disclosure required under Subsection (1)(a) if the party certifies to the juvenile court that the information was obtained after the deadline.
- (e) Subsection (1)(a) does not apply to:
- (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 natural parent of a child is not represented by counsel, the natural 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.

Amended by Chapter 335, 2022 General Session

**80-3-108 Opportunity for a minor to address the juvenile court -- Consideration of minor's statement outside of court.**

- (1) As used in this section, "postadjudication hearing" means:
- (a) a dispositional hearing;
  - (b) a permanency hearing; or

- (c) a review hearing, except a drug court review hearing.
- (2) A minor shall be present at any postadjudication hearing in a case relating to the abuse, neglect, or dependency of the minor, unless the juvenile court determines that:
  - (a) requiring the minor to be present at the postadjudication hearing would be detrimental to the minor or impractical; or
  - (b) the minor is not sufficiently mature to articulate the minor's wishes in relation to the hearing.
- (3) A juvenile court may, in the juvenile court's discretion, order that a minor described in Subsection (2) be present at a hearing that is not a postadjudication hearing.
- (4)
  - (a) Except as provided in Subsection (4)(b), at any hearing in a case relating to the abuse, neglect, or dependency of a minor, when the minor is present at the hearing, the juvenile court shall:
    - (i) ask the minor whether the minor desires the opportunity to address the juvenile court or testify; and
    - (ii) if the minor desires an opportunity to address the juvenile court or testify, allow the minor to address the juvenile court or testify.
  - (b) Subsection (4)(a) does not apply if the juvenile court determines that:
    - (i) it would be detrimental to the minor to comply with Subsection (4)(a); or
    - (ii) the minor is not sufficiently mature to articulate the minor's wishes in relation to the hearing.
  - (c) Subject to applicable court rules, the juvenile court may allow the minor to address the court in camera.
  - (d) If a minor 14 years old or older desires an opportunity to address the juvenile court or testify, the juvenile court shall give the minor's desires added weight, but may not treat the minor's desires as the single controlling factor in a postadjudication hearing or other hearing described in Subsection (3).
  - (e) For the purpose of establishing the fact of abuse, neglect, or dependency, the juvenile court may, in the juvenile court's discretion, consider evidence of statements made by a child under eight years old to an individual in a trust relationship.
- (5) This section does not prohibit a minor from being present at a hearing that the minor is not required to be at under this section or by court order, unless the juvenile court orders otherwise.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-3-109 Physical or mental health examination during proceedings -- Division duties.**

- (1) In a proceeding under this chapter, the juvenile court:
  - (a) may appoint any mental health therapist, as defined in Section 58-60-102, who the juvenile court finds to be qualified to:
    - (i) evaluate the mental health of a minor or provide mental health services to the minor; or
    - (ii) after notice and a hearing set for the specific purpose, evaluate the mental health of the minor's parent or guardian or provide mental health services to the parent or guardian if the juvenile court finds from the evidence presented at the hearing that the parent's or guardian's mental or emotional condition may be a factor in causing the abuse, neglect, or dependency of the minor; or
  - (b) may appoint a physician, or a physician assistant, who the juvenile court finds to be qualified to:
    - (i) physically examine the minor; or
    - (ii) after notice and a hearing set for the specific purpose, physically examine the minor's parent or guardian if the juvenile court finds from the evidence presented at the hearing that the

parent's or guardian's physical condition may be a factor in causing the abuse, neglect, or dependency of the minor.

- (2) The juvenile court may not refuse to appoint a mental health therapist under Subsection (1) for the reason that the therapist's recommendations in another case did not follow the recommendations of the division.
- (3) The division shall, with regard to a minor in the division's custody:
  - (a) take reasonable measures to notify a minor's parent or guardian of any non-emergency health treatment or care scheduled for a minor;
  - (b) include the minor's parent or guardian as fully as possible in making health care decisions for the minor;
  - (c) defer to the minor's parent's or guardian's reasonable and informed decisions regarding the minor's health care to the extent that the minor's health and well-being are not unreasonably compromised by the parent's or guardian's decision; and
  - (d) notify the minor's parent or guardian within five business days after the day on which the minor receives emergency health care or treatment.
- (4) An examination conducted in accordance with Subsection (1) is not a privileged communication under Utah Rules of Evidence, Rule 506(d)(3), and is exempt from the general rule of privilege.
- (5) Subsection (1) applies to a proceeding under this chapter involving:
  - (a) parents and minors; or
  - (b) the division.

Amended by Chapter 334, 2022 General Session

### **80-3-110 Consideration of cannabis during proceedings -- Drug testing.**

- (1) As used in this section:
  - (a) "Cannabis" means the same as that term is defined in Section 26B-4-201.
  - (b) "Cannabis product" means the same as that term is defined in Section 26B-4-201.
  - (c)
    - (i) "Chronic" means repeated or patterned.
    - (ii) "Chronic" does not mean an isolated incident.
  - (d) "Directions of use" means the same as that term is defined in Section 26B-4-201.
  - (e) "Dosing guidelines" means the same as that term is defined in Section 26B-4-201.
  - (f) "Medical cannabis" means the same as that term is defined in Section 26B-4-201.
  - (g) "Medical cannabis cardholder" means the same as that term is defined in Section 26B-4-201.
  - (h) "Recommending medical provider" means the same as that term is defined in Section 26B-4-201.
- (2) In a proceeding under this chapter, in which the juvenile court makes a finding, determination, or otherwise considers an individual's medical cannabis card, medical cannabis recommendation from a recommending medical provider, or possession or use of medical cannabis, a cannabis product, or a medical cannabis device, the juvenile court may not consider or treat the individual's medical cannabis card, recommendation, possession, or use any differently than the lawful possession or use of any prescribed controlled substance if:
  - (a) the individual's possession or use complies with Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies;
  - (b) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or
  - (c)
    - (i) the individual's possession or use complies with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; and

- (ii) the individual reasonably complies with the directions of use and dosing guidelines determined by the individual's recommending medical provider or through a consultation described in Subsection 26B-4-230(5).
- (3) In a proceeding under this chapter, a child's parent's or guardian's use of cannabis or a cannabis product is not abuse or neglect of the child unless there is evidence showing that:
  - (a) the child is harmed because of the child's inhalation or ingestion of cannabis, or because of cannabis being introduced to the child's body in another manner; or
  - (b) the child is at an unreasonable risk of harm because of chronic inhalation or ingestion of cannabis or chronic introduction of cannabis to the child's body in another manner.
- (4) Unless there is harm or an unreasonable risk of harm to the child as described in Subsection (3), in a child welfare proceeding under this chapter, a child's parent's or guardian's use of medical cannabis or a cannabis product is not contrary to the best interests of the child if:
  - (a) for a medical cannabis cardholder after January 1, 2021, the parent's or guardian's possession or use complies with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, and there is no evidence that the parent's or guardian's use of medical cannabis unreasonably deviates from the directions of use and dosing guidelines determined by the parent's or guardian's recommending medical provider or through a consultation described in Subsection 26B-4-230(5); or
  - (b) before January 1, 2021, the parent's or guardian's possession or use complies with Subsection 58-37-3.7(2) or (3).
- (5) Subsection (3) does not prohibit a finding of abuse or neglect of a child, and Subsection (3) does not prohibit a finding that a parent's or guardian's use of medical cannabis or a cannabis product is contrary to the best interests of a child, if there is evidence showing a nexus between the parent's or guardian's use of cannabis or a cannabis product and behavior that would separately constitute abuse or neglect of the child.
- (6)
  - (a) Except as provided in Subsection (6)(c), if an individual, who is party to a proceeding under this chapter, is ordered by the juvenile court to submit to drug testing, the individual may not be ordered to complete for drug testing by means of a hair, fingernail, or saliva test that is administered to detect the presence of drugs.
  - (b) Except as provided in Subsection (6)(c), if an individual, who is party to a proceeding under this chapter, is referred by the division or a guardian ad litem for drug testing, the individual may not be referred for drug testing by means of a hair, fingernail, or saliva test that is administered to detect the presence of drugs.
  - (c) Notwithstanding Subsections (6)(a) and (b), an individual who is party to a proceeding under this chapter:
    - (i) may be ordered by the juvenile court to submit to drug testing by means of a saliva test, if the court finds that such testing is necessary in the circumstances; or
    - (ii) may be referred by the division for drug testing by means of a saliva test if the individual consents to drug testing by means of a saliva test.

Amended by Chapter 273, 2023 General Session  
Amended by Chapter 280, 2023 General Session  
Amended by Chapter 317, 2023 General Session  
Amended by Chapter 330, 2023 General Session  
Amended by Chapter 330, 2023 General Session, (Coordination Clause)

**80-3-111 Interstate compact -- Relative placement.**

- (1) If, for a relative placement, an interstate placement requested under the Interstate Compact on the Placement of Children has been initiated by the division or is ordered by or pending before the juvenile court, the court may not finalize a non-relative placement unless the court gives due weight to:
  - (a) the preferential consideration granted to a relative in Section 80-3-302;
  - (b) the rebuttable presumption in Section 80-3-302; and
  - (c) the division's placement authority under Subsections 80-1-102(50) and 80-3-303(1).
- (2) Nothing in this section affects the ability of a foster parent to petition the juvenile court under Subsection 80-3-502(3).

Enacted by Chapter 309, 2023 General Session

## **Part 2**

### **Petition Alleging Abuse, Neglect, or Dependency**

#### **80-3-201 Petition -- Who may file -- Timing -- Dismissal -- Notice.**

- (1) Subject to Subsection (2), any interested person may file an abuse, neglect, or dependency petition.
- (2) A person described in Subsection (1) shall make a referral with the division before the person files an abuse, neglect, or dependency petition.
- (3) If a child who is the subject of an abuse, neglect, or dependency petition is removed from the child's home by the division, the petition shall be filed on or before the day on which the initial shelter hearing described in Section 80-3-301 is held.
- (4) An abuse, neglect, or dependency petition shall include:
  - (a) a concise statement of facts, separately stated, to support the conclusion that the child upon whose behalf the abuse, neglect, or dependency petition is brought is abused, neglected, or dependent; and
  - (b) a statement regarding whether the child is in protective custody, and if so, the date and precise time the child was taken into protective custody.
- (5)
  - (a) Upon the filing of an abuse, neglect, or dependency petition, the petitioner shall serve the petition and notice on:
    - (i) the guardian ad litem;
    - (ii) both parents and any guardian of the child; and
    - (iii) the child's foster parents.
  - (b) The notice described in Subsection (5) shall contain all of the following:
    - (i) the name and address of the person to whom the notice is directed;
    - (ii) the date, time, and place of the hearing on the petition;
    - (iii) the name of the child on whose behalf the petition is brought;
    - (iv) a statement that the parent or guardian to whom notice is given, and the child, are entitled to have an attorney present at the hearing on the petition, and that if the parent or guardian is indigent and cannot afford an attorney, and desires to be represented by an attorney, one will be provided; and
    - (v) a statement that the parent or guardian is liable for the cost of support of the child in the protective custody, temporary custody, and custody of the division, and for legal counsel



appointed for the parent or guardian under Subsection (5)(b)(iv), according to the parent's or guardian's financial ability.

- (6) The petitioner shall serve the abuse, neglect, or dependency petition and notice under this section on all individuals described in Subsection (5)(a) as soon as possible after the petition is filed and at least five days before the day on which the hearing is set.
- (7) The juvenile court may dismiss an abuse, neglect, or dependency petition at any stage of the proceedings.
- (8) If an abuse, neglect, or dependency petition includes an allegation of educational neglect, Sections 53G-6-210 and 53G-6-211 are applicable to the proceedings under this chapter.

Amended by Chapter 334, 2022 General Session

**80-3-202 Expedited filing of petition.**

- (1) If an abuse, neglect, or dependency petition is requested by the division, the attorney general shall file the abuse, neglect, or dependency petition within 72 hours after the completion of the division's investigation and request, excluding weekends and holidays, if:
  - (a) the child who is the subject of the requested abuse, neglect, or dependency petition is not removed from the child's home by the division; and
  - (b) without an expedited hearing and services ordered under the protective supervision of the juvenile court, the child will likely be taken into protective custody.
- (2) The juvenile court shall give scheduling priority to the pretrial and adjudication hearings on an abuse, neglect, or dependency petition if:
  - (a) the child who is the subject of the petition is not in:
    - (i) protective custody; or
    - (ii) temporary custody; and
  - (b) the division indicates in the petition that, without expedited hearings and services ordered under the protective supervision of the court, the child will likely be taken into protective custody.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-3-203 Expedited hearing for temporary custody.**

- (1) After an abuse, neglect, or dependency petition is filed, the juvenile court may make an order:
  - (a) providing for temporary custody of the child who is the subject of the petition; or
  - (b) that the division provide protective services to the child who is the subject of the petition if the juvenile court determines that:
    - (i) the child is at risk of being removed from the child's home due to abuse or neglect; and
    - (ii) the provision of protective services may make the removal described in Subsection (1)(b)(i) unnecessary.
- (2)
  - (a) The juvenile court shall hold an expedited hearing to determine whether a child should be placed in temporary custody if:
    - (i) a person files an abuse, neglect, or dependency petition;
    - (ii) a party to the proceeding files a motion for expedited placement in temporary custody; and
    - (iii) notice of the hearing described in this Subsection (1)(a) is served consistent with the requirements for notice of a shelter hearing under Section 80-3-301.
  - (b) The hearing described in Subsection (2)(a):

- (i) shall be held within 72 hours, excluding weekends and holidays, after the time in which the motion described in Subsection (2)(a)(ii) is filed; and
  - (ii) shall be considered a shelter hearing under Section 80-3-301 and Utah Rules of Juvenile Procedure, Rule 13.
- (3)
- (a) The hearing and notice described in Subsection (1) are subject to:
    - (i) Section 80-3-301;
    - (ii) Section 80-3-302; and
    - (iii) the Utah Rules of Juvenile Procedure.
  - (b) After the hearing described in Subsection (1), the juvenile court may order a child placed in the temporary custody of the division.

Enacted by Chapter 261, 2021 General Session

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

- (1) When an abuse, neglect, or dependency petition is filed, the juvenile court shall apply, in addressing the petition, the least restrictive means and alternatives available to accomplish a compelling state interest and to prevent irretrievable destruction of family life as described in Subsections 80-2a-201(1) and (7)(a) and Section 80-4-104.
- (2) After an abuse, neglect, or dependency petition is filed, if the child who is the subject of the petition is not in protective custody, a juvenile court may order that the child be removed from the child's home or otherwise taken into protective custody if the juvenile court finds, by a preponderance of the evidence, that any one or more of the following circumstances exist:
  - (a)
    - (i) there is an imminent danger to the physical health or safety of the child; and
    - (ii) the child's physical health or safety may not be protected without removing the child from the custody of the child's parent or guardian;
  - (b)
    - (i) a parent or guardian engages in or threatens the child with unreasonable conduct that causes the child to suffer harm; and
    - (ii) there are no less restrictive means available by which the child's emotional health may be protected without removing the child from the custody of the child's parent or guardian;
  - (c) the child or another child residing in the same household has been, or is considered to be at substantial risk of being, physically abused, sexually abused, or sexually exploited, by a parent or guardian, a member of the parent's or guardian's household, or other individual known to the parent or guardian;
  - (d) the parent or guardian is unwilling to have physical custody of the child;
  - (e) the child is abandoned or left without any provision for the child's support;
  - (f) a parent or guardian who has been incarcerated or institutionalized has not arranged or cannot arrange for safe and appropriate care for the child;
  - (g)
    - (i) a relative or other adult custodian with whom the child is left by the parent or guardian is unwilling or unable to provide care or support for the child;
    - (ii) the whereabouts of the parent or guardian are unknown; and
    - (iii) reasonable efforts to locate the parent or guardian are unsuccessful;
  - (h) subject to Subsection 80-1-102(58)(b) and Sections 80-3-109 and 80-3-304, the child is in immediate need of medical care;
  - (i)

- (i) a parent's or guardian's actions, omissions, or habitual action create an environment that poses a serious risk to the child's health or safety for which immediate remedial or preventive action is necessary; or
  - (ii) a parent's or guardian's action in leaving a child unattended would reasonably pose a threat to the child's health or safety;
  - (j) the child or another child residing in the same household has been neglected;
  - (k) the child's natural parent:
    - (i) intentionally, knowingly, or recklessly causes the death of another parent of the child;
    - (ii) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or
    - (iii) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child;
  - (l) an infant is an abandoned infant, as defined in Section 80-4-203;
  - (m)
    - (i) the parent or guardian, or an adult residing in the same household as the parent or guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act; and
    - (ii) any clandestine laboratory operation was located in the residence or on the property where the child resided; or
  - (n) the child's welfare is otherwise endangered.
- (3)
- (a) For purposes of Subsection (2)(a), if a child has previously been adjudicated as abused, neglected, or dependent, and a subsequent incident of abuse, neglect, or dependency occurs involving the same substantiated abuser or under similar circumstance as the previous abuse, that fact is prima facie evidence that the child cannot safely remain in the custody of the child's parent.
  - (b) For purposes of Subsection (2)(c):
    - (i) another child residing in the same household may not be removed from the home unless that child is considered to be at substantial risk of being physically abused, sexually abused, or sexually exploited as described in Subsection (2)(c) or Subsection (3)(b)(ii); and
    - (ii) if a parent or guardian has received actual notice that physical abuse, sexual abuse, or sexual exploitation by an individual known to the parent has occurred, and there is evidence that the parent or guardian failed to protect the child, after having received the notice, by allowing the child to be in the physical presence of the alleged abuser, that fact is prima facie evidence that the child is at substantial risk of being physically abused, sexually abused, or sexually exploited.
- (4)
- (a) For purposes of Subsection (2), if the division files an abuse, neglect, or dependency petition, the juvenile court shall consider the division's safety and risk assessments described in Section 80-2-403 to determine whether a child should be removed from the custody of the child's parent or guardian or should otherwise be taken into protective custody.
  - (b) The division shall make a diligent effort to provide the safety and risk assessments described in Section 80-2-403 to the juvenile court, guardian ad litem, and counsel for the parent or guardian, as soon as practicable before the shelter hearing described in Section 80-3-301.
- (5) In the absence of one of the factors described in Subsection (2), a juvenile court may not remove a child from the parent's or guardian's custody on the basis of:
- (a) educational neglect, truancy, or failure to comply with a court order to attend school;
  - (b) mental illness or poverty of the parent or guardian;
  - (c) disability of the parent or guardian, as defined in Section 57-21-2; or

- (d) the possession or use, in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis, of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, as those terms are defined in Section 26B-4-201.
- (6) A child removed from the custody of the child's parent or guardian under this section may not be placed or kept in detention, unless the child may be admitted to detention under Chapter 6, Part 2, Custody and Detention.
- (7) This section does not preclude removal of a child from the child's home without a warrant or court order under Section 80-2a-202.
- (8)
  - (a) Except as provided in Subsection (8)(b), a juvenile court and the division may not remove a child from the custody of the child's parent or guardian on the sole or primary basis that the parent or guardian refuses to consent to:
    - (i) the administration of a psychotropic medication to a child;
    - (ii) a psychiatric, psychological, or behavioral treatment for a child; or
    - (iii) a psychiatric or behavioral health evaluation of a child.
  - (b) Notwithstanding Subsection (8)(a), a juvenile court or the division may remove a child under conditions that would otherwise be prohibited under Subsection (8)(a) if failure to take an action described under Subsection (8)(a) would present a serious, imminent risk to the child's physical safety or the physical safety of others.

Amended by Chapter 330, 2023 General Session

**80-3-205 Coordination of proceedings.**

- (1) In each case where an information or indictment is filed against a defendant concerning abuse, neglect, or dependency of a child, and a petition is filed in juvenile court concerning the victim, the appropriate county attorney's or district attorney's office shall coordinate with the attorney general's office.
- (2) Law enforcement personnel, division personnel, the appointed guardian ad litem, pretrial services personnel, and corrections personnel shall make reasonable efforts to facilitate the coordination required under this section.
- (3) A member of a child protection team may participate in the coordination required under this section.
- (4) A member of a child protection team may coordinate with the attorney general's office, division personnel, the appointed guardian ad litem, pretrial services personnel, and corrections personnel as appropriate under this section.

Amended by Chapter 29, 2021 General Session

Renumbered and Amended by Chapter 261, 2021 General Session

**80-3-206 Mediation.**

If an abuse, neglect, or dependency petition is filed, or if a matter is referred to the juvenile court under Subsection 78A-6-104(1)(a)(iii), the juvenile court may require the parties to participate in mediation in accordance with Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act.

Enacted by Chapter 261, 2021 General Session

**80-3-207 Modification of petition -- Continuance.**

- (1) When it appears in a proceeding under this chapter that evidence presented points to material facts not alleged in the abuse, neglect, or dependency petition, the juvenile court may consider the additional or different matters raised by the evidence if the parties consent.
- (2) The juvenile court on motion of any interested party, or on the juvenile court's own motion, shall direct that the abuse, neglect, or dependency petition be amended to conform to the evidence described in Subsection (1).
- (3) If the amendment described in Subsection (2) results in a substantial departure from the facts originally alleged in the abuse, neglect, or dependency petition, the juvenile court shall grant a continuance as justice may require in accordance with Utah Rules of Juvenile Procedure, Rule 54.

Enacted by Chapter 261, 2021 General Session

### **Part 3**

## **Shelter Proceedings and Placement of a Child**

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

- (1) A juvenile court shall hold a shelter hearing to determine the temporary custody of a child within 72 hours, excluding weekends and holidays, after any one or all of the following occur:
  - (a) removal of the child from the child's home by the division;
  - (b) placement of the child in protective custody;
  - (c) emergency placement under Subsection 80-2a-202(5);
  - (d) as an alternative to removal of the child, a parent enters a domestic violence shelter at the request of the division; or
  - (e) a motion for expedited placement in temporary custody is filed under Section 80-3-203.
- (2) If one of the circumstances described in Subsections (1)(a) through (e) occurs, the division shall issue a notice that contains all of the following:
  - (a) the name and address of the individual to whom the notice is directed;
  - (b) the date, time, and place of the shelter hearing;
  - (c) the name of the child on whose behalf an abuse, neglect, or dependency petition is brought;
  - (d) a concise statement regarding:
    - (i) the reasons for removal or other action of the division under Subsection (1); and
    - (ii) the allegations and code sections under which the proceeding is instituted;
  - (e) a statement that the parent or guardian to whom notice is given, and the child, are entitled to have an attorney present at the shelter hearing, and that if the parent or guardian is an indigent individual and cannot afford an attorney, and desires to be represented by an attorney, one will be provided in accordance with Title 78B, Chapter 22, Indigent Defense Act; and
  - (f) a statement that the parent or guardian is liable for the cost of support of the child in the protective custody, temporary custody, and custody of the division, and the cost for legal counsel appointed for the parent or guardian under Subsection (2)(e), according to the financial ability of the parent or guardian.
- (3) The notice described in Subsection (2) shall be personally served as soon as possible, but no later than one business day after the day on which the child is removed from the child's home, or the day on which a motion for expedited placement in temporary custody under Section 80-3-203 is filed, on:

- (a) the appropriate guardian ad litem; and
  - (b) both parents and any guardian of the child, unless the parents or guardians cannot be located.
- (4) Notwithstanding Section 80-3-104, the following individuals shall be present at the shelter hearing:
- (a) the child, unless it would be detrimental for the child;
  - (b) the child's parents or guardian, unless the parents or guardian cannot be located, or fail to appear in response to the notice;
  - (c) counsel for the parents, if one is requested;
  - (d) the child's guardian ad litem;
  - (e) the child welfare caseworker from the division who is assigned to the case; and
  - (f) the attorney from the attorney general's office who is representing the division.
- (5)
- (a) At the shelter hearing, the juvenile court shall:
    - (i) provide an opportunity to provide relevant testimony to:
      - (A) the child's parent or guardian, if present; and
      - (B) any other individual with relevant knowledge;
    - (ii) subject to Section 80-3-108, provide an opportunity for the child to testify; and
    - (iii) in accordance with Subsections 80-3-302(7)(c) and (d), grant preferential consideration to a relative or friend for the temporary placement of the child.
  - (b) The juvenile court:
    - (i) may consider all relevant evidence, in accordance with the Utah Rules of Juvenile Procedure;
    - (ii) shall hear relevant evidence presented by the child, the child's parent or guardian, the requesting party, or the requesting party's counsel; and
    - (iii) may in the juvenile court's discretion limit testimony and evidence to only that which goes to the issues of removal and the child's need for continued protection.
- (6) If the child is in protective custody, the division shall report to the juvenile court:
- (a) the reason why the child was removed from the parent's or guardian's custody;
  - (b) any services provided to the child and the child's family in an effort to prevent removal;
  - (c) the need, if any, for continued shelter;
  - (d) the available services that could facilitate the return of the child to the custody of the child's parent or guardian; and
  - (e) subject to Subsections 80-3-302(7)(c) and (d), whether any relatives of the child or friends of the child's parents may be able and willing to accept temporary placement of the child.
- (7) The juvenile court shall consider all relevant evidence provided by an individual or entity authorized to present relevant evidence under this section.
- (8)
- (a) If necessary to protect the child, preserve the rights of a party, or for other good cause shown, the juvenile court may grant no more than one continuance, not to exceed five judicial days.
  - (b) A juvenile court shall honor, as nearly as practicable, the request by a parent or guardian for a continuance under Subsection (8)(a).
  - (c) Notwithstanding Subsection (8)(a), if the division fails to provide the notice described in Subsection (2) within the time described in Subsection (3), the juvenile court may grant the request of a parent or guardian for a continuance, not to exceed five judicial days.
- (9)
- (a) If the child is in protective custody, the juvenile court shall order that the child be returned to the custody of the parent or guardian unless the juvenile court finds, by a preponderance

of the evidence, consistent with the protections and requirements provided in Subsection 80-2a-201(1), that any one of the following exists:

- (i) subject to Subsection (9)(b)(i), there is a serious danger to the physical health or safety of the child and the child's physical health or safety may not be protected without removing the child from the custody of the child's parent;
- (ii)
  - (A) the child is suffering emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;
  - (B) the parent or guardian is unwilling or unable to make reasonable changes that would sufficiently prevent future damage; and
  - (C) there are no reasonable means available by which the child's emotional health may be protected without removing the child from the custody of the child's parent or guardian;
- (iii) there is a substantial risk that the child will suffer abuse or neglect if the child is not removed from the custody of the child's parent or guardian;
- (iv) subject to Subsection (9)(b)(ii), the child or a minor residing in the same household has been, or is considered to be at substantial risk of being, physically abused, sexually abused, or sexually exploited by:
  - (A) a parent or guardian;
  - (B) a member of the parent's household or the guardian's household; or
  - (C) an individual known to the parent or guardian;
- (v) the parent or guardian is unwilling to have physical custody of the child;
- (vi) the parent or guardian is unable to have physical custody of the child;
- (vii) the child is without any provision for the child's support;
- (viii) a parent who is incarcerated or institutionalized has not or cannot arrange for safe and appropriate care for the child;
- (ix)
  - (A) a relative or other adult custodian with whom the child is left by the parent or guardian is unwilling or unable to provide care or support for the child;
  - (B) the whereabouts of the parent or guardian are unknown; and
  - (C) reasonable efforts to locate the parent or guardian are unsuccessful;
- (x) subject to Subsection 80-1-102(58)(b)(i) and Sections 80-3-109 and 80-3-304, the child is in immediate need of medical care;
- (xi)
  - (A) the physical environment or the fact that the child is left unattended beyond a reasonable period of time poses a threat to the child's health or safety; and
  - (B) the parent or guardian is unwilling or unable to make reasonable changes that would remove the threat;
- (xii)
  - (A) the child or a minor residing in the same household has been neglected; and
  - (B) the parent or guardian is unwilling or unable to make reasonable changes that would prevent the neglect;
- (xiii) the parent, guardian, or an adult residing in the same household as the parent or guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act, and any clandestine laboratory operation was located in the residence or on the property where the child resided;
- (xiv)
  - (A) the child's welfare is substantially endangered; and

- (B) the parent or guardian is unwilling or unable to make reasonable changes that would remove the danger; or
- (xv) the child's natural parent:
  - (A) intentionally, knowingly, or recklessly causes the death of another parent of the child;
  - (B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or
  - (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 an emergency situation in which the child could not safely remain at home, the juvenile court shall make a finding that any lack of preplacement preventive efforts, as described in Section 80-2a-302, was appropriate.
- (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.
- (13) The juvenile court may not order continued removal of a child solely on the basis of educational neglect, truancy, or failure to comply with a court order to attend school.
- (14)
  - (a) If a juvenile court orders continued removal of a child under this section, the juvenile court shall state the facts on which the decision is based.
  - (b) If no continued removal is ordered and the child is returned home, the juvenile court shall state the facts on which the decision is based.
- (15) If the juvenile court finds that continued removal and temporary custody are necessary for the protection of a child under Subsection (9)(a), the juvenile court shall order continued removal regardless of:



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

Amended by Chapter 309, 2023 General Session

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

(1) As used in this section:

- (a) "Asserted an interest" means to communicate, verbally or in writing, to the division or the court, that the relative or friend is interested in becoming a placement for the child.
- (b)
  - (i) "Natural parent," notwithstanding Section 80-1-102, means:
    - (A) a biological or adoptive mother of the child;
    - (B) an adoptive father of the child; or
    - (C) a biological father of the child who:
      - (I) was married to the child's biological mother at the time the child was conceived or born; or
      - (II) has strictly complied with Sections 78B-6-120 through 78B-6-122, before removal of the child or voluntary surrender of the child by the custodial parent.
  - (ii) "Natural parent" includes the individuals described in Subsection (1)(b) regardless of whether the child has been or will be placed with adoptive parents or whether adoption has been or will be considered as a long-term goal for the child.

(2)

- (a) At the shelter hearing, if the juvenile court orders that a child be removed from the custody of the child's parent in accordance with Section 80-3-301, the juvenile court shall first determine whether there is another natural parent with whom the child was not residing at the time the events or conditions that brought the child within the juvenile court's jurisdiction occurred, who desires to assume custody of the child.
- (b) Subject to Subsection (7), if another natural parent requests custody under Subsection (2)(a), the juvenile court shall place the child with that parent unless the juvenile court finds that the placement would be unsafe or otherwise detrimental to the child.
- (c) The juvenile court:
  - (i) shall make a specific finding regarding the fitness of the parent described in Subsection (2)(b) to assume custody, and the safety and appropriateness of the placement;
  - (ii) shall, at a minimum, order the division to visit the parent's home, comply with the criminal background check provisions described in Section 80-3-305, and check the Management Information System for any previous reports of abuse or neglect received by the division regarding the parent at issue;
  - (iii) may order the division to conduct any further investigation regarding the safety and appropriateness of the placement; and
  - (iv) may place the child in the temporary custody of the division, pending the juvenile court's determination regarding the placement.
- (d) The division shall report the division's findings from an investigation under Subsection (2)(c), regarding the child in writing to the juvenile court.

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

- (a) the child and the parent are under the continuing jurisdiction of the juvenile court;
- (b) the juvenile court may order:

- (i) that the parent take custody subject to the supervision of the juvenile court; and
  - (ii) that services be provided to the parent from whose custody the child was removed, the parent who has assumed custody, or both; and
  - (c) the juvenile court shall order reasonable parent-time with the parent from whose custody the child was removed, unless parent-time is not in the best interest of the child.
- (4) The juvenile court shall periodically review an order described in Subsection (3) to determine whether:
- (a) placement with the parent continues to be in the child's best interest;
  - (b) the child should be returned to the original custodial parent;
  - (c) the child should be placed with a relative under Subsections (6) through (9); or
  - (d) the child should be placed in the temporary custody of the division.
- (5)
- (a) Legal custody of the child is not affected by an order entered under Subsection (2) or (3).
  - (b) To affect a previous court order regarding legal custody, the party shall petition the court for modification of legal custody.
- (6) Subject to Subsection (7), if, at the time of the shelter hearing, a child is removed from the custody of the child's parent and is not placed in the custody of the child's other parent, the juvenile court:
- (a) shall, at that time, determine whether there is a relative or a friend who is able and willing to care for the child, which may include asking a child, who is of sufficient maturity to articulate the child's wishes in relation to a placement, if there is a relative or friend with whom the child would prefer to reside;
  - (b) may order the division to conduct a reasonable search to determine whether there are relatives or friends who are willing and appropriate, in accordance with the requirements of this chapter, Chapter 2, Child Welfare Services, and Chapter 2a, Removal and Protective Custody of a Child, for placement of the child;
  - (c) shall order the parents to cooperate with the division, within five working days, to provide information regarding relatives or friends who may be able and willing to care for the child; and
  - (d) may order that the child be placed in the temporary custody of the division pending the determination under Subsection (6)(a).
- (7)
- (a)
    - (i) Subject to Subsection (7)(b), and if the provisions of this section are satisfied, the division and the juvenile court shall give preferential consideration to a relative's or a friend's request for placement of the child, if the placement is in the best interest of the child.
    - (ii) If a relative or friend verbally communicates to the division or court that the relative or friend is interested in becoming a placement for the child, the division or court shall make a written record of the communication and include that written record in the report the division submits at the initial dispositional hearing, a report the division submits under Section 80-3-408, or the court's legal file.
  - (b)
    - (i)
      - (A) The preferential consideration that the juvenile court or division initially grants a friend under Subsection (7)(a)(i) expires 120 days after the day on which the shelter hearing occurs.

- (B) After the day on which the time period described in Subsection (7)(b)(i)(A) expires, the division or the juvenile court may not grant preferential 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).
- (c) The following order of preference shall be applied when determining the individual with whom a child will be placed, provided that 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.
- (d) 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.
- (e)
- (i) If a parent of the child or the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a placement, is not able to designate a friend who is a licensed foster parent for placement of the child, but is able to identify a friend who is willing to become licensed as a foster parent, the department shall fully cooperate to expedite the licensing process for the friend.
- (ii) If the friend described in Subsection (7)(e)(i) becomes licensed as a foster parent within the time frame described in Subsection (7)(b)(i), the juvenile court shall determine whether it is in the best interest of the child to place the child with the friend.
- (8)
- (a) If a relative or friend who is willing to cooperate with the child's permanency goal is identified under Subsection (6)(a), the juvenile court:
- (i) shall make a specific finding regarding:
- (A) the fitness of that relative or friend as a placement for the child; and

- (B) the safety and appropriateness of placement with the relative or friend; and
  - (ii) may not consider a request for guardianship or adoption of the child by an individual who is not a relative of the child, or prevent the division from placing the child in the custody of a relative of the child in accordance with this part, until after the day on which the juvenile court makes the findings under Subsection (8)(a)(i).
  - (b) In making the finding described in Subsection (8)(a), the juvenile court shall, at a minimum, order the division to:
    - (i) if the child may be placed with a relative, conduct a background check that includes:
      - (A) completion of a nonfingerprint-based, Utah Bureau of Criminal Identification background check of the relative;
      - (B) a completed search, relating to the relative, of the Management Information System; and
      - (C) a background check that complies with the criminal background check provisions described in Section 80-3-305, of each nonrelative of the child who resides in the household where the child may be placed;
    - (ii) if the child will be placed with a noncustodial parent, complete a background check that includes:
      - (A) the background check requirements applicable to an emergency placement with a noncustodial parent that are described in Subsections 80-2a-301(4) and (6);
      - (B) a completed search, relating to the noncustodial parent of the child, of the Management Information System; and
      - (C) a background check that complies with the criminal background check provisions described in Section 80-3-305, of each nonrelative of the child who resides in the household where the child may be placed;
    - (iii) if the child may be placed with an individual other than a noncustodial parent or a relative, conduct a criminal background check of the individual, and each adult that resides in the household where the child may be placed, that complies with the criminal background check provisions described in Section 80-3-305;
    - (iv) visit the relative's or friend's home;
    - (v) check the Management Information System for any previous reports of abuse or neglect regarding the relative or friend at issue;
    - (vi) report the division's findings in writing to the juvenile court; and
    - (vii) provide sufficient information so that the juvenile court may determine whether:
      - (A) the relative or friend has any history of abusive or neglectful behavior toward other children that may indicate or present a danger to this child;
      - (B) the child is comfortable with the relative or friend;
      - (C) the relative or friend recognizes the parent's history of abuse and is committed to protect the child;
      - (D) the relative or friend is strong enough to resist inappropriate requests by the parent for access to the child, in accordance with court orders;
      - (E) the relative or friend is committed to caring for the child as long as necessary; and
      - (F) the relative or friend can provide a secure and stable environment for the child.
  - (c) The division may determine to conduct, or the juvenile court may order the division to conduct, any further investigation regarding the safety and appropriateness of the placement described in Subsection (8)(a).
  - (d) The division shall complete and file the division's assessment regarding placement with a relative or friend under Subsections (8)(a) and (b) as soon as practicable, in an effort to facilitate placement of the child with a relative or friend.
- (9)

- (a) The juvenile court may place a child described in Subsection (2)(a) in the temporary custody of the division, pending the division's investigation under Subsection (8), and the juvenile court's determination regarding the appropriateness of the placement.
  - (b) The juvenile court shall ultimately base the juvenile court's determination regarding the appropriateness of a placement with a relative or friend on the best interest of the child.
- (10) If a juvenile court places a child described in Subsection (6) with the child's relative or friend:
- (a) the juvenile court shall:
    - (i) order the relative or friend take custody, subject to the continuing supervision of the juvenile court;
    - (ii) provide for reasonable parent-time with the parent or parents from whose custody the child is removed, unless parent-time is not in the best interest of the child; and
    - (iii) conduct a periodic review no less often than every six months, to determine whether:
      - (A) placement with a relative or friend continues to be in the child's best interest;
      - (B) the child should be returned home; or
      - (C) the child should be placed in the custody of the division;
  - (b) the juvenile court may enter an order:
    - (i) requiring the division to provide necessary services to the child and the child's relative or friend, including the monitoring of the child's safety and well-being; or
    - (ii) that the juvenile court considers necessary for the protection and best interest of the child; and
  - (c) the child and the relative or friend in whose custody the child is placed are under the continuing jurisdiction of the juvenile court.
- (11) No later than 12 months after the day on which the child is removed from the home, the juvenile court shall schedule a hearing for the purpose of entering a permanent order in accordance with the best interest of the child.
- (12) The time limitations described in Section 80-3-406, with regard to reunification efforts, apply to a child placed with a previously noncustodial parent under Subsection (2) or with a relative or friend under Subsection (6).
- (13)
- (a) If the juvenile court awards temporary custody of a child to the division, and the division places the child with a relative, the division shall:
    - (i) conduct a criminal background check of the relative that complies with the criminal background check provisions described in Section 80-3-305; and
    - (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 from the child's wishes.

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

(19)

- (a) If, for a relative placement, an interstate placement requested under the Interstate Compact on the Placement of Children has been initiated by the division or is ordered by or pending before the juvenile court, the court may not finalize a non-relative placement unless the court gives due weight to:
  - (i) the preferential consideration granted to a relative in Section 80-3-302;
  - (ii) the rebuttable presumption in Section 80-3-302; and
  - (iii) the division's placement authority under Subsections 80-1-102(50) and 80-3-303(1).
- (b) Nothing in this section affects the ability of a foster parent to petition the juvenile court under Subsection 80-3-502(3).

Amended by Chapter 309, 2023 General Session

Amended by Chapter 330, 2023 General Session

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

- (1) If the juvenile court awards temporary custody of a child to the division under Section 80-3-302, or as otherwise permitted by law, the division shall determine ongoing placement of the child.
- (2) In placing a child under Subsection (1), the division:
  - (a) except as provided in Subsections (2)(b) and (e), shall comply with the applicable background check provisions described in Section 80-3-302;
  - (b) is not required to receive approval from the juvenile court before making the placement;
  - (c) shall consider the preferential consideration and rebuttable presumption described in Subsection 80-3-302(7)(a);
  - (d) shall, within three days, excluding weekends and holidays, after the day on which the placement is made, give written notice to the juvenile court, and the parties to the proceedings, that the placement has been made;
  - (e) may place the child with a noncustodial parent, relative, or friend, using the same criteria established for an emergency placement under Section 80-2a-301, pending the results of:

- (i) the background check described in Subsection 80-3-302(13)(a); and
- (ii) evaluation with the noncustodial parent, relative, or friend to determine the individual's capacity to provide ongoing care to the child; and
- (f) shall take into consideration the will of the child, if the child is of sufficient maturity to articulate the child's wishes in relation to the child's placement.
- (3) If the division's placement decision differs from a child's express wishes and the child is of sufficient maturity to state the child's wishes in relation to the child's placement, the division shall:
  - (a) make written findings explaining why the division's decision differs from the child's wishes; and
  - (b) provide the written findings to the juvenile court and the child's attorney guardian ad litem.
- (4)
  - (a) If, for a relative placement, an interstate placement requested under the Interstate Compact on the Placement of Children has been initiated by the division or is ordered by or pending before the juvenile court, the court may not finalize a non-relative placement unless the court gives due weight to:
    - (i) the preferential consideration granted to a relative in Section 80-3-302;
    - (ii) the rebuttable presumption in Section 80-3-302; and
    - (iii) the division's placement authority under Subsections 80-1-102(50) and 80-3-303(1).
  - (b) Nothing in this section affects the ability of a foster parent to petition the juvenile court under Subsection 80-3-502(3).

Amended by Chapter 309, 2023 General Session

**80-3-304 Second medical opinion in cases of alleged medical neglect.**

- (1) In cases of alleged medical neglect where the division seeks protective custody, temporary custody, or custody of the child based on the report or testimony of a physician, a parent or guardian shall have a reasonable amount of time, as determined by the juvenile court, to obtain a second medical opinion from another physician of the parent's or guardian's choosing who has expertise in the applicable field.
- (2) Unless there is an imminent risk of death or a deteriorating condition of the child's health, the child shall remain in the custody of the parent or guardian while the parent or guardian obtains a second medical opinion.
- (3) If the second medical opinion results in a different diagnosis or treatment recommendation from that of the opinion of the physician the division used, the juvenile court shall give deference to the second medical opinion as long as that opinion is reasonable and informed and is consistent with treatment that is regularly prescribed by medical experts in the applicable field.
- (4) Subsections (1) through (3) do not apply to emergency treatment or care when the child faces an immediate threat of death or serious and irreparable harm and when there is insufficient time to safely allow the parent or guardian to provide alternative necessary care and treatment of the parent's or guardian's choosing.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-3-305 Criminal background checks necessary before out-of-home placement of a child.**

- (1) Subject to Subsection (3), upon ordering removal of a child from the custody of the child's parent and placing that child in the temporary custody or custody of the division before the division places a child in out-of-home care, the juvenile court shall require the completion of a

nonfingerprint-based background check by the Utah Bureau of Criminal Identification regarding the proposed placement.

- (2)
- (a) Except as provided in Subsection (4), the division or the Office of Guardian Ad Litem may request, or the juvenile court upon the juvenile court's own motion, may order, the Department of Public Safety to conduct a complete Federal Bureau of Investigation criminal background check through the national criminal history system (NCIC).
- (b)
- (i) Except as provided in Subsection (4), upon request by the division or the Office of Guardian ad Litem, or upon the juvenile court's order, an individual subject to the requirements of Subsection (1) shall submit fingerprints and shall be subject to an FBI fingerprint background check.
- (ii) The child may be temporarily placed, pending the outcome of the background check described in Subsection (2)(b)(i).
- (c)
- (i) Except as provided in Subsection (2)(c)(ii), the cost of the investigations described in Subsection (2)(a) shall be borne by whoever is to receive placement of the child.
- (ii) The division may pay all or part of the cost of the investigations described in Subsection (2)(a).
- (3) Except as provided in Subsection (5), a child who is in the protective custody, temporary custody, or custody of the division may not be placed with a prospective foster parent or a prospective adoptive parent, unless, before the child is placed with the prospective foster parent or the prospective adoptive parent:
- (a) a fingerprint based FBI national criminal history records check is conducted on the prospective foster parent or prospective adoptive parent and any other adult residing in the household;
- (b) the department conducts a check of the abuse and neglect registry in each state where the prospective foster parent or prospective adoptive parent resided in the five years immediately before the day on which the prospective foster parent or prospective adoptive parent applied to be a foster parent or adoptive parent, to determine whether the prospective foster parent or prospective adoptive parent is listed in the registry as having a substantiated or supported finding of a severe type of abuse or neglect;
- (c) the department conducts a check of the abuse and neglect registry of each state where each adult living in the home of the prospective foster parent or prospective adoptive parent described in Subsection (3)(b) resided in the five years immediately before the day on which the prospective foster parent or prospective adoptive parent applied to be a foster parent or adoptive parent, to determine whether the adult is listed in the registry as having a substantiated or supported finding of a severe type of abuse or neglect; and
- (d) each individual required to undergo a background check described in this Subsection (3) passes the background check, in accordance with the provisions of Section 26B-2-120.
- (4) Subsections (2)(a) and (b) do not apply to a child who is placed with a noncustodial parent or relative under Section 80-2a-301, 80-3-302, or 80-3-303, unless the juvenile court finds that compliance with Subsection (2)(a) or (b) is necessary to ensure the safety of the child.
- (5) The requirements under Subsection (3) do not apply to the extent that:
- (a) federal law or rule permits otherwise; or
- (b) the requirements would prohibit the division or a juvenile court from placing a child with:
- (i) a noncustodial parent, under Section 80-2a-301, 80-3-302, or 80-3-303; or



- (ii) a relative, under Section 80-2a-301, 80-3-302, or 80-3-303, pending completion of the background check described in Subsection (3).

Amended by Chapter 330, 2023 General Session

**80-3-306 Outstanding arrest warrant check before return of custody.**

- (1) Before the division may recommend that a child who is in protective custody, temporary custody, or custody of the division be returned to the custody of a parent or guardian of the child, the division shall determine whether the parent or guardian has an outstanding felony arrest warrant in any state where the parent or guardian has resided or in any state where an immediate family member of the parent or guardian resides.
- (2) The division shall file the results of the felony arrest warrant check with the juvenile court.
- (3)
  - (a) If the parent or guardian of a child who is in protective custody, temporary custody, or custody of the division has an outstanding arrest warrant in any state, the juvenile court may deny the return of the child to the custody of the parent or guardian.
  - (b) When making a determination described in Subsection (3)(a), the juvenile court shall consider the best interest of the child.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-3-307 Child and family plan developed by division -- Parent-time and relative visitation.**

- (1) The division shall develop and finalize a child's child and family plan no more than 45 days after the day on which the child enters the temporary custody of the division.
- (2)
  - (a) The division may use an interdisciplinary team approach in developing a child and family plan.
  - (b) The interdisciplinary team described in Subsection (2)(a) may include representatives from the following fields:
    - (i) mental health;
    - (ii) education; or
    - (iii) if appropriate, law enforcement.
- (3)
  - (a) The division shall involve all of the following in the development of a child's child and family plan:
    - (i) both of the child's natural parents, unless the whereabouts of a parent are unknown;
    - (ii) the child;
    - (iii) the child's foster parents; and
    - (iv) if appropriate, the child's stepparent.
  - (b) Subsection (3)(a) does not prohibit any other party not listed in Subsection (3)(a) or a party's counsel from being involved in the development of a child's child and family plan if the party or counsel's participation is otherwise permitted by law.
  - (c) In relation to all information considered by the division in developing a child and family plan, the division shall give additional weight and attention to the input of the child's natural and foster parents upon the involvement of the child's natural and foster parents under Subsections (3)(a)(i) and (iii).
  - (d)
    - (i) The division shall make a substantial effort to develop a child and family plan with which the child's parents agree.

- (ii) If a parent does not agree with a child and family plan:
  - (A) the division shall strive to resolve the disagreement between the division and the parent;  
and
  - (B) if the disagreement is not resolved, the division shall inform the court of the disagreement.
- (4) A copy of the child and family plan shall, immediately upon completion, or as soon as reasonably possible thereafter, be provided to:
  - (a) the guardian ad litem;
  - (b) the child's natural parents; and
  - (c) the child's foster parents.
- (5) A child and family plan shall:
  - (a) specifically provide for the safety of the child, in accordance with federal law;
  - (b) clearly define what actions or precautions will, or may be, necessary to provide for the health, safety, protection, and welfare of the child;
  - (c) be specific to each child and the child's family, rather than general;
  - (d) include individualized expectations and contain specific time frames;
  - (e) except as provided in Subsection (6), address problems that:
    - (i) keep a child in the child's placement; and
    - (ii) keep a child from achieving permanence in the child's life;
  - (f) be designed to:
    - (i) minimize disruption to the normal activities of the child's family, including employment and school; and
    - (ii) as much as practicable, help the child's parent maintain or obtain employment; and
  - (g) set forth, with specificity, at least the following:
    - (i) the reason the child entered into protective custody or the division's temporary custody or custody;
    - (ii) documentation of:
      - (A) the reasonable efforts made to prevent placement of the child in protective custody or the division's temporary custody or custody; or
      - (B) the emergency situation that existed and that prevented the reasonable efforts described in Subsection (5)(g)(ii)(A), from being made;
    - (iii) the primary permanency plan for the child, as described in Section 80-3-406, and the reason for selection of the plan;
    - (iv) the concurrent permanency plan for the child, as described in Section 80-3-406, and the reason for the selection of the plan;
    - (v) if the plan is for the child to return to the child's family:
      - (A) specifically what the parents must do in order to enable the child to be returned home;
      - (B) specifically how the requirements described in Subsection (5)(g)(v)(A) may be accomplished; and
      - (C) how the requirements described in Subsection (5)(g)(v)(A) will be measured;
    - (vi) the specific services needed to reduce the problems that necessitated placing the child in protective custody or the division's temporary custody or custody;
    - (vii) the name of the individual who will provide for and be responsible for case management for the division;
    - (viii) subject to Subsection (10), a parent-time schedule between the natural parent and the child;
    - (ix) subject to Subsection (7), the health and mental health care to be provided to address any known or diagnosed mental health needs of the child;

- (x) if residential treatment rather than a foster home is the proposed placement, a requirement for a specialized assessment of the child's health needs including an assessment of mental illness and behavior and conduct disorders;
  - (xi) social summaries that include case history information pertinent to case planning; and
  - (xii) subject to Subsection (12), a sibling visitation schedule.
- (6) For purposes of Subsection (5)(e), a child and family plan may only include requirements that:
- (a) address findings made by the court; or
  - (b)
    - (i) are requested or consented to by a parent or guardian of the child; and
    - (ii) are agreed to by the division and the guardian ad litem.
- (7)
- (a) Subject to Subsection (7)(b), in addition to the information required under Subsection (5)(g)(ix), a child and family plan shall include a specialized assessment of the medical and mental health needs of a child, if the child:
    - (i) is placed in residential treatment; and
    - (ii) has medical or mental health issues that need to be addressed.
  - (b) Notwithstanding Subsection (7)(a), a parent shall retain the right to seek a separate medical or mental health diagnosis of the parent's child from a licensed practitioner of the parent's choice.
- (8)
- (a) The division shall train the division's employees to develop child and family plans that comply with:
    - (i) federal mandates; and
    - (ii) the specific needs of the particular child and the child's family.
  - (b) The child's natural parents, foster parents, and if appropriate, stepparents, shall be kept informed of and supported to participate in important meetings and procedures related to the child's placement.
- (9) If the division documents to the court that there is a compelling reason that adoption, reunification, guardianship, and a placement described in Subsection 80-3-301(6)(e) are not in the child's best interest, the court may order another planned permanent living arrangement in accordance with federal law.
- (10)
- (a) Except as provided in Subsection (10)(b), parent-time may only be denied by a court order issued in accordance with Subsection 80-3-406(9).
  - (b) Notwithstanding Subsection (10)(a), the person designated by the division or a court to supervise a parent-time session may deny parent-time for the session if the supervising person determines that, based on the parent's condition, it is necessary to deny parent-time to:
    - (i) protect the physical safety of the child;
    - (ii) protect the life of the child; or
    - (iii) consistent with Subsection (10)(c), prevent the child from being traumatized by contact with the parent.
  - (c) In determining whether the condition of the parent described in Subsection (10)(b) will traumatize a child, the person supervising the parent-time session shall consider the impact that the parent's condition will have on the child in light of:
    - (i) the child's fear of the parent; and
    - (ii) the nature of the alleged abuse or neglect.

- (11) If a child is in the division's temporary custody or custody, the division shall consider visitation with the child's grandparent if:
- (a) the division determines the visitation to be in the best interest of the child;
  - (b) there are no safety concerns regarding the behavior or criminal background of the grandparent;
  - (c) allowing the grandparent visitation would not compete with or undermine the child's reunification plan;
  - (d) there is a substantial relationship between the grandparent and child; and
  - (e) the grandparent visitation will not unduly burden the foster parents.
- (12)
- (a) The division shall incorporate into the child and family plan reasonable efforts to provide sibling visitation if:
    - (i) siblings are separated due to foster care or adoptive placement;
    - (ii) the sibling visitation is in the best interest of the child for whom the child and family plan is developed; and
    - (iii) the division has consent for sibling visitation from the guardian of the sibling.
  - (b) The division shall obtain consent for sibling visitation from the sibling's guardian if the criteria of Subsections (12)(a)(i) and (ii) are met.

Amended by Chapter 309, 2023 General Session

Amended by Chapter 320, 2023 General Session

## **Part 4**

### **Adjudication, Disposition, and Permanency**

#### **80-3-401 Pretrial and adjudication hearing -- Time deadlines.**

- (1)
- (a) Upon the filing of an abuse, neglect, or dependency petition, the clerk of the juvenile court shall set the pretrial hearing on the petition within 15 calendar days after the later of:
    - (i) the day on which the shelter hearing is held; or
    - (ii) the day on which the abuse, neglect, or dependency petition is filed.
  - (b) The pretrial hearing may be continued upon motion of any party for good cause shown as described in Utah Rules of Juvenile Procedure, Rule 54.
- (2) The final adjudication hearing shall be held no later than 60 calendar days after the later of:
- (a) the day on which the shelter hearing is held; or
  - (b) the day on which the abuse, neglect, or dependency petition is filed.

Renumbered and Amended by Chapter 261, 2021 General Session

#### **80-3-402 Adjudication hearing -- Dispositional hearing time deadlines -- Scheduling of review and permanency hearing.**

- (1) If, at the adjudication hearing, the juvenile court finds, by clear and convincing evidence, that the allegations contained in the abuse, neglect, or dependency petition are true, the juvenile court shall conduct a dispositional hearing.
- (2)

- (a) If, at the adjudication hearing, a child remains in an out-of-home placement, the juvenile court shall:
  - (i) make specific findings regarding the conditions of parent-time that are in the child's best interest; and
  - (ii) if parent-time is denied, state the facts that justify the denial.
- (b) Parent-time shall be under the least restrictive conditions necessary to:
  - (i) protect the physical safety of the child; or
  - (ii) prevent the child from being traumatized by contact with the parent due to the child's fear of the parent in light of the nature of the alleged abuse or neglect.
- (c)
  - (i) The division or the person designated by the division or a court to supervise a parent-time session may deny parent-time for the session if the division or the supervising person determines that, based on the parent's condition, it is necessary to deny parent-time to:
    - (A) protect the physical safety of the child;
    - (B) protect the life of the child; or
    - (C) consistent with Subsection (2)(c)(ii), prevent the child from being traumatized by contact with the parent.
  - (ii) In determining whether the condition of the parent described in Subsection (2)(c)(i) will traumatize a child, the division or the person supervising the parent-time session shall consider the impact that the parent's condition will have on the child in light of:
    - (A) the child's fear of the parent; and
    - (B) the nature of the alleged abuse or neglect.
- (3) The dispositional hearing may be held on the same date as the adjudication hearing, but shall be held no later than 30 calendar days after the day on which the adjudication hearing is held.
- (4) At the adjudication hearing or the dispositional hearing, the juvenile court shall schedule dates and times for:
  - (a) the six-month periodic review; and
  - (b) the permanency hearing.
- (5) If an abuse, neglect, or dependency petition is filed under this chapter and a petition for termination of parental rights is filed under Section 80-4-201, before the day on which a dispositional hearing is held on the abuse, neglect, or dependency petition, a party may request a hearing on whether reunification services are appropriate in accordance with the factors described in Subsections 80-3-406(5) and (7).

Amended by Chapter 320, 2023 General Session

**80-3-403 Treatment for offender and victim -- Costs.**

- (1) Upon adjudication in the juvenile court of an individual charged with child abuse, child sexual abuse, or sexual exploitation of a child, the juvenile court may order treatment for the adjudicated offender or the victim.
- (2) The juvenile court shall require the adjudicated offender described in Subsection (1) to pay, to the extent that the adjudicated offender is able, the costs of the treatment described in Subsection (1) and the administrative costs incurred by the division in monitoring completion of the ordered therapy or treatment.
- (3) If the adjudicated offender is unable to pay the full cost of treatment under Subsection (2), the juvenile court:
  - (a) may order the division to pay the costs, to the extent that funding is provided by the Legislature for that purpose; and

- (b) shall order the adjudicated offender to perform public service work as compensation for the cost of the treatment.

Renumbered and Amended by Chapter 261, 2021 General Session

***Superseded 7/1/2024***

**80-3-404 Finding of severe child abuse or neglect -- Order delivered to division -- Court records.**

- (1) If an abuse, neglect, or dependency petition is filed with the juvenile court that informs the juvenile court that the division has made a supported finding that an individual committed a severe type of child abuse or neglect, the juvenile court shall:
  - (a) make a finding of substantiated, unsubstantiated, or without merit;
  - (b) include the finding described in Subsection (1)(a) in a written order; and
  - (c) deliver a certified copy of the order described in Subsection (1)(b) to the division.
- (2) The juvenile court shall make the finding described in Subsection (1):
  - (a) as part of the adjudication hearing;
  - (b) at the conclusion of the adjudication hearing; or
  - (c) as part of a court order entered under a written stipulation of the parties.
- (3) In accordance with Section 80-2-707, a proceeding for adjudication of a supported finding of a type of abuse or neglect that does not constitute a severe type of child abuse or neglect may be joined in the juvenile court with an adjudication of a severe type of child abuse or neglect.
- (4)
  - (a) The juvenile court shall make records of the juvenile court's findings under Subsection (1) available only to an individual with statutory authority to access the Licensing Information System for the purposes of licensing under Sections 26B-1-211, 26B-2-120, and 26B-2-404, or for the purposes described in Sections 26B-2-121, 26B-2-238 through 26B-2-241, or 26B-4-124.
  - (b) An appellate court shall make records of an appeal from the juvenile court's decision under Subsection (1) available only to an individual with statutory authority to access the Licensing Information System for the purposes described in Subsection (4)(a).

Amended by Chapter 330, 2023 General Session

***Effective 7/1/2024***

**80-3-404 Finding of severe child abuse or neglect -- Order delivered to division -- Court records.**

- (1) If an abuse, neglect, or dependency petition is filed with the juvenile court that informs the juvenile court that the division has made a supported finding that an individual committed a severe type of child abuse or neglect, the juvenile court shall:
  - (a) make a finding of substantiated, unsubstantiated, or without merit;
  - (b) include the finding described in Subsection (1)(a) in a written order; and
  - (c) deliver a certified copy of the order described in Subsection (1)(b) to the division.
- (2) The juvenile court shall make the finding described in Subsection (1):
  - (a) as part of the adjudication hearing;
  - (b) at the conclusion of the adjudication hearing; or
  - (c) as part of a court order entered under a written stipulation of the parties.

(3) In accordance with Section 80-2-707, a proceeding for adjudication of a supported finding of a type of abuse or neglect that does not constitute a severe type of child abuse or neglect may be joined in the juvenile court with an adjudication of a severe type of child abuse or neglect.

- (4)
- (a) The juvenile court shall make records of the juvenile court's findings under Subsection (1) available only to an individual with statutory authority to access the Licensing Information System for the purposes of licensing under Sections 26B-1-211, 26B-2-120, and 26B-2-404, or for the purposes described in Sections 53-2d-410, 26B-2-121, 26B-2-238 through 26B-2-241, or 26B-4-124.
  - (b) An appellate court shall make records of an appeal from the juvenile court's decision under Subsection (1) available only to an individual with statutory authority to access the Licensing Information System for the purposes described in Subsection (4)(a).

Amended by Chapter 310, 2023 General Session

Amended by Chapter 330, 2023 General Session

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

(1) Upon adjudication under Subsection 80-3-402(1), the juvenile court may make the dispositions described in Subsection (2) at the dispositional hearing.

- (2)
- (a)
    - (i) The juvenile court may vest custody of an abused, neglected, or dependent minor in the division or any other appropriate person, with or without court-specified child welfare services, in accordance with the requirements and procedures of this chapter.
    - (ii) When placing a minor in the custody of the division or any other appropriate person, the juvenile court:
      - (A) shall give primary consideration to the welfare of the minor;
      - (B) shall give due consideration to the rights of the parent or parents concerning the minor; and
      - (C) when practicable, may take into consideration the religious preferences of the minor and of the minor's parents or guardian.
  - (b)
    - (i) The juvenile court may appoint a guardian for the minor if it appears necessary in the interest of the minor.
    - (ii) A guardian appointed under Subsection (2)(b)(i) may be a public or private institution or agency, but not a nonsecure residential placement provider, in which legal custody of the minor is vested.
    - (iii) When placing a minor under the guardianship of an individual or of a private agency or institution, the juvenile court:
      - (A) shall give primary consideration to the welfare of the minor; and
      - (B) when practicable, may take into consideration the religious preferences of the minor and of the minor's parents or guardian.
  - (c) The juvenile court may order:
    - (i) protective supervision;
    - (ii) family preservation;
    - (iii) sibling visitation; or
    - (iv) other services.
  - (d)

- (i) If a minor has been placed with an individual or relative as a result of an adjudication under this chapter, the juvenile court may enter an order of permanent legal custody and guardianship with the individual or relative of the minor.
- (ii) If a juvenile court enters an order of permanent custody and guardianship with an individual or relative of a minor under Subsection (2)(d)(i), the juvenile court may, in accordance with Section 78A-6-356, enter an order for child support on behalf of the minor against the natural parents of the minor.
- (iii) An order under this Subsection (2)(d):
  - (A) shall remain in effect until the minor is 18 years old;
  - (B) is not subject to review under Section 78A-6-358; and
  - (C) may be modified by petition or motion as provided in Section 78A-6-357.
- (e) The juvenile court may order a child be committed to the physical custody, as defined in Section 26B-5-401, of a local mental health authority, in accordance with the procedures and requirements of Title 26B, Chapter 5, Part 4, Commitment of Persons Under Age 18.
- (f)
  - (i) If the child has an intellectual disability, the juvenile court may make an order committing a minor to the Utah State Developmental Center in accordance with Title 26B, Chapter 6, Part 6, Admission to an Intermediate Care Facility for People with an Intellectual Disability.
  - (ii) The juvenile court shall follow the procedure applicable in the district court with respect to judicial commitments to the Utah State Developmental Center when ordering a commitment under Subsection (2)(f)(i).
- (g)
  - (i) Subject to Subsection 80-1-102(58)(b) and Section 80-3-304, the juvenile court may order that a minor:
    - (A) be examined or treated by a mental health therapist, as described in Section 80-3-109; or
    - (B) receive other special care.
  - (ii) For purposes of receiving the examination, treatment, or care described in Subsection (2)(g)(i), the juvenile court may place the minor in a hospital or other suitable facility that is not secure care or secure detention.
  - (iii) In determining whether to order the examination, treatment, or care described in Subsection (2)(g)(i), the juvenile court shall consider:
    - (A) the desires of the minor;
    - (B) the desires of the parent or guardian of the minor if the minor is younger than 18 years old; and
    - (C) whether the potential benefits of the examination, treatment, or care outweigh the potential risks and side-effects, including behavioral disturbances, suicidal ideation, brain function impairment, or emotional or physical harm resulting from the compulsory nature of the examination, treatment, or care.
- (h) The juvenile court may make other reasonable orders for the best interest of the minor.
- (3)
  - (a) At the dispositional hearing described in Subsection 80-3-402(3), if a child remains in an out-of-home placement, the juvenile court shall:
    - (i) make specific findings regarding the conditions of parent-time that are in the child's best interest; and
    - (ii) if parent-time is denied, state the facts that justify the denial.
  - (b) Parent-time shall be under the least restrictive conditions necessary to:
    - (i) protect the physical safety of the child; or



- (ii) prevent the child from being traumatized by contact with the parent due to the child's fear of the parent in light of the nature of the alleged abuse or neglect.
- (c)
  - (i) The division or the person designated by the division or a court to supervise a parent-time session may deny parent-time for the session if the division or the supervising person determines that, based on the parent's condition, it is necessary to deny parent-time to:
    - (A) protect the physical safety of the child;
    - (B) protect the life of the child; or
    - (C) consistent with Subsection (3)(c)(ii), prevent the child from being traumatized by contact with the parent.
  - (ii) In determining whether the condition of the parent described in Subsection (3)(c)(i) will traumatize a child, the division or the person supervising the parent-time session shall consider the impact that the parent's condition will have on the child in light of:
    - (A) the child's fear of the parent; and
    - (B) the nature of the alleged abuse or neglect.
- (4) Upon an adjudication under this chapter, the juvenile court may not:
  - (a) commit a minor solely on the ground of abuse, neglect, or dependency to the Division of Juvenile Justice and Youth Services;
  - (b) assume the function of developing foster home services; or
  - (c) vest legal custody of an abused, neglected, or dependent minor in the division to primarily address the minor's ungovernable or other behavior, mental health, or disability, unless the division:
    - (i) engages other relevant divisions within the department that are conducting an assessment of the minor and the minor's family's needs;
    - (ii) based on the assessment described in Subsection (4)(c)(i), determines that vesting custody of the minor in the division is the least restrictive intervention for the minor that meets the minor's needs; and
    - (iii) consents to legal custody of the minor being vested in the division.
- (5) The juvenile court may combine the dispositions listed in Subsection (2) if combining the dispositions is permissible and the dispositions are compatible.
- (6)
  - (a) If, for a relative placement, an interstate placement requested under the Interstate Compact on the Placement of Children has been initiated by the division or is ordered by or pending before the juvenile court, the court may not finalize a non-relative placement unless the court gives due weight to:
    - (i) the preferential consideration granted to a relative in Section 80-3-302;
    - (ii) the rebuttable presumption in Section 80-3-302; and
    - (iii) the division's placement authority under Subsections 80-1-102(50) and 80-3-303(1).
  - (b) Nothing in this section affects the ability of a foster parent to petition the juvenile court under Subsection 80-3-502(3).

Amended by Chapter 309, 2023 General Session  
Amended by Chapter 320, 2023 General Session  
Amended by Chapter 330, 2023 General Session

**80-3-406 Permanency plan -- Reunification services.**

- (1) If the juvenile court orders continued removal at the dispositional hearing under Section 80-3-402, and that the minor remain in the custody of the division, the juvenile court shall first:

- (a) establish a primary permanency plan and a concurrent permanency plan for the minor in accordance with this section; and
  - (b) determine whether, in view of the primary permanency plan, reunification services are appropriate for the minor and the minor's family under Subsections (5) through (8).
- (2)
- (a) The concurrent permanency plan shall include:
    - (i) a representative list of the conditions under which the primary permanency plan will be abandoned in favor of the concurrent permanency plan; and
    - (ii) an explanation of the effect of abandoning or modifying the primary permanency plan.
  - (b) In determining the primary permanency plan and concurrent permanency plan, the juvenile court shall consider:
    - (i) the preference for kinship placement over nonkinship placement, including the rebuttable presumption described in Subsection 80-3-302(7)(a);
    - (ii) the potential for a guardianship placement if parental rights are terminated and no appropriate adoption placement is available; and
    - (iii) the use of an individualized permanency plan, only as a last resort.
- (3)
- (a) The juvenile court may amend a minor's primary permanency plan before the establishment of a final permanency plan under Section 80-3-409.
  - (b) The juvenile court is not limited to the terms of the concurrent permanency plan in the event that the primary permanency plan is abandoned.
  - (c) If, at any time, the juvenile court determines that reunification is no longer a minor's primary permanency plan, the juvenile court shall conduct a permanency hearing in accordance with Section 80-3-409 on or before the earlier of:
    - (i) 30 days after the day on which the juvenile court makes the determination described in this Subsection (3)(c); or
    - (ii) the day on which the provision of reunification services, described in Section 80-3-409, ends.
- (4)
- (a) Because of the state's interest in and responsibility to protect and provide permanency for minors who are abused, neglected, or dependent, the Legislature finds that a parent's interest in receiving reunification services is limited.
  - (b) The juvenile court may determine that:
    - (i) efforts to reunify a minor with the minor's family are not reasonable or appropriate, based on the individual circumstances; and
    - (ii) reunification services should not be provided.
  - (c) In determining reasonable efforts to be made with respect to a minor, and in making reasonable efforts, the juvenile court and the division shall consider the minor's health, safety, and welfare as the paramount concern.
- (5) There is a presumption that reunification services should not be provided to a parent if the juvenile court finds, by clear and convincing evidence, that any of the following circumstances exist:
- (a) the whereabouts of the parents are unknown, based on a verified affidavit indicating that a reasonably diligent search has failed to locate the parent;
  - (b) subject to Subsection (6)(a), the parent is suffering from a mental illness of such magnitude that the mental illness renders the parent incapable of utilizing reunification services;
  - (c) the minor was previously adjudicated as an abused child due to physical abuse, sexual abuse, or sexual exploitation, and following the adjudication the child:

- (i) was removed from the custody of the minor's parent;
  - (ii) was subsequently returned to the custody of the parent; and
  - (iii) is being removed due to additional physical abuse, sexual abuse, or sexual exploitation;
  - (d) the parent:
    - (i) caused the death of another minor through abuse or neglect;
    - (ii) committed, aided, abetted, attempted, conspired, or solicited to commit:
      - (A) murder or manslaughter of a minor; or
      - (B) child abuse homicide;
    - (iii) committed sexual abuse against the minor;
    - (iv) is a registered sex offender or required to register as a sex offender; or
    - (v)
      - (A) intentionally, knowingly, or recklessly causes the death of another parent of the minor;
      - (B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the minor; or
      - (C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the minor;
  - (e) the minor suffered severe abuse by the parent or by any individual known by the parent if the parent knew or reasonably should have known that the individual was abusing the minor;
  - (f) the minor is adjudicated as an abused minor as a result of severe abuse by the parent, and the juvenile court finds that it would not benefit the minor to pursue reunification services with the offending parent;
  - (g) the parent's rights are terminated with regard to any other minor;
  - (h) the minor was removed from the minor's home on at least two previous occasions and reunification services were offered or provided to the family at those times;
  - (i) the parent has abandoned the minor for a period of six months or longer;
  - (j) the parent permitted the minor to reside, on a permanent or temporary basis, at a location where the parent knew or should have known that a clandestine laboratory operation was located;
  - (k) except as provided in Subsection (6)(b), with respect to a parent who is the minor's birth mother, the minor has fetal alcohol syndrome, fetal alcohol spectrum disorder, or was exposed to an illegal or prescription drug that was abused by the minor's mother while the minor was in utero, if the minor was taken into division custody for that reason, unless the mother agrees to enroll in, is currently enrolled in, or has recently and successfully completed a substance use disorder treatment program approved by the department; or
  - (l) any other circumstance that the juvenile court determines should preclude reunification efforts or services.
- (6)
- (a) The juvenile court shall base the finding under Subsection (5)(b) on competent evidence from at least two medical or mental health professionals, who are not associates, establishing that, even with the provision of services, the parent is not likely to be capable of adequately caring for the minor within 12 months after the day on which the juvenile court finding is made.
  - (b) The juvenile court may disregard the provisions of Subsection (5)(k) if the juvenile court finds, under the circumstances of the case, that the substance use disorder treatment described in Subsection (5)(k) is not warranted.
- (7) In determining whether reunification services are appropriate, the juvenile court shall take into consideration:
- (a) failure of the parent to respond to previous services or comply with a previous child and family plan;

- (b) the fact that the minor was abused while the parent was under the influence of drugs or alcohol;
  - (c) any history of violent behavior directed at the minor or an immediate family member;
  - (d) whether a parent continues to live with an individual who abused the minor;
  - (e) any patterns of the parent's behavior that have exposed the minor to repeated abuse;
  - (f) testimony by a competent professional that the parent's behavior is unlikely to be successful; and
  - (g) whether the parent has expressed an interest in reunification with the minor.
- (8) If, under Subsections (5)(b) through (l), the juvenile court does not order reunification services, a permanency hearing shall be conducted within 30 days in accordance with Section 80-3-409.
- (9)
- (a) Subject to Subsections (9)(b) through (e), if the juvenile court determines that reunification services are appropriate for the minor and the minor's family, the juvenile court shall provide for reasonable parent-time with the parent or parents from whose custody the minor was removed, unless parent-time is not in the best interest of the minor.
  - (b) Parent-time is in the best interests of a minor unless the juvenile court makes a finding that it is necessary to deny parent-time in order to:
    - (i) protect the physical safety of the minor;
    - (ii) protect the life of the minor; or
    - (iii) prevent the minor from being traumatized by contact with the parent due to the minor's fear of the parent in light of the nature of the alleged abuse or neglect.
  - (c) Notwithstanding Subsection (9)(a), a juvenile court may not deny parent-time based solely on a parent's failure to:
    - (i) prove that the parent has not used legal or illegal substances; or
    - (ii) comply with an aspect of the child and family plan that is ordered by the juvenile court.
  - (d) Parent-time shall be under the least restrictive conditions necessary to:
    - (i) protect the physical safety of the child; or
    - (ii) prevent the child from being traumatized by contact with the parent due to the minor's fear of the parent in light of the nature of the alleged abuse or neglect.
  - (e)
    - (i) The division or the person designated by the division or a court to supervise a parent-time session may deny parent-time for the session if the division or the supervising person determines that, based on the parent's condition, it is necessary to deny parent-time to:
      - (A) protect the physical safety of the child;
      - (B) protect the life of the child; or
      - (C) consistent with Subsection (9)(e)(ii), prevent the child from being traumatized by contact with the parent.
    - (ii) In determining whether the condition of the parent described in Subsection (9)(e)(i) will traumatize a child, the division or the person supervising the parent-time session shall consider the impact that the parent's condition will have on the child in light of:
      - (A) the child's fear of the parent; and
      - (B) the nature of the alleged abuse or neglect.
- (10)
- (a) If the juvenile court determines that reunification services are appropriate, the juvenile court shall order that the division make reasonable efforts to provide services to the minor and the minor's parent for the purpose of facilitating reunification of the family, for a specified period of time.

- (b) In providing the services described in Subsection (10)(a), the juvenile court and the division shall consider the minor's health, safety, and welfare as the paramount concern.
- (11) In cases where sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved:
  - (a) the juvenile court does not have any duty to order reunification services; and
  - (b) the division does not have a duty to make reasonable efforts to or in any other way attempt to provide reunification services or attempt to rehabilitate the offending parent or parents.
- (12)
  - (a) The juvenile court shall:
    - (i) determine whether the services offered or provided by the division under the child and family plan constitute reasonable efforts on the part of the division;
    - (ii) determine and define the responsibilities of the parent under the child and family plan in accordance with Subsection 80-3-307(5)(g)(iii); and
    - (iii) identify verbally on the record, or in a written document provided to the parties, the responsibilities described in Subsection (12)(a)(ii), for the purpose of assisting in any future determination regarding the provision of reasonable efforts, in accordance with state and federal law.
  - (b) If the parent is in a substance use disorder treatment program, other than a certified drug court program, the juvenile court may order the parent:
    - (i) to submit to supplementary drug or alcohol testing, in accordance with Subsection 80-3-110(6), in addition to the testing recommended by the parent's substance use disorder program based on a finding of reasonable suspicion that the parent is abusing drugs or alcohol; and
    - (ii) to provide the results of drug or alcohol testing recommended by the substance use disorder program to the juvenile court or division.
- (13)
  - (a) The time period for reunification services may not exceed 12 months from the day on which the minor was initially removed from the minor's home, unless the time period is extended under Subsection 80-3-409(7).
  - (b) This section does not entitle any parent to an entire 12 months of reunification services.
- (14)
  - (a) If reunification services are ordered, the juvenile court may terminate those services at any time.
  - (b) If, at any time, continuation of reasonable efforts to reunify a minor is determined to be inconsistent with the final permanency plan for the minor established under Section 80-3-409, then measures shall be taken, in a timely manner, to:
    - (i) place the minor in accordance with the final permanency plan; and
    - (ii) complete whatever steps are necessary to finalize the permanent placement of the minor.
- (15) Any physical custody of the minor by the parent or a relative during the period described in Subsections (10) through (14) does not interrupt the running of the period.
- (16)
  - (a) If reunification services are ordered, the juvenile court shall conduct a permanency hearing in accordance with Section 80-3-409 before the day on which the time period for reunification services expires.
  - (b) The permanency hearing shall be held no later than 12 months after the original removal of the minor.
  - (c) If reunification services are not ordered, a permanency hearing shall be conducted within 30 days in accordance with Section 80-3-409.

- (17) With regard to a minor in the custody of the division whose parent or parents are ordered to receive reunification services but who have abandoned that minor for a period of six months from the day on which reunification services are ordered:
- (a) the juvenile court shall terminate reunification services; and
  - (b) the division shall petition the juvenile court for termination of parental rights.
- (18) When a minor is under the custody of the division and has been separated from a sibling due to foster care or adoptive placement, a juvenile court may order sibling visitation, subject to the division obtaining consent from the sibling's guardian, according to the juvenile court's determination of the best interests of the minor for whom the hearing is held.
- (19)
- (a) If reunification services are not ordered under this section, and the whereabouts of a parent becomes known within six months after the day on which the out-of-home placement of the minor is made, the juvenile court may order the division to provide reunification services.
  - (b) The time limits described in this section are not tolled by the parent's absence.
- (20)
- (a) If a parent is incarcerated or institutionalized, the juvenile court shall order reasonable services unless the juvenile court determines that those services would be detrimental to the minor.
  - (b) In making the determination described in Subsection (20)(a), the juvenile court shall consider:
    - (i) the age of the minor;
    - (ii) the degree of parent-child bonding;
    - (iii) the length of the sentence;
    - (iv) the nature of the treatment;
    - (v) the nature of the crime or illness;
    - (vi) the degree of detriment to the minor if services are not offered;
    - (vii) for a minor who is 10 years old or older, the minor's attitude toward the implementation of family reunification services; and
    - (viii) any other appropriate factors.
  - (c) Reunification services for an incarcerated parent are subject to the time limitations imposed in this section.
  - (d) Reunification services for an institutionalized parent are subject to the time limitations imposed in this section, unless the juvenile court determines that continued reunification services would be in the minor's best interest.

Amended by Chapter 320, 2023 General Session

**80-3-407 Six-month review hearing -- Findings regarding reasonable efforts by division -- Findings regarding child and family plan compliance.**

- (1) If reunification efforts have been ordered by the juvenile court under Section 80-3-406, the juvenile court shall hold a hearing no more than six months after the day on which the minor is initially removed from the minor's home, in order for the juvenile court to determine whether:
- (a) the division has provided and is providing reasonable efforts to reunify the family in accordance with the child and family plan;
  - (b) the parent has fulfilled or is fulfilling identified duties and responsibilities in order to comply with the requirements of the child and family plan; and
  - (c) the division considered the preferential consideration and rebuttable presumption described in Subsections 80-3-302(7)(a) and 80-3-303(2)(c).
- (2)

- (a) At the hearing described in Subsection (1), if a child remains in an out-of-home placement, the juvenile court shall:
  - (i) make specific findings regarding the conditions of parent-time that are in the child's best interest; and
  - (ii) if parent-time is denied, state the facts that justify the denial.
- (b) Parent-time shall be under the least restrictive conditions necessary to:
  - (i) protect the physical safety of the child; or
  - (ii) prevent the child from being traumatized by contact with the parent due to the child's fear of the parent in light of the nature of the alleged abuse or neglect.
- (c)
  - (i) The division or the person designated by the division or a court to supervise a parent-time session may deny parent-time for the session if the division or the supervising person determines that, based on the parent's condition, it is necessary to deny parent-time to:
    - (A) protect the physical safety of the child;
    - (B) protect the life of the child; or
    - (C) consistent with Subsection (2)(c)(ii), prevent the child from being traumatized by contact with the parent.
  - (ii) In determining whether the condition of the parent described in Subsection (2)(c)(i) will traumatize a child, the division or the person supervising the parent-time session shall consider the impact that the parent's condition will have on the child in light of:
    - (A) the child's fear of the parent; and
    - (B) the nature of the alleged abuse or neglect.
- (3)
  - (a) If, for a relative placement, an interstate placement requested under the Interstate Compact on the Placement of Children has been initiated by the division or is ordered by or pending before the juvenile court, the court may not finalize a non-relative placement unless the court gives due weight to:
    - (i) the preferential consideration granted to a relative in Section 80-3-302;
    - (ii) the rebuttable presumption in Section 80-3-302; and
    - (iii) the division's placement authority under Subsections 80-1-102(50) and 80-3-303(1).
  - (b) Nothing in this section affects the ability of a foster parent to petition the juvenile court under Subsection 80-3-502(3).

Amended by Chapter 309, 2023 General Session  
Amended by Chapter 320, 2023 General Session

**80-3-408 Periodic review hearings -- Dispositional reports.**

- (1) At least every six months, the division or the juvenile court shall conduct a periodic review of the status of each minor in the custody of the division, until the juvenile court terminates the division's custody of the minor.
- (2)
  - (a) The juvenile court or the division shall conduct the review described in Subsection (1) in accordance with the requirements of the case review system described in 42 U.S.C. Section 675.
  - (b) If a review described in Subsection (1) is conducted by the division, the division shall:
    - (i) conduct the review in accordance with the administrative review requirements of 42 U.S.C. Section 675; and
    - (ii) to the extent practicable, involve volunteer citizens in the administrative review process.

- (3)
  - (a) Within 30 days after the day on which a review described in Subsection (1) that is conducted by the division is completed, the division shall:
    - (i) submit a copy of the division's dispositional report to the juvenile court to be made a part of the juvenile court's legal file; and
    - (ii) provide a copy of the dispositional report to each party in the case to which the review relates.
  - (b) The juvenile court shall receive and review each dispositional report submitted under Subsection (3)(a)(i) in the same manner as the juvenile court receives and reviews a report described in Section 80-6-307.
  - (c) If a report submitted under Subsection (3)(a)(i) is determined to be an ex parte communication with a judge, the report is considered a communication authorized by law.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-3-409 Permanency hearing -- Final plan -- Petition for termination of parental rights filed -- Hearing on termination of parental rights.**

- (1)
  - (a) If reunification services are ordered under Section 80-3-406, with regard to a minor who is in the custody of the division, the juvenile court shall hold a permanency hearing no later than 12 months after the day on which the minor is initially removed from the minor's home.
  - (b) If reunification services are not ordered at the dispositional hearing, the juvenile court shall hold a permanency hearing within 30 days after the day on which the dispositional hearing ends.
- (2)
  - (a) If reunification services are ordered in accordance with Section 80-3-406, the juvenile court shall, at the permanency hearing, determine, consistent with Subsection (3), whether the minor may safely be returned to the custody of the minor's parent.
  - (b) If the juvenile court finds, by a preponderance of the evidence, that return of the minor to the minor's parent would create a substantial risk of detriment to the minor's physical or emotional well-being, the minor may not be returned to the custody of the minor's parent.
  - (c) Prima facie evidence that return of the minor to a parent or guardian would create a substantial risk of detriment to the minor is established if:
    - (i) the parent or guardian fails to:
      - (A) participate in a court approved child and family plan;
      - (B) comply with a court approved child and family plan in whole or in part; or
      - (C) meet the goals of a court approved child and family plan; or
    - (ii) the minor's natural parent:
      - (A) intentionally, knowingly, or recklessly causes the death of another parent of the minor;
      - (B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the minor; or
      - (C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the minor.
- (3) In making a determination under Subsection (2)(a), the juvenile court shall:
  - (a) review and consider:
    - (i) the report prepared by the division;
    - (ii) in accordance with the Utah Rules of Evidence, any admissible evidence offered by the minor's attorney guardian ad litem;



- (iii) any report submitted by the division under Subsection 80-3-408(3)(a)(i);
  - (iv) any evidence regarding the efforts or progress demonstrated by the parent; and
  - (v) the extent to which the parent cooperated and used the services provided; and
- (b) attempt to keep the minor's sibling group together if keeping the sibling group together is:
- (i) practicable; and
  - (ii) in accordance with the best interest of the minor.
- (4) With regard to a case where reunification services are ordered by the juvenile court, if a minor is not returned to the minor's parent or guardian at the permanency hearing, the juvenile court shall, unless the time for the provision of reunification services is extended under Subsection (7):
- (a) order termination of reunification services to the parent;
  - (b) make a final determination regarding whether termination of parental rights, adoption, or permanent custody and guardianship is the most appropriate final plan for the minor, taking into account the minor's primary permanency plan established by the juvenile court under Section 80-3-406; and
  - (c) in accordance with Subsection 80-3-406(2), establish a concurrent permanency plan that identifies the second most appropriate final plan for the minor, if appropriate.
- (5) The juvenile court may order another planned permanent living arrangement other than reunification for a minor who is 16 years old or older upon entering the following findings:
- (a) the division has documented intensive, ongoing, and unsuccessful efforts to reunify the minor with the minor's parent or parents, or to secure a placement for the minor with a guardian, an adoptive parent, or an individual described in Subsection 80-3-301(6)(e);
  - (b) the division has demonstrated that the division has made efforts to normalize the life of the minor while in the division's custody, in accordance with Section 80-2-308;
  - (c) the minor prefers another planned permanent living arrangement; and
  - (d) there is a compelling reason why reunification or a placement described in Subsection (5)(a) is not in the minor's best interest.
- (6) Except as provided in Subsection (7), the juvenile court may not extend reunification services beyond 12 months after the day on which the minor is initially removed from the minor's home, in accordance with the provisions of Section 80-3-406.
- (7)
- (a) Subject to Subsection (7)(b), the juvenile court may extend reunification services for no more than 90 days if the juvenile court finds, beyond a preponderance of the evidence, that:
    - (i) there has been substantial compliance with the child and family plan;
    - (ii) reunification is probable within that 90-day period; and
    - (iii) the extension is in the best interest of the minor.
  - (b)
    - (i) Except as provided in Subsection (7)(c), the juvenile court may not extend any reunification services beyond 15 months after the day on which the minor is initially removed from the minor's home.
    - (ii) Delay or failure of a parent to establish paternity or seek custody does not provide a basis for the juvenile court to extend services for the parent beyond the 12-month period described in Subsection (6).
  - (c) In accordance with Subsection (7)(d), the juvenile court may extend reunification services for one additional 90-day period, beyond the 90-day period described in Subsection (7)(a), if:
    - (i) the juvenile court finds, by clear and convincing evidence, that:
      - (A) the parent has substantially complied with the child and family plan;
      - (B) it is likely that reunification will occur within the additional 90-day period; and

- (C) the extension is in the best interest of the minor;
  - (ii) the juvenile court specifies the facts upon which the findings described in Subsection (7)(c)
    - (i) are based; and
    - (iii) the juvenile court specifies the time period in which it is likely that reunification will occur.
  - (d) A juvenile court may not extend the time period for reunification services without complying with the requirements of this Subsection (7) before the extension.
  - (e) In determining whether to extend reunification services for a minor, a juvenile court shall take into consideration the status of the minor siblings of the minor.
- (8)
- (a) At the permanency hearing, if a child remains in an out-of-home placement, the juvenile court shall:
    - (i) make specific findings regarding the conditions of parent-time that are in the child's best interest; and
    - (ii) if parent-time is denied, state the facts that justify the denial.
  - (b) Parent-time shall be under the least restrictive conditions necessary to:
    - (i) protect the physical safety of the child; or
    - (ii) prevent the child from being traumatized by contact with the parent due to the child's fear of the parent in light of the nature of the alleged abuse or neglect.
  - (c)
    - (i) The division or the person designated by the division or a court to supervise a parent-time session may deny parent-time for the session if the division or the supervising person determines that, based on the parent's condition, it is necessary to deny parent-time to:
      - (A) protect the physical safety of the child;
      - (B) protect the life of the child; or
      - (C) consistent with Subsection (8)(c)(ii), prevent the child from being traumatized by contact with the parent.
    - (ii) In determining whether the condition of the parent described in Subsection (8)(c)(i) will traumatize a child, the division or the person supervising the parent-time session shall consider the impact that the parent's condition will have on the child in light of:
      - (A) the child's fear of the parent; and
      - (B) the nature of the alleged abuse or neglect.
- (9) The juvenile court may, in the juvenile court's discretion:
- (a) enter any additional order that the juvenile court determines to be in the best interest of the minor, so long as that order does not conflict with the requirements and provisions of Subsections (4) through (8); or
  - (b) order the division to provide protective supervision or other services to a minor and the minor's family after the division's custody of a minor is terminated.
- (10)
- (a) If the final plan for the minor is to proceed toward termination of parental rights, the petition for termination of parental rights shall be filed, and a pretrial held, within 45 calendar days after the day on which the permanency hearing is held.
  - (b) If the division opposes the plan to terminate parental rights, the juvenile court may not require the division to file a petition for the termination of parental rights, except as required under Subsection 80-4-203(2).
- (11)
- (a) Any party to an action may, at any time, petition the juvenile court for an expedited permanency hearing on the basis that continuation of reunification efforts are inconsistent with the permanency needs of the minor.

- (b) If the juvenile court so determines, the juvenile court shall order, in accordance with federal law, that:
  - (i) the minor be placed in accordance with the permanency plan; and
  - (ii) whatever steps are necessary to finalize the permanent placement of the minor be completed as quickly as possible.
- (12) Nothing in this section may be construed to:
  - (a) entitle any parent to reunification services for any specified period of time;
  - (b) limit a juvenile court's ability to terminate reunification services at any time before a permanency hearing; or
  - (c) limit or prohibit the filing of a petition for termination of parental rights by any party, or a hearing on termination of parental rights, at any time before a permanency hearing provided that relative placement and custody options have been fairly considered in accordance with Sections 80-2a-201 and 80-4-104.
- (13)
  - (a) Subject to Subsection (13)(b), if a petition for termination of parental rights is filed before the date scheduled for a permanency hearing, the juvenile court may consolidate the hearing on termination of parental rights with the permanency hearing.
  - (b) For purposes of Subsection (13)(a), if the juvenile court consolidates the hearing on termination of parental rights with the permanency hearing:
    - (i) the juvenile court shall first make a finding regarding whether reasonable efforts have been made by the division to finalize the permanency plan for the minor; and
    - (ii) any reunification services shall be terminated in accordance with the time lines described in Section 80-3-406.
  - (c) The juvenile court shall make a decision on a petition for termination of parental rights within 18 months after the day on which the minor is initially removed from the minor's home.
- (14)
  - (a) If a juvenile court determines that a minor will not be returned to a parent of the minor, the juvenile court shall consider appropriate placement options inside and outside of the state.
  - (b) In considering appropriate placement options under Subsection (14)(a), the juvenile court shall provide preferential consideration to a relative's request for placement of the minor.
- (15)
  - (a) In accordance with Section 80-3-108, if a minor 14 years old or older desires an opportunity to address the juvenile court or testify regarding permanency or placement, the juvenile court shall give the minor's wishes added weight, but may not treat the minor's wishes as the single controlling factor under this section.
  - (b) If the juvenile court's decision under this section differs from a minor's express wishes if the minor is of sufficient maturity to articulate the wishes in relation to permanency or the minor's placement, the juvenile court shall make findings explaining why the juvenile court's decision differs from the minor's wishes.
- (16)
  - (a) If, for a relative placement, an interstate placement requested under the Interstate Compact on the Placement of Children has been initiated by the division or is ordered by or pending before the juvenile court, the court may not finalize a non-relative placement unless the court gives due weight to:
    - (i) the preferential consideration granted to a relative in Section 80-3-302;
    - (ii) the rebuttable presumption in Section 80-3-302; and
    - (iii) the division's placement authority under Subsections 80-1-102(50) and 80-3-303(1).

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

Amended by Chapter 309, 2023 General Session

Amended by Chapter 320, 2023 General Session

## **Part 5 Miscellaneous Hearings and Petitions**

### **80-3-501 Placement in a qualified residential treatment program -- Review hearings.**

- (1) As used in this section:
- (a) "Qualified individual" means the same as that term is defined in 42 U.S.C. Sec. 675a.
  - (b) "Qualified residential treatment program" means the same as that term is defined in 42 U.S.C. Sec. 672.
- (2) Within 60 days of the day on which a minor is placed in a qualified residential treatment program under this chapter or Chapter 6, Juvenile Justice, the juvenile court shall:
- (a) review the assessment, determination, and documentation made by a qualified individual regarding the minor;
  - (b) determine whether the needs of the minor can be met through placement in a foster home;
  - (c) if the minor's needs cannot be met through placement in a foster home, determine whether:
    - (i) placement of the minor in a qualified residential treatment program provides the most effective and appropriate level of care for the minor in the least restrictive environment; and
    - (ii) placement in a qualified residential treatment program is consistent with the short-term and long-term goals for the minor, as specified in the permanency plan for the minor; and
  - (d) approve or disapprove of the minor's placement in a qualified residential treatment program.
- (3) As long as a minor remains placed in a qualified residential treatment program, the juvenile court shall review the placement decision at each subsequent review and permanency hearing held with respect to the minor.
- (4) When the juvenile court conducts a review described in Subsection (3), the juvenile court shall review evidence submitted by the custodial division to:
- (a) demonstrate an ongoing assessment of the strengths and needs of the minor such that the minor's needs cannot be met through placement in a foster home;
  - (b) demonstrate that placement in a qualified residential treatment program provides the most effective and appropriate level of care for the minor in the least restrictive environment;
  - (c) demonstrate that placement in the qualified residential treatment program is consistent with the short-term and long-term goals for the minor, as specified by the permanency plan for the minor;
  - (d) document the specific treatment or service needs that will be met for the minor in the placement;
  - (e) document the length of time the minor is expected to need the treatment or services; and
  - (f) document the efforts made by the custodial division to prepare the minor to return home or transition to another setting, such as with a relative, with a friend of the minor, with a guardian, with an adoptive parent, a foster home, or independent living.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-3-502 Review of foster care removal -- Foster parent's standing.**

- (1) With regard to a minor in the custody of the division who is the subject of a petition alleging abuse, neglect, or dependency, and who has been placed in foster care with a foster family, the Legislature finds that:
  - (a) except with regard to the minor's natural parents, a foster family has a very limited but recognized interest in its familial relationship with the minor; and
  - (b) minors in the custody of the division are experiencing multiple changes in foster care placements with little or no documentation, and that numerous studies of child growth and development emphasize the importance of stability in foster care living arrangements.
- (2) For the reasons described in Subsection (1), the Legislature finds that, except with regard to the minor's natural parents, procedural due process protections must be provided to a foster family prior to removal of a foster minor from the foster home.
- (3)
  - (a) A foster parent who has had a foster minor in the foster parent's home for 12 months or longer may petition the juvenile court for a review and determination of the appropriateness of a decision by the division to remove the minor from the foster home, unless the removal was for the purpose of:
    - (i) returning the minor to the minor's natural parent or legal guardian;
    - (ii) immediately placing the minor in an approved adoptive home;
    - (iii) placing the minor with a relative who obtained custody or asserted an interest in the minor within the preference period described in Subsection 80-3-302(8); or
    - (iv) placing an Indian child in accordance with placement preferences and other requirements described in the Indian Child Welfare Act, 25 U.S.C. Sec. 1915.
  - (b) The foster parent may petition the juvenile court under this section without exhausting administrative remedies within the division.
  - (c) The juvenile court may order the division to place the minor in a specified home, and shall base the juvenile court's determination on the best interest of the minor.
- (4) The requirements of this section do not apply to the removal of a minor based on a foster parent's request for that removal.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-3-503 Minor's petition for removal from division custody -- Reentering division custody.**

- (1)
  - (a) A minor who is 18 years old or older, but younger than 21 years old, may petition the juvenile court to express the minor's desire to have the minor be removed from the custody of the division if the minor is in the division's custody on grounds of abuse, neglect, or dependency.
  - (b) If the minor's parent's rights have not been terminated in accordance with Chapter 4, Termination and Restoration of Parental Rights, the minor's petition described in Subsection (1)(a) shall contain a statement from the minor's parent or guardian agreeing that the minor should be removed from the custody of the division.
  - (c) The minor and the minor's parent or guardian shall sign the petition described in Subsection (1)(a).
- (2) The juvenile court shall:
  - (a) review the petition described in Subsection (1)(a) within 14 days after the day on which the petition is filed; and
  - (b) remove the minor from the custody of the division if:
    - (i) the requirements under Subsections (1)(b) and (c) are met; and

- (ii) the court finds, based on input from the division, the minor's attorney guardian ad litem, and the Office of the Attorney General, that the minor does not pose an imminent threat to self or others.
- (3)
- (a) A minor removed from custody of the division under this section may, within 90 days after the day on which the minor is removed from custody of the division, petition the court to re-enter custody of the division.
  - (b) Upon receiving a petition described in Subsection (3)(a), the juvenile court shall order the division to take custody of the minor based on the findings the juvenile court entered when the juvenile court originally vested custody of the minor in the division.

Enacted by Chapter 261, 2021 General Session

***Superseded 7/1/2024***

**80-3-504 Petition for substantiation -- Court findings -- Expedited hearing -- Records of an appeal.**

- (1) The division or an individual may file a petition for substantiation in accordance with Section 80-2-1004.
- (2) If the division decides to file a petition for substantiation under Section 80-2-1004, the division shall file the petition no more than 14 days after the day on which the division makes the decision.
- (3) At the conclusion of the hearing on a petition for substantiation, the juvenile court shall:
  - (a) make a finding of substantiated, unsubstantiated, or without merit;
  - (b) include the finding in a written order; and
  - (c) deliver a certified copy of the order to the division.
- (4) If an individual whose name is listed on the Licensing Information System before May 6, 2002, files a petition for substantiation under Section 80-2-1004 during the time that an alleged perpetrator's application for clearance to work with children or vulnerable adults is pending, the juvenile court shall:
  - (a) hear the matter on an expedited basis; and
  - (b) enter a final decision no later than 60 days after the day on which the petition for substantiation is filed.
- (5) An appellate court shall make a record of an appeal from the juvenile court's decision under Subsection (3) available only to an individual with statutory authority to access the Licensing Information System for the purposes of licensing under Sections 26B-1-211, 26B-2-120, and 26B-2-404, or for the purposes described in Sections 26B-2-121, 26B-2-238 through 26B-2-241, or 26B-4-124.

Amended by Chapter 330, 2023 General Session

***Effective 7/1/2024***

**80-3-504 Petition for substantiation -- Court findings -- Expedited hearing -- Records of an appeal.**

- (1) The division or an individual may file a petition for substantiation in accordance with Section 80-2-1004.
- (2) If the division decides to file a petition for substantiation under Section 80-2-1004, the division shall file the petition no more than 14 days after the day on which the division makes the decision.

- (3) At the conclusion of the hearing on a petition for substantiation, the juvenile court shall:
  - (a) make a finding of substantiated, unsubstantiated, or without merit;
  - (b) include the finding in a written order; and
  - (c) deliver a certified copy of the order to the division.
- (4) If an individual whose name is listed on the Licensing Information System before May 6, 2002, files a petition for substantiation under Section 80-2-1004 during the time that an alleged perpetrator's application for clearance to work with children or vulnerable adults is pending, the juvenile court shall:
  - (a) hear the matter on an expedited basis; and
  - (b) enter a final decision no later than 60 days after the day on which the petition for substantiation is filed.
- (5) An appellate court shall make a record of an appeal from the juvenile court's decision under Subsection (3) available only to an individual with statutory authority to access the Licensing Information System for the purposes of licensing under Sections 26B-1-211, 26B-2-120, 26B-2-404, or for the purposes described in Sections 53-2d-410, 26B-2-121, 26B-2-238 through 26B-2-241, or 26B-4-124.

Amended by Chapter 310, 2023 General Session

Amended by Chapter 330, 2023 General Session

**80-3-505 Petition for special findings for at-risk noncitizen child.**

- (1) As used in this section:
  - (a) "At-risk" means there is reasonable cause to suspect that:
    - (i) a noncitizen child's health, safety, and welfare is, or has been, in jeopardy due to abuse, neglect, abandonment, or similar circumstances; and
    - (ii) the return of the noncitizen child to the noncitizen child's, or the noncitizen child's parent's, country of origin or country of last habitual residence is not in the best interest of the noncitizen child.
  - (b) "Noncitizen child" means an unmarried individual:
    - (i) who is younger than 21 years old; and
    - (ii) who is not a citizen of the United States.
  - (c) "Dependent on the court" means subject to the jurisdiction of the juvenile or district court to make decisions concerning the protection, well-being, care, and custody of a noncitizen child for findings, orders, or referrals to:
    - (i) support the health, safety, and welfare of the noncitizen child; or
    - (ii) remedy the effects on the noncitizen child of abuse, neglect, abandonment, or similar circumstances.
  - (d) "Similar circumstances" means a condition or conditions that have an effect on a noncitizen child comparable to abuse, neglect, or abandonment, including the death of a parent.
- (2) A noncitizen child who is at-risk may petition the juvenile court for special findings regarding the abuse, neglect, abandonment, or similar circumstances of the noncitizen child.
- (3) Upon reviewing a petition under Subsection (2) and any supporting evidence, the juvenile court shall enter an order with special findings that determine whether:
  - (a) the noncitizen child:
    - (i) is dependent on the court;
    - (ii) is in the custody of the division or another appropriate person by order of the juvenile court;or
  - (iii) has been appointed a guardian by a court;

- (b) the noncitizen child has suffered from abuse, neglect, abandonment, or similar circumstances;
  - (c) the noncitizen child may not be viably reunified with one or both of the noncitizen child's parents due to abuse, neglect, abandonment, or similar circumstances; and
  - (d) the noncitizen child may not be returned to the noncitizen child's, or the noncitizen child's parent's, country of origin or country of last habitual residence because it is not in the best interest of the child.
- (4) In determining the best interest of the noncitizen child under Subsection (3)(d), the court shall consider:
- (a) the health, safety, and welfare of the child to be the paramount concern for the noncitizen child; and
  - (b) whether the present and past living conditions will adversely affect the noncitizen child's physical, mental, or emotional health.
- (5) If the identity or location of the noncitizen child's parents is unknown or if the noncitizen child's parents reside outside the United States, the juvenile court may serve notice using any alternative method of service the court determines is appropriate or waive service.
- (6) The juvenile court shall hear, adjudicate, and issue findings of fact on any petition for special findings under this section as soon as it is administratively feasible and before the noncitizen child is 21 years old.
- (7)
- (a) The juvenile court may refer a noncitizen child who is the subject of a petition for special findings under this section for psychiatric, psychological, educational, occupational, medical, dental, or social services or for protection against human trafficking or domestic violence.
  - (b) A noncitizen child's participation in a referred service under Subsection (7)(a) is voluntary.
- (8) This section does not:
- (a) limit a noncitizen child from petitioning for special findings under any other provision of law or from any other rights and remedies available to the child under any other provision of law;
  - (b) limit the juvenile court from issuing similar findings of fact for a noncitizen child in any other proceeding concerning the noncitizen child; or
  - (c) constitute an adjudication for abuse, neglect, or dependency under this chapter.

Enacted by Chapter 264, 2023 General Session

## **Chapter 4**

### **Termination and Restoration of Parental Rights**

#### **Part 1**

#### **General Provisions**

#### **80-4-102 Definitions.**

As used in this chapter:

- (1) "Division" means the Division of Child and Family Services created in Section 80-2-201.
- (2) "Failure of parental adjustment" means that a parent or parents are unable or unwilling within a reasonable time to substantially correct the circumstances, conduct, or conditions that led



to placement of their child outside of their home, notwithstanding reasonable and appropriate efforts made by the division to return the child to the home.

- (3) "Former parent" means an individual whose legal parental rights were terminated under this chapter.
- (4) "Petition to restore parental rights" means a petition filed in accordance with this chapter to restore the rights of a parent with regard to a child.
- (5) "Petition for termination of parental rights" means a petition filed in accordance with this chapter to terminate the parental rights of a parent.
- (6) "Temporary custody" means the same as that term is defined in Section 80-2-102.

Amended by Chapter 335, 2022 General Session

**80-4-103 Nature of the proceedings -- Rules of procedure -- Burden of proof.**

- (1) The proceedings under this chapter are civil in nature and are governed by the Utah Rules of Civil Procedure and the Utah Rules of Juvenile Procedure.
- (2) The juvenile court shall:
  - (a) in all cases filed under this chapter require the petitioner to establish the facts by clear and convincing evidence;
  - (b) give full and careful consideration to all of the evidence presented with regard to the constitutional rights and claims of the parent; and
  - (c) if a parent is found, by reason of the parent's conduct or condition, to be unfit or incompetent based upon any of the grounds for termination described in this chapter, consider the welfare and best interest of the child of paramount importance in determining whether to terminate parental rights.

Enacted by Chapter 261, 2021 General Session

**80-4-104 Judicial process for termination -- Parent unfit or incompetent -- Best interest of child.**

- (1) Under both the United States Constitution and the constitution of this state, a parent possesses a fundamental liberty interest in the care, custody, and management of the parent's child. For this reason, the termination of family ties by the state may only be done for compelling reasons.
- (2) The juvenile court shall provide a fundamentally fair process to a parent if a party moves to terminate the parent's parental rights.
- (3) If the party moving to terminate parental rights is a governmental entity, the juvenile court shall find that any actions or allegations made in opposition to the rights and desires of a parent regarding the parent's child are supported by sufficient evidence to satisfy a parent's constitutional entitlement to heightened protection against government interference with the parent's fundamental rights and liberty interests.
- (4)
  - (a) The fundamental liberty interest of a parent concerning the care, custody, and management of the parent's child is recognized, protected, and does not cease to exist simply because:
    - (i) a parent may fail to be a model parent; or
    - (ii) the parent's child is placed in the temporary custody of the state.
  - (b) The juvenile court should give serious consideration to the fundamental right of a parent to rear the parent's child, and concomitantly, of the right of the child to be reared by the child's natural parent.

- (5) At all times, a parent retains a vital interest in preventing the irretrievable destruction of family life.
- (6) Before an adjudication of unfitness, government action in relation to a parent and a parent's child may not exceed the least restrictive means or alternatives available to accomplish a compelling state interest.
- (7) Until parental unfitness is established and the children suffer, or are substantially likely to suffer, serious detriment as a result, the child and the child's parent share a vital interest in preventing erroneous termination of their relationship and the juvenile court may not presume that a child and the child's parents are adversaries.
- (8) It is in the best interest and welfare of a child to be raised under the care and supervision of the child's natural parents. A child's need for a normal family life in a permanent home, and for positive, nurturing family relationships is usually best met by the child's natural parents. Additionally, the integrity of the family unit and the right of parents to conceive and raise their children are constitutionally protected. For these reasons, the juvenile court should only transfer custody of a child from the child's natural parent for compelling reasons and when there is a jurisdictional basis to do so.
- (9) The right of a fit, competent parent to raise the parent's child without undue government interference is a fundamental liberty interest that has long been protected by the laws and Constitution of this state and of the United States, and is a fundamental public policy of this state.
- (10)
  - (a) The state recognizes that:
    - (i) a parent has the right, obligation, responsibility, and authority to raise, manage, train, educate, provide for, and reasonably discipline the parent's child; and
    - (ii) the state's role is secondary and supportive to the primary role of a parent.
  - (b) It is the public policy of this state that a parent retain the fundamental right and duty to exercise primary control over the care, supervision, upbringing, and education of the parent's child.
  - (c) The interests of the state favor preservation and not severance of natural familial bonds in situations where a positive, nurturing parent-child relationship can exist, including extended family association and support.
- (11) This chapter provides a judicial process for voluntary and involuntary severance of the parent-child relationship, designed to safeguard the rights and interests of all parties concerned and promote their welfare and that of the state.
- (12)
  - (a) Wherever possible, family life should be strengthened and preserved, but if a parent is found, by reason of the parent's conduct or condition, to be unfit or incompetent based upon any of the grounds for termination described in this part, the juvenile court shall then consider the welfare and best interest of the child of paramount importance in determining whether termination of parental rights shall be ordered.
  - (b) In determining whether termination is in the best interest of the child, and in finding that termination of parental rights, from the child's point of view, is strictly necessary, the juvenile court shall consider, among other relevant factors, whether:
    - (i) sufficient efforts were dedicated to reunification in accordance with Section 80-4-301; and
    - (ii) the efforts to place the child with kin who have, or are willing to come forward to care for the child, were given due weight.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-4-105 Effect of decree.**

- (1) An order for the termination of parental rights divests the child and the parents of all legal rights, powers, immunities, duties, and obligations with respect to each other, except the right of the child to inherit from the parent.
- (2) An order or decree entered under this chapter may not disentitle a child to any benefit due to the child from any third person, including any Indian tribe, agency, state, or the United States.
- (3) Except as provided in Sections 80-4-401 and 80-4-402, after the termination of a parent's parental rights, the former parent:
  - (a) is not entitled to any notice of proceedings for the adoption of the child; and
  - (b) does not have any right to object to the adoption or to participate in any other placement proceedings.
- (4) An order terminating the rights of a parent, guardian, or custodian does not expire with termination of the jurisdiction of the juvenile court.

Amended by Chapter 334, 2022 General Session

**80-4-106 Individuals entitled to be present at proceedings -- Legal representation -- Attorney general responsibilities.**

- (1)
  - (a) The parties shall be advised of the parties' right to counsel, including the appointment of counsel for a parent or guardian facing any action initiated by a private party under this chapter or under Section 78B-6-112 for termination of parental rights.
  - (b) If a parent or guardian is the subject of a petition for the termination of parental rights, the juvenile court shall:
    - (i) appoint an indigent defense service provider for a parent or guardian determined to be an indigent individual in accordance with Title 78B, Chapter 22, Part 2, Appointment of Counsel; and
    - (ii) order indigent defense services for the parent or guardian who is determined to be an indigent individual in accordance with Title 78B, Chapter 22, Part 2, Appointment of Counsel.
  - (c) In any action under this chapter, a guardian ad litem, as defined in Section 78A-2-801, shall represent the child in accordance with Sections 78A-2-803 and 80-3-104.
- (2) Subject to Section 67-5-17 and the attorney general's prosecutorial discretion in civil enforcement actions, the attorney general shall, in accordance with Section 80-2-303, enforce this chapter, Chapter 2, Child Welfare Services, and Chapter 2a, Removal and Protective Custody of a Child, relating to the termination of parental rights.
- (3)
  - (a) The juvenile court shall admit any individual to a hearing unless the juvenile court makes a finding upon the record that the individual's presence at the hearing would:
    - (i) be detrimental to the best interest of a child who is a party to the proceeding;
    - (ii) impair the fact-finding process; or
    - (iii) be otherwise contrary to the interests of justice.
  - (b) The juvenile court may exclude an individual from a hearing under Subsection (3)(a) on the juvenile court's own motion or by motion of a party to the proceeding.

Amended by Chapter 334, 2022 General Session

**80-4-107 Record of proceedings -- Written reports and other materials -- Statements of a child.**

- (1) As used in this section, "record of a proceeding" means the same as that term is defined in Section 80-3-106.
- (2) A record of a proceeding under this chapter:
  - (a) shall be taken in accordance with Section 80-3-106; and
  - (b) may be requested for release as described in Section 80-3-106.
- (3)
  - (a) For purposes of determining proper disposition of a child in hearings upon a petition for termination of parental rights, written reports and other material relating to the child's mental, physical, and social history and condition may be:
    - (i) received in evidence; and
    - (ii) considered by the court along with other evidence.
  - (b) The court may require that an individual who wrote a report or prepared the material under Subsection (3)(a) to appear as a witness if the individual is reasonably available.
- (4) For the purpose of establishing abuse, neglect, or dependency under this chapter, the juvenile court may, in the juvenile court's discretion, consider evidence of statements made by a child under eight years old to an individual in a trust relationship.

Amended by Chapter 334, 2022 General Session

**80-4-108 Physical or mental health examination during proceedings.**

- (1) In a proceeding under this chapter, the juvenile court may appoint any mental health therapist, as defined in Section 58-60-102, who the juvenile court finds to be qualified to:
  - (a) evaluate the mental health of, or provide mental health services to, the child; or
  - (b) after notice and a hearing set for the specific purpose, evaluate the mental health of a parent, or provide mental health services to a parent, if the juvenile court finds from the evidence presented at the hearing that the parent's mental or emotional condition may be a factor in the parent's unfitness.
- (2) The juvenile court:
  - (a) may not refuse to appoint a mental health therapist under Subsection (1) for the reason that the therapist's recommendations in another case did not follow the recommendations of the division or the Office of Guardian Ad Litem; and
  - (b) shall give strong consideration to the parent's or guardian's wishes regarding the selection of a mental health therapist.
- (3) In a proceeding under this chapter, the juvenile court may appoint a physician, or a physician assistant, who the court finds to be qualified to:
  - (a) physically examine the child; or
  - (b) after notice and a hearing set for a specific purpose, physically examine the parent if the juvenile court finds from the evidence presented at the hearing that the parent's physical condition may be a factor in causing the parent's unfitness.
- (4) The division shall, with regard to a child in the division's custody:
  - (a) take reasonable measures to notify a parent of any non-emergency health treatment or care scheduled for a child;
  - (b) include the parent as fully as possible in making health care decisions for the child;
  - (c) defer to the parent's reasonable and informed decisions regarding the child's health care to the extent that the child's health and well-being are not unreasonably compromised by the parent's decision; and

- (d) notify the parent of the child within five business days after the day on which the child receives emergency health care or treatment.
- (5) An examination conducted in accordance with Subsection (1) or (2) is not a privileged communication under Utah Rules of Evidence, Rule 506(d)(3), and is exempt from the general rule of privilege.
- (6) This section applies to all juvenile court proceedings under this chapter involving:
  - (a) parents and children; or
  - (b) the division.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-4-109 Consideration of cannabis during proceedings.**

- (1) As used in this section:
  - (a) "Cannabis" means the same as that term is defined in Section 26B-4-201.
  - (b) "Cannabis product" means the same as that term is defined in Section 26B-4-201.
  - (c)
    - (i) "Chronic" means repeated or patterned.
    - (ii) "Chronic" does not mean an isolated incident.
  - (d) "Directions of use" means the same as that term is defined in Section 26B-4-201.
  - (e) "Dosing guidelines" means the same as that term is defined in Section 26B-4-201.
  - (f) "Medical cannabis" means the same as that term is defined in Section 26B-4-201.
  - (g) "Medical cannabis cardholder" means the same as that term is defined in Section 26B-4-201.
  - (h) "Qualified medical provider" means the same as that term is defined in Section 26B-4-201.
- (2) In a proceeding under this chapter in which the juvenile court makes a finding, determination, or otherwise considers an individual's possession or use of medical cannabis, a cannabis product, or a medical cannabis device, the juvenile court may not consider or treat the individual's possession or use any differently than the lawful possession or use of any prescribed controlled substance if:
  - (a) the individual's possession or use complies with Title 4, Chapter 41a, Cannabis Production Establishments and Pharmacies;
  - (b) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or
  - (c)
    - (i) the individual's possession or use complies with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis; and
    - (ii) the individual reasonably complies with the directions of use and dosing guidelines determined by the individual's qualified medical provider or through a consultation described in Subsection 26B-4-230(5).
- (3) In a proceeding under this chapter, a parent's or guardian's use of cannabis or a cannabis product is not abuse or neglect of a child unless there is evidence showing that:
  - (a) the child is harmed because of the child's inhalation or ingestion of cannabis, or because of cannabis being introduced to the child's body in another manner; or
  - (b) the child is at an unreasonable risk of harm because of chronic inhalation or ingestion of cannabis or chronic introduction of cannabis to the child's body in another manner.
- (4) Unless there is harm or an unreasonable risk of harm to the child as described in Subsection (3), a parent's or guardian's use of medical cannabis or a cannabis product is not contrary to the best interests of a child if:
  - (a) for a medical cannabis cardholder after January 1, 2021, the parent's or guardian's possession or use complies with Title 26B, Chapter 4, Part 2, Cannabinoid Research and

Medical Cannabis, and there is no evidence that the parent's or guardian's use of medical cannabis unreasonably deviates from the directions of use and dosing guidelines determined by the parent's or guardian's qualified medical provider or through a consultation described in Subsection 26B-4-230(5); or

- (b) before January 1, 2021, the parent's or guardian's possession or use complies with Subsection 58-37-3.7(2) or (3).
- (5) Subsection (3) does not prohibit a finding of abuse or neglect of a child and Subsection (3) does not prohibit a finding that a parent's or guardian's use of medical cannabis or a cannabis product is contrary to the best interests of a child, if there is evidence showing a nexus between the parent's or guardian's use of cannabis or a cannabis product and behavior that would separately constitute abuse or neglect of the child.

Amended by Chapter 273, 2023 General Session

Amended by Chapter 317, 2023 General Session

Amended by Chapter 330, 2023 General Session

Amended by Chapter 330, 2023 General Session, (Coordination Clause)

## **Part 2**

### **Petition for Termination of Parental Rights**

#### **80-4-201 Petition -- Who may file -- Dismissal.**

- (1) Any interested party, including a foster parent, may file a petition for termination of parental rights.
- (2) The attorney general shall file a petition for termination of parental rights under this chapter on behalf of the division.
- (3) The juvenile court may dismiss a petition for termination of parental rights at any stage of the proceedings.

Renumbered and Amended by Chapter 261, 2021 General Session

#### **80-4-202 Contents of petition.**

- (1) A petition for termination of parental rights shall include, to the best information or belief of the petitioner:
  - (a) the information required by Utah Rules of Juvenile Procedure, Rule 17;
  - (b) the grounds on which termination of parental rights is sought, in accordance with Section 80-4-301; and
  - (c) the names and addresses of the individuals or the authorized agency to whom legal custody or guardianship of the child might be transferred.
- (2) The petitioner shall attach a copy of a relinquishment or consent, if any, previously executed by the parent or parents to the petition described in Subsection (1).

Renumbered and Amended by Chapter 261, 2021 General Session

#### **80-4-203 Mandatory petition for termination of parental rights.**

- (1) For purposes of this section, "abandoned infant" means a child who is 12 months old or younger and whose parent or parents:

- (a) although having legal custody of the child, fail to maintain physical custody of the child without making arrangements for the care of the child;
  - (b) have failed to:
    - (i) maintain physical custody; and
    - (ii) exhibit the normal interest of a natural parent without just cause; or
  - (c) are unwilling to have physical custody of the child.
- (2) Except as provided in Subsection (3), notwithstanding any other provision of this chapter, Chapter 2, Child Welfare Services, or Chapter 2a, Removal and Protective Custody of a Child, the division shall file a petition for termination of parental rights with regard to:
- (a) an abandoned infant; or
  - (b) the child of a parent, whenever a court has determined that the parent has:
    - (i) committed murder or child abuse homicide of another child of that parent;
    - (ii) committed manslaughter of another child of that parent;
    - (iii) aided, abetted, attempted, conspired, or solicited to commit murder, child abuse homicide, or manslaughter against another child of that parent; or
    - (iv) committed a felony assault or abuse that results in serious physical injury to:
      - (A) another child of that parent; or
      - (B) the other parent of the child.
- (3) The division is not required to file a petition for termination of parental rights under Subsection (2) if:
- (a) the child is being cared for by a relative;
  - (b) the division has:
    - (i) documented in the child's child and family plan a compelling reason for determining that filing a petition for termination of parental rights is not in the child's best interest; and
    - (ii) made that child and family plan available to the juvenile court for the juvenile court's review; or
  - (c)
    - (i) the juvenile court has previously determined, in accordance with the provisions and limitations of Sections 80-2a-201, 80-2a-302, 80-3-301, and 80-3-406, that reasonable efforts to reunify the child with the child's parent or parents were required; and
    - (ii) the division has not provided, within the time period specified in the child and family plan, services that had been determined to be necessary for the safe return of the child.

Amended by Chapter 335, 2022 General Session

**80-4-204 Notice of petition.**

- (1)
- (a) After a petition for termination of parental rights is filed, notice shall:
    - (i) be provided to the parents, the guardian, the individual or agency having legal custody of the child, and any individual acting in loco parentis to the child; and
    - (ii) indicate the:
      - (A) nature of the petition;
      - (B) time and place of the hearing;
      - (C) right to counsel; and
      - (D) right to the appointment of counsel for a party whom the juvenile court determines is indigent and at risk of losing the party's parental rights.

- (b) The notice described in Subsection (1)(a), or a separate notice subsequently issued, shall contain a statement to the effect that the rights of the parent or parents are proposed to be permanently terminated in the proceedings.
- (2) The juvenile court shall hold a hearing specifically on the question of termination of parental rights no sooner than 10 days after the day on which the notice described in Subsection (1) is served.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-4-205 Expedited hearing for temporary custody.**

- (1) At any time after a petition for termination of parental rights is filed, the juvenile court may make an order in accordance with this chapter:
  - (a) providing for temporary custody of the child who is the subject of the petition; or
  - (b) that the division provide protective services to the child who is the subject of the petition if the juvenile court determines that:
    - (i) the child is at risk of being removed from the child's home due to abuse and neglect; and
    - (ii) the provision of protective services may make the removal described in Subsection (1)(b)(i) unnecessary.
- (2)
  - (a) The juvenile court shall hold an expedited hearing to determine whether a child should be placed in temporary custody if:
    - (i) a person files a petition for termination of parental rights;
    - (ii) a party to the proceeding files a motion for expedited placement in temporary custody; and
    - (iii) notice of the hearing described in this Subsection (1)(a) is served consistent with the requirements for notice of a shelter hearing under Section 80-3-301.
  - (b) The hearing described in Subsection (2)(a):
    - (i) shall be held within 72 hours, excluding weekends and holidays, after the time in which the motion described in Subsection (2)(a)(ii) is filed; and
    - (ii) shall be considered a shelter hearing under Section 80-3-301 and Utah Rules of Juvenile Procedure, Rule 13.
- (3)
  - (a) The hearing and notice described in Subsection (1) are subject to:
    - (i) Section 80-3-301;
    - (ii) Section 80-3-302; and
    - (iii) the Utah Rules of Juvenile Procedure.
  - (b) After the hearing described in Subsection (1), the juvenile court may order a child placed in the temporary custody of the division.

Enacted by Chapter 261, 2021 General Session

**80-4-206 Mediation.**

If a petition for termination of parental rights is filed, or if the matter is referred to the juvenile court under Subsection 78A-6-104(1)(a)(iii), the juvenile court may require the parties to participate in mediation in accordance with Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act.

Enacted by Chapter 261, 2021 General Session

**80-4-207 Modification of petition -- Continuance.**



- (1) When it appears that evidence presented in a proceeding under this chapter points to material facts not alleged in the petition for termination of parental rights, the juvenile court may consider the additional or different matters raised by the evidence if the parties consent.
- (2) The juvenile court, by a motion of any interested party or on the juvenile court's own motion, shall direct that the petition for termination of parental rights be amended to conform to the evidence described in Subsection (1).
- (3) If the amendment described in Subsection (2) results in a substantial departure from the facts originally alleged in the petition for the termination of parental rights, the juvenile court shall grant a continuance as justice may require in accordance with Utah Rules of Juvenile Procedure, Rule 54.

Enacted by Chapter 261, 2021 General Session

### **Part 3**

#### **Termination and Post-termination of Parental Rights**

##### **80-4-301 Grounds for termination of parental rights -- Findings regarding reasonable efforts by division.**

- (1) Subject to the protections and requirements of Section 80-4-104, and if the juvenile court finds termination of parental rights, from the child's point of view, is strictly necessary, the juvenile court may terminate all parental rights with respect to the parent if the juvenile court finds any one of the following:
  - (a) that the parent has abandoned the child;
  - (b) that the parent has neglected or abused the child;
  - (c) that the parent is unfit or incompetent;
  - (d)
    - (i) that the child is being cared for in an out-of-home placement under the supervision of the juvenile court or the division;
    - (ii) that the parent has substantially neglected, willfully refused, or has been unable or unwilling to remedy the circumstances that cause the child to be in an out-of-home placement; and
    - (iii) that there is a substantial likelihood that the parent will not be capable of exercising proper and effective parental care in the near future;
  - (e) failure of parental adjustment, as defined in this chapter;
  - (f) that only token efforts have been made by the parent:
    - (i) to support or communicate with the child;
    - (ii) to prevent neglect of the child;
    - (iii) to eliminate the risk of serious harm to the child; or
    - (iv) to avoid being an unfit parent;
  - (g)
    - (i) that the parent has voluntarily relinquished the parent's parental rights to the child; and
    - (ii) that termination is in the child's best interest;
  - (h) that, after a period of trial during which the child was returned to live in the child's own home, the parent substantially and continuously or repeatedly refused or failed to give the child proper parental care and protection; or
  - (i) the terms and conditions of safe relinquishment of a newborn child have been complied with, in accordance with Part 5, Safe Relinquishment of a Newborn Child.

- (2) The juvenile court may not terminate the parental rights of a parent because the parent has failed to complete the requirements of a child and family plan.
- (3)
  - (a) Except as provided in Subsection (3)(b), in any case in which the juvenile court has directed the division to provide reunification services to a parent, the juvenile court must find that the division made reasonable efforts to provide those services before the juvenile court may terminate the parent's rights under Subsection (1)(b), (c), (d), (e), (f), or (h).
  - (b) Notwithstanding Subsection (3)(a), the juvenile court is not required to make the finding under Subsection (3)(a) before terminating a parent's rights:
    - (i) under Subsection (1)(b), if the juvenile court finds that the abuse or neglect occurred subsequent to adjudication; or
    - (ii) if reasonable efforts to provide the services described in Subsection (3)(a) are not required under federal law, and federal law is not inconsistent with Utah law.

Amended by Chapter 335, 2022 General Session

**80-4-302 Evidence of grounds for termination.**

- (1) In determining whether a parent or parents have abandoned a child, it is prima facie evidence of abandonment that the parent or parents:
  - (a) although having legal custody of the child, have surrendered physical custody of the child, and for a period of six months following the surrender have not manifested to the child or to the person having the physical custody of the child a firm intention to resume physical custody or to make arrangements for the care of the child;
  - (b) have failed to communicate with the child by mail, telephone, or otherwise for six months;
  - (c) failed to have shown the normal interest of a natural parent, without just cause; or
  - (d) have abandoned an infant, as described in Section 80-4-203.
- (2) In determining whether a parent or parents are unfit or have neglected a child the juvenile court shall consider:
  - (a) emotional illness, mental illness, or mental deficiency of the parent that renders the parent unable to care for the immediate and continuing physical or emotional needs of the child for extended periods of time;
  - (b) conduct toward a child of a physically, emotionally, or sexually cruel or abusive nature;
  - (c) habitual or excessive use of intoxicating liquors, controlled substances, or dangerous drugs that render the parent unable to care for the child;
  - (d) repeated or continuous failure to provide the child with adequate food, clothing, shelter, education, or other care necessary for the child's physical, mental, and emotional health and development by a parent or parents who are capable of providing that care;
  - (e) whether the parent is incarcerated as a result of conviction of a felony, and the sentence is of such length that the child will be deprived of a normal home for more than one year;
  - (f) a history of violent behavior;
  - (g) whether the parent has intentionally exposed the child to pornography or material harmful to a minor, as defined in Section 76-10-1201; or
  - (h) any other circumstance, conduct, or condition that the court considers relevant in the determination of whether a parent or parents are unfit or have neglected the child.
- (3) Notwithstanding Subsection (2)(c), the juvenile court may not discriminate against a parent because of or otherwise consider the parent's lawful possession or consumption of cannabis in a medicinal dosage form, a cannabis product, as those terms are defined in Section 26B-4-201

or a medical cannabis device, in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid Research and Medical Cannabis.

- (4) A parent who, legitimately practicing the parent's religious beliefs, does not provide specified medical treatment for a child is not, for that reason alone, a negligent or unfit parent.
- (5)
  - (a) Notwithstanding Subsection (2), a parent may not be considered neglectful or unfit because of a health care decision made for a child by the child's parent unless the state or other party to the proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed.
  - (b) Nothing in Subsection (5)(a) may prohibit a parent from exercising the right to obtain a second health care opinion.
- (6) If a child has been placed in the custody of the division and the parent or parents fail to comply substantially with the terms and conditions of a plan within six months after the date on which the child was placed or the plan was commenced, whichever occurs later, that failure to comply is evidence of failure of parental adjustment.
- (7) The following circumstances are prima facie evidence of unfitness:
  - (a) sexual abuse, sexual exploitation, injury, or death of a sibling of the child, or of any child, due to known or substantiated abuse or neglect by the parent or parents;
  - (b) conviction of a crime, if the facts surrounding the crime are of such a nature as to indicate the unfitness of the parent to provide adequate care to the extent necessary for the child's physical, mental, or emotional health and development;
  - (c) a single incident of life-threatening or gravely disabling injury to or disfigurement of the child;
  - (d) the parent has committed, aided, abetted, attempted, conspired, or solicited to commit murder or manslaughter of a child or child abuse homicide; or
  - (e) the parent intentionally, knowingly, or recklessly causes the death of another parent of the child, without legal justification.

Amended by Chapter 330, 2023 General Session

**80-4-303 Specific considerations when child is not in physical custody of parent.**

- (1) If a child is not in the physical custody of the child's parent or parents, the juvenile court, in determining whether parental rights should be terminated, shall consider:
  - (a) the physical, mental, or emotional condition and needs of the child and the child's desires regarding the termination, if the juvenile court determines the child is of sufficient capacity to express the child's desires;
  - (b) the effort the child's parent or parents have made to adjust the parent's or parents' circumstances, conduct, or conditions to make it in the child's best interest to return the child to the child's home after a reasonable length of time, including:
    - (i) payment of a reasonable portion of substitute physical care and maintenance, if financially able;
    - (ii) maintenance of regular parent-time or other contact with the child that was designed and carried out in a plan to reunite the child with the parent or parents; and
    - (iii) maintenance of regular contact and communication with the custodian of the child; and
  - (c) any other factor that the juvenile court considers relevant in the determination of whether to terminate parental rights.
- (2) For purposes of this section, the juvenile court shall disregard incidental conduct, contributions, contacts, and communications.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-4-304 Specific considerations when child is placed in foster home.**

If a child is in the custody of the division and has been placed and resides in a foster home and the division institutes proceedings under this chapter regarding the child, with an ultimate goal of having the child's foster parent or parents adopt the child, the juvenile court shall consider:

- (1) whether the child has become integrated into the foster family to the extent that the child's familial identity is with the foster family;
- (2) whether the foster family is able and willing permanently to treat the child as a member of the family;
- (3) the love, affection, and other emotional ties existing between the child and the parents, and the child's ties with the foster family;
- (4) the capacity and disposition of the child's parents from whom the child was removed as compared with that of the foster family to give the child love, affection, and guidance and to continue the education of the child;
- (5) the length of time the child has lived in a stable, satisfactory foster home and the desirability of the child continuing to live in that environment;
- (6) the permanence as a family unit of the foster family; and
- (7) any other factor that the juvenile court considers relevant to a particular placement of a child.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-4-305 Court disposition of child upon termination of parental rights -- Posttermination reunification.**

- (1) Except as provided in Subsection (7), as used in this section, "relative" means:
  - (a) an adult who is a grandparent, great-grandparent, aunt, great aunt, uncle, great uncle, brother-in-law, sister-in-law, stepparent, first cousin, sibling, or stepsibling of a child; and
  - (b) in the case of a child who is an Indian child, an extended family member as defined in the Indian Child Welfare Act, 25 U.S.C. Sec. 1903.
- (2) Upon entry of an order under this chapter, the juvenile court may:
  - (a) place the child in the legal custody and guardianship of a child-placing agency or the division for adoption; or
  - (b) make any other disposition of the child authorized under Section 80-3-405 .
- (3) Subject to Subsections (4) and (6), the division shall place all adoptable children placed in the custody of the division for adoption.
- (4) If the parental rights of all parents of an adoptable child placed in the custody of the division are terminated and a suitable adoptive placement is not already available, the juvenile court:
  - (a) shall determine whether there is a relative who desires to adopt the child;
  - (b) may order the division to conduct a reasonable search to determine whether there is a relative who is willing to adopt the child; and
  - (c) shall, if a relative desires to adopt the child:
    - (i) make a specific finding regarding the fitness of the relative to adopt the child; and
    - (ii) place the child for adoption with the relative unless the juvenile court finds that adoption by the relative is not in the best interest of the child.
- (5) If an individual who is not a relative of the child desires to adopt the child, the juvenile court shall, before entering an order for adoption of the child, determine whether due weight was given to the relative's preferential consideration under Subsection 80-3-302(7)(a)(i).
- (6) This section does not guarantee that a relative will be permitted to adopt the child.

- (7) A parent whose rights are terminated under this chapter, or a relative of the child, as defined by Section 80-3-102 , may petition for guardianship of the child if:
- (a)
    - (i) following an adoptive placement, the child's adoptive parent returns the child to the custody of the division; or
    - (ii) the child is in the custody of the division for one year following the day on which the parent's rights were terminated, and no permanent placement has been found or is likely to be found; and
  - (b) reunification with the child's parent, or guardianship by the child's relative, is in the best interest of the child.

Amended by Chapter 287, 2022 General Session

Amended by Chapter 334, 2022 General Session

**80-4-306 Review following termination.**

- (1) At the conclusion of the hearing in which the juvenile court orders termination of parental rights, the juvenile court shall order that a review hearing be held within 90 days after the day on which parental rights are terminated if the child has not been permanently placed.
- (2) At the review hearing described in Subsection (1):
  - (a) the agency or individual vested with custody of the child shall report to the juvenile court regarding the plan for permanent placement of the child; and
  - (b) the guardian ad litem shall make recommendations to the juvenile court, based on an independent investigation, for disposition meeting the best interests of the child.
- (3) The juvenile court may order the agency or individual vested with custody of the child to report, at appropriate intervals, on the status of the child until the plan for permanent placement of the child is accomplished.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-4-307 Voluntary relinquishment -- Irrevocable.**

- (1) The individual consenting to termination of parental rights or voluntarily relinquishing parental rights shall sign or confirm the consent or relinquishment under oath before:
  - (a) a judge of any court that has jurisdiction over proceedings for termination of parental rights in this state or any other state, or a public officer appointed by that court for the purpose of taking consents or relinquishments; or
  - (b) except as provided in Subsection (2), any person authorized to take consents or relinquishments under Subsections 78B-6-124(1) and (2).
- (2) Only the juvenile court is authorized to take consents or relinquishments from a parent who has any child who is in the custody of a state agency or who has a child who is otherwise under the jurisdiction of the juvenile court.
- (3) The court, appointed officer, or other authorized person shall certify to the best of that person's information and belief that the individual executing the consent or relinquishment has read and understands the consent or relinquishment and has signed the consent or relinquishment freely and voluntarily.
- (4) A voluntary relinquishment or consent for termination of parental rights is effective when the voluntary relinquishment or consent is signed and may not be revoked.
- (5)

- (a) The requirements and processes described in Section 80-4-104, Sections 80-4-301 through 80-4-304, and Part 2, Petition for Termination of Parental Rights, do not apply to a voluntary relinquishment or consent for termination of parental rights.
  - (b) When determining voluntary relinquishment or consent for termination of parental rights, the juvenile court need only find that the relinquishment or termination is in the child's best interest.
- (6)
- (a) There is a presumption that voluntary relinquishment or consent for termination of parental rights is not in the child's best interest where it appears to the juvenile court that the primary purpose for relinquishment or consent for termination is to avoid a financial support obligation.
  - (b) The presumption described in Subsection (6)(a) may be rebutted if the juvenile court finds the relinquishment or consent to termination of parental rights will facilitate the establishment of stability and permanency for the child.
- (7) Upon granting a voluntary relinquishment the juvenile court may make orders relating to the child's care and welfare that the juvenile court considers to be in the child's best interest.

Amended by Chapter 274, 2022 General Session

## **Part 4**

### **Restoration of Parental Rights**

#### **80-4-401 Petition to restore parental rights -- Division duties.**

- (1) A child, who is 12 years old or older, or an authorized representative acting on behalf of a child of any age, may file a petition to restore parental rights if:
- (a) 24 months have passed since the day on which the juvenile court ordered termination of the former parent's parental rights; and
  - (b) the child:
    - (i) has not been adopted and is not in an adoptive placement, or is unlikely to be adopted before the child is 18 years old; or
    - (ii) was previously adopted following a termination of parental rights, but the adoption failed and the child was returned to the custody of the division.
- (2) The petition to restore parental rights shall be:
- (a) filed in the juvenile court that previously terminated parental rights; and
  - (b) served on the division.
- (3) The division shall notify and inform a child who is 12 years old or older and who qualifies for restoration of parental rights under Subsection (1) that the child is eligible to file a petition to restore parental rights under this part.
- (4) Upon the receipt of a petition to restore parental rights, filed by a child or an authorized representative acting on behalf of a child, the division shall:
- (a) make a diligent effort to locate the former parent whose rights may be restored under this part; and
  - (b) if the former parent is found, as described in Subsection (4)(a), notify the former parent of:
    - (i) the legal effects of restoration; and
    - (ii) the time and date of the hearing on the petition to restore parental rights.

- (5) The juvenile court shall set a hearing on the petition to restore parental rights at least 30 days, but no more than 60 days, after the day on which the petition to restore parental rights is filed with the juvenile court.
- (6) Before the hearing described in Subsection (5), the division may submit a confidential report to the juvenile court that includes the following information:
  - (a) material changes in circumstances since the termination of parental rights;
  - (b) a summary of the reasons why parental rights were terminated;
  - (c) the date on which parental rights were terminated;
  - (d) the willingness of the former parent to resume contact with the child and have parental rights restored;
  - (e) the ability of the former parent to be involved in the life of the child and accept physical custody of, and responsibility for, the child; and
  - (f) any other information the division reasonably considers appropriate and determinative.
- (7)
  - (a) A former parent who remedies the circumstances that resulted in the termination of the former parent's parental rights and who is capable of exercising proper and effective parental care, shall notify the division that if the circumstances described in Subsection (1) are established, the former parent desires and requests to have the former parent's parental rights restored.
  - (b) The former parent's request to the division shall be fully and fairly considered by the division for appropriate submittal to the court.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-4-402 Hearing on petition to restore parental rights.**

- (1) The juvenile court may restore a parent's parental rights if:
  - (a) the child meets the requirements of Subsection 80-4-401(1);
  - (b) considering the age and maturity of the child, the child consents to the restoration;
  - (c) the former parent consents to the restoration; and
  - (d) the juvenile court finds by clear and convincing evidence that restoration is in the best interest of the child.
- (2) In determining whether reunification under this section is appropriate and in the best interest of the child, the juvenile court shall consider:
  - (a) whether the former parent has been sufficiently rehabilitated from the behavior that resulted in the termination of parental rights;
  - (b) extended family support for the former parent; and
  - (c) other material changes of circumstances, if any, that may have occurred that warrant the granting of the motion.
- (3) At the hearing on a petition to restore parental rights, if the former parent consents and if the juvenile court finds by clear and convincing evidence that it is in the best interest of the child, the juvenile court may:
  - (a) allow contact between the former parent and the child, and describe the conditions under which contact may take place;
  - (b) order that the child be placed with the former parent, in a temporary custody and guardianship relationship, to be reevaluated after the child has been placed with the former parent for six months; or
  - (c) restore the parental rights of the parent.
- (4) If the juvenile court orders the child to be placed in the physical custody of the former parent under Subsection (3), the juvenile court shall specify in the order:

- (a) whether that custody is subject to:
  - (i) continued evaluation by the court; or
  - (ii) the supervision of the division; and
- (b) the terms and conditions of reunification.

Renumbered and Amended by Chapter 261, 2021 General Session

## **Part 5**

### **Safe Relinquishment of a Newborn Child**

#### **80-4-501 Definitions.**

As used in this part:

- (1) "Hospital" means a general acute hospital, as that term is defined in Section 26B-2-201, that is:
  - (a) equipped with an emergency room;
  - (b) open 24 hours a day, seven days a week; and
  - (c) employs full-time health care professionals who have emergency medical services training.
- (2) "Newborn child" means a child who is approximately 30 days old or younger, as determined within a reasonable degree of medical certainty.

Amended by Chapter 330, 2023 General Session

#### **80-4-502 Safe relinquishment of a newborn child -- Termination of parental rights -- Affirmative defense.**

- (1)
  - (a) A parent or a parent's designee may safely relinquish a newborn child at a hospital in accordance with this part and retain complete anonymity, so long as the newborn child has not been subject to abuse or neglect.
  - (b) Safe relinquishment of a newborn child who has not otherwise been subject to abuse or neglect shall not, in and of itself, constitute neglect, and the newborn child may not be considered a neglected child so long as the relinquishment is carried out in substantial compliance with this part.
- (2)
  - (a) Personnel employed by a hospital shall accept a newborn child who is relinquished under this part, and may presume that the individual relinquishing is the newborn child's parent or the parent's designee.
  - (b) The person receiving the newborn child may request information regarding the parent and newborn child's medical histories, and identifying information regarding the nonrelinquishing parent of the newborn child.
  - (c) If the newborn child's parent or the parent's designee provides the person receiving the newborn child with any of the information described in Subsection (2)(b) or any other personal items, the person shall provide the information or personal items to the division.
  - (d) Personnel employed by the hospital shall:
    - (i) provide any necessary medical care to the newborn child;
    - (ii) notify the division of receipt of the newborn child as soon as possible, but no later than 24 hours after receipt of the newborn child; and



- (iii) prepare a birth certificate or foundling birth certificate if parentage is unknown for the newborn child and file the certificate with the Office of Vital Records and Statistics within the Department of Health.
- (e) A hospital and personnel employed by a hospital are immune from any civil or criminal liability arising from accepting a newborn child if the personnel employed by the hospital substantially comply with the provisions of this part and medical treatment is administered according to standard medical practice.
- (3) The division shall assume care and protective custody of the newborn child immediately upon notice from the hospital.
- (4) So long as the division determines there is no abuse or neglect of the newborn child, neither the newborn child nor the child's parents are subject to:
  - (a) the investigation provisions contained in Section 80-2-701; or
  - (b) the provisions of Chapter 3, Abuse, Neglect, and Dependency Proceedings.
- (5)
  - (a) Unless identifying information relating to the nonrelinquishing parent of the newborn child is provided, the division shall:
    - (i) work with local law enforcement and the Bureau of Criminal Identification within the Department of Public Safety in an effort to ensure that the newborn child has not been identified as a missing child;
    - (ii) immediately place or contract for placement of the newborn child in a potential adoptive home and, within 10 days after the day on which the child is received, file a petition for termination of parental rights in accordance with this chapter;
    - (iii) direct the Office of Vital Records and Statistics within the Department of Health to conduct a search for:
      - (A) a birth certificate for the newborn child; and
      - (B) unmarried biological fathers in the registry maintained by the Office of Vital Records and Statistics in accordance with Title 78B, Chapter 15, Part 4, Registry; and
    - (iv) provide notice to each potential father identified on the registry described in Subsection (5)(a)(iii) in accordance with Title 78B, Chapter 15, Part 4, Registry.
  - (b)
    - (i) If no individual has affirmatively identified himself or herself within two weeks after the day on which notice under Subsection (5)(a)(iv) is complete and established paternity by scientific testing within as expeditious a time frame as practicable, a hearing on the petition for termination of parental rights shall be scheduled and notice provided in accordance with this chapter.
    - (ii) If a nonrelinquishing parent is not identified, relinquishment of a newborn child under this part is considered grounds for termination of parental rights of both the relinquishing and nonrelinquishing parents under Section 80-4-301.
- (6) If at any time before the day on which the newborn child is adopted, the juvenile court finds it is in the best interest of the newborn child, the court shall deny the petition for termination of parental rights.
- (7) The division shall provide for, or contract with a child-placing agency to provide for expeditious adoption of the newborn child.
- (8) So long as the individual relinquishing a newborn child is the newborn child's parent or designee, and there is no abuse or neglect, safe relinquishment of a newborn child in substantial compliance with this part is an affirmative defense to any potential criminal liability for abandonment or neglect relating to the relinquishment.

Amended by Chapter 139, 2023 General Session

## **Chapter 5 Juvenile Justice Services**

### **Part 1 Division of Juvenile Justice Services**

#### **80-5-102 Definitions.**

As used in this chapter:

- (1) "Account" means the Juvenile Justice Reinvestment Restricted Account created in Section 80-5-302.
- (2)
  - (a) "Adult" means an individual who is 18 years old or older.
  - (b) "Adult" does not include a juvenile offender.
- (3) "Aftercare services" means the same as the term "aftercare" is defined in 45 C.F.R. 1351.1.
- (4) "Authority" means the Youth Parole Authority created in Section 80-5-701.
- (5) "Control" means the authority to detain, restrict, and supervise a juvenile offender in a manner consistent with public safety and the well-being of the juvenile offender and division employees.
- (6) "Director" means the director of the Division of Juvenile Justice Services.
- (7) "Discharge" means the same as that term is defined in Section 80-6-102.
- (8) "Division" means the Division of Juvenile Justice Services created in Section 80-5-103.
- (9) "Homeless youth" means a child, other than an emancipated minor:
  - (a) who is a runaway; or
  - (b) who is:
    - (i) not accompanied by the child's parent or guardian; and
    - (ii) without care, as defined in Section 80-5-602.
- (10) "Observation and assessment program" means a nonresidential service program operated or purchased by the division that is responsible only for diagnostic assessment of minors, including for substance use disorder, mental health, psychological, and sexual behavior risk assessments.
- (11) "Performance based contracting" means a system of contracting with service providers for the provision of residential or nonresidential services that:
  - (a) provides incentives for the implementation of evidence-based juvenile justice programs or programs rated as effective for reducing recidivism by a standardized tool in accordance with Section 63M-7-208; and
  - (b) provides a premium rate allocation for a minor who receives the evidence-based dosage of treatment and successfully completes the program within three months.
- (12) "Rescission" means the same as that term is defined in Section 80-6-102.
- (13) "Restitution" means the same as that term is defined in Section 80-6-102.
- (14) "Revocation" means the same as that term is defined in Section 80-6-102.
- (15) "Temporary custody" means the same as that term is defined in Section 80-6-102.
- (16) "Temporary homeless youth shelter" means a facility that:
  - (a) provides temporary shelter to homeless youth; and

- (b) is licensed by the Department of Health and Human Services, created in Section 26B-1-201, as a residential support program.
- (17) "Termination" means the same as that term is defined in Section 80-6-102.
- (18) "Victim" means the same as that term is defined in Section 80-6-102.
- (19) "Work program" means a nonresidential public or private service work project established and administered by the division for juvenile offenders for the purpose of rehabilitation, education, and restitution to victims.
- (20)
  - (a) "Youth services" means services provided in an effort to resolve family conflict:
    - (i) for families in crisis when a minor is ungovernable or a runaway; or
    - (ii) involving a minor and the minor's parent or guardian.
  - (b) "Youth services" include efforts to:
    - (i) resolve family conflict;
    - (ii) maintain or reunite minors with the minors' families; and
    - (iii) divert minors from entering or escalating in the juvenile justice system.
  - (c) "Youth services" may provide:
    - (i) crisis intervention;
    - (ii) short-term shelter;
    - (iii) time-out placement; and
    - (iv) family counseling.
- (21) "Youth services center" means a center established by, or under contract with, the division to provide youth services.

Amended by Chapter 255, 2022 General Session

**80-5-103 Creation of division -- Jurisdiction.**

- (1) There is created the Division of Juvenile Justice Services within the department.
- (2) The division shall be under the administration and supervision of the executive director of the department.
- (3) The division has jurisdiction over all minors committed to the division under Sections 80-6-703 and 80-6-705.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-5-104 Division director -- Qualifications -- Responsibility.**

- (1) The executive director of the department shall appoint the director of the division.
- (2) The director shall have a bachelor's degree from an accredited university or college, be experienced in administration, and be knowledgeable in juvenile justice.
- (3) The director is the administrative head of the division.

Renumbered and Amended by Chapter 261, 2021 General Session

**Part 2**  
**Division Responsibilities**

**80-5-201 Division responsibilities.**

- (1) The division is responsible for all minors committed to the division by juvenile courts under Sections 80-6-703 and 80-6-705.
- (2) The division shall:
  - (a) establish and administer a continuum of community, secure, and nonsecure programs for all minors committed to the division;
  - (b) establish and maintain all detention and secure care facilities and set minimum standards for all detention and secure care facilities;
  - (c) establish and operate prevention and early intervention youth services programs for nonadjudicated minors placed with the division;
  - (d) establish observation and assessment programs necessary to serve minors in a nonresidential setting under Subsection 80-6-706(1);
  - (e) place minors committed to the division under Section 80-6-703 in the most appropriate program for supervision and treatment;
  - (f) employ staff necessary to:
    - (i) supervise and control minors committed to the division for secure care or placement in the community;
    - (ii) supervise and coordinate treatment of minors committed to the division for placement in community-based programs; and
    - (iii) control and supervise adjudicated and nonadjudicated minors placed with the division for temporary services in juvenile receiving centers, youth services, and other programs established by the division;
  - (g) control or detain a minor committed to the division, or in the temporary custody of the division, in a manner that is consistent with public safety and rules made by the division;
  - (h) establish and operate work programs for minors committed to the division by the juvenile court that:
    - (i) are not residential;
    - (ii) provide labor to help in the operation, repair, and maintenance of public facilities, parks, highways, and other programs designated by the division;
    - (iii) provide educational and prevocational programs in cooperation with the State Board of Education for minors placed in the program; and
    - (iv) provide counseling to minors;
  - (i) establish minimum standards for the operation of all private residential and nonresidential rehabilitation facilities that provide services to minors who have committed an offense in this state or in any other state;
  - (j) provide regular training for secure care staff, detention staff, case management staff, and staff of the community-based programs;
  - (k) designate employees to obtain the saliva DNA specimens required under Section 53-10-403;
  - (l) ensure that the designated employees receive appropriate training and that the specimens are obtained in accordance with accepted protocol;
  - (m) register an individual with the Department of Corrections who:
    - (i) is adjudicated for an offense listed in Subsection 77-41-102(18)(a) or 77-43-102(2);
    - (ii) is committed to the division for secure care; and
    - (iii)
      - (A) if the individual is a youth offender, remains in the division's custody 30 days before the individual's 21st birthday; or
      - (B) if the individual is a serious youth offender, remains in the division's custody 30 days before the individual's 25th birthday; and

- (n) ensure that a program delivered to a minor under this section is an evidence-based program in accordance with Section 63M-7-208.
- (3)
  - (a) The division is authorized to employ special function officers, as defined in Section 53-13-105, to:
    - (i) locate and apprehend minors who have absconded from division custody;
    - (ii) transport minors taken into custody in accordance with division policy;
    - (iii) investigate cases; and
    - (iv) carry out other duties as assigned by the division.
  - (b) A special function officer may be:
    - (i) employed through a contract with the Department of Public Safety, or any law enforcement agency certified by the Peace Officer Standards and Training Division; or
    - (ii) directly hired by the division.
- (4) In the event of an unauthorized leave from secure care, detention, a community-based program, a juvenile receiving center, a home, or any other designated placement of a minor, a division employee has the authority and duty to locate and apprehend the minor, or to initiate action with a local law enforcement agency for assistance.
- (5) The division may proceed with an initial medical screening or assessment of a child admitted to a detention facility to ensure the safety of the child and others in the detention facility if the division makes a good faith effort to obtain consent for the screening or assessment from the child's parent or guardian.

Amended by Chapter 123, 2023 General Session

**80-5-202 Division rulemaking authority -- Reports on sexual assault.**

- (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules to:
  - (a) establish standards for the admission of a minor to detention;
  - (b) describe good behavior for which credit may be earned under Subsection 80-6-704(4);
  - (c) establish a formula, in consultation with the Office of the Legislative Fiscal Analyst, to calculate savings from General Fund appropriations under 2017 Laws of Utah, Chapter 330, resulting from the reduction in out-of-home placements for juvenile offenders with the division;
  - (d) establish policies and procedures regarding sexual assaults that occur in detention and secure care facilities; and
  - (e) establish the qualifications and conditions for services provided by the division under Section 80-6-809.
- (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules:
  - (a) that govern the operation of prevention and early intervention programs, youth service programs, juvenile receiving centers, and other programs described in Section 80-5-401; and
  - (b) that govern the operation of detention and secure care facilities.
- (3) A rule made by the division under Subsection (1)(a):
  - (a) may not permit secure detention based solely on the existence of multiple status offenses, misdemeanors, or infractions arising out of a single criminal episode; and
  - (b) shall prioritize use of home detention for a minor who might otherwise be held in secure detention.
- (4) The rules described in Subsection (1)(d) shall:
  - (a) require education and training, including:

- (i) providing to minors detained in secure care and detention facilities, at intake and periodically, easy-to-understand information, which is developed and approved by the division, on sexual assault prevention, treatment, reporting, and counseling in consultation with community groups with expertise in sexual assault prevention, treatment, reporting, and counseling; and
  - (ii) providing training specific to sexual assault to division mental health professionals and all division employees who have direct contact with minors regarding treatment and methods of prevention and investigation;
  - (b) require reporting of any incident of sexual assault, including:
    - (i) ensuring the confidentiality of sexual assault reports from minors and the protection of minors who report sexual assault; and
    - (ii) prohibiting retaliation and disincentives for reporting sexual assault;
  - (c) require safety and care for minors who report sexual assault, including:
    - (i) providing, in situations in which there is reason to believe that a sexual assault has occurred, reasonable and appropriate measures to ensure the minor's safety by separating the minor from the minor's assailant, if known;
    - (ii) providing acute trauma care for minors who report sexual assault, including treatment of injuries, HIV prophylaxis measures, and testing for sexually transmitted infections;
    - (iii) providing confidential mental health counseling for minors who report sexual assault, including:
      - (A) access to outside community groups or victim advocates that have expertise in sexual assault counseling; and
      - (B) enabling confidential communication between minors and community groups and victim advocates; and
    - (iv) monitoring minors who report sexual assault for suicidal impulses, post-traumatic stress disorder, depression, and other mental health consequences resulting from the sexual assault;
  - (d) require staff reporting of sexual assault and staff discipline for failure to report or for violating sexual assault policies, including:
    - (i) requiring all division employees to report any knowledge, suspicion, or information regarding an incident of sexual assault to the director or the director's designee;
    - (ii) requiring disciplinary action for a division employee who fails to report as required; and
    - (iii) requiring division employees to be subject to disciplinary sanctions up to and including termination for violating agency sexual assault policies, with termination the presumptive disciplinary sanction for division employees who have engaged in sexual assault, consistent with constitutional due process protections and state personnel laws and rules;
  - (e) require that any report of an incident of sexual assault be referred to the Division of Child and Family Services or a law enforcement agency with jurisdiction over the detention or secure care facility in which the alleged sexual assault occurred; and
  - (f) require data collection and reporting of all incidents of sexual assault from each detention and secure care facility.
- (5) The division shall annually report the data described in Section (4)(f) to the Law Enforcement and Criminal Justice Interim Committee.

Amended by Chapter 139, 2023 General Session

**80-5-203 Detention risk assessment tool.**

- (1) The division, in conjunction with the Administrative Office of the Courts, shall develop or adopt, and validate on the Utah juvenile population, a statewide detention risk assessment tool.
- (2)
  - (a) The division shall administer the detention risk assessment tool for each minor under consideration for detention.
  - (b) A designated individual who has completed training to conduct the detention risk assessment tool shall administer the detention risk assessment tool.
- (3) The division and the Administrative Office of the Courts shall establish a scoring system to inform eligibility for placement of a minor in a detention facility or for referral to an alternative to detention.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-5-204 Annual review of programs and facilities.**

- (1)
  - (a) The division shall:
    - (i) annually review all programs and facilities that provide services to minors who have committed an offense, in this state or in any other state, which would constitute a felony or misdemeanor if committed by an adult; and
    - (ii) license all programs and facilities under Subsection (1)(a)(i) that are in compliance with standards established by the division .
  - (b) The division shall provide a written review to the manager of a program or facility under Subsection (1)(a).
  - (c) A program or facility that is unable or unwilling to comply with the standards established by the division may not be licensed.
- (2) Any private facility or program providing services under this chapter that willfully fails to comply with the standards established by the division is guilty of a class B misdemeanor.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-5-205 Contracts with private providers.**

- (1) This chapter does not prohibit the division from contracting with private providers or other agencies for:
  - (a) the construction, operation, and maintenance of juvenile facilities; or
  - (b) the provision of care, treatment, and supervision of minors who have been committed to the division.
- (2) All programs for the care, treatment, and supervision of minors committed to the division shall be licensed in compliance with division standards within six months after commencing operation.
- (3) A contract for the care, treatment, and supervision of a minor committed to the division shall be executed in accordance with the performance-based contracting system developed under Section 63M-7-208.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-5-206 Records -- Property of division.**

- (1) All records maintained by programs that are under contract with the division to provide services to minors, are the property of the division and shall be returned to the division when the minor is terminated from the program.
- (2) The division shall maintain an accurate audit trail of information provided to other programs or agencies regarding minors under the division's jurisdiction.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-5-207 Restitution by a minor committed to the division.**

- (1)
  - (a) The division shall make reasonable efforts to ensure that restitution is made to the victim of a minor who is committed to the division.
  - (b) Except as provided in Subsection (1)(c), restitution shall be made through the employment of minors in work programs.
  - (c) Reimbursement to the victim of a minor is conditional upon the minor's involvement in the work program.
- (2) The division shall notify the juvenile court of all restitution paid to victims through the employment of a minor, who is committed to the division, in a work program.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-5-208 Care of pregnant minor in secure detention or secure care.**

- (1) When a minor in secure detention or secure care is pregnant, the division shall:
  - (a) ensure that adequate prenatal and postnatal care is provided; and
  - (b) place the minor in an accredited hospital before delivery.
- (2) As soon as the minor's condition after delivery will permit, the minor may be returned to:
  - (a) secure detention if the minor was placed in secure detention; or
  - (b) secure care if the minor was committed to secure care.
- (3) If the division has concerns regarding the minor's fitness to raise the minor's child, the division shall make a referral for services for the minor and the minor's child to the Division of Child and Family Services.

Renumbered and Amended by Chapter 261, 2021 General Session

**Part 3  
Funds and Accounts**

**80-5-301 Appropriation and funding of juvenile receiving centers.**

Funding for juvenile receiving centers and youth services programs under this part is intended to be broad based, be provided by an appropriation by the Legislature to the division, and include federal grant money, local government money, and private donations.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-5-302 Juvenile Justice Reinvestment Restricted Account.**



- (1) There is created in the General Fund a restricted account known as the "Juvenile Justice Reinvestment Restricted Account."
- (2) The account shall be funded by savings calculated from General Fund appropriations by the Division of Finance as described in Subsection (3).
- (3) At the end of the fiscal year, the Division of Finance shall:
  - (a) use the formula established in Subsection 80-5-202(1)(c) to calculate the savings from General Fund appropriations; and
  - (b) lapse the calculated savings into the account.
- (4) Upon appropriation by the Legislature, the department may expend funds from the account:
  - (a) for the statewide expansion of nonresidential community-based programs, including:
    - (i) receiving centers;
    - (ii) mobile crisis outreach teams;
    - (iii) youth courts under Title 80, Chapter 6, Part 9, Youth Court; and
    - (iv) victim-offender mediation under Section 80-6-304 and Subsection 80-6-710(6);
  - (b) for nonresidential evidence-based programs and practices in cognitive, behavioral, and family therapy;
  - (c) to implement:
    - (i) nonresidential diagnostic assessment; and
    - (ii) nonresidential early intervention programs, including family strengthening programs, family wraparound services, and truancy interventions; or
  - (d) for infrastructure in nonresidential evidence-based juvenile justice programs, including staffing and transportation.

Amended by Chapter 155, 2022 General Session

**80-5-303 Report on the Juvenile Justice Reinvestment Restricted Account.**

No later than December 31 of each year, the division shall provide to the Executive Offices and Criminal Justice Appropriations Subcommittee a written report of the division's activities under Subsection 80-5-202(1)(c) and Section 80-5-302, including:

- (1) for the report submitted in 2019, the formula used to calculate the savings from General Fund appropriations under Subsection 80-5-202(1)(c);
- (2) the amount of savings from General Fund appropriations calculated by the division for the previous fiscal year;
- (3) an accounting of the money expended or committed to be expended under Subsection 80-5-302(4); and
- (4) the balance of the account.

Renumbered and Amended by Chapter 261, 2021 General Session

**Part 4  
Programs**

**80-5-401 Youth services for prevention and early intervention -- Program standards -- Program services.**

- (1) The division shall establish and operate prevention and early intervention youth services programs which shall include evidence-informed and research-informed interventions to:

- (a) help youth and families avoid entry into the juvenile justice system; and
  - (b) improve attendance and academic achievement.
- (2) The division shall adopt statewide policies and procedures, including minimum standards for the organization and operation of youth services programs.
  - (3) The division shall establish housing, programs, and procedures to ensure that minors who are receiving services under this section and who are not committed to the division are served separately from minors who are committed to the division.
  - (4) The division may enter into contracts with state and local governmental entities and private providers to provide the youth services.
  - (5) The division shall establish and administer juvenile receiving centers and other programs to provide temporary custody, care, risk-needs assessments, evaluations, and control for nonadjudicated and adjudicated minors placed with the division.
  - (6) The division shall prioritize use of evidence-based juvenile justice programs and practices.

Amended by Chapter 93, 2023 General Session

**80-5-402 Community-based programs.**

- (1)
  - (a) The division shall operate residential and nonresidential community-based programs to provide care, treatment, and supervision for minors committed to the division by juvenile courts.
  - (b) The division shall operate or contract for nonresidential community-based programs and independent living programs to provide care, treatment, and supervision of paroled juvenile offenders.
- (2) The division shall adopt minimum standards for the organization and operation of community-based programs for minors.
- (3) The division shall place minors committed to the division for community-based programs in the most appropriate program based upon the division's evaluation of the minor's needs and the division's available resources in accordance with Sections 80-6-703 and 80-6-804.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-5-403 Case management staff.**

- (1) The division shall provide a sufficient number of case management staff members to provide care, treatment, and supervision for juvenile offenders on parole and for minors committed to the division by the juvenile courts for community-based programs.
- (2)
  - (a) Case management staff shall develop treatment programs for each minor in the community, provide appropriate services, and monitor individual progress.
  - (b) Progress reports shall be filed every three months with:
    - (i) the juvenile court for each minor committed to the division for community-based programs; and
    - (ii) the authority for each juvenile offender on parole.
  - (c) The authority, in the case of juvenile offenders on parole, or the juvenile court, in the case of minors committed to the division for placement in community programs, shall be immediately notified, in writing, of any violation of law or of conditions of parole or placement.
- (3) Case management staff shall:

- (a) conduct investigations and make reports requested by a juvenile court to aid the juvenile court in determining appropriate case dispositions; and
- (b) conduct investigations and make reports requested by the authority to aid the authority in making appropriate dispositions in cases of parole, revocation, and termination.

Renumbered and Amended by Chapter 261, 2021 General Session

## **Part 5 Facilities**

### **80-5-501 Detention facilities and services.**

- (1) The division shall provide detention facilities and services in each county, or group of counties, as the population demands, in accordance with this chapter.
- (2)
  - (a) The division is responsible for development, implementation, and administration of home detention services available in every judicial district.
  - (b) The division shall establish criteria for placement in home detention.
- (3) The division shall provide training regarding implementation of the rules made under Subsection 80-5-202(1)(a) to law enforcement agencies, division employees, juvenile court employees, and other affected agencies and individuals upon their request.

Renumbered and Amended by Chapter 261, 2021 General Session

### **80-5-502 New detention facilities.**

- (1) The division may issue requests for proposals to allow for the private construction of facilities suitable to meet the detention requirements of any county or group of counties, subject to approval by the governor.
- (2) The governor shall furnish an analysis of the benefits of the proposals received to the Infrastructure and General Government Appropriations Subcommittee for the subcommittee's review.

Renumbered and Amended by Chapter 261, 2021 General Session

### **80-5-503 Secure care facilities.**

- (1) The division shall maintain and operate secure care facilities for the custody and rehabilitation of juvenile offenders:
  - (a) who pose a danger of serious bodily harm to others;
  - (b) who cannot be controlled in a less secure setting; or
  - (c) who have engaged in a pattern of conduct characterized by persistent and serious criminal offenses that, as demonstrated through the use of other alternatives, cannot be controlled in a less secure setting.
- (2)
  - (a) The director shall appoint an administrator for each secure care facility.
  - (b) An administrator of a secure care facility shall have experience in social work, law, criminology, corrections, or a related field, and in administration.
- (3)

- (a)
  - (i) The division, in cooperation with the State Board of Education, shall provide instruction, or make instruction available, to juvenile offenders in secure care facilities.
  - (ii) The instruction shall be appropriate to the age, needs, and range of abilities of the juvenile offender.
- (b) A secure care facility shall:
  - (i) assess each juvenile offender to determine the juvenile offender's abilities, possible learning disabilities, interests, attitudes, and other attributes related to appropriate educational programs; and
  - (ii) provide prevocational education to juvenile offenders to acquaint juvenile offenders with vocations, and vocational requirements and opportunities.
- (4) The division shall place juvenile offenders who have been committed to the division for secure care in a secure care facility, operated by the division or by a private entity, that is appropriate to ensure that humane care and rehabilitation opportunities are afforded to the juvenile offender.
- (5) The division shall adopt standards, policies, and procedures for the regulation and operation of secure care facilities, consistent with state and federal law.

Renumbered and Amended by Chapter 261, 2021 General Session

## **Part 6**

### **Runaways and Ungovernable Children**

#### **80-5-601 Harboring a runaway -- Reporting requirements -- Division of Child and Family Services to provide assistance -- Affirmative defense -- Providing shelter after notice.**

- (1) As used in this section, "harbor" means to provide shelter in:
  - (a) the home of the person who is providing shelter; or
  - (b) any structure over which the person providing the shelter has any control.
- (2) Except as provided in Subsection (3), a person is guilty of a class B misdemeanor if the person:
  - (a) knowingly and intentionally harbors a child;
  - (b) knows at the time of harboring the child that the child is a runaway;
  - (c) fails to notify one of the following, by telephone or other reasonable means, of the location of the child:
    - (i) the parent or guardian of the child;
    - (ii) the division; or
    - (iii) a youth services center; and
  - (d) fails to notify a person described in Subsection (2)(c) within eight hours after the later of:
    - (i) the time that the person becomes aware that the child is a runaway; or
    - (ii) the time that the person begins harboring the child.
- (3) A person described in Subsection (2) is not guilty of a violation of Subsection (2) and is not required to comply with Subsections (2)(c) and (d), if:
  - (a)
    - (i) a court order is issued authorizing a peace officer to take the child into custody; and
    - (ii) the person notifies a peace officer, or the nearest detention facility, by telephone or other reasonable means, of the location of the child, within eight hours after the later of:
      - (A) the time that the person becomes aware that the child is a runaway; or

- (B) the time that the person begins harboring the child; or
- (b)
  - (i) the child is a runaway who consents to shelter, care, or licensed services under Section 80-5-602; and
  - (ii)
    - (A) the person is unable to locate the child's parent or guardian; or
    - (B) the child refuses to disclose the contact information for the child's parent or guardian.
- (4) A person described in Subsection (2) shall provide a report to the division:
  - (a) if the person has an obligation under Section 80-2-602 to report child abuse or neglect; or
  - (b) if, within 48 hours after the person begins harboring the child:
    - (i) the person continues to harbor the child; and
    - (ii) the person does not make direct contact with:
      - (A) a parent or guardian of the child;
      - (B) the division;
      - (C) a youth services center; or
      - (D) a peace officer or the nearest detention facility if a court order is issued authorizing a peace officer to take the child into custody.
- (5) It is an affirmative defense to the crime described in Subsection (2) that:
  - (a) the person failed to provide notice as described in Subsection (2) or (3) due to circumstances beyond the control of the person providing the shelter; and
  - (b) the person provided the notice described in Subsection (2) or (3) as soon as it was reasonably practicable to provide the notice.
- (6) Upon receipt of a report that a runaway is being harbored by a person:
  - (a) a youth services center shall:
    - (i) notify the runaway's parent or guardian that a report has been made; and
    - (ii) inform the runaway's parent or guardian of assistance available from the youth services center; or
  - (b) the division shall:
    - (i) make a referral to the Division of Child and Family Services to determine whether the runaway is abused, neglected, or dependent; and
    - (ii) if appropriate, make a referral for services for the runaway.
- (7)
  - (a) A parent or guardian of a runaway who is aware that the runaway is being harbored may notify a law enforcement agency and request assistance in retrieving the runaway.
  - (b) The local law enforcement agency may assist the parent or guardian in retrieving the runaway.
- (8) Nothing in this section prohibits a person from continuing to provide shelter to a runaway, after giving the notice described in Subsections (2) through (4), if:
  - (a) a parent or guardian of the runaway consents to the continued provision of shelter; or
  - (b) a peace officer or a parent or guardian of the runaway fails to retrieve the runaway.
- (9) Nothing in this section prohibits a person from providing shelter to a child whose parent or guardian has intentionally:
  - (a) ceased to maintain physical custody of the child; and
  - (b) failed to make reasonable arrangements for the safety, care, and physical custody of the child.
- (10) Nothing in this section prohibits:

- (a) a juvenile receiving center or a youth services center from providing shelter to a runaway in accordance with the requirements of this chapter and the rules relating to a juvenile receiving center or a youth services center; or
- (b) a government agency from taking custody of a child as otherwise provided by law.

Amended by Chapter 334, 2022 General Session

**80-5-602 Homeless youth -- Consent to shelter, care, or services by a homeless youth.**

- (1) As used in this section:
  - (a) "Care" means providing:
    - (i) assistance to obtain food, clothing, hygiene products, or other basic necessities;
    - (ii) access to a bed, showering facility, or transportation; or
    - (iii) assistance with school enrollment or attendance.
  - (b) "Licensed services" means a service provided by a temporary homeless youth shelter, a youth services center, or other facility that is licensed to provide the service to a homeless youth.
  - (c) "Service" means:
    - (i) youth services;
    - (ii) child welfare or juvenile court case management or advocacy;
    - (iii) aftercare services; or
    - (iv) independent living skills training.
- (2) A homeless youth may consent to temporary shelter, care, or licensed services if the homeless youth:
  - (a) is at least 15 years old; and
  - (b) manages the homeless youth's own financial affairs, regardless of the source of income.
- (3) In determining consent under Subsection (2), a person may rely on the homeless youth's verbal or written statement describing the homeless youth's ability to consent to temporary shelter, care, or licensed services.
- (4) A person who provides shelter, care, or licensed services to a homeless youth who consents to the shelter, care, or licensed services under Subsection (2):
  - (a) shall report to the division as required under Subsection 80-5-601(4); and
  - (b) may provide the homeless youth a referral to temporary or permanent housing, employment resources, medical or dental providers, or counseling.

Amended by Chapter 256, 2021 General Session

Renumbered and Amended by Chapter 261, 2021 General Session

**80-5-603 Assessment of an ungovernable or runaway child for services.**

- (1) If a juvenile court finds that a child is ungovernable or a runaway, or that the family is in crisis, the juvenile court may order the division to conduct an assessment to determine whether it would be appropriate for the division to provide prevention and early intervention youth services, as described in Section 80-5-401, to the child.
- (2) If the division determines that provision of prevention and early intervention youth services is appropriate under Subsection (1), the division shall provide the services to the ungovernable or runaway child.

Renumbered and Amended by Chapter 261, 2021 General Session

## **Part 7 Youth Parole Authority**

### **80-5-701 Youth Parole Authority -- Creation -- Members.**

- (1) There is created the Youth Parole Authority within the division.
- (2)
  - (a) The authority is composed of 10 part-time members and five pro tempore members who are residents of this state.
  - (b) No more than three pro tempore members may serve on the authority at any one time.

Renumbered and Amended by Chapter 261, 2021 General Session

### **80-5-702 Member qualifications -- Expenses.**

- (1) As used in this section, "member" means both a part-time member and a pro tempore member of the authority.
- (2)
  - (a) Except as required by Subsection (2)(b), the governor, with the advice and consent of the Senate, shall appoint members to four-year terms.
  - (b) The governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of members are staggered so that approximately half of the authority is appointed every two years.
- (3) A member shall have training or experience in social work, law, juvenile or criminal justice, or related behavioral sciences.
- (4) When a vacancy occurs in the membership for any reason, the replacement member shall be appointed for the unexpired term.
- (5) During the tenure of the member's appointment, a member may not:
  - (a) be an employee of the department, other than in the member's capacity as a member of the authority;
  - (b) hold any public office;
  - (c) hold any position in the state's juvenile justice system; or
  - (d) be an employee, officer, advisor, policy board member, or subcontractor of any juvenile justice agency or the juvenile justice agency's contractor.
- (6) In extraordinary circumstances or when a regular member is absent or otherwise unavailable, the chair may assign a pro tempore member to act in the absent member's place.
- (7) A member may not receive compensation or benefits for the member's service but may receive per diem and travel expenses in accordance with:
  - (a) Section 63A-3-106;
  - (b) Section 63A-3-107; and
  - (c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

Enacted by Chapter 261, 2021 General Session

### **80-5-703 Authority responsibilities -- Administrative officer of the authority.**

- (1) The authority is responsible for:
  - (a) the release of a juvenile offender from secure care; and
  - (b) the rescission, revocation, and termination of parole for a juvenile offender.

- (2) In accordance with Chapter 6, Part 8, Commitment and Parole, the authority shall:
  - (a) determine when and under what conditions a juvenile offender in secure care is eligible for parole;
  - (b) establish policies and procedures regarding:
    - (i) the authority's governance, meetings, and hearings;
    - (ii) the conduct of proceedings before the authority;
    - (iii) the parole of a juvenile offender; and
    - (iv) for which parole for a juvenile offender may be granted, rescinded, revoked, modified, and terminated; and
  - (c) determine appropriate parole dates for juvenile offenders.
- (3) The division's case management staff shall:
  - (a) implement plans for parole; and
  - (b) supervise a juvenile offender on parole.
- (4) The division shall:
  - (a) permit the authority to have reasonable access to a juvenile offender in secure care; and
  - (b) furnish all pertinent data requested by the authority in matters of parole, revocation, and termination.
- (5) The director shall appoint an administrative officer of the authority.
- (6) The administrative officer is responsible for the day-to-day operations of the authority.
- (7) The authority and the administrative officer have power to:
  - (a) issue subpoenas;
  - (b) compel attendance of witnesses;
  - (c) compel production of books, papers, and other documents; and
  - (d) administer oaths and take testimony under oath for the purposes of conducting the hearings.
- (8) The administrative officer shall maintain summary records of all hearings and provide written notice to the juvenile offender of a decision and the reason for the decision.

Enacted by Chapter 261, 2021 General Session

## **Chapter 6 Juvenile Justice**

### **Part 1 General Provisions**

#### **80-6-102 Definitions.**

As used in this chapter:

- (1) "Aftercare services" means the same as the term "aftercare" is defined in 45 C.F.R. 1351.1.
- (2) "Authority" means the Youth Parole Authority created in Section 80-5-701.
- (3) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.
- (4) "Compensatory service" means service or unpaid work performed by a minor in lieu of the payment of a fine, fee, or restitution.
- (5) "Control" means the same as that term is defined in Section 80-5-102.



- (6) "Detention hearing" means a proceeding under Section 80-6-207 to determine whether a minor should remain in detention.
- (7) "Detention guidelines" means standards, established by the division in accordance with Subsection 80-5-202(1)(a), for the admission of a minor to detention.
- (8) "Discharge" means a written order of the authority that removes a juvenile offender from the authority's jurisdiction.
- (9) "Division" means the Division of Juvenile Justice Services created in Section 80-5-103.
- (10) "Family-based setting" means a home that is licensed to allow a minor to reside at the home, including a foster home, proctor care, or residential care by a professional parent.
- (11) "Formal referral" means a written report from a peace officer, or other person, informing the juvenile court that:
  - (a) an offense committed by a minor is, or appears to be, within the juvenile court's jurisdiction; and
  - (b) the minor's case must be reviewed by a juvenile probation officer or a prosecuting attorney.
- (12) "Material loss" means an uninsured:
  - (a) property loss;
  - (b) out-of-pocket monetary loss for property that is stolen, damaged, or destroyed;
  - (c) lost wages because of an injury, time spent as a witness, or time spent assisting the police or prosecution; or
  - (d) medical expense.
- (13) "Referral" means a formal referral, a referral to the juvenile court under Section 53G-8-211, or a citation issued to a minor for which the juvenile court receives notice under Section 80-6-302.
- (14) "Rescission" means a written order of the authority that rescinds a date for parole.
- (15) "Restitution" means money or services that the juvenile court, or a juvenile probation officer if the minor agrees to a nonjudicial adjustment, orders a minor to pay or render to a victim for the minor's wrongful act or conduct.
- (16) "Revocation" means a written order of the authority that, after a hearing and determination under Section 80-6-806:
  - (a) terminates supervision of a juvenile offender's parole; and
  - (b) directs a juvenile offender to return to secure care.
- (17) "Temporary custody" means the control and responsibility of a minor, before an adjudication under Section 80-6-701, until the minor is released to a parent, guardian, responsible adult, or to an appropriate agency.
- (18) "Termination" means a written order of the authority that terminates a juvenile offender from parole.
- (19)
  - (a) "Victim" means a person that the juvenile court determines suffered a material loss as a result of a minor's wrongful act or conduct.
  - (b) "Victim" includes:
    - (i) any person directly harmed by the minor's wrongful act or conduct in the course of the scheme, conspiracy, or pattern if the minor's wrongful act or conduct is an offense that involves an element of a scheme, a conspiracy, or a pattern of criminal activity; and
    - (ii) the Utah Office for Victims of Crime.
- (20) "Violent felony" means the same as that term is defined in Section 76-3-203.5.
- (21) "Work program" means the same as that term is defined in Section 80-5-102.
- (22) "Youth services" means the same as that term is defined in Section 80-5-102.

Amended by Chapter 155, 2022 General Session

**80-6-103 Notification to a school -- Civil and criminal liability.**

- (1) As used in this section:
  - (a) "School" means a school in a local education agency.
  - (b) "Local education agency" means a school district, a charter school, or the Utah Schools for the Deaf and the Blind.
  - (c) "School official" means:
    - (i) the school superintendent of the district in which the minor resides or attends school; or
    - (ii) if there is no school superintendent for the school, the principal of the school where the minor attends.
  - (d) "Transferee school official" means:
    - (i) the school superintendent of the district in which the minor resides or attends school if the minor is admitted to home detention; or
    - (ii) if there is no school superintendent for the school, the principal of the school where the minor attends if the minor is admitted to home detention.
- (2) A notification under this section is provided for a minor's supervision and student safety.
- (3)
  - (a) If a minor is taken into temporary custody under Section 80-6-201 for a violent felony or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the peace officer, or other person who has taken the minor into temporary custody, shall notify a school official within five days after the day on which the minor is taken into temporary custody.
  - (b) A notification under this Subsection (3) shall only disclose:
    - (i) the name of the minor;
    - (ii) the offense for which the minor was taken into temporary custody or admitted to detention; and
    - (iii) if available, the name of the victim if the victim resides in the same school district as the minor or attends the same school as the minor.
- (4) After a detention hearing for a minor who is alleged to have committed a violent felony, or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the juvenile court shall order a juvenile probation officer to notify a school official, or a transferee school official, and the appropriate local law enforcement agency of the juvenile court's decision, including any disposition, order, or no-contact order.
- (5) If a designated staff member of a detention facility admits a minor to home detention under Section 80-6-205 and notifies the juvenile court of that admission, the juvenile court shall order a juvenile probation officer to notify a school official, or a transferee school official, and the appropriate local law enforcement agency that the minor has been admitted to home detention.
- (6)
  - (a) If the juvenile court adjudicates a minor for an offense of violence or an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the juvenile court shall order a juvenile probation officer to notify a school official, or a transferee school official, of the adjudication.
  - (b) A notification under this Subsection (6) shall be given to a school official, or a transferee school official, within three days after the day on which the minor is adjudicated.
  - (c) A notification under this section shall include:
    - (i) the name of the minor;
    - (ii) the offense for which the minor was adjudicated; and
    - (iii) if available, the name of the victim if the victim:
      - (A) resides in the same school district as the minor; or
      - (B) attends the same school as the minor.

- (7) If the juvenile court orders probation under Section 80-6-702, the juvenile court shall order a juvenile probation officer to notify the appropriate local law enforcement agency and the school official of the juvenile court's order for probation.
- (8)
- (a) An employee of the local law enforcement agency, or the school the minor attends, who discloses a notification under this section is not:
    - (i) civilly liable except when the disclosure constitutes fraud or willful misconduct as provided in Section 63G-7-202; and
    - (ii) civilly or criminally liable except when the disclosure constitutes a knowing violation of Section 63G-2-801.
  - (b) An employee of a governmental agency is immune from any criminal liability for failing to provide the information required by this section, unless the employee fails to act due to malice, gross negligence, or deliberate indifference to the consequences.
- (9)
- (a) A notification under this section shall be classified as a protected record under Section 63G-2-305.
  - (b) All other records of disclosures under this section are governed by Title 63G, Chapter 2, Government Records Access and Management Act, and the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g.

Amended by Chapter 161, 2023 General Session

**80-6-104 Data collection on offenses committed by minors -- Reporting requirement.**

- (1) As used in this section:
- (a) "Firearm" means the same as that term is defined in Section 76-10-501.
  - (b) "Firearm-related offense" means a criminal offense involving a firearm.
  - (c) "School is in session" means the same as that term is defined in Section 53E-3-516.
  - (d) "School-sponsored activity" means the same as that term is defined in Section 53E-3-516.
- (2) Before July 1 of each year, the Administrative Office of the Courts shall submit the following data to the State Commission on Criminal and Juvenile Justice, broken down by judicial district, for the preceding calendar year:
- (a) the number of referrals to the juvenile court;
  - (b) the number of minors diverted to a nonjudicial adjustment;
  - (c) the number of minors that satisfy the conditions of a nonjudicial adjustment;
  - (d) the number of minors for whom a petition for an offense is filed in the juvenile court;
  - (e) the number of minors for whom an information is filed in the juvenile court;
  - (f) the number of minors bound over to the district court by the juvenile court;
  - (g) the number of petitions for offenses committed by minors that were dismissed by the juvenile court;
  - (h) the number of adjudications in the juvenile court for offenses committed by minors;
  - (i) the number of guilty pleas entered into by minors in the juvenile court;
  - (j) the number of dispositions resulting in secure care, community-based placement, formal probation, and intake probation; and
  - (k) for each minor charged in the juvenile court with a firearm-related offense:
    - (i) the minor's age at the time the offense was committed or allegedly committed;
    - (ii) the minor's zip code at the time that the offense was referred to the juvenile court;
    - (iii) whether the minor is a restricted person under Subsection 76-10-503(1)(a)(iv) or (1)(b)(iii);
    - (iv) the type of offense for which the minor is charged;

- (v) the outcome of the minor's case in juvenile court, including whether the minor was bound over to the district court or adjudicated by the juvenile court; and
  - (vi) if a disposition was entered by the juvenile court, whether the disposition resulted in secure care, community-based placement, formal probation, or intake probation.
- (3) The State Commission on Criminal and Juvenile Justice shall track the disposition of a case resulting from a firearm-related offense committed, or allegedly committed, by a minor when the minor is found in possession of a firearm while school is in session or during a school-sponsored activity.
- (4) In collaboration with the Administrative Office of the Courts, the division, and other agencies, the State Commission on Criminal and Juvenile Justice shall collect data for the preceding calendar year on:
- (a) the length of time that minors spend in the juvenile justice system, including the total amount of time minors spend under juvenile court jurisdiction, on community supervision, and in each out-of-home placement;
  - (b) recidivism of minors who are diverted to a nonjudicial adjustment and minors for whom dispositions are ordered by the juvenile court, including tracking minors into the adult corrections system;
  - (c) changes in aggregate risk levels from the time minors receive services, are under supervision, and are in out-of-home placement; and
  - (d) dosages of programming.
- (5) On and before October 1 of each year, the State Commission on Criminal and Juvenile Justice shall prepare and submit a written report to the Judiciary Interim Committee and the Law Enforcement and Criminal Justice Interim Committee that includes:
- (a) data collected by the State Commission on Criminal and Juvenile Justice under this section;
  - (b) data collected by the State Board of Education under Section 53E-3-516; and
  - (c) recommendations for legislative action with respect to the data described in this Subsection (5).
- (6) Nothing in this section shall be construed to require the disclosure of information or data that is classified as controlled, private, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

Enacted by Chapter 161, 2023 General Session

## **Part 2**

### **Custody and Detention**

#### **80-6-201 Minor taken into temporary custody by peace officer, private citizen, or probation officer -- Grounds -- Protective custody.**

- (1) A minor may be taken into temporary custody by a peace officer without a court order, or a warrant under Section 80-6-202, if the peace officer has probable cause to believe that:
- (a) the minor has committed an offense under municipal, state, or federal law;
  - (b) the minor seriously endangers the minor's own welfare or the welfare of others and taking the minor into temporary custody appears to be necessary for the protection of the minor or others;
  - (c) the minor has run away or escaped from the minor's parents, guardian, or custodian; or
  - (d) the minor is:

- (i) subject to the state's compulsory education law; and
- (ii) subject to Section 53G-6-208, absent from school without legitimate or valid excuse.
- (2) A private citizen may take a minor into temporary custody if under the circumstances the private citizen could make a citizen's arrest under Section 77-7-3 if the minor was an adult.
- (3) A juvenile probation officer may take a minor into temporary custody:
  - (a) under the same circumstances as a peace officer in Subsection (1); or
  - (b) if the juvenile probation officer has a reasonable suspicion that the minor has violated the conditions of the minor's probation.
- (4)
  - (a) Nothing in this part shall be construed to prevent a peace officer or the Division of Child and Family Services from taking a minor into protective custody under Section 80-2a-202 or 80-3-204.
  - (b) If a peace officer or the Division of Child and Family Services takes a minor into protective custody, the provisions of Chapter 2, Child Welfare Services, Chapter 2a, Removal and Protective Custody of a Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings shall govern.

Amended by Chapter 335, 2022 General Session

**80-6-202 Warrants for minors.**

- (1)
  - (a) Except as otherwise provided in this section, after a petition is filed under Section 80-6-305, or a criminal information under Section 80-6-503, a juvenile court may issue a warrant for a minor to be taken into temporary custody if:
    - (i) there is probable cause to believe that:
      - (A) the minor has committed an offense that would be a felony if committed by an adult;
      - (B) the minor has failed to appear after the minor or the minor's parent, guardian, or custodian has been legally served with a summons in accordance with Section 78A-6-351 and the Utah Rules of Juvenile Procedure;
      - (C) there is a substantial likelihood the minor will not respond to a summons;
      - (D) a summons cannot be served and the minor's present whereabouts are unknown;
      - (E) serving a summons for the minor will be ineffectual;
      - (F) the minor seriously endangers others or the public and temporary custody appears to be necessary for the protection of others or the public; or
      - (G) the minor is a runaway or has escaped from the minor's parent, guardian, or custodian; or
    - (ii) the minor is under the continuing jurisdiction of the juvenile court and there is probable cause to believe that the minor:
      - (A) has left the custody of the person or agency vested by a court with legal custody, or guardianship of the minor, without permission; or
      - (B) has violated a court order.
  - (b) A warrant issued under this Subsection (1) shall be:
    - (i) filed in accordance with Utah Rules of Juvenile Procedure, Rule 7; and
    - (ii) executed in accordance with Title 77, Chapter 7, Arrest, by Whom, and How Made.
- (2) A juvenile court may not issue a warrant for a minor to be taken into temporary custody for:
  - (a) a status offense; or
  - (b) an infraction.
- (3)

- (a) For a minor not eligible for a warrant under Subsection (2), a juvenile court may issue a warrant that directs a minor to be returned home, to the juvenile court, or to a shelter or other nonsecure facility.
- (b) A warrant under Subsection (3)(a) may not direct a minor to secure care or secure detention.
- (4) Subsection (2) does not apply to a minor who is under Chapter 6, Part 11, Interstate Compact for Juveniles.

Amended by Chapter 335, 2022 General Session

**80-6-203 Temporary custody of a minor -- Notification of a child's parent, guardian, or custodian -- Taking a minor to a detention facility.**

- (1)
  - (a) Except as provided in Subsection (3), if a peace officer, or other person, takes a child into temporary custody under Section 80-6-201, the peace officer, or other person, may not take the child into temporary custody for any longer than is reasonably necessary to:
    - (i) obtain the child's name, age, residence, and other necessary information;
    - (ii) contact the child's parent, guardian, or custodian; and
    - (iii) release the child to the child's parent, guardian, or custodian.
  - (b) Before a child is released under Subsection (1)(a), the parent, or other person to whom the child is released, shall sign a written promise on forms supplied by the juvenile court to bring the child to the juvenile court at a time set or to be set by the court.
- (2) Except as provided in Subsection (3), if a peace officer, or other person, takes a minor who is 18 years old or older into temporary custody under Section 80-6-201, the peace officer, or other person, may not take the minor into temporary custody for any longer than is reasonably necessary to obtain the minor's name, age, residence, and other necessary information.
- (3)
  - (a) A minor may remain in the temporary custody of a peace officer or other person if:
    - (i) the protection of the community requires the minor's detention; or
    - (ii) a warrant has been issued for the minor's arrest under Section 80-6-202 or 80-6-806.
  - (b) If a minor remains in temporary custody, the minor shall be taken to a detention facility without unnecessary delay.
  - (c) If the peace officer, or other person, takes a minor to a detention facility, the peace officer, or other person, shall promptly file a written report, on a form provided by the division, with the detention facility stating:
    - (i) the details of the offense that the minor is alleged to have committed;
    - (ii) the facts that bring the offense within the jurisdiction of the juvenile court;
    - (iii) the reason that the minor was not released by the peace officer or other person; and
    - (iv) if the minor is under consideration for detention, the eligibility of the minor for detention under the detention guidelines.

Enacted by Chapter 261, 2021 General Session

**80-6-204 Detention or confinement of a minor -- Restrictions.**

- (1) Except as provided in Subsection (2) or this chapter, if a child is apprehended by a peace officer, or brought before a court for examination under state law, the child may not be confined:
  - (a) in a jail, lockup, or cell used for an adult who is charged with a crime; or
  - (b) in secure care .
- (2)

- (a) The division shall detain a child in accordance with Sections 80-6-502, 80-6-504, and 80-6-505 if:
  - (i) the child is charged with an offense under Section 80-6-502 or 80-6-503;
  - (ii) the district court has obtained jurisdiction over the offense because the child is bound over to the district court under Section 80-6-504; and
  - (iii) the juvenile or district court orders the detention of the child.
- (b)
  - (i) If a child is detained before a detention hearing, or a preliminary hearing under Section 80-6-504 if a criminal information is filed for the child under Section 80-6-503, the child may only be held in certified juvenile detention accommodations in accordance with rules made by the commission.
  - (ii) The commission's rules shall include rules for acceptable sight and sound separation from adult inmates.
  - (iii) The commission shall certify that a correctional facility is in compliance with the commission's rules.
  - (iv) This Subsection (2)(b) does not apply to a child held in a correctional facility in accordance with Subsection (2)(a).
- (3)
  - (a) In an area of low density population, the commission may, by rule, approve a juvenile detention accommodation within a correctional facility that has acceptable sight and sound separation.
  - (b) An accommodation described in Subsection (3)(a) shall be used only:
    - (i) for short-term holding of a child who is alleged to have committed an act that would be a criminal offense if committed by an adult; and
    - (ii) for a maximum confinement period of six hours.
  - (c) A child may only be held in an accommodation described in Subsection (3)(a) for:
    - (i) identification;
    - (ii) notification of a juvenile court official;
    - (iii) processing; and
    - (iv) allowance of adequate time for evaluation of needs and circumstances regarding the release or transfer of the child to a shelter or detention facility.
  - (d) This Subsection (3) does not apply to a child held in a correctional facility in accordance with Subsection (2)(a).
- (4)
  - (a) If a child is alleged to have committed an act that would be a criminal offense if committed by an adult, a law enforcement officer or agency may detain the child in a holding room in a local law enforcement agency facility for no longer than four hours:
    - (i) for identification or interrogation; or
    - (ii) while awaiting release to a parent or other responsible adult.
  - (b) A holding room described in Subsection (4)(a) shall be certified by the commission in accordance with the commission's rules.
  - (c) The commission's rules shall include provisions for constant supervision and for sight and sound separation from adult inmates.
- (5) Willful failure to comply with this section is a class B misdemeanor.
- (6)
  - (a) The division is responsible for the custody and detention of:
    - (i) a child who requires detention before trial or examination, or is placed in secure detention after an adjudication under Section 80-6-704; and

- (ii) a juvenile offender under Subsection 80-6-806(7).
- (b) Subsection (6)(a) does not apply to a child held in a correctional facility in accordance with Subsection (2)(a).
- (c)
  - (i) The commission shall provide standards for custody or detention under Subsections (2)(b), (3), and (4).
  - (ii) The division shall determine and set standards for conditions of care and confinement of children in detention facilities.
- (d)
  - (i) The division, or a public or private agency willing to undertake temporary custody or detention upon agreed terms in a contract with the division, shall provide all other custody or detention in suitable premises distinct and separate from the general jails, lockups, or cells used in law enforcement and corrections systems.
  - (ii) This Subsection (6)(d) does not apply to a child held in a correctional facility in accordance with Subsection (2)(a).
- (7) Except as otherwise provided by this chapter, if an individual who is, or appears to be, under 18 years old is received at a correctional facility, the sheriff, warden, or other official, in charge of the correctional facility shall:
  - (a) immediately notify the juvenile court of the individual; and
  - (b) make arrangements for the transfer of the individual to a detention facility, unless otherwise ordered by the juvenile court.

Amended by Chapter 436, 2023 General Session

**80-6-205 Admission to detention -- Alternative to detention -- Rights of a minor in detention.**

- (1) If a minor is taken to a detention facility under Section 80-6-203, a designated staff member of the detention facility shall immediately review the form and determine, based on the results of the detention risk assessment tool and Subsection (2), whether to:
  - (a) admit the minor to secure detention;
  - (b) admit the minor to home detention;
  - (c) place the minor in another alternative to detention; or
  - (d) if the minor is a child, return the minor home upon a written promise by the minor's parent, guardian, or custodian to bring the minor to the juvenile court at a time set or without restriction.
- (2) A minor may not be admitted to detention unless:
  - (a) the minor is detainable based on the detention guidelines; or
  - (b) the minor has been brought to detention in accordance with:
    - (i) a court order;
    - (ii) a warrant in accordance with Section 80-6-202; or
    - (iii) a division warrant in accordance with Section 80-6-806.
- (3) If the designated staff member determines to admit a minor to home detention, the staff member shall notify the juvenile court of that determination.
- (4) Even if a minor is eligible for secure detention, a peace officer or other person who takes a minor to a detention facility, or the designated staff member of the detention facility, may release a minor to a less restrictive alternative than secure detention.
- (5)
  - (a) If a minor taken to a detention facility does not qualify for admission under detention guidelines or this section, a designated staff member of the detention facility shall arrange an



appropriate alternative, including admitting a minor to a juvenile receiving center or a shelter facility.

- (b)
  - (i) Except as otherwise provided by this section, a minor may not be placed or kept in secure detention while court proceedings are pending.
  - (ii) A child may not be placed or kept in a shelter facility while court proceedings are pending, unless the child is in protective custody in accordance with Chapter 3, Abuse, Neglect, and Dependency Proceedings.
- (6) If a minor is taken into temporary custody and admitted to a secure detention, or another alternative to detention, a designated staff member of the detention facility shall:
  - (a) immediately notify the minor's parent, guardian, or custodian; and
  - (b) promptly notify the juvenile court of the placement.
- (7) If a minor is admitted to secure detention, or another alternative to detention, outside the county of the minor's residence and a juvenile court determines, in a detention hearing, that secure detention, or an alternative to detention, of the minor shall continue, the juvenile court shall direct the sheriff of the county of the minor's residence to transport the minor to secure detention or another alternative to detention in that county.
- (8)
  - (a) Subject to Subsection (8)(b), a minor admitted to detention has a right to:
    - (i) phone the minor's parent, guardian, or attorney immediately after the minor is admitted to detention; and
    - (ii) confer in private, at any time, with an attorney, cleric, parent, guardian, or custodian.
  - (b) The division may:
    - (i) establish a schedule for which a minor in detention may visit or phone a person described in Subsection (8)(a);
    - (ii) allow a minor in detention to visit or call persons described in Subsection (8)(a) in special circumstances;
    - (iii) limit the number and length of calls and visits for a minor in detention to persons described in Subsection (8)(a) on account of scheduling, facility, or personnel constraints; or
    - (iv) limit the minor's rights under Subsection (8)(a) if a compelling reason exists to limit the minor's rights.
  - (c) A minor admitted to detention shall be immediately advised of the minor's rights described in this Subsection (8).

Amended by Chapter 155, 2022 General Session

**80-6-206 Interrogation of a child -- Presence of a parent, legal guardian, or other adult -- Interrogation of a minor in a facility -- Prohibition on false information or unauthorized statement.**

- (1) As used in this section:
  - (a) "Custodial interrogation" means any interrogation of a minor while the individual is in custody.
  - (b)
    - (i) "Friendly adult" means an adult:
      - (A) who has an established relationship with the child to the extent that the adult can provide meaningful advice and concerned help to the child should the need arise; and
      - (B) who is not hostile or adverse to the child's interest.
    - (ii) "Friendly adult" does not include a parent or guardian of the child.
  - (c)

- (i) "Interrogation" means any express questioning or any words or actions that are reasonably likely to elicit an incriminating response.
  - (ii) "Interrogation" does not include words or actions normally attendant to arrest and custody.
- (2) If a child is subject to a custodial interrogation for an offense, the child has the right:
- (a) to have the child's parent or guardian present during an interrogation of the child; or
  - (b) to have a friendly adult present during an interrogation of the child if:
    - (i) there is reason to believe that the child's parent or guardian has abused or threatened the child; or
    - (ii) the child's parent's or guardian's interest is adverse to the child's interest, including that the parent or guardian is a victim or a codefendant of the offense alleged to have been committed by the child.
- (3) If a child is subject to a custodial interrogation for an offense, the child may not be interrogated unless:
- (a) the child has been advised, in accordance with Subsection (4), of the child's constitutional rights and the child's right to have a parent or guardian, or a friendly adult if applicable under Subsection (2)(b), present during the interrogation;
  - (b) the child has waived the child's constitutional rights;
  - (c) except as provided in Subsection (6), the child's parent or guardian, or the friendly adult if applicable under Subsection (2)(b), was present during the child's waiver under Subsection (3)(b) and has given permission for the child to be interrogated; and
  - (d) if the child is in the custody of the Division of Child and Family Services and a guardian ad litem has been appointed for the child, the child's guardian ad litem has given consent to an interview of the child as described in Section 80-2-705.
- (4) Before the custodial interrogation of a child by a peace officer or a juvenile probation officer, the peace officer or juvenile probation officer shall disclose the following to the child:
- (a) You have the right to remain silent.
  - (b) If you do not want to talk to me, you do not have to talk to me.
  - (c) If you decide to talk to me, you have the right to stop answering my questions or talking to me at any time.
  - (d) Anything you say can and will be used against you in court.
  - (e) If you talk to me, I can tell a judge and everyone else in court everything that you tell me.
  - (f) You have the right to have a parent or guardian, or a friendly adult if applicable, with you while I ask you questions.
  - (g) You have the right to a lawyer.
  - (h) You can talk to a lawyer before I ask you any questions and you can have that lawyer with you while I ask you questions.
  - (i) If you want to talk to a lawyer, a lawyer will be provided to you for free.
  - (j) These are your rights.
  - (k) Do you understand the rights that I have just told you?
  - (l) Do you want to talk to me?
- (5)
- (a) A peace officer's, or a juvenile probation officer's, compliance with Subsection (4) is determined by examining the entirety of the officer's disclosures to the child.
  - (b) A peace officer's, or a juvenile probation officer's, failure to strictly comply with, or state the exact language of, Subsection (4) is not grounds by itself for finding the officer has not complied with Subsection (4).

- (6) A child's parent or guardian, or a friendly adult if applicable under Subsection (2)(b), is not required to be present during the child's waiver under Subsection (3) or to give permission to the interrogation of the child if:
  - (a) the child is emancipated as described in Section 80-7-105;
  - (b) the child has misrepresented the child's age as being 18 years old or older and a peace officer or a juvenile probation officer has relied on that misrepresentation in good faith; or
  - (c) a peace officer, a juvenile probation officer, or a law enforcement agency:
    - (i) has made reasonable efforts to contact the child's parent or legal guardian or a friendly adult if applicable under Subsection (2)(b); and
    - (ii) has been unable to make contact within one hour after the time at which the child is taken into temporary custody.
- (7)
  - (a) If an individual is admitted to a detention facility under Section 80-6-205, committed to a secure care facility under Section 80-6-705, or housed in a secure care facility under Section 80-6-507, and the individual is subject to a custodial interrogation for an offense, the individual may not be interrogated unless:
    - (i) the individual has had a meaningful opportunity to consult with the individual's appointed or retained attorney;
    - (ii) the individual waives the individual's constitutional rights after consultation with the individual's appointed or retained attorney; and
    - (iii) the individual's appointed or retained attorney is present for the interrogation.
  - (b) Subsection (7)(a) does not apply to a juvenile probation officer or a staff member of a detention facility, unless the juvenile probation officer or the staff member is interrogating the individual on behalf of a peace officer or a law enforcement agency.
- (8) If a child is subject to a custodial interrogation for an offense, a peace officer, or an individual interrogating a child on behalf of a peace officer or a law enforcement agency, may not knowingly:
  - (a) provide false information about evidence that is reasonably likely to elicit an incriminating response from the child; or
  - (b) make an unauthorized statement about leniency for the offense.
- (9) A minor may only waive the minor's right to be represented by counsel at all stages of court proceedings as described in Section 78B-22-204.

Amended by Chapter 436, 2023 General Session

**80-6-207 Detention hearings -- Period of detention -- Bail.**

- (1)
  - (a) After admission of a child to a detention facility under Section 80-6-205 and immediate investigation by a juvenile probation officer, the juvenile court or the juvenile probation officer shall order the release of the child to the child's parent, guardian, or custodian if the juvenile court or the juvenile probation officer finds that the child can be safely returned to the parent's, the guardian's, or the custodian's care, upon written promise to bring the child to the juvenile court at a time set or without restriction.
  - (b) If a child's parent, guardian, or custodian fails to retrieve the child from a detention facility within 24 hours after notification of release, the parent, guardian, or custodian is responsible for the cost of care for the time the child remains in the detention facility in accordance with Section 78A-6-356.
  - (c) The detention facility shall determine the cost of care.

- (d) Any money collected under this Subsection (1) shall be retained by the division to recover the cost of care for the time the child remains in the facility.
- (2)
- (a) When a child is admitted to a detention facility, the child's parent, guardian, or custodian shall be informed by the individual in charge of the detention facility that the parent's, the guardian's, or the custodian's child has the right to a prompt hearing in a juvenile court to determine whether the child is to be further detained or released.
  - (b) If a minor is admitted to a detention facility, the minor shall be informed by the person in charge of the facility that the minor has the right to a prompt hearing in a juvenile court to determine whether the minor is to be further detained or released.
- (3)
- (a) The juvenile court may, at any time, order the release of the minor, from detention, regardless of whether a detention hearing is held or not.
  - (b) If a child is released, and the child remains in the detention facility, because the child's parents, guardian, or custodian fails to retrieve the child, the parent, guardian, or custodian shall be responsible for the cost of care as provided in Subsections (1)(b), (c), and (d) in accordance with Section 78A-6-356.
- (4)
- (a) As used in this Subsection (4), "arrest" means being apprehended, detained, taken into temporary custody under Section 80-6-201 or 80-6-202, held for investigation, or restrained by a peace officer or other person due to an accusation or suspicion that the minor committed an offense.
  - (b) A minor may not be held in a detention facility longer than 24 hours, unless a juvenile court determines that there is probable cause for the minor's arrest.
- (5)
- (a) A detention hearing under this section shall be held by a juvenile court judge or commissioner.
  - (b) A juvenile court shall hold a detention hearing within 48 hours of the minor's admission to a detention facility, excluding weekends and holidays, to determine whether the minor should:
    - (i) remain in detention in accordance with Subsection (8);
    - (ii) be released to a parent or guardian; or
    - (iii) be placed in any other party's custody as authorized by statute.
- (6) The probable cause determination under Subsection (4) and the detention hearing under Subsection (5) may occur at the same time if the probable cause determination and the detention hearing occur within the time frame under Subsection (4).
- (7)
- (a) A detention hearing may not be waived.
  - (b) Staff at the detention facility shall provide the juvenile court with all information received from the individual who brought the minor to the detention facility.
- (8)
- (a) The juvenile court may only order a minor to be held in the detention facility or be placed in another appropriate facility, subject to further order of the court, if the court finds at a detention hearing that:
    - (i) releasing the minor to the minor's parent, guardian, or custodian presents an unreasonable risk to public safety;
    - (ii) less restrictive nonresidential alternatives to detention have been considered and, where appropriate, attempted; and
    - (iii) the minor is eligible for detention under the detention guidelines and Section 80-6-205.

- (b) The juvenile court may not vest custody of a minor admitted to detention in the Division of Child and Family Services, except as provided in Chapter 3, Abuse, Neglect, and Dependency Proceedings.
- (9)
  - (a) After a detention hearing has been held, only the juvenile court may release a minor from detention.
  - (b) If a minor remains in a detention facility, periodic reviews shall be held in accordance with the Utah Rules of Juvenile Procedure to ensure that continued detention of the minor is necessary.
- (10) This section does not apply to a minor who is brought to a correctional facility in accordance with Section 80-6-502, 80-6-504, or 80-6-505.
- (11) Title 77, Chapter 20, Bail, does not apply to a minor, except for:
  - (a) a minor charged in accordance with Section 80-6-502;
  - (b) a minor bound over to the district court in accordance with Section 80-6-504; or
  - (c) a minor who need not be detained and lives outside this state.

Amended by Chapter 155, 2022 General Session

### **Part 3 Referral and Prosecution**

#### **80-6-301 Referral to juvenile court.**

- (1) Except as provided in Subsections (2) and (3), a peace officer, or a public official of the state, a county, a city, or a town charged with the enforcement of the laws of the state or local jurisdiction, shall file a formal referral with the juvenile court within 10 days after the day on which a minor is taken into temporary custody under Section 80-6-201.
- (2) If a minor is taken to a detention facility, a peace officer or a public official of the state, a county, a city, or a town charged with the enforcement of laws of the state or local jurisdiction shall file the formal referral with the juvenile court within 24 hours after the time in which the minor is taken into temporary custody under Section 80-6-201.
- (3) A peace officer, public official, school district, or school may only refer a minor to the juvenile court under Section 53G-8-211 for an offense that is subject to referral under Section 53G-8-211.

Enacted by Chapter 261, 2021 General Session

#### **80-6-302 Citation -- Procedure -- Time limits -- Failure to appear.**

- (1) A petition is not required to commence a proceeding against a minor for an adjudication of an alleged offense if a citation is issued for an offense for which the juvenile court has jurisdiction over and the offense listed in the citation is for:
  - (a) a violation of a wildlife law;
  - (b) a violation of a boating law;
  - (c) a class B or C misdemeanor or an infraction other than a misdemeanor or infraction:
    - (i) for a traffic violation; or
    - (ii) designated as a citable offense by general order of the Board of Juvenile Court Judges;

- (d) a class B misdemeanor or infraction for a traffic violation where the individual is 15 years old or younger at the time the offense was alleged to have occurred;
  - (e) an infraction or misdemeanor designated as a citable offense by a general order of the Board of Juvenile Court Judges; or
  - (f) a violation of Subsection 76-10-105(2).
- (2) Except as provided in Subsection (6) and Section 80-6-301, a citation for an offense listed in Subsection (1) shall be submitted to the juvenile court within five days of issuance to a minor.
- (3) A copy of the citation shall contain:
- (a) the name and address of the juvenile court before which the minor may be required to appear;
  - (b) the name of the minor cited;
  - (c) the statute or local ordinance that the minor is alleged to have violated;
  - (d) a brief description of the offense charged;
  - (e) the date, time, and location at which the offense is alleged to have occurred;
  - (f) the date the citation was issued;
  - (g) the name and badge or identification number of the peace officer or public official who issued the citation;
  - (h) the name of the arresting person if an arrest was made by a private party and the citation was issued in lieu of taking the minor into temporary custody as provided in Section 80-6-201;
  - (i) a statement that the minor and the minor's parent or guardian are to appear when notified by the juvenile court; and
  - (j) the signature of the minor and the minor's parent or guardian, if present, agreeing to appear at the juvenile court when notified by the court.
- (4) A copy of the citation shall contain space for the following information to be entered if known:
- (a) the minor's address;
  - (b) the minor's date of birth;
  - (c) the name and address of the child's custodial parent or guardian, if different from the child; and
  - (d) if there is a victim, the victim's name, address, and an estimate of loss, except that this information shall be removed from the documents the minor receives.
- (5) A citation received by the juvenile court beyond the time designated in Subsection (2) shall include a written explanation for the delay.
- (6) An offense alleged to have been committed by an enrolled child on school property, or related to school attendance, may only be referred to the prosecuting attorney or the juvenile court in accordance with Section 53G-8-211.
- (7) If a juvenile court receives a citation described in Subsection (1), a juvenile probation officer shall make a preliminary inquiry as to whether the minor is eligible for a nonjudicial adjustment in accordance with Subsection 80-6-303.5(4).
- (8)
- (a) Except as provided in Subsection (8)(b), if a citation is issued to a minor, a prosecuting attorney may commence a proceeding against a minor, without filing a petition, for an adjudication of the offense in the citation only if:
    - (i) the minor is not eligible for, or does not complete, a nonjudicial adjustment; and
    - (ii) the prosecuting attorney conducts an inquiry under Subsection (9).
  - (b) Except as provided in Subsection 80-6-305(2), a prosecuting attorney may not commence a proceeding against an individual for any offense listed in a citation alleged to have occurred before the individual was 12 years old.
- (9) The prosecuting attorney shall conduct an inquiry to determine, upon reasonable belief, that:

- (a) the charge listed in the citation is supported by probable cause;
  - (b) admissible evidence will be sufficient to support adjudication beyond a reasonable doubt; and
  - (c) the decision to charge is in the interests of justice.
- (10) If a proceeding is commenced against a minor under Subsection (8)(a), the minor shall appear at the juvenile court at a date and time established by the juvenile court.
- (11) If a minor willfully fails to appear before the juvenile court for a proceeding under Subsection (8)(a), the juvenile court may:
- (a) find the minor in contempt of court; and
  - (b) proceed against the minor as provided in Section 78A-6-353.
- (12) If a proceeding is commenced under this section, the minor may remit a fine without a personal appearance before the juvenile court with the consent of:
- (a) the juvenile court; and
  - (b) if the minor is a child, the parent or guardian of the child cited.

Amended by Chapter 161, 2023 General Session

**80-6-303 Criminal proceedings involving minors -- Transfer to juvenile court -- Exception.**

- (1)
- (a) If while a criminal or quasi-criminal proceeding is pending, a district court or justice court determines that an individual being charged is under 21 years old and was younger than 18 years old at the time of committing the alleged offense, the district court or justice court shall transfer the case to the juvenile court with all the papers, documents, and transcripts of any testimony.
  - (b)
    - (i) Notwithstanding Subsection (1)(a), a district court may not transfer an offense that is:
      - (A) filed in the district court in accordance with Section 80-6-502; or
      - (B) transferred to the district court in accordance with Section 80-6-504.
    - (ii) Notwithstanding Subsection (1)(a), a justice court may decline to transfer an offense for which the justice court has original jurisdiction under Subsection 78A-7-106(2).
- (2)
- (a) Except as provided in Subsection (2)(b), the district court or justice court making the transfer shall:
    - (i) order the individual to be taken immediately to the juvenile court or to a place of detention designated by the juvenile court; or
    - (ii) release the individual to the custody of the individual's parent or guardian or other person legally responsible for the individual, to be brought before the juvenile court at a time designated by the juvenile court.
  - (b) If the alleged offense under Subsection (1) occurred before the individual was 12 years old:
    - (i) the district court or justice court making the transfer shall release the individual to the custody of the individual's parent or guardian, or other person legally responsible for the individual;
    - (ii) the juvenile court shall treat the transfer as a referral under Section 80-6-301; and
    - (iii) a juvenile probation officer shall make a preliminary inquiry to determine whether the individual is eligible for a nonjudicial adjustment in accordance with Section 80-6-303.5.
  - (c) If the case is transferred to the juvenile court under this section, the juvenile court shall then proceed in accordance with this chapter.

- (3) A district court or justice court does not have to transfer a case under Subsection (1) if the district court or justice court would have had jurisdiction over the case at the time the individual committed the offense in accordance with Sections 78A-5-102 and 78A-7-106.

Amended by Chapter 161, 2023 General Session

**80-6-303.5 Preliminary inquiry by juvenile probation officer -- Eligibility for nonjudicial adjustment.**

- (1) If the juvenile court receives a referral for an offense committed by a minor that is, or appears to be, within the juvenile court's jurisdiction, a juvenile probation officer shall make a preliminary inquiry in accordance with this section to determine whether the minor is eligible to enter into a nonjudicial adjustment.
- (2) If a minor is referred to the juvenile court for multiple offenses arising from a single criminal episode, and the minor is eligible under this section for a nonjudicial adjustment, the juvenile probation officer shall offer the minor one nonjudicial adjustment for all offenses arising from the single criminal episode.
- (3)
  - (a) The juvenile probation officer may:
    - (i) conduct a validated risk and needs assessment; and
    - (ii) request that a prosecuting attorney review a referral in accordance with Section 80-6-304.5 if:
      - (A) the results of the validated risk and needs assessment indicate the minor is high risk; or
      - (B) the results of the validated risk and needs assessment indicate the minor is moderate risk and the referral is for a class A misdemeanor violation under Title 76, Chapter 5, Offenses Against the Individual, or Title 76, Chapter 9, Part 7, Miscellaneous Provisions.
  - (b) If the referral involves an offense that is a violation of Section 41-6a-502, the minor shall:
    - (i) undergo a drug and alcohol screening;
    - (ii) if found appropriate by the screening, participate in an assessment; and
    - (iii) if warranted by the screening and assessment, follow the recommendations of the assessment.
- (4) Except for an offense that is not eligible under Subsection (8), the juvenile probation officer shall offer a nonjudicial adjustment to a minor if:
  - (a) the minor:
    - (i) is referred for an offense that is a misdemeanor, infraction, or status offense;
    - (ii) has no more than two prior adjudications; and
    - (iii) has no more than two prior unsuccessful nonjudicial adjustment attempts; or
  - (b) the minor is referred for an offense that is alleged to have occurred before the minor was 12 years old.
- (5) For purposes of determining a minor's eligibility for a nonjudicial adjustment under Subsection (4), the juvenile probation officer shall treat all offenses arising out of a single criminal episode that resulted in a nonjudicial adjustment as one prior nonjudicial adjustment.
- (6) For purposes of determining a minor's eligibility for a nonjudicial adjustment under Subsection (4), the juvenile probation officer shall treat all offenses arising out of a single criminal episode that resulted in one or more prior adjudications as a single adjudication.
- (7) Except for a referral that involves an offense described in Subsection (8), the juvenile probation officer may offer a nonjudicial adjustment to a minor who does not meet the criteria described in Subsection (4)(a).



- (8) The juvenile probation officer may not offer a minor a nonjudicial adjustment if the referral involves:
- (a) an offense alleged to have occurred when the minor was 12 years old or older that is:
    - (i) a felony offense; or
    - (ii) a misdemeanor violation of:
      - (A) Section 41-6a-502, driving under the influence;
      - (B) Section 76-5-107, threat of violence;
      - (C) Section 76-5-107.1, threats against schools;
      - (D) Section 76-5-112, reckless endangerment creating a substantial risk of death or serious bodily injury;
      - (E) Section 76-5-206, negligent homicide;
      - (F) Section 76-9-702.1, sexual battery;
      - (G) Section 76-10-505.5, possession of a dangerous weapon, firearm, or short barreled shotgun on or about school premises;
      - (H) Section 76-10-506, threatening with or using a dangerous weapon in fight or quarrel;
      - (I) Section 76-10-507, possession of a deadly weapon with criminal intent;
      - (J) Section 76-10-509, possession of a dangerous weapon by a minor; or
      - (K) Section 76-10-509.4, prohibition of possession of certain weapons by minors; or
  - (b) an offense alleged to have occurred before the minor is 12 years old that is a felony violation of:
    - (i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;
    - (ii) Section 76-5-202, aggravated murder or attempted aggravated murder;
    - (iii) Section 76-5-203, murder or attempted murder;
    - (iv) Section 76-5-302, aggravated kidnapping;
    - (v) Section 76-5-405, aggravated sexual assault;
    - (vi) Section 76-6-103, aggravated arson;
    - (vii) Section 76-6-203, aggravated burglary;
    - (viii) Section 76-6-302, aggravated robbery; or
    - (ix) Section 76-10-508.1, felony discharge of a firearm.
- (9) The juvenile probation officer shall request that a prosecuting attorney review a referral if:
- (a) the referral involves an offense described in Subsection (8); or
  - (b) the minor has a current suspended order for custody under Section 80-6-711.

Enacted by Chapter 161, 2023 General Session

**80-6-304 Nonjudicial adjustments.**

- (1) For a nonjudicial adjustment, the juvenile probation officer may require a minor to:
- (a) pay a financial penalty of no more than \$250 to the juvenile court, subject to the terms established under Subsection (4);
  - (b) pay restitution to any victim;
  - (c) complete community or compensatory service;
  - (d) attend counseling or treatment with an appropriate provider;
  - (e) attend substance abuse treatment or counseling;
  - (f) comply with specified restrictions on activities or associations;
  - (g) attend victim-offender mediation if requested by the victim; and
  - (h) comply with any other reasonable action that is in the interest of the minor, the community, or the victim.
- (2)

- (a) Within seven days of receiving a referral that appears to be eligible for a nonjudicial adjustment in accordance with Section 80-6-303.5, the juvenile probation officer shall provide an initial notice to reasonably identifiable and locatable victims of the offense contained in the referral.
  - (b) The victim shall be responsible to provide to the juvenile probation officer upon request:
    - (i) invoices, bills, receipts, and any other evidence of injury, loss of earnings, and out-of-pocket loss;
    - (ii) documentation and evidence of compensation or reimbursement from an insurance company or an agency of the state, any other state, or the federal government received as a direct result of the crime for injury, loss of earnings, or out-of-pocket loss; and
    - (iii) proof of identification, including home and work address and telephone numbers.
  - (c) The inability, failure, or refusal of the victim to provide all or part of the requested information shall result in the juvenile probation officer determining restitution based on the best information available.
- (3) The juvenile probation officer may not predicate acceptance of an offer of a nonjudicial adjustment on an admission of guilt.
- (4)
- (a) The juvenile probation officer may not deny a minor an offer of a nonjudicial adjustment due to a minor's inability to pay a financial penalty under Subsection (1).
  - (b) The juvenile probation officer shall base a fee, fine, or the restitution for a nonjudicial adjustment under Subsection (1) upon the ability of the minor's family to pay as determined by a statewide sliding scale developed in accordance with Section 63M-7-208.
- (5)
- (a) A nonjudicial adjustment may not extend for more than 90 days, unless a juvenile court judge extends the nonjudicial adjustment for an additional 90 days.
  - (b) A juvenile court judge may extend a nonjudicial adjustment beyond the 180 days permitted under Subsection (5)(a):
    - (i) for a minor who is:
      - (A) offered a nonjudicial adjustment for a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, that the minor committed before the minor was 12 years old; or
      - (B) referred to a prosecuting attorney for a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, that the minor committed before the minor was 12 years old; and
    - (ii) the judge determines that:
      - (A) the nonjudicial adjustment requires specific treatment for the sexual offense;
      - (B) the treatment cannot be completed within 180 days after the day on which the minor entered into the nonjudicial adjustment; and
      - (C) the treatment is necessary based on a clinical assessment that is developmentally appropriate for the minor.
  - (c) If a juvenile court judge extends a minor's nonjudicial adjustment under Subsection (5)(b), the judge may extend the nonjudicial adjustment until the minor completes the specific treatment, but the judge may only grant each extension for 90 days at a time.
- (6) If a minor violates Section 76-10-105, the minor may be required to pay a fine or penalty and participate in a court-approved tobacco education program with a participation fee.

Amended by Chapter 161, 2023 General Session

**80-6-304.5 Prosecutorial review of referral to juvenile court -- Filing a petition.**

- (1) A prosecuting attorney shall review a referral to the juvenile court for an offense committed by a minor if:
  - (a) the prosecuting attorney is requested to review the referral under Section 80-6-303.5;
  - (b) the minor fails to substantially comply with a condition agreed upon as part of the nonjudicial adjustment; or
  - (c) the minor is not offered or declines a nonjudicial adjustment.
- (2) Upon review of a referral under Subsection (1), the prosecuting attorney shall:
  - (a) dismiss the referral;
  - (b) send the referral back to the juvenile probation officer for a new attempt at a nonjudicial adjustment if the minor's case is eligible for a nonjudicial adjustment under Section 80-6-303.5; or
  - (c) except as provided in Subsection (5), file a petition with the juvenile court.
- (3) A prosecuting attorney may only file a petition under Subsection (2)(c) upon reasonable belief that:
  - (a) the charges are supported by probable cause;
  - (b) admissible evidence will be sufficient to support adjudication beyond a reasonable doubt; and
  - (c) the decision to charge is in the interests of justice.
- (4) If a minor has substantially complied with the other conditions of a nonjudicial adjustment or conditions imposed through any other court diversion program, the minor's failure to pay a fine or fee as a condition of the nonjudicial adjustment or program may not serve as a basis for filing of a petition.
- (5) A prosecuting attorney may not file a petition against a minor unless:
  - (a) the prosecuting attorney has statutory authority to file the petition under Section 80-6-305; and
  - (b)
    - (i) the minor is not eligible for a nonjudicial adjustment under Section 80-6-303.5;
    - (ii) the minor declines a nonjudicial adjustment;
    - (iii) the minor fails to substantially comply with the conditions agreed upon as part of the nonjudicial adjustment; or
    - (iv) the minor fails to respond to the juvenile probation officer's inquiry regarding eligibility for or an offer of a nonjudicial adjustment after being provided with notice for preliminary inquiry.
- (6) If the prosecuting attorney files a petition in a juvenile court, or a proceeding is commenced against a minor under Section 80-6-302, the juvenile court may refer the case to the juvenile probation officer for another offer of nonjudicial adjustment if the minor is eligible for a nonjudicial adjustment under Section 80-6-303.5.

Enacted by Chapter 161, 2023 General Session

**80-6-305 Petition for a delinquency proceeding -- Amending a petition -- Continuance.**

- (1) A prosecuting attorney shall file a petition, in accordance with Utah Rules of Juvenile Procedure, Rule 17, to commence a proceeding against a minor for an adjudication of an alleged offense, except as provided in:
  - (a) Subsection (2);
  - (b) Section 80-6-302;
  - (c) Section 80-6-502; and
  - (d) Section 80-6-503.
- (2) A prosecuting attorney may not file a petition under Subsection (1) against an individual for an offense alleged to have occurred before the individual was 12 years old, unless:

- (a) the individual is alleged to have committed a felony violation of:
  - (i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;
  - (ii) Section 76-5-202, aggravated murder or attempted aggravated murder;
  - (iii) Section 76-5-203, murder or attempted murder;
  - (iv) Section 76-5-302, aggravated kidnapping;
  - (v) Section 76-5-405, aggravated sexual assault;
  - (vi) Section 76-6-103, aggravated arson;
  - (vii) Section 76-6-203, aggravated burglary;
  - (viii) Section 76-6-302, aggravated robbery; or
  - (ix) Section 76-10-508.1, felony discharge of a firearm; or
- (b) an offer for a nonjudicial adjustment is made under Section 80-6-303.5 and the minor:
  - (i) declines to accept the offer for the nonjudicial adjustment; or
  - (ii) fails to substantially comply with the conditions agreed upon as part of the nonjudicial adjustment.
- (3) A juvenile court may dismiss a petition under this section at any stage of the proceedings.
- (4)
  - (a) When evidence is presented during any proceeding in a minor's case that points to material facts not alleged in the petition, the juvenile court may consider the additional or different material facts raised by the evidence if the parties consent.
  - (b) The juvenile court, on a motion from any interested party or on the court's own motion, shall direct that the petition be amended to conform to the evidence.
  - (c) If an amended petition under Subsection (4)(b) results in a substantial departure from the material facts originally alleged, the juvenile court shall grant a continuance as justice may require in accordance with Utah Rules of Juvenile Procedure, Rule 54.

Amended by Chapter 161, 2023 General Session

**80-6-306 Plea -- Withdrawal of a plea.**

- (1) If a minor is facing a delinquency proceeding under this chapter, the minor may enter:
  - (a) a denial of the alleged offense;
  - (b) an admission of the alleged offense; or
  - (c) with the consent of the juvenile court, a plea of no contest as described in Section 77-13-2.
- (2)
  - (a) If a minor enters an admission under Subsection (1), the juvenile court may:
    - (i) delay in entering the admission for a defined period of time; and
    - (ii) impose conditions on the minor for the period of time under Subsection (2)(a)(i).
  - (b) If the minor successfully completes the conditions imposed under Subsection (2)(a)(ii), the juvenile court shall dismiss the petition filed under this chapter.
  - (c) If the minor fails to complete the conditions imposed under Subsection (2)(a)(ii), the juvenile court shall:
    - (i) enter the minor's admission; and
    - (ii) proceed with ordering a disposition in accordance with Section 80-6-701.
- (3) If a minor declines to enter a plea, the juvenile court shall enter a denial.
- (4) A minor's counsel may enter a denial in the absence of the minor or the minor's parent, guardian, or custodian.
- (5) The minor may enter an admission to:
  - (a) a lesser included offense;
  - (b) an offense of a lesser degree; or

- (c) a different offense for which the juvenile court may enter after amending the petition.
- (6) A plea under this section shall be conducted in accordance with Utah Rules of Juvenile Procedure, Rule 25.
- (7) A minor may withdraw a denial of an offense at any time before an adjudication under Section 80-6-701.
- (8) A minor may only withdraw an admission or a plea of no contest upon:
  - (a) leave of the court; and
  - (b) a showing that the admission or plea was not knowingly and voluntarily made.
- (9)
  - (a) Even if the juvenile court has ordered a disposition under Part 7, Adjudication and Disposition, a minor shall make a request to withdraw an admission, or a plea of no contest, within 30 days after the day on which the minor entered the admission or plea.
  - (b) If the juvenile court has not entered a disposition, the juvenile court may not announce a disposition until the motion to withdraw under Subsection (9)(a) is denied.

Enacted by Chapter 261, 2021 General Session

**80-6-307 Dispositional report required in minors' cases -- Exceptions.**

- (1) A juvenile probation officer, or other agency designated by the juvenile court, shall make a dispositional report in writing in all minors' cases in which a petition has been filed, except in cases involving violations of traffic laws or ordinances, violations of wildlife laws and boating laws, and other minor cases.
- (2) When preparing a dispositional report and recommendation in a minor's case, the juvenile probation officer, or other agency designated by the juvenile court, shall consider the juvenile disposition guidelines developed in accordance with Section 63M-7-404 and any other factors relevant to the disposition designated in the juvenile disposition guidelines .
- (3) Where the allegations of a petition filed under Section 80-6-305 are denied, the investigation may not be made until the juvenile court has made an adjudication.

Renumbered and Amended by Chapter 261, 2021 General Session

**Part 4  
Competency**

**80-6-401 Definitions -- Competency to proceed.**

- (1) As used in this part:
  - (a) "Competency" or "competent to proceed" means that a minor has:
    - (i) a present ability to consult with counsel with a reasonable degree of rational understanding; and
    - (ii) a rational as well as factual understanding of the proceedings.
  - (b) "Competency evaluation" means an evaluation conducted by a forensic evaluator to determine if a minor is competent to stand for trial or adjudication for pending charges.
  - (c) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.
  - (d) "Not competent to proceed" means an individual is not competent to stand for trial or adjudication for pending charges.

- (2) If a petition is filed under Section 80-6-305, or a criminal information is filed under Section 80-6-503, in the juvenile court , a written motion may be filed alleging reasonable grounds to believe the minor is not competent to proceed.
- (3) The written motion shall contain:
  - (a) a certificate that it is filed in good faith and on reasonable grounds to believe the minor is not competent to proceed due to:
    - (i) a mental illness;
    - (ii) an intellectual disability or a related condition; or
    - (iii) developmental immaturity;
  - (b) a recital of the facts, observations, and conversations with the minor that have formed the basis for the motion; and
  - (c) if filed by defense counsel, the motion shall contain information that can be revealed without invading the lawyer-client privilege.
- (4) The motion may be:
  - (a) based upon knowledge or information and belief; and
  - (b) filed by:
    - (i) the minor alleged not competent to proceed;
    - (ii) any person acting on the minor's behalf;
    - (iii) the prosecuting attorney;
    - (iv) the attorney guardian ad litem; or
    - (v) any person having custody or supervision over the minor.
- (5)
  - (a) The juvenile court may raise the issue of a minor's competency at any time.
  - (b) If raised by the juvenile court, counsel for each party shall be permitted to address the issue of competency.
  - (c) The juvenile court shall state the basis for the finding that there are reasonable grounds to believe the minor is not competent to proceed.

Amended by Chapter 152, 2022 General Session

**80-6-402 Procedure -- Standard.**

- (1) When a written motion is filed in accordance with Section 80-6-401 raising the issue of a minor's competency to proceed, or when the juvenile court raises the issue of a minor's competency to proceed, the juvenile court shall stay all proceedings under this chapter .
- (2)
  - (a) If a motion for inquiry is opposed by either party, the juvenile court shall, before granting or denying the motion, hold a limited hearing solely for the purpose of determining the sufficiency of the motion.
  - (b) If the juvenile court finds that the allegations of incompetency raise a bona fide doubt as to the minor's competency to proceed, the juvenile court shall:
    - (i) enter an order for an evaluation of the minor's competency to proceed; and
    - (ii) set a date for a hearing on the issue of the minor's competency.
- (3) After the granting of a motion, and before a full competency hearing, the juvenile court may order the department to evaluate the minor and to report to the juvenile court concerning the minor's mental condition.
- (4) The minor shall be evaluated by a forensic evaluator who:
  - (a) has experience in juvenile forensic evaluations and juvenile brain development;

- (b) if it becomes apparent that the minor is not competent due to an intellectual disability or related condition, has experience in intellectual disability or related conditions; and
  - (c) is not involved in the current treatment of the minor.
- (5) The petitioner or other party, as directed by the juvenile court, shall provide all information and materials relevant to a determination of the minor's competency to the department within seven days of the juvenile court's order, including:
- (a) the motion;
  - (b) the arrest or incident reports pertaining to the charged offense;
  - (c) the minor's known delinquency history information;
  - (d) the minor's probation record relevant to competency;
  - (e) known prior mental health evaluations and treatments; and
  - (f) consistent with 20 U.S.C. Sec. 1232g (b)(1)(E)(ii)(I), records pertaining to the minor's education.
- (6)
- (a) The minor's parent or guardian, the prosecuting attorney, the defense attorney, and the attorney guardian ad litem, shall cooperate, by executing releases of information when necessary, in providing the relevant information and materials to the forensic evaluator, including:
    - (i) medical records;
    - (ii) prior mental evaluations; or
    - (iii) records of diagnosis or treatment of substance abuse disorders.
  - (b) The minor shall cooperate, by executing a release of information when necessary, in providing the relevant information and materials to the forensic evaluator regarding records of diagnosis or treatment of a substance abuse disorder.
- (7)
- (a) In conducting the evaluation and in the report determining if a minor is competent to proceed, the forensic evaluator shall inform the juvenile court of the forensic evaluator's opinion whether:
    - (i) the minor has a present ability to consult with counsel with a reasonable degree of rational understanding; and
    - (ii) the minor has a rational as well as factual understanding of the proceedings.
  - (b) In evaluating the minor, the forensic evaluator shall consider the minor's present ability to:
    - (i) understand the charges or allegations against the minor;
    - (ii) communicate facts, events, and states of mind;
    - (iii) understand the range of possible penalties associated with the allegations against the minor;
    - (iv) engage in reasoned choice of legal strategies and options;
    - (v) understand the adversarial nature of the proceedings against the minor;
    - (vi) manifest behavior sufficient to allow the juvenile court to proceed;
    - (vii) testify relevantly; and
    - (viii) any other factor determined to be relevant to the forensic evaluator.
- (8)
- (a) The forensic evaluator shall provide an initial report to the juvenile court, the prosecuting and defense attorneys, and the attorney guardian ad litem, if applicable, within 30 days of the receipt of the juvenile court's order.
  - (b) If the forensic evaluator informs the juvenile court that additional time is needed, the juvenile court may grant, taking into consideration the custody status of the minor, up to an additional 15 days to provide the report to the juvenile court and counsel.

- (c) The forensic evaluator must provide the report within 45 days from the receipt of the juvenile court's order unless, for good cause shown, the juvenile court authorizes an additional period of time to complete the evaluation and provide the report.
  - (d) The report shall inform the juvenile court of the forensic evaluator's opinion concerning the minor's competency.
- (9) If the forensic evaluator's opinion is that the minor is not competent to proceed, the report shall indicate:
- (a) the nature of the minor's:
    - (i) mental illness;
    - (ii) intellectual disability or related condition; or
    - (iii) developmental immaturity;
  - (b) the relationship of the minor's mental illness, intellectual disability, related condition, or developmental immaturity to the minor's incompetence;
  - (c) whether there is a substantial likelihood that the minor may attain competency in the foreseeable future;
  - (d) the amount of time estimated for the minor to achieve competency if the minor undergoes competency attainment treatment, including medication;
  - (e) the sources of information used by the forensic evaluator; and
  - (f) the basis for clinical findings and opinions.
- (10) Regardless of whether a minor consents to a competency evaluation, any statement made by the minor in the course of the competency evaluation, any testimony by the forensic evaluator based upon any statement made by the minor in the competency evaluation, and any other fruits of the statement made by the minor in the competency evaluation:
- (a) may not be admitted in evidence against the minor in a proceeding under this chapter, except the statement may be admitted on an issue respecting the mental condition on which the minor has introduced evidence; and
  - (b) may be admitted where relevant to a determination of the minor's competency.
- (11) Before evaluating the minor for a competency evaluation, a forensic evaluator shall specifically advise the minor, and the minor's parent or guardian if reasonably available, of the limits of confidentiality as provided under Subsection (10).
- (12) When the report is received, the juvenile court shall set a date for a competency hearing that shall be held in not less than five and not more than 15 days, unless the juvenile court enlarges the time for good cause.
- (13)
- (a) A minor shall be presumed competent unless the juvenile court, by a preponderance of the evidence, finds the minor not competent to proceed.
  - (b) The burden of proof is upon the proponent of incompetency to proceed.
- (14)
- (a) Following the hearing, the juvenile court shall determine by a preponderance of evidence whether the minor is:
    - (i) competent to proceed;
    - (ii) not competent to proceed with a substantial probability that the minor may attain competency in the foreseeable future; or
    - (iii) not competent to proceed without a substantial probability that the minor may attain competency in the foreseeable future.
  - (b) If the juvenile court enters a finding described in Subsection (14)(a)(i), the juvenile court shall proceed with the proceedings in the minor's case.



- (c) If the juvenile court enters a finding described in Subsection (14)(a)(ii), the juvenile court shall proceed in accordance with Section 80-6-403.
- (d)
  - (i) If the juvenile court enters a finding described in Subsection (14)(a)(iii), the juvenile court shall terminate the competency proceeding, dismiss the charges against the minor without prejudice, and release the minor from any custody order related to the pending proceeding, unless the prosecutor informs the court that commitment proceedings will be initiated in accordance with:
    - (A) Title 26B, Chapter 6, Part 6, Admission to an Intermediate Care Facility for People with an Intellectual Disability;
    - (B) if the minor is 18 years old or older, Title 26B, Chapter 5, Part 3, Utah State Hospital and Other Mental Health Facilities; or
    - (C) if the minor is a child, Title 26B, Chapter 5, Part 4, Commitment of Persons Under Age 18.
  - (ii) The commitment proceedings described in Subsection (14)(d)(i) shall be initiated within seven days after the day on which the juvenile court enters the order under Subsection (14)(a), unless the court enlarges the time for good cause shown.
  - (iii) The juvenile court may order the minor to remain in custody until the commitment proceedings have been concluded.
- (15) If the juvenile court finds the minor not competent to proceed, the juvenile court's order shall contain findings addressing each of the factors in Subsection (7)(b).

Amended by Chapter 330, 2023 General Session

**80-6-403 Disposition on finding of not competent to proceed -- Subsequent hearings -- Notice to prosecuting attorneys.**

- (1) If the juvenile court determines that the minor is not competent to proceed, and there is a substantial likelihood that the minor may attain competency in the foreseeable future, the juvenile court shall notify the department of the finding and allow the department 30 days to develop an attainment plan for the minor.
- (2) The attainment plan shall include:
  - (a) any services or treatment the minor has been or is currently receiving that are necessary to attain competency;
  - (b) any additional services or treatment the minor may require to attain competency;
  - (c) an assessment of the parent, custodian, or guardian's ability to access or provide any recommended treatment or services;
  - (d) any special conditions or supervision that may be necessary for the safety of the minor or others during the attainment period; and
  - (e) the likelihood that the minor will attain competency and the amount of time likely required for the minor to attain competency.
- (3) The department shall provide the attainment plan to the juvenile court, the prosecuting attorney, the defense attorney, and the attorney guardian ad litem at least three days before the competency disposition hearing.
- (4)
  - (a) During the attainment period, the minor shall remain in the least restrictive appropriate setting.
  - (b) A finding of not competent to proceed does not grant authority for a juvenile court to place a minor in the custody of a division of the department, or create eligibility for services from the Division of Services for People With Disabilities.

- (c) If the juvenile court orders the minor to be held in detention during the attainment period, the juvenile court shall make the following findings on the record:
  - (i) the placement is the least restrictive appropriate setting;
  - (ii) the placement is in the best interest of the minor;
  - (iii) the minor will have access to the services and treatment required by the attainment plan in the placement; and
  - (iv) the placement is necessary for the safety of the minor or others.
- (d) A juvenile court shall terminate an order of detention related to the pending proceeding for a minor who is not competent to proceed in that matter if:
  - (i) the most severe allegation against the minor if committed by an adult is a class B misdemeanor;
  - (ii) more than 60 days have passed after the day on which the juvenile court adjudicated the minor not competent to proceed; and
  - (iii) the minor has not attained competency.
- (5)
  - (a) At any time that the minor becomes competent to proceed during the attainment period, the department shall notify the juvenile court, the prosecuting attorney, the defense attorney, and the attorney guardian ad litem.
  - (b) The juvenile court shall hold a hearing with 15 business days of notice from the department described in Subsection (5)(a).
- (6)
  - (a) If at any time during the attainment period the juvenile court finds that there is not a substantial probability that the minor will attain competency in the foreseeable future, the juvenile court shall terminate the competency proceeding, dismiss the petition or information without prejudice, and release the minor from any custody order related to the pending proceeding, unless the prosecuting attorney or any other individual informs the juvenile court that commitment proceedings will be initiated in accordance with:
    - (i) Title 26B, Chapter 6, Part 6, Admission to an Intermediate Care Facility for People with an Intellectual Disability;
    - (ii) if the minor is 18 years old or older, Title 26B, Chapter 5, Part 3, Utah State Hospital and Other Mental Health Facilities; or
    - (iii) if the minor is a child, Title 26B, Chapter 5, Part 4, Commitment of Persons Under Age 18.
  - (b) The prosecuting attorney shall initiate the proceedings described in Subsection (6)(a) within seven days after the juvenile court's order, unless the juvenile court enlarges the time for good cause shown.
- (7) During the attainment period, the juvenile court may order a hearing or rehearing at anytime on the juvenile court's own motion or upon recommendation of any interested party or the department.
- (8)
  - (a) Within three months of the juvenile court's approval of the attainment plan, the department shall provide a report on the minor's progress towards competence.
  - (b) The report described in Subsection (8)(a) shall address the minor's:
    - (i) compliance with the attainment plan;
    - (ii) progress towards competency based on the issues identified in the original competency evaluation; and
    - (iii) current mental illness, intellectual disability or related condition, or developmental immaturity, and need for treatment, if any, and whether there is substantial likelihood of the minor attaining competency within six months.

- (9)
  - (a) Within 30 days of receipt of the report, the juvenile court shall hold a hearing to determine the minor's current status.
  - (b) At the hearing, the burden of proving the minor is competent is on the proponent of competency.
  - (c) The juvenile court shall determine by a preponderance of the evidence whether the minor is competent to proceed.
- (10) If the minor has not attained competency after the initial three month attainment period but is showing reasonable progress towards attainment of competency, the juvenile court may extend the attainment period up to an additional three months.
- (11) The department shall provide an updated juvenile competency evaluation at the conclusion of the six month attainment period to advise the juvenile court on the minor's current competency status.
- (12) If the minor does not attain competency within six months after the juvenile court initially finds the minor not competent to proceed, the court shall terminate the competency proceedings and dismiss the petition or information filed without prejudice, unless good cause is shown that there is a substantial likelihood the minor will attain competency within one year from the initial finding of not competent to proceed.
- (13) In the event a minor has an unauthorized leave lasting more than 24 hours, the attainment period shall toll until the minor returns.
- (14)
  - (a) Regardless of whether a minor consents to attainment, any statement made by the minor in the course of attainment, any testimony by the forensic evaluator based upon any statement made by the minor in the course of attainment, and any other fruits of a statement made by the minor in the course of attainment:
    - (i) may not be admitted in evidence against the minor in a proceeding under this chapter, except the statement may be admitted on an issue respecting the mental condition on which the minor has introduced evidence; and
    - (ii) may be admitted where relevant to a determination of the minor's competency.
  - (b) Before evaluating the minor during the attainment period, a forensic evaluator shall specifically advise the minor, and the minor's parent or guardian if reasonably available, of the limits of confidentiality provided in Subsection (14)(a).

Amended by Chapter 330, 2023 General Session

## **Part 5**

### **Transfer to District Court**

#### **80-6-501 Definitions.**

As used in this part:

- (1) "Minor" means:
  - (a) an individual:
    - (i) who is at least 18 years old and younger than 25 years old; and
    - (ii) whose case is under the jurisdiction of the juvenile court; or
  - (b) an individual:
    - (i) who is younger than 21 years old;

- (ii) who is charged with, or convicted of, an offense under Section 80-6-502 or 80-6-503; and
  - (iii) whose case is under the jurisdiction of the district court.
- (2) "Qualifying offense" means an offense described in Section 80-6-503.
- (3) "Separate offense" means any offense that is not a qualifying offense.

Amended by Chapter 155, 2022 General Session

**80-6-502 Criminal information for a minor in district court.**

- (1) If a prosecuting attorney charges a minor with aggravated murder under Section 76-5-202 or murder under Section 76-5-203, the prosecuting attorney shall file a criminal information in the district court if the minor was a principal actor in an offense and the criminal information alleges:
- (a) the minor was 16 or 17 years old at the time of the offense; and
  - (b) the offense for which the minor is being charged is:
    - (i) aggravated murder, as described in Section 76-5-202; or
    - (ii) murder, as described in Section 76-5-203.
- (2) If the prosecuting attorney files a criminal information in the district court in accordance with Subsection (1), the district court shall try the minor as an adult, except:
- (a) the minor is not subject to a sentence of death in accordance with Subsection 76-3-206(2)(b); and
  - (b) the minor is not subject to a sentence of life without parole in accordance with Subsection 76-3-206(2)(b) or 76-3-207.5(3) or Section 76-3-209.
- (3)
- (a) Except for a minor who is subject to the authority of the Board of Pardons and Parole, a minor charged with aggravated murder or murder under Subsection (1) shall be held in a detention facility.
  - (b) A minor held in a detention facility under Subsection (3)(a) shall remain in the facility:
    - (i) until released by the district court; or
    - (ii) if convicted, until sentencing.
- (4)
- (a) If a minor is held in a detention facility under Subsection (3)(a), the district court shall:
    - (i) advise the minor of the right to bail; and
    - (ii) issue a pretrial status order, as defined in Section 77-20-102, for the minor in accordance with Section 77-20-205.
  - (b) Except for Sections 77-20-202, 77-20-203, and 77-20-204, the provisions of Title 77, Chapter 20, Bail, shall apply to the release or detention of a minor being tried as an adult under this section.
- (5)
- (a) If a minor held in a detention facility under Subsection (3)(a) attains the age of 25 years old, the minor shall:
    - (i) be transferred within 30 days to an adult jail; and
    - (ii) remain in the adult jail until:
      - (A) released by the district court; or
      - (B) if convicted, sentencing.
  - (b) Subsection (5)(a) applies to any minor who is being held in a detention facility as described in Subsection (3)(a) on or after May 4, 2022.
- (6) If a minor is held in a detention facility under Subsection (3)(a) and the minor's conduct or condition endangers the safety or welfare of others in the detention facility, the district

court may find that the minor shall be detained in another place of confinement considered appropriate by the district court, including a jail or an adult facility for pretrial confinement.

Amended by Chapter 135, 2022 General Session

Amended by Chapter 155, 2022 General Session

**80-6-503 Criminal information for a minor in juvenile court -- Extending juvenile court jurisdiction.**

(1) If a prosecuting attorney charges a minor with a felony, the prosecuting attorney may file a criminal information in the juvenile court if the minor was a principal actor in an offense and the information alleges:

(a)

(i) the minor was 16 or 17 years old at the time of the offense; and

(ii) the offense for which the minor is being charged is a felony violation of:

(A) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(B) Section 76-5-202, attempted aggravated murder;

(C) Section 76-5-203, attempted murder;

(D) Section 76-5-302, aggravated kidnapping;

(E) Section 76-5-405, aggravated sexual assault;

(F) Section 76-6-103, aggravated arson;

(G) Section 76-6-203, aggravated burglary;

(H) Section 76-6-302, aggravated robbery;

(I) Section 76-10-508.1, felony discharge of a firearm; or

(J) an offense other than an offense listed in Subsections (1)(a)(ii)(A) through (I) involving the use of a dangerous weapon if the offense would be a felony had an adult committed the offense, and the minor has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon that would have been a felony if committed by an adult; or

(b)

(i) the minor was 14 or 15 years old at the time of the offense; and

(ii) the offense for which the minor is being charged is a felony violation of:

(A) Section 76-5-202, aggravated murder or attempted aggravated murder; or

(B) Section 76-5-203, murder or attempted murder.

(2) At the time that a prosecuting attorney files an information under this section, a party may file a motion to extend the juvenile court's continuing jurisdiction in accordance with Section 80-6-605.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-6-504 Preliminary hearing -- Grounds for transfer -- Detention of a minor bound over to the district court.**

(1) If a prosecuting attorney files a criminal information in accordance with Section 80-6-503 , the juvenile court shall conduct a preliminary hearing to determine whether a minor should be bound over to the district court for a qualifying offense.

(2) At the preliminary hearing under Subsection (1), the prosecuting attorney shall have the burden of establishing:

(a) probable cause to believe that a qualifying offense was committed and the minor committed that offense; and

- (b) by a preponderance of the evidence, that it is contrary to the best interests of the minor and the public for the juvenile court to retain jurisdiction over the offense.
- (3) In making a determination under Subsection (2)(b), the juvenile court shall consider and make findings on:
  - (a) the seriousness of the qualifying offense and whether the protection of the community requires that the minor is detained beyond the amount of time allowed under Subsection 80-6-802(1) , or beyond the age of continuing jurisdiction that the juvenile court may exercise under Section 80-6-605 ;
  - (b) the extent to which the minor's actions in the qualifying offense were committed in an aggressive, violent, premeditated, or willful manner;
  - (c) the minor's mental, physical, educational, trauma, and social history;
  - (d) the criminal record or history of the minor; and
  - (e) the likelihood of the minor's rehabilitation by the use of services and facilities that are available to the juvenile court.
- (4) The amount of weight that each factor in Subsection (3) is given is in the juvenile court's discretion.
- (5)
  - (a) The juvenile court may consider any written report or other material that relates to the minor's mental, physical, educational, trauma, and social history.
  - (b) Upon request by the minor, the minor's parent, guardian, or other interested party, the juvenile court shall require the person preparing the report, or other material, under Subsection (5)(a) to appear and be subject to direct and cross-examination.
- (6) At the preliminary hearing under Subsection (1), a minor may testify under oath, call witnesses, cross-examine witnesses, and present evidence on the factors described in Subsection (3).
- (7)
  - (a) A proceeding before the juvenile court related to a charge filed under this part shall be conducted in conformity with the Utah Rules of Juvenile Procedure.
  - (b) Sections 80-6-602, 80-6-603, and 80-6-604 are applicable to the preliminary hearing under this section.
- (8) If the juvenile court finds that the prosecuting attorney has met the burden of proof under Subsection (2), the juvenile court shall bind the minor over to the district court to be held for trial.
- (9)
  - (a) If the juvenile court finds that a qualifying offense has been committed by a minor, but the prosecuting attorney has not met the burden of proof under Subsection (2)(b), the juvenile court shall:
    - (i) proceed upon the criminal information as if the information were a petition under Section 80-6-305 ;
    - (ii) release or detain the minor in accordance with Section 80-6-207 ; and
    - (iii) proceed with an adjudication for the minor in accordance with this chapter.
  - (b) If the juvenile court finds that the prosecuting attorney has not met the burden under Subsection (2) to bind a minor over to the district court, the prosecuting attorney may file a motion to extend the juvenile court's continuing jurisdiction over the minor's case until the minor is 25 years old in accordance with Section 80-6-605.
- (10)
  - (a) A prosecuting attorney may charge a minor with a separate offense in the same criminal information as the qualifying offense if the qualifying offense and separate offense arise from a single criminal episode.

- (b) If the prosecuting attorney charges a minor with a separate offense as described in Subsection (10)(a):
  - (i) the prosecuting attorney shall have the burden of establishing probable cause to believe that the separate offense was committed and the minor committed the separate offense; and
  - (ii) if the prosecuting attorney establishes probable cause for the separate offense under Subsection (10)(b)(i) and the juvenile court binds the minor over to the district court for the qualifying offense, the juvenile court shall also bind the minor over for the separate offense to the district court.
- (11) If a grand jury indicts a minor for a qualifying offense:
  - (a) the prosecuting attorney does not need to establish probable cause under Subsection (2)(a) for the qualifying offense and any separate offense included in the indictment; and
  - (b) the juvenile court shall proceed with determining whether the minor should be bound over to the district court for the qualifying offense and any separate offense included in the indictment in accordance with Subsections (2)(b) and (3).
- (12)
  - (a) If a minor is bound over to the district court, the juvenile court shall:
    - (i) issue a criminal warrant of arrest for the minor to be held in a detention facility;
    - (ii) advise the minor of the right to bail; and
    - (iii) issue a pretrial status order, as defined in Section 77-20-102, for the minor in accordance with Section 77-20-205.
  - (b) Except for Sections 77-20-202, 77-20-203, and 77-20-204, the provisions of Title 77, Chapter 20, Bail, shall apply to the release or detention of a minor bound over to the district court by the juvenile court.
- (13) If the juvenile court orders the minor to be detained until the time of trial:
  - (a) the minor shall be held in a detention facility, except that a minor who is subject to the authority of the Board of Pardons and Parole may not be held in a detention facility; and
  - (b) the minor shall remain in the detention facility:
    - (i) until released by a district court; or
    - (ii) if convicted, until sentencing.
- (14)
  - (a) If a minor is held in a detention facility under Subsection (13) and the minor attains the age of 25 years old while detained at the detention facility, the minor shall:
    - (i) be transferred within 30 days to an adult jail; and
    - (ii) remain in the adult jail until:
      - (A) released by the district court; or
      - (B) if convicted, sentencing.
  - (b) Subsection (14)(a) applies to any minor being held in a detention facility as described in Subsection (13) on or after May 4, 2022.

Amended by Chapter 135, 2022 General Session  
Amended by Chapter 155, 2022 General Session

**80-6-505 Criminal proceedings for a minor bound over to district court.**

- (1) If the juvenile court binds a minor over to the district court in accordance with Section 80-6-504 , the prosecuting attorney shall try the minor as if the minor is an adult in the district court except:
  - (a) the minor is not subject to a sentence of death in accordance with Subsection 76-3-206(2)(b); and

- (b) the minor is not subject to a sentence of life without parole in accordance with Subsection 76-3-206(2)(b) or 76-3-207.5(3) or Section 76-3-209.
- (2) A minor who is bound over to the district court to answer as an adult is not entitled to a preliminary hearing in the district court.
- (3) If a minor is bound over to the district court and detained in a detention facility, the district court may order the minor be detained in another place of confinement that is considered appropriate by the district court, including a jail or other place of pretrial confinement for adults if the minor's conduct or condition endangers the safety and welfare of others in the detention facility.

Amended by Chapter 155, 2022 General Session

**80-6-506 Appeals from bind over proceedings.**

- (1) A minor may, as a matter of right, appeal from an order of the juvenile court binding the minor over to the district court under Section 80-6-504 .
- (2) The prosecuting attorney may, as a matter of right, appeal an order of the juvenile court that a minor charged in accordance with Section 80-6-503 will be adjudicated in the juvenile court.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-6-507 Commitment of a minor by a district court.**

- (1)
  - (a) If the district court determines that probation is not appropriate and commitment to prison is an appropriate sentence when sentencing a minor:
    - (i) the district court shall order the minor committed to prison; and
    - (ii) the minor shall be provisionally housed in a secure care facility until the minor reaches 25 years old, unless released earlier from incarceration by the Board of Pardons and Parole.
  - (b) Subsection (1) applies to any minor being provisionally housed in a secure care facility as described in Subsection (1)(a) on or after May 4, 2022.
- (2)
  - (a) The division shall adopt procedures by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the transfer of a minor provisionally housed in a secure care facility under Subsection (1) to the physical custody of the Department of Corrections.
  - (b) If, in accordance with the rules adopted under Subsection (2)(a), the division determines that housing the minor in a secure care facility presents an unreasonable risk to others or that it is not in the best interest of the minor, the division shall transfer the physical custody of the minor to the Department of Corrections.
- (3)
  - (a) When a minor is committed to prison but provisionally housed in a secure care facility under this section, the district court and the division shall immediately notify the Board of Pardons and Parole so that the minor may be scheduled for a hearing according to board procedures.
  - (b) If a minor who is provisionally housed in a secure care facility under this section has not been paroled or otherwise released from incarceration by the time the minor reaches 25 years old, the division shall as soon as reasonably possible, but not later than when the minor reaches 25 years and 6 months old, transfer the minor to the physical custody of the Department of Corrections.
- (4) Upon the commitment of a minor to the custody of the division or the Department of Corrections under this section, the Board of Pardons and Parole has authority over the minor for purposes



of parole, pardon, commutation, termination of sentence, remission of fines or forfeitures, orders of restitution, and all other purposes authorized by law.

- (5) The authority shall:
- (a) hold hearings, receive reports, or otherwise keep informed of the progress of a minor in the custody of the division under this section; and
  - (b) forward to the Board of Pardons and Parole any information or recommendations concerning the minor.
- (6) Commitment of a minor under this section is a prison commitment for all sentencing purposes.

Amended by Chapter 135, 2022 General Session

## **Part 6 Delinquency Proceedings**

### **80-6-601 Minors' cases considered civil proceedings -- Minor not to be charged with crime -- Exception for a prior adjudication -- Traffic violation cases.**

- (1) Except as provided in Part 5, Transfer to District Court , a proceeding in a minor's case under this chapter is a civil proceeding with the juvenile court exercising equitable powers.
- (2)
- (a) An adjudication by a juvenile court of a minor under this chapter is not considered a conviction of a crime, except in cases involving traffic violations.
  - (b) An adjudication may not:
    - (i) operate to impose any civil disabilities upon the minor; or
    - (ii) disqualify the minor for any civil service or military service or appointment.
- (3)
- (a) Except in cases involving traffic violations, and as provided in Part 5, Transfer to District Court, a minor may not be charged with a crime and convicted in any court.
  - (b) Except as provided in Section 80-6-504 , if a petition is filed in the juvenile court, the minor may not later be subject to criminal prosecution based on the same facts.
  - (c) Except as provided in Section 80-6-305, an individual may not be subject to a proceeding under this chapter for an offense that the individual is alleged to have committed before the individual was 12 years old.
- (4)
- (a) An adjudication by a juvenile court of a minor under this chapter is considered a conviction for the purposes of determining the level of offense for which a minor may be charged and enhancing the level of an offense in the juvenile court.
  - (b) A prior adjudication may be used to enhance the level or degree of an offense committed by an adult only as otherwise specifically provided.

Renumbered and Amended by Chapter 261, 2021 General Session

### **80-6-602 Hearings or proceedings for minors -- Prosecuting attorney -- Order for indigent defense -- Custody in the Division of Child and Family Services.**

- (1) In a hearing or proceeding under this chapter, the juvenile court:
- (a) shall admit any person who has a direct interest in the case;
  - (b) may admit any person whose presence is requested by the minor's parent or guardian; and

- (c) shall exclude any other person except as provided in Subsection (2).
- (2) In a hearing or proceeding under this chapter for a minor who is 14 years old or older, the juvenile court shall admit any person, unless the hearing or proceeding is closed by the juvenile court upon findings, on the record, for good cause if:
  - (a) the minor has been charged with an offense that would be a felony if committed by an adult; or
  - (b) the minor is charged with an offense that would be a class A or B misdemeanor if committed by an adult and the minor has been previously charged with an offense that would be a misdemeanor or felony if committed by an adult.
- (3) If more than one minor is alleged to be involved in a violation of a law or ordinance, the proceedings for the violation may be consolidated, except a separate hearing may be held with respect to a disposition for a minor.
- (4) The county attorney, or the district attorney if within a prosecution district, shall represent the state in a proceeding under this chapter.
- (5) If a minor is facing a proceeding under this chapter, a juvenile court shall:
  - (a) appoint an indigent defense service provider for the minor in accordance with Title 78B, Chapter 22, Part 2, Appointment of Counsel; and
  - (b) order indigent defense services for the minor in accordance with Title 78B, Chapter 22, Part 2, Appointment of Counsel.
- (6) A juvenile court may appoint an attorney guardian ad litem under Section 78A-2-803, or as otherwise provided by law, to represent a child under this chapter.
- (7) A juvenile court may not vest custody of a minor facing a delinquency proceeding under this chapter in the Division of Child and Family Services, except as provided in Chapter 3, Abuse, Neglect, and Dependency Proceedings.

Enacted by Chapter 261, 2021 General Session

**80-6-603 Rights of minors facing delinquency proceedings.**

- (1) If a minor is facing a delinquency proceeding under this chapter, the minor has the right to:
  - (a) appear in person in the proceeding for the petition or the criminal information;
  - (b) defend, in person or by counsel, against the allegations in the petition or the criminal information;
  - (c) receive a copy of the petition or the criminal information;
  - (d) testify on the minor's own behalf;
  - (e) confront the witnesses against the minor;
  - (f) secure the attendance of witnesses on the minor's behalf under Section 78A-6-351;
  - (g) be represented by counsel at all stages of the proceedings;
  - (h) be appointed an indigent defense service provider and be provided indigent defense services in accordance with Title 78B, Chapter 22, Part 2, Appointment of Counsel;
  - (i) remain silent and be advised that anything the minor says can and will be used against the minor in any court proceedings; and
  - (j) appeal any adjudication under this chapter.
- (2) A minor facing a delinquency proceeding shall be advised of the minor's rights described in Subsection (1).

Amended by Chapter 155, 2022 General Session

**80-6-604 Victim's rights -- Access to juvenile court records.**

- (1)
- (a) If a minor is charged in a petition or information under this chapter for an offense that if committed by an adult would be a felony or a class A or class B misdemeanor, a victim of any act charged in the petition or information shall, upon request, be afforded all rights afforded to victims in:
    - (i) Title 77, Chapter 36, Cohabitant Abuse Procedures Act;
    - (ii) Title 77, Chapter 37, Victims' Rights;
    - (iii) Title 77, Chapter 38, Crime Victims; and
    - (iv) Title 78B, Chapter 7, Part 8, Criminal Protective Orders.
  - (b) The notice provisions in Section 77-38-3 do not apply to important juvenile justice hearings as defined in Section 77-38-2.
- (2) A victim, upon request to the appropriate juvenile court personnel, shall have the right to inspect and duplicate juvenile court records related to the offense against the victim that have not been expunged under Part 10, Juvenile Records and Expungement, concerning:
- (a) the scheduling of any juvenile court hearings on a petition or information filed under this chapter;
  - (b) any findings made by the juvenile court; and
  - (c) any order or disposition imposed by the juvenile court.

Amended by Chapter 237, 2023 General Session

**80-6-605 Extension of juvenile court jurisdiction -- Procedure.**

- (1) At the time that a prosecuting attorney files a petition under Section 80-6-305, or a criminal information under Section 80-6-503, for a felony offense alleged to have been committed by a minor who is 14 years old or older, either party may file a motion to extend the juvenile court's continuing jurisdiction over the minor's case until the minor is 25 years old if:
- (a) the minor was the principal actor in the offense; and
  - (b) the petition or information alleges a felony violation of:
    - (i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;
    - (ii) Section 76-5-202, aggravated murder or attempted aggravated murder;
    - (iii) Section 76-5-203, murder or attempted murder;
    - (iv) Section 76-5-302, aggravated kidnapping;
    - (v) Section 76-5-405, aggravated sexual assault;
    - (vi) Section 76-6-103, aggravated arson;
    - (vii) Section 76-6-203, aggravated burglary;
    - (viii) Section 76-6-302, aggravated robbery;
    - (ix) Section 76-10-508.1, felony discharge of a firearm; or
    - (x)
      - (A) an offense other than the offenses listed in Subsections (1)(b)(i) through (ix) involving the use of a dangerous weapon that would be a felony if committed by an adult; and
      - (B) the minor has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon that would have been a felony if committed by an adult.
- (2)
- (a) Notwithstanding Subsection (1), either party may file a motion to extend the juvenile court's continuing jurisdiction after a determination by the juvenile court that the minor will not be bound over to the district court under Section 80-6-504.
- (3) The juvenile court shall make a determination on a motion under Subsection (1) or (2) at the time of disposition.

- (4) The juvenile court shall extend the continuing jurisdiction over the minor's case until the minor is 25 years old if the juvenile court finds, by a preponderance of the evidence, that extending continuing jurisdiction is in the best interest of the minor and the public.
- (5) In considering whether it is in the best interest of the minor and the public for the court to extend jurisdiction over the minor's case until the minor is 25 years old, the juvenile court shall consider and base the juvenile court's decision on:
  - (a) whether the protection of the community requires an extension of jurisdiction beyond the age of 21;
  - (b) the extent to which the minor's actions in the offense were committed in an aggressive, violent, premeditated, or willful manner;
  - (c) the minor's mental, physical, educational, trauma, and social history; and
  - (d) the criminal record and previous history of the minor.
- (6) The amount of weight that each factor in Subsection (5) is given is in the juvenile court's discretion.
- (7)
  - (a) The juvenile court may consider written reports and other materials relating to the minor's mental, physical, educational, trauma, and social history.
  - (b) Upon request by the minor, the minor's parent, guardian, or other interested party, the juvenile court shall require the person preparing the report or other material to appear and be subject to both direct and cross-examination.
- (8) A minor may testify under oath, call witnesses, cross-examine witnesses, and present evidence on the factors described in Subsection (5).

Renumbered and Amended by Chapter 261, 2021 General Session

**80-6-606 Validated risk and needs assessment -- Examination of minor or minor's parent or guardian -- Temporary custody or appointment of guardian.**

- (1)
  - (a) If a minor is adjudicated for an offense under this chapter, the minor shall undergo a risk screening or, if indicated, a validated risk and needs assessment.
  - (b) If a minor undergoes a risk screening or a validated risk and needs assessment, the results of the screening or assessment shall be used to inform the juvenile court's disposition and any case planning for the minor.
  - (c) If a minor undergoes a validated risk and needs assessment, the results of the assessment may not be shared with the juvenile court before the adjudication of the minor.
- (2) If the juvenile court's continuing jurisdiction over a minor's case is terminated, the minor shall undergo a validated risk and needs assessment within seven days of the day on which an order terminating the juvenile court's continuing jurisdiction is issued if:
  - (a) the minor is adjudicated under this chapter; and
  - (b) the minor underwent a validated risk and needs assessment under Subsection (1).
- (3)
  - (a) If a petition under this chapter has been filed for a minor, a juvenile court may:
    - (i) order that the minor be examined by a physician, surgeon, psychiatrist, or psychologist; and
    - (ii) place the minor in a hospital or other facility for examination.
  - (b) After notice and a hearing set for the specific purpose, the juvenile court may order an examination of a minor's parent or guardian whose ability to care for a minor is at issue if the juvenile court finds from the evidence presented at the hearing that the parent's or guardian's

physical, mental, or emotional condition may be a factor in causing the delinquency of the minor.

- (c) An examination conducted in accordance with this Subsection (3) is not a privileged communication under Utah Rules of Evidence, Rule 506(d)(3), and is exempt from the general rule of privilege.
- (4)
- (a) Subject to Subsection (4)(b), if a petition under this chapter has been filed for a child, a juvenile court may:
- (i) place the child in the temporary custody of a relative or other suitable individual if the child's parent or guardian consents to the placement;
  - (ii) appoint a guardian for the child if it appears a guardian is in the necessary interests of the child and the child's parent or guardian consents to the appointment; or
  - (iii) place the child in the temporary custody of a relative or other suitable individual under Subsection (4)(a)(i) or appoint a guardian for the child under Subsection (4)(a)(ii) without the consent of the child's parent or guardian if the child's parent or guardian cannot be located with reasonable diligence.
- (b) The juvenile court may not grant temporary custody or a guardianship of a child to the Division of Child and Family Services under Subsection (4)(a) to address the minor's ungovernable or other behavior, mental health, or other disability, unless the Division of Child and Family Services:
- (i) engages other relevant divisions of the department in conducting an assessment of the child and the child's family's needs;
  - (ii) based on an assessment under Subsection (4)(b)(i), determines that granting temporary custody or a guardianship of the child to the Division of Child and Family Services is the least restrictive intervention for the child that meets the child's needs; and
  - (iii) consents to the child being committed to the temporary custody of, or placed in a guardianship, with the Division of Child and Family Services.

Amended by Chapter 155, 2022 General Session

**80-6-607 Case planning and appropriate responses.**

- (1) For a minor adjudicated and placed on probation under Section 80-6-702 or committed to the division under Section 80-6-703, a case plan shall be created and:
- (a) developed in collaboration with the minor and the minor's family;
  - (b) individualized to the minor;
  - (c) informed by the results of a validated risk and needs assessment under Section 80-6-606 ;  
and
  - (d) tailored to the minor's offense and history.
- (2)
- (a) The Administrative Office of the Courts and the division shall develop a statewide system of appropriate responses to guide responses to the behaviors of minors:
    - (i) undergoing nonjudicial adjustments;
    - (ii) whose case is under the jurisdiction of the juvenile court; and
    - (iii) in the custody of the division.
  - (b) The system of responses shall include both sanctions and incentives that:
    - (i) are swift and certain;
    - (ii) include a continuum of community based responses for minors living at home;

- (iii) target a minor's criminogenic risks and needs, as determined by the results of a validated risk and needs assessment under Section 80-6-606 , and the severity of the violation; and
  - (iv) authorize earned discharge credits as one incentive for compliance.
  - (c) After considering the juvenile disposition guidelines established by the Sentencing Commission, in accordance with Section 63M-7-404, the system of appropriate responses under Subsections (2)(a) and (b) shall be developed.
- (3)
- (a) A response to compliant or noncompliant behavior under Subsection (2) shall be documented in the minor's case plan.
  - (b) Documentation under Subsection (3)(a) shall include:
    - (i) positive behaviors and incentives offered;
    - (ii) violations and corresponding sanctions; and
    - (iii) whether the minor has a subsequent violation after a sanction.
  - (4) Before referring a minor to a juvenile court for judicial review, or to the authority if the minor is under the jurisdiction of the authority, in response to a contempt filing under Section 78A-6-353 or an order to show cause, a pattern of appropriate responses shall be documented in the minor's case plan in accordance with Subsections (3)(a) and (b) .
  - (5) Notwithstanding Subsection (4), if a minor violates a protective order or an ex parte protective order listed in Section 78B-7-803, the violation may be filed directly with the juvenile court.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-6-608 When photographs, fingerprints, or HIV infection tests may be taken -- Distribution -- DNA collection -- Reimbursement.**

- (1) The division shall take a photograph and fingerprints of a minor who is:
  - (a) 14 years old or older at the time of the alleged commission of an offense that would be a felony if the minor were 18 years old or older; and
  - (b) admitted to a detention facility for the alleged commission of the offense.
- (2) The juvenile court shall order a minor who is 14 years old or older at the time that the minor is alleged to have committed an offense described in Subsection (2)(a) or (b) to have the minor's fingerprints taken at a detention facility or a local law enforcement agency if the minor is:
  - (a) adjudicated for an offense that would be a class A misdemeanor if the minor were 18 years old or older; or
  - (b) adjudicated for an offense that would be a felony if the minor were 18 years old or older and the minor was not admitted to a detention facility.
- (3) The juvenile court shall take a photograph of a minor who is:
  - (a) 14 years old or older at the time the minor was alleged to have committed an offense that would be a felony or a class A misdemeanor if the minor were 18 years old or older; and
  - (b) adjudicated for the offense described in Subsection (3)(a).
- (4) If a minor's fingerprints are taken under this section, the minor's fingerprints shall be forwarded to the Bureau of Criminal Identification and may be stored by electronic medium.
- (5) HIV testing shall be conducted on a minor who is taken into custody after having been adjudicated for a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, upon the request of:
  - (a) the victim;
  - (b) the parent or guardian of a victim who is younger than 14 years old; or
  - (c) the guardian of the alleged victim if the victim is a vulnerable adult as defined in Section 26B-6-201.

- (6) HIV testing shall be conducted on a minor against whom a petition has been filed or a pickup order has been issued for the commission of any offense under Title 76, Chapter 5, Part 4, Sexual Offenses:
  - (a) upon the request of:
    - (i) the victim;
    - (ii) the parent or guardian of a victim who is younger than 14 years old; or
    - (iii) the guardian of the alleged victim if the victim is a vulnerable adult as defined in Section 26B-6-201; and
  - (b) in which:
    - (i) the juvenile court has signed an accompanying arrest warrant, pickup order, or any other order based upon probable cause regarding the alleged offense; and
    - (ii) the juvenile court has found probable cause to believe that the alleged victim has been exposed to HIV infection as a result of the alleged offense.
- (7) HIV tests, photographs, and fingerprints may not be taken of a child who is younger than 14 years old without the consent of the juvenile court.
- (8)
  - (a) Photographs taken under this section may be distributed or disbursed to:
    - (i) state and local law enforcement agencies;
    - (ii) the judiciary; and
    - (iii) the division.
  - (b) Fingerprints may be distributed or disbursed to:
    - (i) state and local law enforcement agencies;
    - (ii) the judiciary;
    - (iii) the division; and
    - (iv) agencies participating in the Western Identification Network.
- (9)
  - (a) A DNA specimen shall be obtained from a minor who is under the jurisdiction of the juvenile court as described in Subsection 53-10-403(3).
  - (b) The DNA specimen shall be obtained, in accordance with Subsection 53-10-404(4), by:
    - (i) designated employees of the juvenile court; or
    - (ii) if the minor is committed to the division, designated employees of the division.
  - (c) The responsible agency under Subsection (9)(b) shall ensure that an employee designated to collect the saliva DNA specimens receives appropriate training and that the specimens are obtained in accordance with accepted protocol.
  - (d) Reimbursements paid under Subsection 53-10-404(2)(a) shall be placed in the DNA Specimen Restricted Account created in Section 53-10-407.
  - (e) Payment of the reimbursement is second in priority to payments the minor is ordered to make for restitution under Section 80-6-710 and for treatment ordered under Section 80-3-403.

Amended by Chapter 330, 2023 General Session

**80-6-609 Restraint of a minor.**

- (1) As used in this section, "restrained" means the use of handcuffs, chains, shackles, zip ties, irons, straightjackets, and any other device or method that is used to immobilize a minor.
- (2)
  - (a) The Judicial Council shall adopt rules that address the circumstances under which a minor may be restrained while appearing in juvenile court.

- (b) The Judicial Council shall ensure that the rules consider both the welfare of the minor and the safety of the juvenile court.
- (c) A minor may not be restrained during a juvenile court proceeding unless restraint is authorized by rules of the Judicial Council.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-6-610 Property damage caused by a minor -- Liability of parent or guardian.**

- (1) A parent or guardian with legal custody of a minor is liable for damages sustained to property not to exceed \$2,000 when:
  - (a) the minor intentionally damages, defaces, destroys, or takes the property of another;
  - (b) the minor recklessly or willfully shoots or propels a missile, or other object at or against a motor vehicle, bus, airplane, boat, locomotive, train, railway car, or caboose, whether moving or standing; or
  - (c) the minor intentionally and unlawfully tampers with the property of another and thereby recklessly endangers human life or recklessly causes or threatens a substantial interruption or impairment of any public utility service.
- (2) A parent or guardian with legal custody of a minor is liable for damages sustained to property not to exceed \$5,000 when the minor is adjudicated for an offense under Subsection (1):
  - (a) for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802; or
  - (b) to gain recognition, acceptance, membership, or increased status with a criminal street gang.
- (3) A juvenile court may make an order for restitution under Subsection (1) or (2) to be paid by the minor's parent or guardian if the minor is adjudicated for an offense.
- (4) As used in this section, property damage described under Subsection (1)(a) or (c), or Subsection (2), includes graffiti, as defined in Section 76-6-101.
- (5) A court may waive part or all of the liability for damages under this section by the minor's parent or guardian if, after the minor is adjudicated, the court finds, upon the record:
  - (a) good cause; or
  - (b) the parent or guardian:
    - (i) made a reasonable effort to restrain the wrongful conduct; and
    - (ii) reported the conduct to the property owner involved or the law enforcement agency having primary jurisdiction after the parent or guardian knew of the minor's unlawful act.
- (6) A report is not required under Subsection (5)(b) from a parent or guardian if the minor was arrested or apprehended by a peace officer or by anyone acting on behalf of the property owner involved.
- (7) A conviction for criminal mischief under Section 76-6-106, property damage or destruction under Section 76-6-106.1, criminal trespass under Section 76-6-206, or an adjudication under Section 80-6-701 is not a condition precedent to a civil action authorized under Subsection (1) or (2).
- (8) A parent or guardian is not liable under Subsection (1) or (2) if the parent or guardian made a reasonable effort to supervise and direct the minor, or, in the event the parent or guardian knew in advance of the possible taking, injury, or destruction by the minor, made a reasonable effort to restrain the minor.

Amended by Chapter 111, 2023 General Session



## Part 7 Adjudication and Disposition

### **80-6-701 Adjudication of an offense.**

- (1)
  - (a) If the juvenile court finds, by beyond a reasonable doubt, that the allegations in a petition under Section 80-6-305, or a criminal information under Section 80-6-503, are true at the adjudication hearing, the juvenile court may order a disposition for a minor under this part.
  - (b) In determining the proper disposition for a minor under Subsection (1), the juvenile court may consider written reports and materials in accordance with Utah Rules of Juvenile Procedure, Rule 45.
  - (c) Except as otherwise provided by this chapter, the juvenile court may combine the dispositions under this part if the dispositions are compatible.
  - (d) If the juvenile court orders any disposition under this part, including an order for secure detention under Section 80-6-704, the disposition shall be served concurrently with any other disposition for detention or secure care.
- (2) The juvenile court shall adjudicate a minor's case in accordance with the Utah Rules of Juvenile Procedure.
- (3)
  - (a) If an offense committed by a minor comes within the juvenile court's jurisdiction, the juvenile court is not required to make findings of fact upon which the juvenile court bases the juvenile court's jurisdiction for an offense described in Subsection 78A-6-103(1).
  - (b) For an offense not described in Subsection 78A-6-103(1), the juvenile court shall make findings of fact upon which the juvenile court bases the juvenile court's jurisdiction.

Enacted by Chapter 261, 2021 General Session

### **80-6-702 Probation or protective supervision -- Conditions for probation.**

- (1) If a minor is adjudicated under Section 80-6-701, the juvenile court may place the minor on probation, or under protective supervision in accordance with Subsection (3) if the minor is a child, in the minor's own home and upon conditions determined by the juvenile court, including community or compensatory service.
- (2)
  - (a) If the juvenile court orders a condition under Subsection (1), the condition shall be:
    - (i) individualized and address a specific risk or need;
    - (ii) based on information provided to the juvenile court, including the results of a validated risk and needs assessment conducted under Section 80-6-606; and
    - (iii) if the juvenile court orders substance abuse treatment or an educational series, based on a validated risk and needs assessment conducted under Section 80-6-606.
  - (b) A juvenile court may not issue a standard order that contains control-oriented conditions.
  - (c) If the juvenile court orders a prohibition on weapon possession as a condition under Subsection (1), the prohibition shall be specific to the minor and not the minor's family.
- (3) If the juvenile court orders protective supervision, the Division of Child and Family Services may not provide protective supervision unless there is a petition filed under Section 80-3-201 that requests that the Division of Child and Family Services provide protective supervision.
- (4)

- (a) If the juvenile court places a minor on probation, the juvenile court shall establish the period of time that a minor is on probation in accordance with Section 80-6-712.
  - (b) An order for probation or protective supervision shall include a date for review and presumptive termination of the case by the juvenile court in accordance with Section 80-6-712.
  - (c) For each review of a minor's case under Subsection (4)(b), the juvenile court shall set a new date for a review and presumptive termination of the minor's case.
- (5)
- (a) If a minor is adjudicated under this chapter, the juvenile court may order a minor's parent, guardian, or custodian, or any other person who has been made a party to the proceedings, to comply with reasonable conditions, including:
    - (i) parent-time by the minor's parent;
    - (ii) restrictions on the individuals that the minor associates with;
    - (iii) restrictions on the minor's occupation and any other activity; and
    - (iv) requirements to be observed by the minor's parent, guardian, or custodian.
  - (b) If a minor's parent, guardian, or custodian successfully completes a family or other counseling program, the minor may be credited by the juvenile court for time spent in detention, in secure care, or on probation.

Enacted by Chapter 261, 2021 General Session

**80-6-703 Placement of a child -- Commitment of a minor to the division -- Limitations.**

- (1)
- (a) If a child is adjudicated for an offense under Section 80-6-701, the juvenile court may:
    - (i) place the child in the legal custody of a relative or other suitable individual regardless of whether the minor is placed on probation under Subsection 80-6-702(1); or
    - (ii) appoint a guardian for the child if it appears that a guardian is necessary in the interest of the child.
  - (b) The juvenile court may not assume the function of developing foster home services in placing a child in the legal custody of a relative or other suitable individual under Subsection (1)(a).
  - (c)
    - (i) If the juvenile court appoints a guardian for a child under Subsection (1)(a)(ii), the juvenile court:
      - (A) may appoint a public or private institution or agency as the guardian of the child; and
      - (B) may not appoint a nonsecure residential placement provider for which legal custody of the child is vested.
    - (d) In placing a child under the guardianship or legal custody of an individual or private agency or institution under Subsection (1)(a)(ii), the juvenile court:
      - (i) shall give primary consideration to the welfare of the child; and
      - (ii) may take into consideration the religious preferences of the child and the child's parent.
- (2) If a minor is adjudicated under Section 80-6-701, the juvenile court shall only commit the minor to the division and order the division to provide recommendations and services if:
- (a) nonresidential treatment options have been exhausted or nonresidential treatment options are not appropriate; and
  - (b) the minor is adjudicated under this chapter for:
    - (i) a felony;
    - (ii) a misdemeanor when the minor has five prior misdemeanors or felony adjudications arising from separate criminal episodes; or

- (iii) a misdemeanor involving the use of a dangerous weapon as defined in Section 76-1-101.5.
- (3) A juvenile court may not commit a minor to the division:
  - (a) for residential observation and evaluation or residential observation and assessment;
  - (b) for contempt of court, except to the extent permitted under Section 78A-6-353;
  - (c) for a violation of probation;
  - (d) for failure to pay a fine, fee, restitution, or other financial obligation;
  - (e) for unfinished compensatory or community service hours;
  - (f) for an infraction; or
  - (g) for a status offense.
- (4) If the juvenile court commits a minor to the division, the juvenile court shall:
  - (a) find whether the minor is being committed to the division for placement in a community-based program, secure detention under Section 80-6-704, or secure care under Section 80-6-705;
  - (b) specify the criteria under Subsection (3) for which the juvenile court is committing the minor to the division; and
  - (c) establish the period of time that the minor is committed to the division in accordance with Section 80-6-712.
- (5)
  - (a) Except for an order for secure care under Section 80-6-705, if the juvenile court commits a minor to the division, or places the minor with an individual under this section, the juvenile court shall include in the order a date for a review and presumptive termination of the minor's case by the juvenile court in accordance with Section 80-6-712.
  - (b) For each review of a minor's case under Subsection (5)(a), the juvenile court shall set a new date for a review and presumptive termination of the minor's case.
- (6) If a minor is adjudicated for an offense under Section 80-6-701, a juvenile court may not commit a minor to:
  - (a) except as provided in Subsection (7), the Division of Child and Family Services; or
  - (b) a correctional facility.
- (7) The juvenile court may not commit a minor to the Division of Child and Family Services to address the minor's ungovernable or other behavior, mental health, or disability, unless the Division of Child and Family Services:
  - (a) engages other relevant divisions of the department in conducting an assessment of the minor and the minor's family's needs;
  - (b) based on an assessment under Subsection (7)(a), determines that committing the minor to the Division of Child and Family Services is the least restrictive intervention for the minor that meets the minor's needs; and
  - (c) consents to the minor being committed to the Division of Child and Family Services.
- (8) If a minor is committed to the division under this section, the division may not transfer custody of the minor to a correctional facility.

Amended by Chapter 430, 2022 General Session

**80-6-704 Detention or alternative to detention -- Limitations.**

- (1)
  - (a) The juvenile court may order a minor to detention, or an alternative to detention, if the minor is adjudicated for:
    - (i) an offense under Section 80-6-701; or
    - (ii) contempt of court under Section 78A-6-353.

- (b) Except as provided in Subsection 78A-6-353(3), and subject to the juvenile court retaining continuing jurisdiction over a minor's case, the juvenile court may order a minor to detention, or an alternative to detention, under Subsection (1) for a period not to exceed 30 cumulative days for an adjudication.
- (c) If a minor is held in detention before an adjudication, the time spent in detention before the adjudication shall be credited toward the 30 cumulative days eligible as a disposition under Subsection (1)(a).
- (d) If a minor spent more than 30 days in detention before a disposition under Subsection (1), the juvenile court may not order the minor to detention under this section.
- (2) An order for detention under Subsection (1) may not be suspended upon conditions ordered by the juvenile court.
- (3) A juvenile court may not order a minor to detention for:
  - (a) contempt of court, except to the extent permitted under Section 78A-6-353;
  - (b) a violation of probation;
  - (c) failure to pay a fine, fee, restitution, or other financial obligation;
  - (d) unfinished compensatory or community service hours;
  - (e) an infraction; or
  - (f) a status offense.
- (4)
  - (a) If a minor is held in detention under this section, the minor is eligible to receive credit for good behavior against the period of detention.
  - (b) The rate of credit is one day of credit for good behavior for every three days spent in detention.
- (5)
  - (a) A minor may not be held in secure detention following a disposition by the juvenile court:
    - (i) under Chapter 3, Abuse, Neglect, and Dependency Proceedings; or
    - (ii) except as provided in Subsection (5)(b), for a community-based program.
  - (b) If a minor is awaiting placement by the division under Section 80-6-703, a minor may not be held in secure detention for longer than 72 hours, excluding weekends and holidays.
  - (c) The period of detention under Subsection (5)(b) may be extended by the juvenile court for a cumulative total of seven calendar days if:
    - (i) the division, or another agency responsible for placement, files a written petition with the juvenile court requesting the extension and setting forth good cause; and
    - (ii) the juvenile court enters a written finding that it is in the best interests of both the minor and the community to extend the period of detention.
  - (d) The juvenile court may extend the period of detention beyond the seven calendar days if the juvenile court finds, by clear and convincing evidence, that:
    - (i) the division, or another agency responsible for placement, does not have space for the minor; and
    - (ii) the safety of the minor and community requires an extension of the period of detention.
  - (e) The division, or the agency with custody of the minor, shall report to the juvenile court every 48 hours, excluding weekends and holidays, regarding whether the division, or another agency responsible for placement, has space for the minor.
  - (f) The division, or agency, requesting an extension shall promptly notify the detention facility that a written petition has been filed.
  - (g) The juvenile court shall promptly notify the detention facility regarding the juvenile court's initial disposition and any ruling on a petition for an extension, whether granted or denied.

Enacted by Chapter 261, 2021 General Session

**80-6-705 Secure care -- Limitations -- Order for therapy for parent with minor in secure care.**

- (1) If a minor is adjudicated for an offense under Section 80-6-701, the juvenile court may order the minor to secure care if the juvenile court finds that:
  - (a)
    - (i) the minor poses a risk of harm to others; or
    - (ii) the minor's conduct resulted in the victim's death; and
  - (b) the minor is adjudicated for:
    - (i) a felony offense;
    - (ii) a misdemeanor offense if the minor has five prior misdemeanor or felony adjudications arising from separate criminal episodes; or
    - (iii) a misdemeanor offense involving use of a dangerous weapon as defined in Section 76-1-101.5.
- (2) A juvenile court may not order a minor to secure care for:
  - (a) contempt of court;
  - (b) a violation of probation;
  - (c) failure to pay a fine, fee, restitution, or other financial obligation;
  - (d) unfinished compensatory or community service hours;
  - (e) an infraction; or
  - (f) a status offense.
- (3) The juvenile court may, on the recommendation of the division, order a parent of a minor in secure care to undergo group rehabilitation therapy under the direction of a therapist, who has supervision of the minor in secure care, or any other therapist for a period recommended by the division.

Amended by Chapter 430, 2022 General Session

**80-6-706 Treatment -- Commitment to local mental health authority or Utah State Developmental Center.**

- (1) If a minor is adjudicated under Section 80-6-701, the juvenile court may order:
  - (a) a nonresidential, diagnostic assessment for the minor, including a risk assessment for substance use disorder, mental health, psychological, or sexual behavior;
  - (b) the minor to be examined or treated by a physician, surgeon, psychiatrist, or psychologist; or
  - (c) other care for the minor.
- (2) For purposes of receiving the examination, treatment, or care described in Subsection (1), the juvenile court may place the minor in a hospital or other suitable facility that is not secure care or secure detention.
- (3) In determining whether to order the examination, treatment, or care described in Subsection (1), the juvenile court shall consider:
  - (a) the desires of the minor;
  - (b) if the minor is a child, the desires of the minor's parent or guardian; and
  - (c) whether the potential benefits of the examination, treatment, or care outweigh the potential risks and side-effects, including behavioral disturbances, suicidal ideation, brain function impairment, or emotional or physical harm resulting from the compulsory nature of the examination, treatment, or care.
- (4)

- (a) If the juvenile court orders examination, treatment, or care for a child under Subsection (1) and the child is committed to the division under Subsection 80-6-703(2), the division shall:
    - (i) take reasonable measures to notify the child's parent or guardian of any non-emergency health treatment or care scheduled for the child;
    - (ii) include the child's parent or guardian as fully as possible in making health care decisions for the child; and
    - (iii) defer to the child's parent's or guardian's reasonable and informed decisions regarding the child's health care to the extent that the child's health and well-being are not unreasonably compromised by the parent's or guardian's decision.
  - (b) The division shall notify the parent or guardian of a child within five business days after a child committed to the division receives emergency health care or treatment.
  - (c) The division shall use the least restrictive means to accomplish the care and treatment of a child described under Subsection (1).
- (5) If a child is adjudicated for an offense under Section 80-6-701, the juvenile court may commit the child to the physical custody, as defined in Section 26B-5-401, of a local mental health authority in accordance with the procedures and requirements in Title 26B, Chapter 5, Part 4, Commitment of Persons Under Age 18.
- (6)
- (a) If a minor is adjudicated for an offense under Section 80-6-701, and the minor has an intellectual disability, the juvenile court may commit the minor to the Utah State Developmental Center in accordance with Title 26B, Chapter 6, Part 6, Admission to an Intermediate Care Facility for People with an Intellectual Disability.
  - (b) The juvenile court shall follow the procedure applicable in the district courts with respect to judicial commitments to the Utah State Developmental Center when ordering a commitment under Subsection (6)(a).

Amended by Chapter 330, 2023 General Session

**80-6-707 Suspension of driving privileges.**

- (1) This section applies to a minor who:
- (a) at the time that the minor is adjudicated under Section 80-6-701, is at least the age eligible for a driver license under Section 53-3-204; and
  - (b) is found by the juvenile court to be in actual physical control of a motor vehicle during the commission of the offense for which the minor is adjudicated.
- (2)
- (a) Except as otherwise provided by this section, if a minor is adjudicated for a violation of a traffic law by the juvenile court under Section 80-6-701, the juvenile court may:
    - (i) suspend the minor's driving privileges; and
    - (ii) take possession of the minor's driver license.
  - (b) The juvenile court may order any other eligible disposition under Subsection (1), except for a disposition under Section 80-6-703 or 80-6-705.
  - (c) If a juvenile court suspends a minor's driving privileges under Subsection (2)(a):
    - (i) the juvenile court shall prepare and send the order to the Driver License Division of the Department of Public Safety; and
    - (ii) the minor's license shall be suspended under Section 53-3-219.
- (3) The juvenile court may reduce a suspension period imposed under Section 53-3-219 if:
- (a)
    - (i) the violation is the minor's first violation of:

- (A) Section 32B-4-409;
- (B) Section 32B-4-410;
- (C) Section 58-37-8;
- (D) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- (E) Title 58, Chapter 37b, Imitation Controlled Substances Act;
- (F) Subsection 76-5-102.1(2)(b);
- (G) Subsection 76-5-207(2)(b); or
- (H) Subsection 76-9-701(1); and

(ii)

- (A) the minor completes an educational series as defined in Section 41-6a-501; or
- (B) the minor demonstrates substantial progress in substance use disorder treatment; or

(b)

(i) the violation is the minor's second or subsequent violation of:

- (A) Section 32B-4-409;
- (B) Section 32B-4-410;
- (C) Section 58-37-8;
- (D) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- (E) Title 58, Chapter 37b, Imitation Controlled Substances Act;
- (F) Subsection 76-5-102.1(2)(b);
- (G) Subsection 76-5-207(2)(b); or
- (H) Subsection 76-9-701(1);

(ii) the minor has completed an educational series as defined in Section 41-6a-501 or demonstrated substantial progress in substance use disorder treatment; and

(iii)

- (A) the minor is 18 years old or older and provides a sworn statement to the juvenile court that the minor has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Section 53-3-219; or
- (B) the minor is under 18 years old and the minor's parent or guardian provides an affidavit or sworn statement to the juvenile court certifying that to the parent or guardian's knowledge the minor has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Section 53-3-219.

(4)

(a) If a minor is adjudicated under Section 80-6-701 for a proof of age violation, as defined in Section 32B-4-411:

- (i) the juvenile court may forward a record of adjudication to the Department of Public Safety for a first or subsequent violation; and
- (ii) the minor's driving privileges will be suspended:
  - (A) for a period of at least one year under Section 53-3-220 for a first conviction for a violation of Section 32B-4-411; or
  - (B) for a period of two years for a second or subsequent conviction for a violation of Section 32B-4-411.

(b) The juvenile court may reduce the suspension period imposed under Subsection (4)(a)(ii)(A) if:

(i) the violation is the minor's first violation of Section 32B-4-411; and

(ii)

- (A) the minor completes an educational series as defined in Section 41-6a-501; or
- (B) the minor demonstrates substantial progress in substance use disorder treatment.

- (c) The juvenile court may reduce the suspension period imposed under Subsection (4)(a)(ii)(B) if:
  - (i) the violation is the minor's second or subsequent violation of Section 32B-4-411;
  - (ii) the minor has completed an educational series as defined in Section 41-6a-501 or demonstrated substantial progress in substance use disorder treatment; and
  - (iii)
    - (A) the minor is 18 years old or older and provides a sworn statement to the court that the minor has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (4)(a)(ii)(B); or
    - (B) the minor is under 18 years old and has the minor's parent or guardian provide an affidavit or sworn statement to the court certifying that to the parent's or guardian's knowledge the minor has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (4)(a)(ii)(B).
- (5) When the Department of Public Safety receives the arrest or conviction record of a minor for a driving offense committed while the minor's license is suspended under this section, the Department of Public Safety shall extend the suspension for a like period of time.

Amended by Chapter 116, 2022 General Session

Amended by Chapter 334, 2022 General Session

#### **80-6-708 Service in National Guard.**

If a minor is adjudicated under Section 80-6-701, the minor may be given a choice by the juvenile court to serve in the National Guard in lieu of other sanctions described in this part if:

- (1) the minor meets the current entrance qualifications for service in the National Guard as determined by a recruiter, whose determination is final;
- (2) the offense:
  - (a) would be a felony if committed by an adult;
  - (b) is a violation of Title 58, Chapter 37, Utah Controlled Substances Act; or
  - (c) was committed with a weapon; and
- (3) the juvenile court retains jurisdiction over the minor's case under conditions set by the juvenile court and agreed upon by the recruiter or the unit commander to which the minor is eventually assigned.

Enacted by Chapter 261, 2021 General Session

#### **80-6-709 Payment of fines, fees, restitution, or other costs -- Community or compensatory service -- Property damage -- Unpaid balances.**

- (1)
  - (a) If a minor is adjudicated for an offense under Section 80-6-701, the juvenile court may order a minor to:
    - (i) pay a fine, fee, or other cost;
    - (ii) pay restitution in accordance with Section 80-6-710; or
    - (iii) complete community or compensatory service hours.
  - (b)
    - (i) If the juvenile court orders the minor to pay restitution under Subsection (1)(a), a juvenile probation officer may permit the minor to complete a work program in lieu of paying part or all of the restitution by the juvenile court.



- (ii) If the juvenile court orders the minor to complete community or compensatory service hours, a juvenile probation officer may permit the minor to complete a work program to help the minor complete the community or compensatory service hours.
  - (c) The juvenile court may, through a juvenile probation officer, encourage the development of nonresidential employment or a work program to enable a minor to fulfill the minor's obligations under Subsection (1)(a).
  - (d) Notwithstanding this section, a juvenile court may not place a minor on a ranch, forestry camp, or other residential work program for care or work.
- (2) If the juvenile court orders a minor to pay a fine, fee, restitution, or other cost, or to complete community or compensatory service hours, the juvenile court shall consider the dispositions collectively to ensure that an order:
- (a) is reasonable;
  - (b) prioritizes restitution; and
  - (c) except for restitution as provided in Subsection 80-6-710(5)(c), takes into account the minor's ability to pay the fine, fee, or other cost within the presumptive period under Section 80-6-712 or Section 80-6-802 if the minor is ordered to secure care.
- (3)
- (a) If the juvenile court orders a minor to pay a fine, fee, or other cost, or complete community or compensatory service hours, the cumulative order shall be limited per criminal episode as follows:
    - (i) for a minor under 16 years old at the time of adjudication, the juvenile court may impose up to \$190 or up to 24 hours of community or compensatory service; and
    - (ii) for a minor 16 years old or older at the time of adjudication, the juvenile court may impose up to \$280 or up to 36 hours of community or compensatory service.
  - (b) The cumulative order under Subsection (3)(a) does not include restitution.
- (4)
- (a) If the juvenile court converts a fine, fee, or restitution amount to compensatory service hours, the rate of conversion shall be no less than the minimum wage.
  - (b) If the juvenile court orders a minor to complete community service, the presumptive service order shall include between five and 10 hours of service.
  - (c) If a minor completes an approved substance use disorder prevention or treatment program or other court-ordered condition, the minor may be credited with compensatory service hours for the completion of the program or condition by the juvenile court.
- (5)
- (a) If a minor commits an offense involving the use of graffiti under Section 76-6-106, 76-6-106.1, or 76-6-206, the juvenile court may order the minor to clean up graffiti created by the minor or any other individual at a time and place within the jurisdiction of the juvenile court.
  - (b) The minor may complete the order of the juvenile court under Subsection (5)(a) in the presence and under the direct supervision of the minor's parent, guardian, or custodian.
  - (c) The minor's parent, guardian, or custodian shall report completion of the order to the juvenile court.
  - (d) The juvenile court may also require the minor to perform other alternative forms of restitution or repair to the damaged property in accordance with Section 80-6-710.
- (6)
- (a) Except as provided in Subsection (6)(b), the juvenile court may issue orders necessary for the collection of restitution and fines ordered under this section, including garnishments, wage withholdings, and executions.

- (b) The juvenile court may not issue an order under Subsection (6)(a) if the juvenile court orders a disposition that changes custody of a minor, including detention, secure care, or any other secure or nonsecure residential placement.
- (7) Any information necessary to collect unpaid fines, fees, assessments, or restitution may be forwarded to employers, financial institutions, law enforcement, constables, the Office of Recovery Services, or other agencies for purposes of enforcing an order under this section.
- (8)
  - (a) If, before the entry of any order terminating the juvenile court's continuing jurisdiction over a minor's case, there remains an unpaid balance for any fine, fee, or restitution ordered by the juvenile court, the juvenile court shall:
    - (i) record all pertinent information for the unpaid balance in the minor's file; and
    - (ii) if there is an unpaid amount of restitution, record the amount of unpaid restitution as a civil judgment and list the victim, or the estate of the victim, as the judgment creditor in the civil judgment.
  - (b) The juvenile court may not transfer responsibility to collect unpaid fines, fees, surcharges, and restitution for a minor's case to the Office of State Debt Collection created in Section 63A-3-502.

Amended by Chapter 111, 2023 General Session

**80-6-710 Determination of restitution -- Requirements.**

- (1) If a minor is adjudicated under Section 80-6-701, the juvenile court may order the minor to repair, replace, or otherwise make restitution for:
  - (a) material loss caused by an offense listed in the petition; or
  - (b) conduct for which the minor agrees to make restitution.
- (2) Within seven days after the day on which a petition is filed under this chapter, the prosecuting attorney or a juvenile probation officer shall provide notification of the restitution process to all reasonably identifiable and locatable victims of an offense listed in the petition.
- (3) A victim that receives notice under Subsection (2) is responsible for providing the prosecuting attorney with:
  - (a) all invoices, bills, receipts, and any other evidence of the injury or out-of-pocket loss;
  - (b) all documentation of any compensation or reimbursement from an insurance company or a local, state, or federal agency that is related to the injury or out-of-pocket loss;
  - (c) if available, the victim's proof of identification, including the victim's date of birth, social security number, or driver license number; and
  - (d) the victim's contact information, including the victim's current home and work address and telephone number.
- (4)
  - (a) A prosecuting attorney, or a victim's attorney, shall make a request for an order for restitution in the juvenile court:
    - (i) if feasible, at the time of disposition; or
    - (ii) within 90 days after disposition.
  - (b) If a prosecuting attorney's request for restitution includes an amount that is less than the amount requested by the victim, the prosecuting attorney shall include a copy of the victim's request with the prosecuting attorney's request.
  - (c) A written request for an order for restitution under Subsection (4)(a) shall be served on all parties to the minor's case.
- (5) In an order for restitution under Subsection (1), the juvenile court:

- (a) shall only order restitution for the victim's material loss;
  - (b) may not order restitution if the juvenile court finds that the minor is unable to pay or acquire the means to pay;
  - (c) shall take into account:
    - (i) the minor's ability to satisfy the restitution order within six months from the day on which restitution is ordered; or
    - (ii) if the minor participates in a restorative justice program under Subsection (6), the amount or conditions of restitution agreed upon by the minor and the victim of the adjudicated offense;
  - (d) shall credit any amount paid by the minor to the victim in a civil suit against restitution owed by the minor; and
  - (e) shall credit any amount paid to the victim in restitution against liability in a civil suit.
- (6) If the minor and the victim of the adjudicated offense agree to participate, the juvenile court may refer the minor's case to a restorative justice program, such as victim offender mediation, to address how loss resulting from the adjudicated offense may be addressed.
- (7)
- (a) The juvenile court may require a minor to reimburse an individual, entity, or governmental agency who offered and paid a reward to a person for providing information resulting in an adjudication of a minor for the commission of an offense.
  - (b) If a minor is returned to this state in accordance with Part 11, Interstate Compact for Juveniles, the juvenile court may order the minor to make restitution for costs expended by any governmental entity for the return of the minor.

Amended by Chapter 256, 2023 General Session

**80-6-711 Suspending a disposition.**

- (1) Except as otherwise provided in Subsection (2), a juvenile court may not suspend a disposition ordered under this part.
- (2)
  - (a) If a minor qualifies for commitment to the division under Section 80-6-703, the juvenile court may suspend a disposition for commitment to the division in lieu of immediate commitment, upon the condition that the minor commit no new misdemeanor or felony offense within 90 days after the day on which the juvenile court suspends the disposition for commitment.
  - (b) The duration of a suspended disposition under Subsection (2)(a) may not:
    - (i) exceed 90 days after the day on which the juvenile court suspends the disposition for commitment; and
    - (ii) be extended under any circumstance.
- (3) The juvenile court may only lift a suspension of a disposition under Subsection (2)(a):
  - (a) following adjudication of a new misdemeanor or felony offense committed by the minor during the period of suspension set out under Subsection (2)(a);
  - (b) if a new assessment or evaluation has been completed and the assessment or evaluation recommends that a higher level of care is needed and nonresidential treatment options have been exhausted or nonresidential treatment options are not appropriate; or
  - (c) if, after a notice and a hearing, the juvenile court finds:
    - (i) a new or previous evaluation recommends a higher level of treatment; and
    - (ii) the minor willfully failed to comply with a lower level of treatment and has been unsuccessfully discharged from treatment.
- (4) A suspended disposition under Subsection (1) may not be imposed without:
  - (a) notice to the minor and the minor's counsel; and

(b) a hearing.

Amended by Chapter 155, 2022 General Session

**80-6-712 Time periods for supervision of probation or placement -- Termination of continuing jurisdiction.**

- (1) If the juvenile court places a minor on probation under Section 80-6-702, the juvenile court shall establish a period of time for supervision for the minor that is:
  - (a) if the minor is placed on intake probation, no more than three months; or
  - (b) if the minor is placed on formal probation, from four to six months, but may not exceed six months.
- (2)
  - (a) If the juvenile court commits a minor to the division under Section 80-6-703, and the minor's case is under the jurisdiction of the court, the juvenile court shall establish:
    - (i) for a minor placed out of the home, a period of custody from three to six months, but may not exceed six months; and
    - (ii) for aftercare services if the minor was placed out of the home, a period of supervision from three to four months, but may not exceed four months.
  - (b) A minor may be supervised for aftercare services under Subsection (2)(a)(ii):
    - (i) in the home of a qualifying relative or guardian;
    - (ii) at an independent living program contracted or operated by the division; or
    - (iii) in a family-based setting with approval by the director or the director's designee if the minor does not qualify for an independent living program due to age, disability, or another reason or the minor cannot be placed with a qualifying relative or guardian.
- (3) If the juvenile court orders a minor to secure care, the authority shall:
  - (a) have jurisdiction over the minor's case; and
  - (b) apply the provisions of Part 8, Commitment and Parole.
- (4)
  - (a) The juvenile court shall terminate continuing jurisdiction over a minor's case at the end of the time period described in Subsection (1) for probation or Subsection (2) for commitment to the division, unless:
    - (i) termination would interrupt the completion of the treatment program determined to be necessary by the results of a validated risk and needs assessment under Section 80-6-606;
    - (ii) the minor commits a new misdemeanor or felony offense;
    - (iii) the minor has not completed community or compensatory service hours;
    - (iv) there is an outstanding fine; or
    - (v) the minor has not paid restitution in full.
  - (b) The juvenile court shall determine whether a minor has completed a treatment program under Subsection (4)(a)(i) by considering:
    - (i) the recommendations of the licensed service provider for the treatment program;
    - (ii) the minor's record in the treatment program; and
    - (iii) the minor's completion of the goals of the treatment program.
- (5) Subject to Subsections (6) and (7), if one of the circumstances under Subsection (4) exists the juvenile court may extend supervision for the time needed to address the specific circumstance.
- (6) If the juvenile court extends supervision solely on the ground that the minor has not yet completed community or compensatory service hours under Subsection (4)(a)(iii), the juvenile court may only extend supervision:
  - (a) one time for no more than three months; and

- (b) as intake probation.
- (7)
  - (a) If the juvenile court extends jurisdiction solely on the ground that the minor has not paid restitution in full as described in Subsection (4)(a)(v):
    - (i) the juvenile court may only:
      - (A) extend jurisdiction up to four times for no more than three months at a time;
      - (B) consider the efforts of the minor to pay restitution in full when determining whether to extend jurisdiction under Subsection (7)(a)(i); and
      - (C) make orders concerning the payment of restitution during the period for which jurisdiction is extended;
    - (ii) the juvenile court shall terminate any intake probation or formal probation of the minor; and
    - (iii) a designated staff member of the juvenile court shall submit a report to the juvenile court every three months regarding the minor's efforts to pay restitution.
  - (b) If the juvenile court finds that a minor is not making an effort to pay restitution, the juvenile court shall:
    - (i) terminate jurisdiction over the minor's case; and
    - (ii) record the amount of unpaid restitution as a civil judgment in accordance with Subsection 80-6-709(8).
- (8) If the juvenile court extends supervision or jurisdiction under this section, the grounds for the extension and the length of any extension shall be recorded in the court records and tracked in the data system used by the Administrative Office of the Courts and the division.
- (9) If a minor leaves supervision without authorization for more than 24 hours, the supervision period for the minor shall toll until the minor returns.
- (10) This section does not apply to any minor adjudicated under this chapter for:
  - (a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;
  - (b) Section 76-5-202, aggravated murder or attempted aggravated murder;
  - (c) Section 76-5-203, murder or attempted murder;
  - (d) Section 76-5-205, manslaughter;
  - (e) Section 76-5-206, negligent homicide;
  - (f) Section 76-5-207, negligently operating a vehicle resulting in death;
  - (g) Section 76-5-207.5, automobile homicide involving using a wireless communication device while operating a motor vehicle;
  - (h) Section 76-5-208, child abuse homicide;
  - (i) Section 76-5-209, homicide by assault;
  - (j) Section 76-5-302, aggravated kidnapping;
  - (k) Section 76-5-405, aggravated sexual assault;
  - (l) a felony violation of Section 76-6-103, aggravated arson;
  - (m) Section 76-6-203, aggravated burglary;
  - (n) Section 76-6-302, aggravated robbery;
  - (o) Section 76-10-508.1, felony discharge of a firearm;
  - (p)
    - (i) an offense other than an offense listed in Subsections (10)(a) through (o) involving the use of a dangerous weapon, as defined in Section 76-1-101.5, that is a felony; and
    - (ii) the minor has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon; or
  - (q) a felony offense other than an offense listed in Subsections (10)(a) through (p) and the minor has been previously committed to the division for secure care.

Amended by Chapter 116, 2022 General Session  
Amended by Chapter 155, 2022 General Session  
Amended by Chapter 426, 2022 General Session  
Amended by Chapter 430, 2022 General Session

## **Part 8**

### **Commitment and Parole**

#### **80-6-801 Commitment to local mental health authority or Utah State Developmental Center.**

- (1) If a child is committed by the juvenile court to the physical custody, as defined in Section 26B-5-401, of a local mental health authority, or the local mental health authority's designee, Title 26B, Chapter 5, Part 4, Commitment of Persons Under Age 18, shall govern the commitment and release of the minor.
- (2) If a minor is committed to the Utah State Developmental Center, Title 26B, Chapter 6, Part 4, Division of Services for People with Disabilities, shall govern the commitment and release of the minor.

Amended by Chapter 330, 2023 General Session

#### **80-6-802 Commitment to secure care -- Rights of individuals in secure care.**

- (1) If a youth offender is ordered to secure care under Section 80-6-705, the youth offender shall remain in secure care until the youth offender is:
  - (a) 21 years old;
  - (b) paroled; or
  - (c) discharged.
- (2) If a serious youth offender is ordered to secure care under Section 80-6-705, the serious youth offender shall remain in secure care until the serious youth offender is:
  - (a) 25 years old;
  - (b) paroled; or
  - (c) discharged.
- (3)
  - (a) Subject to Subsection (3)(b), a juvenile offender in secure care, or an individual housed in a secure care facility under Section 80-6-507, has the right to:
    - (i) phone the juvenile offender's or individual's parent, guardian, or attorney; and
    - (ii) confer in private, at any time, with an attorney, cleric, parent, guardian, or custodian.
  - (b) The division may:
    - (i) establish a schedule for which a juvenile offender, or an individual housed in a secure care facility under Section 80-6-507, may visit or phone a person described in Subsection (3)(a);
    - (ii) allow a juvenile offender, or an individual housed in a secure care facility under Section 80-6-507, to visit or call persons described in Subsection (3)(a) in special circumstances;
    - (iii) limit the number and length of calls and visits for a juvenile offender, or an individual housed in a secure care facility under Section 80-6-507, to persons described in Subsection (3)(a) on account of scheduling, facility, or personnel constraints; or
    - (iv) limit the juvenile offender's or individual's rights under Subsection (3)(a) if a compelling reason exists to limit the juvenile offender's or individual's rights.

- (c) A juvenile offender in secure care, or an individual housed in a secure care facility under Section 80-6-507, shall be advised of the rights described in Subsection (3)(a).

Amended by Chapter 139, 2023 General Session

**80-6-803 Cost of support and maintenance of a juvenile offender -- Responsibility.**

On commitment of a juvenile offender to the division, and on recommendation of the division to the juvenile court, the juvenile court may order the juvenile offender, or the juvenile offender's parent, guardian, or custodian in accordance with Section 78A-6-356, to share in the costs of support and maintenance for the juvenile offender during the juvenile offender's term of commitment.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-6-804 Review and termination of secure care.**

- (1) If a juvenile offender is ordered to secure care under Section 80-6-705, the juvenile offender shall appear before the authority within 45 days after the day on which the juvenile offender is ordered to secure care for review of a treatment plan and to establish parole release guidelines.
- (2)
  - (a) Except as provided in Subsections (2)(b) and (2)(h), if a juvenile offender is ordered to secure care under Section 80-6-705, the authority shall set a presumptive term of secure care for the juvenile offender from three to six months, but the presumptive term may not exceed six months.
  - (b) If a juvenile offender is ordered to secure care for a misdemeanor offense, the authority may immediately release the juvenile offender on parole if there is a treatment program available for the juvenile offender in a community-based setting.
  - (c) Except as provided in Subsection (2)(h), the authority shall release the juvenile offender on parole at the end of the presumptive term of secure care unless:
    - (i) termination would interrupt the completion of a treatment program determined to be necessary by the results of a validated risk and needs assessment under Section 80-6-606; or
    - (ii) the juvenile offender commits a new misdemeanor or felony offense.
  - (d) The authority shall determine whether a juvenile offender has completed a treatment program under Subsection (2)(c)(i) by considering:
    - (i) the recommendations of the licensed service provider for the treatment program;
    - (ii) the juvenile offender's record in the treatment program; and
    - (iii) the juvenile offender's completion of the goals of the treatment program.
  - (e) Except as provided in Subsection (2)(h), the authority may extend the length of secure care and delay parole release for the time needed to address the specific circumstance if one of the circumstances under Subsection (2)(c) exists.
  - (f) The authority shall:
    - (i) record the length of the extension and the grounds for the extension; and
    - (ii) report annually the length and grounds of extension to the commission.
  - (g) Records under Subsection (2)(f) shall be tracked in the data system used by the juvenile court and the division.
  - (h) If a juvenile offender is ordered to secure care for a misdemeanor offense, the authority may not:

- (i) set a juvenile offender's presumptive term of secure care under Subsection (2)(a) that would result in a term of secure care that exceeds a term of incarceration for an adult under Section 76-3-204 for the same misdemeanor offense; or
  - (ii) extend the juvenile offender's term of secure care under Subsections (2)(c) and (e) if the extension would result in a term of secure care that exceeds the term of incarceration for an adult under Section 76-3-204 for the same misdemeanor offense.
- (3)
- (a) If a juvenile offender is ordered to secure care, the authority shall set a presumptive term of parole supervision, including aftercare services, from three to four months, but the presumptive term may not exceed four months.
  - (b) If the authority determines that a juvenile offender is unable to return home immediately upon release, the juvenile offender may serve the term of parole:
    - (i) in the home of a qualifying relative or guardian;
    - (ii) at an independent living program contracted or operated by the division; or
    - (iii) in a family-based setting with approval by the director or the director's designee if the minor does not qualify for an independent living program due to age, disability, or another reason or the minor cannot be placed with a qualifying relative or guardian.
  - (c) The authority shall release a juvenile offender from parole and terminate the authority's jurisdiction at the end of the presumptive term of parole, unless:
    - (i) termination would interrupt the completion of a treatment program that is determined to be necessary by the results of a validated risk and needs assessment under Section 80-6-606;
    - (ii) the juvenile offender commits a new misdemeanor or felony offense; or
    - (iii) restitution has not been completed.
  - (d) The authority shall determine whether a juvenile offender has completed a treatment program under Subsection (3)(c)(i) by considering:
    - (i) the recommendations of the licensed service provider;
    - (ii) the juvenile offender's record in the treatment program; and
    - (iii) the juvenile offender's completion of the goals of the treatment program.
  - (e) If one of the circumstances under Subsection (3)(c) exists, the authority may delay parole release only for the time needed to address the specific circumstance.
  - (f) The authority shall:
    - (i) record the grounds for extension of the presumptive length of parole and the length of the extension; and
    - (ii) report annually the extension and the length of the extension to the commission.
  - (g) Records under Subsection (3)(f) shall be tracked in the data system used by the juvenile court and the division.
  - (h) If a juvenile offender leaves parole supervision without authorization for more than 24 hours, the term of parole shall toll until the juvenile offender returns.
- (4) Subsections (2) and (3) do not apply to a juvenile offender ordered to secure care for:
- (a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;
  - (b) Section 76-5-202, aggravated murder or attempted aggravated murder;
  - (c) Section 76-5-203, murder or attempted murder;
  - (d) Section 76-5-205, manslaughter;
  - (e) Section 76-5-206, negligent homicide;
  - (f) Section 76-5-207, negligently operating a vehicle resulting in death;
  - (g) Section 76-5-207.5, automobile homicide involving using a wireless communication device while operating a motor vehicle;
  - (h) Section 76-5-208, child abuse homicide;



- (i) Section 76-5-209, homicide by assault;
- (j) Section 76-5-302, aggravated kidnapping;
- (k) Section 76-5-405, aggravated sexual assault;
- (l) a felony violation of Section 76-6-103, aggravated arson;
- (m) Section 76-6-203, aggravated burglary;
- (n) Section 76-6-302, aggravated robbery;
- (o) Section 76-10-508.1, felony discharge of a firearm;
- (p)
  - (i) an offense other than an offense listed in Subsections (4)(a) through (o) involving the use of a dangerous weapon, as defined in Section 76-1-101.5, that is a felony; and
  - (ii) the juvenile offender has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon, as defined in Section 76-1-101.5; or
- (q) an offense other than an offense listed in Subsections (4)(a) through (p) and the juvenile offender has been previously ordered to secure care.

Amended by Chapter 236, 2023 General Session

**80-6-805 Parole procedures -- Conditions of parole.**

- (1)
  - (a) A juvenile offender shall be served with notice of parole hearings and has the right to personally appear before the authority for parole consideration.
  - (b) An order or decision of the authority shall be in writing.
  - (c) A juvenile offender shall be provided written notice of the authority's reasoning and decision in the juvenile offender's case.
- (2) A juvenile offender may be paroled to the juvenile offender's home, to an independent living program contracted or operated by the division, to an approved independent living setting, or to other appropriate residences of qualifying relatives or guardians, but shall remain on parole until parole is terminated by the authority in accordance with Section 80-6-804.
- (3)
  - (a) Any condition of parole shall be specified in writing, and agreed to, by the juvenile offender.
  - (b) An agreement under Subsection (3)(a) shall be evidenced by the signature of the juvenile offender, which shall be affixed to the agreement.
- (4) The authority may require a juvenile offender to pay restitution ordered by the juvenile court as a condition of release, placement, or parole.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-6-806 Parole revocation -- Hearing -- Procedures.**

- (1)
  - (a) The authority may only revoke the parole of a juvenile offender after a hearing and upon determination that there has been a violation of law or of a condition of parole by the juvenile offender that warrants the juvenile offender's return to secure care.
  - (b) The parole revocation hearing shall be held at the secure care facility.
- (2)
  - (a) Before returning a juvenile offender to secure care for a parole revocation or rescission hearing, the division shall provide a prerevocation or prerescission hearing within the vicinity of the alleged violation, to determine whether there is probable cause to believe that the juvenile offender violated the conditions of the juvenile offender's parole.

- (b) Upon a finding of probable cause, the juvenile offender may be remanded to secure care, pending a revocation hearing.
- (3) The authority shall only proceed with the parole revocation or rescission process in accordance with the system of appropriate responses developed in accordance with Section 80-6-607.
- (4) A paroled juvenile offender is entitled to legal representation at the parole revocation hearing, and if the juvenile offender or the juvenile offender's family has requested but cannot afford legal representation, the authority shall appoint legal counsel.
- (5)
  - (a) A juvenile offender:
    - (i) shall receive timely advance notice of the date, time, place, and reason for the hearing; and
    - (ii) has the right to appear at the hearing.
  - (b) The authority shall provide the juvenile offender an opportunity to be heard, to present witnesses and evidence, and to confront and cross-examine adverse witnesses, unless there is good cause for disallowing that confrontation.
- (6) Decisions in parole revocation or rescission hearings shall be reached by a majority vote of the present members of the authority.
- (7)
  - (a) The authority may issue a warrant to order any peace officer or division employee to take into custody a juvenile offender alleged to be in violation of parole conditions in accordance with Section 80-6-607.
  - (b) The division may issue a warrant to any peace officer or division employee to retake a juvenile offender who has escaped from secure care.
  - (c) Based upon the warrant issued under this Subsection (7), a juvenile offender may be held in a local detention facility for no longer than 48 hours, excluding weekends and legal holidays, to allow time for a prerevocation or prerescission hearing of the alleged parole violation, or in the case of an escapee, arrangement for transportation to secure care.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-6-807 Discharge of juvenile offender.**

- (1) A juvenile offender may be discharged from the jurisdiction of the division at any time, by written order of the authority, upon a finding that no further purpose would be served by secure care or supervision in a community setting.
- (2) A juvenile offender shall be discharged in accordance with Section 80-6-804.
- (3) Discharge of a juvenile offender is a complete release of all penalties incurred by adjudication of the offense for which the juvenile offender was committed to secure care.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-6-808 Appeal regarding parole release or revocation.**

- (1) A juvenile offender, or the parent or guardian of a juvenile offender, may appeal to the executive director of the department, or the executive director's designee, any decision of the authority regarding parole release, rescission, or revocation.
- (2) The executive director, or the executive director's designee, may set aside or remand the authority's decision only if the authority's decision is arbitrary, capricious, an abuse of discretion, or contrary to law.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-6-809 Division services after termination of custody of a minor.**

- (1) If a minor is committed to the custody of the division under Section 80-6-703, the division may continue to provide services to the minor, upon the minor's termination from custody of the division, to allow the minor to participate in an educational, rehabilitative, or support program until the minor is 25 years old under an agreement by the division and the minor that the program has certain conditions.
- (2) The division shall offer an educational, rehabilitative, or support program to a minor before the minor's termination date.
- (3) Even if a minor has been previously declined services or services were terminated for noncompliance:
  - (a) a minor, who is terminated from custody, may request the services described in this section; and
  - (b) notwithstanding Subsection (2), the division shall consider a request by a minor under Subsection (3)(a).
- (4) If a request is made under Subsection (3), the division may reach an agreement with the minor to provide the services described in this section until the minor is 25 years old.
- (5) The division, or the minor, may terminate an agreement for services under this section at any time.

Enacted by Chapter 203, 2022 General Session

**Part 9  
Youth Court**

**80-6-901 Definitions.**

As used in this part:

- (1) "Adult" means an individual who is 18 years old or older.
- (2)
  - (a) "Gang activity" means any criminal activity that is conducted as part of an organized youth gang.
  - (b) "Gang activity" includes any criminal activity that is done in concert with other gang members, or done alone if the criminal activity is to fulfill gang purposes.
  - (c) "Gang activity" does not include graffiti.
- (3) "Minor" means an individual who is:
  - (a) under 18 years old; or
  - (b) 18 years old and still attending high school.
- (4)
  - (a) "Minor offense" means any unlawful act that is a status offense or an offense that would be a misdemeanor, infraction, or violation of a municipal or county ordinance if committed by an adult.
  - (b) "Minor offense" does not include:
    - (i) a class A misdemeanor; or
    - (ii) a felony of any degree.
- (5) "Sponsoring entity" means any political subdivision of the state, including a school or school district, juvenile court, law enforcement agency, prosecutor's office, county, city, or town.

- (6) "Status offense" means a violation of the law that would not be a violation but for the age of the offender.
- (7) "Youth court" means a diversion program that is an alternative disposition for cases involving minors who have committed minor offenses.
- (8) "Youth Court Board" means the board created under Subsection 80-6-907(1).

Renumbered and Amended by Chapter 261, 2021 General Session

**80-6-902 Youth court -- Authorization -- Referral.**

- (1) A minor may serve in a youth court, under the supervision of an adult coordinator, in various capacities within the courtroom, acting in the role of jurors, lawyers, bailiffs, clerks, and judges.
  - (a) A minor who appears before a youth court has been identified by law enforcement personnel, school officials, a prosecuting attorney, or the juvenile court as having committed an act, including a minor offense or eligible offense under Section 53G-8-211, that indicates a need for intervention to prevent further development toward juvenile delinquency, but which appear to be acts that can be appropriately addressed outside the juvenile court process.
  - (b) A youth court may only hear cases as provided for in this part.
  - (c) A youth court is not a court established under the Utah Constitution, Article VIII.
- (2) A youth court may not accept referrals from law enforcement, schools, prosecuting attorneys, or a juvenile court unless the youth court is certified by the Youth Court Board.
- (3)
  - (a) Any person may refer a minor to a youth court for a minor offense or for any other eligible offense under Section 53G-8-211.
  - (b) Once a referral is made, the case shall be screened by an adult coordinator to determine whether the minor offense or other eligible offense qualifies as a youth court case.
- (4) A youth court has authority over a minor:
  - (a) referred for one or more minor offenses or who are referred for other eligible offenses under Section 53G-8-211, or who are granted permission for referral under this part;
  - (b) who, along with a parent, guardian, or custodian, voluntarily and in writing, request youth court involvement; and
  - (c) who, along with a parent, guardian, or custodian, agree to follow the youth court's disposition of the case.
- (5)
  - (a) Except with permission granted under Subsection (6), or in accordance with Section 53G-8-211, a youth court may not exercise authority over a minor whose case is under the continuing jurisdiction of the juvenile court for an offense, including any minor who has a matter pending that has not yet been adjudicated.
  - (b) Notwithstanding Subsection (5)(a), a youth court may exercise authority over a minor who is involved in a proceeding under the continuing jurisdiction of the juvenile court if the offense before the youth court is not a law violation and the referring agency has notified the juvenile court of the referral.
- (6) A youth court may exercise authority over a minor described in Subsection (5), and over any other offense with the permission of the juvenile court and the prosecuting attorney in the county or district that would have jurisdiction if the matter were referred to juvenile court.
- (7) Permission of the juvenile court may be granted by a juvenile probation officer in the district that would have jurisdiction over the offense being referred to a youth court.
- (8) A youth court may:
  - (a) decline to accept a minor for youth court disposition for any reason; and

- (b) terminate a youth from youth court participation at any time.
- (9)
  - (a) A minor, or the minor's parent, guardian, or custodian may withdraw from the youth court process at any time.
  - (b) The youth court shall immediately notify the referring source of the withdrawal.
- (10) The youth court may transfer a case back to the referring source for alternative handling at any time.
- (11) Referral of a case to youth court may not, if otherwise eligible, prohibit the subsequent referral of the case to any court.
- (12) Proceedings and dispositions of a youth court may only be shared with the referring agency, juvenile court, and victim.
- (13) When a minor does not complete the terms ordered by a youth court, and if the case is referred to a juvenile court, the youth court shall provide the case file to the juvenile court.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-6-903 Parental involvement -- Victims -- Restitution.**

- (1) A minor appearing before the youth court shall be accompanied by a parent, guardian, or custodian.
- (2) A victim shall have the right to attend hearings and be heard.
- (3)
  - (a) Any restitution due to a victim of an offense shall be made in full prior to the time the case is completed by the youth court.
  - (b) Restitution shall be agreed upon between the minor and the victim.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-6-904 Dispositions.**

- (1) A youth court may order a disposition for:
  - (a) compensatory service;
  - (b) participation in law-related educational classes, appropriate counseling, treatment, or other educational programs;
  - (c) providing periodic reports to the youth court;
  - (d) participating in mentoring programs;
  - (e) participation by the minor as a member of a youth court;
  - (f) letters of apology;
  - (g) essays; and
  - (h) any other disposition considered appropriate by the youth court and adult coordinator.
- (2) A youth court may not:
  - (a) impose a term of imprisonment or detention; or
  - (b) impose fines.
- (3) A disposition by a youth court shall be completed within 180 days from the date of referral.
- (4) A disposition by a youth court shall be reduced to writing and signed by the minor and the minor's parent, guardian, or custodian indicating acceptance of the terms of the disposition.
- (5)
  - (a) A youth court shall notify the referring source if a minor fails to successfully complete the youth court's disposition.
  - (b) The referring source may then take any action the referring source considers appropriate.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-6-905 Liability.**

- (1) A person associated with the referral, evaluation, adjudication, disposition, or supervision of matters under this part may not be held civilly liable for any injury occurring to a minor performing compensatory service or any other activity associated with a certified youth court, unless the person causing the injury acted in a willful or wanton manner.
- (2) A person participating in a certified youth court shall be considered a volunteer for purposes of Workers' Compensation and other risk-related issues.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-6-906 Fees.**

- (1)
  - (a) A youth court may require that a minor pay a reasonable fee, not to exceed \$50, to participate in the youth court.
  - (b) A fee under Subsection (1) may be reduced or waived by the youth court in exigent circumstances.
  - (c) A fee under Subsection (1) shall be paid to and accounted for by the sponsoring entity.
  - (d) Any fees collected shall be used for supplies and any training requirements.
- (2) A minor who participates in youth court is responsible for the all expenses of any classes, counseling, treatment, or other educational programs that are the disposition of the youth court.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-6-907 Youth Court Board -- Membership -- Responsibilities.**

- (1) The Youth Court Board shall be comprised of the following members:
  - (a) the Utah attorney general or the attorney general's designee;
  - (b) one prosecuting attorney appointed by the Utah Prosecution Council;
  - (c) one criminal defense attorney appointed by the Utah Association of Criminal Defense Attorneys;
  - (d) one juvenile court judge appointed by the Board of Juvenile Court Judges;
  - (e) the juvenile court administrator or the administrator's designee;
  - (f) the executive director of the commission or the executive director's designee;
  - (g) the state superintendent of education or the state superintendent's designee;
  - (h) two representatives, appointed by the Utah Youth Court Association, from youth courts based primarily in schools;
  - (i) two representatives, appointed by the Utah Youth Court Association, from youth courts based primarily in communities;
  - (j) one member from the law enforcement community appointed by the Youth Court Board;
  - (k) one member from the community at large appointed by the Youth Court Board; and
  - (l) the president of the Utah Youth Court Association.
- (2) The Office of the Attorney General shall provide staff support and assistance to the Youth Court Board.
- (3) The members selected to fill the positions in Subsections (1)(a) through (g) shall jointly select the members to fill the positions in Subsections (1)(h) through (k).

- (4) Members shall serve two-year staggered terms beginning July 1, 2012, except the initial terms of the members designated by Subsections (1)(b), (c), (d), (j), and (k) and one of the members from Subsections (1)(h) and (i) shall serve two-year terms, but may be reappointed for a full four-year term upon the expiration of the member's initial term.
- (5) The Youth Court Board shall meet at least quarterly to:
  - (a) set minimum standards for the establishment of a youth court, including an application process, membership and training requirements, and the qualifications for the adult coordinator;
  - (b) review certification applications; and
  - (c) provide for a process to recertify each youth court every three years.
- (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Youth Court Board shall make rules to accomplish the requirements of Subsection (4).
- (7) The Youth Court Board may deny certification, recertification, or withdraw the certification of any youth court for failure to comply with program requirements.
- (8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
  - (a) Section 63A-3-106;
  - (b) Section 63A-3-107; and
  - (c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.
- (9) The Youth Court Board shall provide a list of certified youth courts to the Board of Juvenile Court Judges, all law enforcement agencies in the state, all school districts, and the Utah Prosecution Council by October 1 of each year.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-6-908 Establishing a youth court -- Sponsoring entity responsibilities.**

- (1) A youth court may be established by a sponsoring entity or by a private nonprofit entity that contracts with a sponsoring entity.
- (2) The sponsoring entity shall:
  - (a) oversee the formation of the youth court;
  - (b) provide assistance with the application for certification from the Youth Court Board; and
  - (c) provide assistance for the training of youth court members.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-6-909 School credit.**

A local school board may provide school credit for participation to a member of a youth court.

Renumbered and Amended by Chapter 261, 2021 General Session

**Part 10**  
**Juvenile Records and Expungement**

**80-6-1001 Definitions.**

As used in this part:

- (1) "Abstract" means a copy or summary of a court's disposition.

- (2)
  - (a) "Agency" means a state, county, or local government entity that generates or maintains records for which expungement may be ordered under this part.
  - (b) "Agency" includes a local education agency, as defined in Section 53E-1-102, for purposes of this part.
- (3) "Expunge" means to seal or otherwise restrict access to a record that is part of an individual's juvenile record and in the custody of the juvenile court or an agency.
- (4)
  - (a) "Juvenile record" means all records for all incidents of delinquency involving an individual that are in the custody of the juvenile court or an agency.
  - (b) "Juvenile record" does not include a record of an adjudication under Chapter 3, Abuse, Neglect, and Dependency Proceedings, or Chapter 4, Termination and Restoration of Parental Rights.
- (5) "Petitioner" means an individual requesting an expungement or vacatur under this part.

Amended by Chapter 115, 2023 General Session

**80-6-1001.1 Court records -- Abstracts.**

- (1) A court or agency with custody of an individual's record related to an offense that the individual is alleged to have committed, or an offense that the individual committed, before the individual was 18 years old may not disclose the record to a federal agency that is responsible for criminal justice research or proceedings unless the court or the agency is required to share the record under state or federal law.
- (2) An abstract of a record for a minor's adjudication of a traffic offense shall be submitted to the Department of Public Safety as provided in Section 53-3-218.

Renumbered and Amended by Chapter 115, 2023 General Session

**80-6-1002 Vacatur of an adjudication.**

- (1)
  - (a) An individual who has been adjudicated for an offense by the juvenile court may petition the juvenile court for vacatur of the adjudication if the adjudication was for a violation of:
    - (i) Section 76-5-308, human trafficking for labor if the petitioner engaged in the human trafficking for labor while subject to force, fraud, or coercion;
    - (ii) Section 76-10-1302, prostitution;
    - (iii) Section 76-10-1304, aiding prostitution; or
    - (iv) Section 76-10-1313, sexual solicitation.
  - (b) The petitioner shall include in the petition the relevant juvenile court incident number and any agencies known or alleged to have any records related to the offense for which vacatur is being sought.
  - (c) The petitioner shall include with the petition the original criminal history report obtained from the Bureau of Criminal Identification in accordance with the provisions of Section 53-10-108.
  - (d) The petitioner shall send a copy of the petition to the prosecuting attorney.
- (2)
  - (a) Upon the filing of a petition, the juvenile court shall:
    - (i) set a date for a hearing; and
    - (ii) at least 30 days before the day on which the hearing on the petition is scheduled, notify the prosecuting attorney and any affected agency identified in the juvenile record:



(A) that a petition has been filed; and

(B) of the date of the hearing.

(b)

(i) The juvenile court shall provide a victim with the opportunity to request notice of a petition for vacatur.

(ii) At least 30 days before the day on which the hearing is scheduled, a victim shall receive notice of a petition for vacatur if, before the entry of vacatur, the victim, or the victim's next of kin or authorized representative if the victim is a child or an individual who is incapacitated or deceased, submits a written and signed request for notice to the court in the judicial district in which the crime occurred or judgment was entered.

(iii) The notice shall include a copy of the petition and statutes and rules applicable to the petition.

(c) At the hearing, the petitioner, the prosecuting attorney, a victim, and any other person who may have relevant information about the petitioner may testify.

(3)

(a) In deciding whether to grant a petition for vacatur of an adjudication of an offense for human trafficking of labor described in Subsection (1)(a)(i), the juvenile court shall consider whether the petitioner acted subject to force, fraud, or coercion at the time of the conduct giving rise to the adjudication.

(b) If the juvenile court finds by a preponderance of the evidence that the petitioner was subject to force, fraud, or coercion at the time of the conduct giving rise to the adjudication, the juvenile court shall grant vacatur of the adjudication.

(c) If the juvenile court does not find sufficient evidence, the juvenile court shall deny vacatur of the adjudication.

(4) If the petition seeks to vacate an adjudication of an offense described in Subsection (1)(a)(ii) through (iv), the juvenile court shall presumptively grant vacatur of the adjudication unless the petitioner acted as a purchaser of any sexual activity.

(5)

(a) Except as provided in Subsection (5)(b), if the juvenile court grants a vacatur of an adjudication for an offense described in Subsection (1)(a), the juvenile court shall order expungement of all records in the petitioner's juvenile record pertaining to the incident identified in the petition, including relevant related records contained in the Management Information System and the Licensing Information System.

(b) The juvenile court may not order expungement of any record in the petitioner's juvenile record that contains an adjudication for a violation of:

(i) Section 76-5-202, aggravated murder; or

(ii) Section 76-5-203, murder.

(6)

(a) The petitioner shall be responsible for service of the vacatur and expungement order to all affected state, county, and local entities, agencies, and officials.

(b) To avoid destruction or expungement of the records in whole or in part, the agency or entity receiving the vacatur and expungement order shall only expunge all references to the petitioner's name in the records pertaining to the relevant adjudicated juvenile court incident.

(7)

(a) Upon entry of a vacatur and expungement order under this section:

(i) the proceedings in the incident identified in the petition are considered never to have occurred; and

- (ii) the petitioner may reply to an inquiry on the matter as though the proceedings never occurred.
- (b) Upon petition, any record expunged under this section may only be released to or viewed by:
  - (i) the individual who is the subject of the record; or
  - (ii) a person named in the petition of vacatur.

Amended by Chapter 115, 2023 General Session

**80-6-1004.1 Petition to expunge adjudication -- Hearing and notice -- Waiver -- Order.**

- (1) An individual may petition the juvenile court for an order to expunge the individual's juvenile record if:
  - (a) the individual was adjudicated for an offense in the juvenile court;
  - (b) the individual has reached 18 years old; and
  - (c) at least one year has passed from the day on which:
    - (i) the juvenile court's continuing jurisdiction was terminated; or
    - (ii) if the individual was committed to secure care, the individual was unconditionally released from the custody of the division.
- (2) If a petitioner is 18 years old or older and seeks an expungement under Subsection (1), the petition shall include a criminal history report obtained from the Bureau of Criminal Identification in accordance with Section 53-10-108.
- (3) If the juvenile court finds and states on the record the reason why the waiver is appropriate, the juvenile court may waive:
  - (a) the age requirement under Subsection (1)(b) for a petition; or
  - (b) the one-year requirement under Subsection (1)(c) for a petition.
- (4)
  - (a) Upon the filing of a petition described in Subsection (1)(a), the juvenile court shall:
    - (i) set a date for a hearing; and
    - (ii) at least 30 days before the day on which the hearing on the petition is scheduled, notify the prosecuting attorney and any affected agency identified in the petitioner's juvenile record:
      - (A) that the petition has been filed; and
      - (B) of the date of the hearing.
  - (b)
    - (i) The juvenile court shall provide a victim with the opportunity to request notice of a petition described in Subsection (1).
    - (ii) Upon the victim's request under Subsection (4)(b)(i), the victim shall receive notice of the petition at least 30 days before the day on which the hearing is scheduled if, before the day on which an expungement order is made, the victim, or the victim's next of kin or authorized representative if the victim is a child or an individual who is incapacitated or deceased, submits a written and signed request for notice to the juvenile court in the judicial district in which the offense occurred or judgment is entered.
    - (iii) The notice described in Subsection (4)(b)(ii) shall include a copy of the petition and any statutes and rules applicable to the petition.
  - (c) At the hearing, the prosecuting attorney, a victim, and any other individual who may have relevant information about the petitioner may testify.
  - (d) The juvenile court may waive the hearing for the petition if:
    - (i)
      - (A) there is no victim; or
      - (B) if there is a victim, the victim agrees to the waiver; and

- (ii) the prosecuting attorney agrees to the waiver.
- (5)
- (a) Except as provided in Subsection (6), the juvenile court may grant a petition described in Subsection (1) and order expungement of the petitioner's juvenile record if the juvenile court finds that the petitioner is rehabilitated to the satisfaction of the court in accordance with Subsection (5)(b).
  - (b) In deciding whether to grant a petition described in Subsection (1), the juvenile court shall consider:
    - (i) whether expungement of the petitioner's juvenile record is in the best interest of the petitioner;
    - (ii) the petitioner's response to programs and treatment;
    - (iii) the nature and seriousness of the conduct for which the petitioner was adjudicated;
    - (iv) the petitioner's behavior subsequent to adjudication;
    - (v) the petitioner's reason for seeking expungement of the petitioner's juvenile record; and
    - (vi) if the petitioner is a restricted person under Subsection 76-10-503(1)(a)(iv) or (b)(iii):
      - (A) whether the offense for which the petitioner is a restricted person was committed with a weapon;
      - (B) whether expungement of the petitioner's juvenile record poses an unreasonable risk to public safety; and
      - (C) the amount of time that has passed since the adjudication of the offense for which the petitioner is a restricted person.
- (6) The juvenile court may not grant a petition described in Subsection (1) and order expungement of the petitioner's juvenile record if:
- (a) the petitioner has been convicted of a violent felony within five years before the day on which the petition for expungement is filed;
  - (b) there are delinquency or criminal proceedings pending against the petitioner;
  - (c) the petitioner has not satisfied a judgment of restitution entered by the juvenile court for an adjudication in the petitioner's juvenile record;
  - (d) the petitioner has not satisfied restitution that was a condition of a nonjudicial adjustment in the petitioner's juvenile record; or
  - (e) the petitioner's juvenile record contains an adjudication for a violation of:
    - (i) Section 76-5-202, aggravated murder; or
    - (ii) Section 76-5-203, murder.

Enacted by Chapter 115, 2023 General Session

**80-6-1004.2 Petition to expunge nonjudicial adjustment -- Order.**

- (1) An individual may petition the juvenile court for an order to expunge the individual's juvenile record if:
  - (a) the individual's juvenile record consists solely of nonjudicial adjustments;
  - (b) the individual's juvenile record is not eligible for automatic expungement under Section 80-6-1004.5; and
  - (c) the individual has reached 18 years old.
- (2) If the juvenile court finds and states on the record the reason why the waiver is appropriate, the juvenile court may waive the age requirement under Subsection (1)(c) for a petition.
- (3) Except as provided in Subsection (4), the juvenile court shall grant a petition described in Subsection (1) and order expungement of the petitioner's juvenile record.

- (4) The juvenile court may not grant a petition described in Subsection (1) and order expungement of the petitioner's juvenile record if:
- (a) there are delinquency or criminal proceedings pending against the petitioner; or
  - (b) the petitioner has not satisfied restitution that was a condition of a nonjudicial adjustment in the petitioner's juvenile record.

Enacted by Chapter 115, 2023 General Session

**80-6-1004.3 Petition to expunge arrest, investigation, detention, or delinquency petition -- Screening -- Order.**

- (1) An individual may petition the juvenile court for an order to expunge the individual's juvenile record if:
- (a) the individual's juvenile record consists solely of records of arrest, investigation, detention, or petitions that did not result in adjudication;
  - (b) the individual was not adjudicated for an offense in the juvenile court; and
  - (c) the individual has reached 18 years old.
- (2) If a petitioner is 18 years old or older and seeks an expungement under Subsection (1), the petition shall include a criminal history report obtained from the Bureau of Criminal Identification in accordance with Section 53-10-108.
- (3) If the juvenile court finds and states on the record the reason why the waiver is appropriate, the juvenile court may waive the age requirement under Subsection (1)(c) for a petition.
- (4)
- (a) Upon the filing of a petition described in Subsection (1), the juvenile court shall notify the prosecuting attorney that the petition has been filed.
  - (b) Within 30 days after the day on which the notification is sent under Subsection (4)(a), the prosecuting attorney shall respond to the petition stating whether the petitioner meets the requirements for expungement under this section.
- (5) Except as provided in Subsection (6), the juvenile court shall grant a petition described in Subsection (1) and order expungement of the petitioner's juvenile record if each case identified in the petition:
- (a) has been screened by the investigating law enforcement agency and the prosecuting attorney has determined that no charges will be filed against the individual;
  - (b) resulted in all charges in the case being dismissed with prejudice;
  - (c) resulted in all charges in the case being dismissed without prejudice or without condition and the prosecuting attorney consents to the expungement; or
  - (d) is barred from prosecution by the statute of limitations.
- (6) The juvenile court may not grant a petition described in Subsection (1) and order expungement of the petitioner's juvenile record if there are delinquency or criminal proceedings pending against the petitioner.

Enacted by Chapter 115, 2023 General Session

**80-6-1004.4 Petition to expunge petition not found to be true -- Order.**

- (1) An individual may petition the juvenile court, at any time, for an order to expunge all records in the individual's juvenile record pertaining to an incident where a petition was filed if:
- (a) the incident was presented to the juvenile court for adjudication based upon an admission, plea, or trial;

- (b) the juvenile court did not find by beyond a reasonable doubt the allegations in the petition to be true;
  - (c) at least 30 days have passed since the day on which the juvenile court did not find the allegations in the petition to be true; and
  - (d) an appeal has not been filed for the petition within the 30-day period described in Subsection (1)(c).
- (2) If a petitioner is 18 years old or older and seeks an expungement under Subsection (1), the petition shall include a criminal history report obtained from the Bureau of Criminal Identification in accordance with Section 53-10-108.
- (3) The juvenile court shall grant a petition described in Subsection (1), without a hearing, and order expungement of any record in the petitioner's juvenile record pertaining to the incident.

Enacted by Chapter 115, 2023 General Session

**80-6-1004.5 Automatic expungement of successful nonjudicial adjustment -- Effect of successful nonjudicial adjustment.**

- (1) Except as provided in Subsection (2), the juvenile court shall issue, without a petition, an order to expunge an individual's juvenile record if:
- (a) the individual has reached 18 years old;
  - (b) the individual's juvenile record consists solely of nonjudicial adjustments;
  - (c) the individual has successfully completed each nonjudicial adjustment; and
  - (d) all nonjudicial adjustments were completed on or after October 1, 2023.
- (2) An individual's juvenile record is not eligible for expungement under Subsection (1) if the individual's juvenile record contains a nonjudicial adjustment for a violation of:
- (a) Section 41-6a-502, driving under the influence;
  - (b) Section 76-5-112, reckless endangerment creating a substantial risk of death or serious bodily injury;
  - (c) Section 76-5-206, negligent homicide;
  - (d) Section 76-9-702.1, sexual battery;
  - (e) Section 76-10-505.5, possession of a dangerous weapon, firearm, or short barreled shotgun on or about school premises; or
  - (f) Section 76-10-509, possession of a dangerous weapon by a minor.
- (3) If an individual's juvenile record consists solely of nonjudicial adjustments that were completed before October 1, 2023:
- (a) any nonjudicial adjustment in the individual's juvenile record is considered to never have occurred if:
    - (i) the individual has reached 18 years old;
    - (ii) the individual has satisfied restitution that was a condition of any nonjudicial adjustment in the individual's juvenile record; and
    - (iii) the nonjudicial adjustment was for an offense that is not an offense described in Subsection (2); and
  - (b) the individual may reply to any inquiry about the nonjudicial adjustment as though there never was a nonjudicial adjustment.

Enacted by Chapter 115, 2023 General Session

**80-6-1006.1 Exceptions to expungement order -- Distribution of expungement order -- Agency duties -- Effect of expungement -- Access to expunged record.**

- (1) This section applies to an expungement order under Section 80-6-1004.1, 80-6-1004.2, 80-6-1004.3, 80-6-1004.4, or 80-6-1004.5.
- (2) The juvenile court may not order:
  - (a) the Board of Pardons and Parole and the Department of Corrections to seal a record in the possession of the Board of Pardons and Parole or the Department of Corrections, except that the juvenile court may order the Board of Pardons and Parole and the Department of Corrections to restrict access to a record if the record is specifically identified in the expungement order as a record in the possession of the Board of Pardons and Parole or the Department of Corrections; or
  - (b) the Division of Child and Family Services to expunge a record in an individual's juvenile record that is contained in the Management Information System or the Licensing Information System unless:
    - (i) the record is unsupported; or
    - (ii) after notice and an opportunity to be heard, the Division of Child and Family Services stipulates in writing to expunging the record.
- (3)
  - (a) If the juvenile court issues an expungement order, the juvenile court shall send a copy of the expungement order to any affected agency or official identified in the juvenile record.
  - (b) An individual who is the subject of an expungement order may deliver copies of the expungement order to all agencies and officials affected by the expungement order.
- (4)
  - (a) Upon receipt of an expungement order, an agency shall:
    - (i) to avoid destruction or expungement of records in whole or in part, expunge only the references to the individual's name in the records relating to the individual's adjudication, nonjudicial adjustment, petition, arrest, investigation, or detention for which expungement is ordered; and
    - (ii) destroy all photographs and records created under Section 80-6-608, except that a record of a minor's fingerprints may not be destroyed by an agency.
  - (b) An agency that receives a copy of an expungement order shall mail an affidavit to the individual who is the subject of the expungement order, or the individual's attorney, that the agency has complied with the expungement order.
- (5) Notwithstanding Subsection (4), the Board of Pardons and Parole and the Department of Corrections:
  - (a) may not disclose records expunged in an expungement order unless required by law;
  - (b) are not required to destroy any photograph or record created under Section 80-6-608;
  - (c) may use an expunged record for purposes related to incarceration and supervision of an individual under the jurisdiction of the Board of Pardons and Parole, including for the purpose of making decisions about:
    - (i) the treatment and programming of the individual;
    - (ii) housing of the individual;
    - (iii) applicable guidelines regarding the individual; or
    - (iv) supervision conditions for the individual;
  - (d) are not prohibited from disclosing or sharing any information in an expunged record with another agency that uses the same record management system as the Board of Pardons and Parole or the Department of Corrections; and
  - (e) are not required to mail an affidavit under Subsection (4)(b).
- (6) Upon entry of an expungement order:

- (a) an adjudication, a nonjudicial adjustment, a petition, an arrest, an investigation, or a detention for which the record is expunged is considered to have never occurred; and
  - (b) the individual, who is the subject of the expungement order, may reply to an inquiry on the matter as though there never was an adjudication, a nonjudicial adjustment, a petition, an arrest, an investigation, or a detention.
- (7) A record expunged under Section 80-6-1004.1, 80-6-1004.2, 80-6-1004.3, 80-6-1004.4, or 80-6-1004.5 may be released to, or viewed by, the individual who is the subject of the record.

Enacted by Chapter 115, 2023 General Session

**80-6-1007 Fees.**

- (1) Except for a filing fee for a petition under this part, the juvenile court may not charge a fee for:
- (a) an issuance of an expungement order under this part; or
  - (b) an expungement of a record under this part.
- (2) An agency may not charge a fee for the expungement of a record under this part.

Renumbered and Amended by Chapter 261, 2021 General Session

## **Part 11**

### **Interstate Compact for Juveniles**

**80-6-1101 Interstate Compact for Juveniles -- Execution of compact.**

- (1) This part is known as the "Interstate Compact for Juveniles."
- (2) The governor is authorized and directed to execute a compact on behalf of this state with any other state or states substantially in the form of this part.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-6-1102 Article 1 -- Purpose.**

- (1) The compacting states to this Interstate Compact recognize that each state is responsible for the proper supervision or return of juveniles, delinquents, and status offenders who are on probation or parole and who have absconded, escaped, or run away from supervision and control and in so doing have endangered their own safety and the safety of others.
- (2) The compacting states also recognize that each state is responsible for the safe return of juveniles who have run away from home and in doing so have left their state of residence.
- (3) The compacting states also recognize that Congress, by enacting the Crime Control Act, 4 U.S.C. Section 112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime.
- (4) It is the purpose of this compact, through means of joint and cooperative action among the compacting states to:
- (a) ensure that the adjudicated juveniles and status offenders subject to this compact are provided adequate supervision and services in the receiving state as ordered by the adjudicating judge or parole authority in the sending state;
  - (b) ensure that the public safety interests of the citizens, including the victims of juvenile offenders, in both the sending and receiving states are adequately protected;

- (c) return juveniles who have run away, absconded, or escaped from supervision or control or have been accused of an offense to the state requesting their return;
  - (d) make contracts for the cooperative institutionalization in public facilities in member states for delinquent youth needing special services;
  - (e) provide for the effective tracking and supervision of juveniles;
  - (f) equitably allocate the costs, benefits, and obligations of the compacting states;
  - (g) establish procedures to manage the movement between states of juvenile offenders released to the community under the jurisdiction of courts, juvenile departments, or any other criminal or juvenile justice agency which has jurisdiction over juvenile offenders;
  - (h) ensure immediate notice to jurisdictions where defined offenders are authorized to travel or to relocate across state lines;
  - (i) establish procedures to resolve pending charges (detainers) against juvenile offenders prior to transfer or release to the community under the terms of this compact;
  - (j) establish a system of uniform data collection on information pertaining to juveniles subject to this compact that allows access by authorized juvenile justice and criminal justice officials, and regular reporting of compact activities to heads of state executive, judicial, and legislative branches and juvenile and criminal justice administrators;
  - (k) monitor compliance with rules governing interstate movement of juveniles and initiate interventions to address and correct noncompliance;
  - (l) coordinate training and education regarding the regulation of interstate movement of juveniles for officials involved in such activity; and
  - (m) coordinate the implementation and operation of the compact with the Interstate Compact for the Placement of Children, the Interstate Compact for Adult Offender Supervision, and other compacts affecting juveniles particularly in those cases where concurrent or overlapping supervision issues arise.
- (5) It is the policy of the compacting states that the activities conducted by the Interstate Commission created herein are the formation of public policies and, therefore, are public business. Furthermore, the compacting states shall cooperate and observe their individual and collective duties and responsibilities for the prompt return and acceptance of juveniles subject to the provisions of this compact.
- (6) The provisions of this compact shall be reasonably and liberally construed to accomplish the purposes and policies of the compact.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-6-1103 Article 2 -- Definitions.**

- (1) As used in this compact, unless the context clearly requires a different construction:
- (a) "By-laws" means those by-laws established by the Interstate Commission for its governance, or for directing or controlling its actions or conduct.
  - (b) "Compact Administrator" means the individual in each compacting state appointed pursuant to the terms of this compact, responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the Interstate Commission, and policies adopted by the State Council under this compact.
  - (c) "Compacting State" means any state which has enacted the enabling legislation for this compact.
  - (d) "Commissioner" means the voting representative of each compacting state appointed pursuant to Section 80-6-1104.



- (e) "Court" means any court having jurisdiction over delinquent, neglected, or dependent children.
  - (f) "Deputy Compact Administrator" means the individual, if any, in each compacting state appointed to act on behalf of a Compact Administrator pursuant to the terms of this compact responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the Interstate Commission, and policies adopted by the State Council under this compact.
  - (g) "Interstate Commission" or "commission" means the Interstate Commission for Juveniles created by Section 80-6-1104.
  - (h) "Juvenile" means any person defined as a juvenile in any member state or by the rules of the Interstate Commission, including:
    - (i) "accused delinquent" meaning a person charged with an offense that, if committed by an adult, would be a criminal offense;
    - (ii) "accused status offender" meaning a person charged with an offense that would not be a criminal offense if committed by an adult;
    - (iii) "adjudicated delinquent" meaning a person found to have committed an offense that, if committed by an adult, would be a criminal offense;
    - (iv) "adjudicated status offender" meaning a person found to have committed an offense that would not be a criminal offense if committed by an adult; and
    - (v) "nonoffender" meaning a person in need of supervision who has not been accused or adjudicated a status offender or delinquent.
  - (i) "Noncompacting state" means any state which has not enacted the enabling legislation for this compact.
  - (j) "Probation or Parole" means any kind of supervision or conditional release of juveniles authorized under the laws of the compacting states.
  - (k) "Rule" means a written statement by the Interstate Commission promulgated pursuant to Section 80-6-1107 that is of general applicability, implements, interprets, or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the Commission, and has the force and effect of statutory law in a compacting state, and includes the amendment, repeal, or suspension of an existing rule.
  - (l) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands.
- (2) The definitions in Section 80-1-102 do not apply to this compact.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-6-1104 Article 3 -- Interstate Commission for Juveniles.**

- (1) The compacting states hereby create the "Interstate Commission for Juveniles."
- (2) The commission shall be a body corporate and joint agency of the compacting states.
- (3) The commission shall have all the responsibilities, powers, and duties set forth herein, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.
- (4) The commission shall consist of commissioners appointed by the appropriate appointing authority in each state pursuant to the rules and requirements of each compacting state and in consultation with the State Council for Interstate Juvenile Supervision created hereunder.

- (5) The commissioner shall be the compact administrator, deputy compact administrator, or designee from that state who shall serve on the commission in such capacity under or pursuant to the applicable law of the compacting state.
- (6) In addition to the commissioners who are the voting representatives of each state, the commission shall include individuals who are not commissioners, but who are members of interested organizations. Noncommissioner members shall include a member of the national organizations of governors, legislators, state chief justices, attorneys general, Interstate Compact for Adult Offender Supervision, Interstate Compact for the Placement of Children, juvenile justice and juvenile corrections officials, and crime victims.
- (7) All noncommissioner members of the commission shall be ex officio, nonvoting members. The commission may provide in its by-laws for additional ex officio, nonvoting members, including members of other national organizations, in numbers to be determined by the commission.
- (8) Each compacting state represented at any meeting of the commission is entitled to one vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the by-laws of the commission.
- (9) The commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public.
- (10) The commission shall establish an executive committee, which shall include commission officers, members, and others as determined by the by-laws. The executive committee shall:
  - (a) have the power to act on behalf of the commission during periods when the commission is not in session, with the exception of rulemaking or amendment to the compact;
  - (b) oversee the day-to-day activities of the administration of the compact managed by an executive director and commission staff, which administers enforcement and compliance with the provisions of the compact, its by-laws, and rules; and
  - (c) perform other duties as directed by the commission or set forth in the by-laws.
- (11) Each member of the commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the commission. A member shall vote in person and may not delegate a vote to another compacting state. However, a commissioner, in consultation with the state council, shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the compacting state at a specified meeting. The by-laws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication.
- (12) The commission's by-laws shall establish conditions and procedures under which the commission shall make its information and official records available to the public for inspection or copying. The commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.
- (13) Public notice shall be given of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The commission and any of its committees may close a meeting to the public where it determines by two-thirds vote that an open meeting would be likely to:
  - (a) relate solely to the commission's internal personnel practices and procedures;
  - (b) disclose matters specifically exempted from disclosure by statute;
  - (c) disclose trade secrets or commercial or financial information which is privileged or confidential;
  - (d) involve accusing any person of a crime, or formally censuring any person;

- (e) disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
  - (f) disclose investigative records compiled for law enforcement purposes;
  - (g) disclose information contained in or related to examination, operating, or condition reports prepared by, or on behalf of or for the use of, the commission with respect to a regulated person or entity for the purpose of regulation or supervision of such person or entity;
  - (h) disclose information, the premature disclosure of which would significantly endanger the stability of a regulated person or entity; or
  - (i) specifically relate to the commission's issuance of a subpoena, or its participation in a civil action or other legal proceeding.
- (14) For every meeting closed pursuant to this provision, the commission's legal counsel shall publicly certify that, in the legal counsel's opinion, the meeting may be closed to the public, and shall reference each relevant exemptive provision. The commission shall keep minutes which shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote, reflected in the vote of each member on the question. All documents considered in connection with any action shall be identified in the minutes.
- (15) The commission shall collect standardized data concerning the interstate movement of juveniles as directed through its rules which shall specify the data to be collected, the means of collection, and data exchange and reporting requirements. Methods of data collection, exchange, and reporting shall insofar as is reasonably possible conform to up-to-date technology and coordinate its information functions with the appropriate repository of records.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-6-1105 Article 4 -- Powers and duties of the Interstate Commission.**

The commission shall have the following powers and duties:

- (1) provide for dispute resolution among compacting states;
- (2) promulgate rules to effect the purposes and obligations as enumerated in this compact, which shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this compact;
- (3) oversee, supervise, and coordinate the interstate movement of juveniles subject to the terms of this compact and any by-laws adopted and rules promulgated by the commission;
- (4) enforce compliance with the compact provisions, the rules promulgated by the commission, and the by-laws, using all necessary and proper means, including, but not limited to, the use of judicial process;
- (5) establish and maintain offices which shall be located within one or more of the compacting states;
- (6) purchase and maintain insurance and bonds;
- (7) borrow, accept, hire, or contract for services of personnel;
- (8) establish and appoint committees and hire staff which it considers necessary for the carrying out of its functions including, but not limited to, an executive committee as required by Section 80-6-1104, which shall have the power to act on behalf of the commission in carrying out its powers and duties hereunder;
- (9) elect or appoint any officers, attorneys, employees, agents, or consultants, fix their compensation, define their duties, and determine their qualifications;

- (10) establish the commission's personnel policies and programs relating to, inter alia, conflicts of interest, rates of compensation, and qualifications of personnel;
- (11) accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of them;
- (12) lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed;
- (13) sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;
- (14) establish a budget and make expenditures and levy dues as provided in Section 80-6-1109;
- (15) sue and be sued;
- (16) adopt a seal and by-laws governing the management and operation of the commission;
- (17) perform any functions necessary or appropriate to achieve the purposes of this compact;
- (18) report annually to the legislatures, governors, judiciary, and state councils of the compacting states concerning the activities of the commission during the preceding year, including any recommendations that may have been adopted by the commission;
- (19) coordinate education, training, and public awareness regarding the interstate movement of juveniles for officials involved in the activity;
- (20) establish uniform standards for the reporting, collecting, and exchanging of data; and
- (21) maintain its corporate books and records in accordance with the by-laws.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-6-1106 Article 5 -- Organization and operation of the Interstate Commission.**

(1) Section A. By-laws

The Interstate Commission shall, by a majority of the members present and voting, within 12 months after the first commission meeting, adopt by-laws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

- (a) establishing the fiscal year of the commission;
- (b) establishing an executive committee and any other committees as necessary;
- (c) providing for the establishment of committees governing any general or specific delegation of any authority or function of the commission;
- (d) providing reasonable procedures for calling and conducting meetings of the commission, and ensuring reasonable notice of each meeting;
- (e) establishing the titles and responsibilities of the officers of the commission;
- (f) providing a mechanism for concluding the operations of the commission and the return of any surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations;
- (g) providing "start-up" rules for initial administration of the compact; and
- (h) establishing standards and procedures for compliance and technical assistance in carrying out the compact.

(2) Section B. Officers and Staff

- (a) The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson and a vice chairperson, each of whom shall have the authority and duties specified in the by-laws. The chairperson or, in the chairperson's absence or disability, the vice chairperson shall preside at all meetings of the commission.
- (b) The officers shall serve without compensation or remuneration from the commission, provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for any

ordinary and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the commission.

- (c) The commission shall, through its executive committee, appoint or retain an executive director for any time period, upon any terms and conditions, and for any compensation as the commission may consider appropriate. The executive director shall serve as secretary to the commission, but may not be a member and shall hire and supervise other staff as authorized by the commission.
- (3) Section C. Qualified Immunity, Defense, and Indemnification
- (a) The Interstate Commission's executive director and employees shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to any actual or alleged act, error, or omission that occurred, or that the person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided, that a person may not be protected from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of the person.
- (b) The liability of any commissioner, or the employee or agent of a commissioner, acting within the scope of the person's employment or duties for acts, errors, or omissions occurring within the person's state may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. Nothing in this Subsection (3) shall be construed to protect any person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of the person.
- (c) The commission shall defend the executive director or the employees or representatives of the commission and, subject to the approval of the attorney general of the state represented by any commissioner of a compacting state, shall defend the commissioner or the commissioner's representatives or employees in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of the person.
- (d) The commission shall indemnify and hold the commissioner of a compacting state, the commissioner's representatives or employees, or the commission's representatives or employees harmless in the amount of any settlement or judgment obtained against the persons arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the persons had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of the persons.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-6-1107 Article 6 -- Rulemaking functions of the Interstate Commission.**

- (1) The Interstate Commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of the compact.
- (2) Rulemaking shall occur pursuant to the criteria set forth in this section and the by-laws and rules adopted pursuant thereto. Rulemaking shall substantially conform to the principles of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol. 15, p.1

- (2000), or any other administrative procedures act, as the commission considers appropriate, consistent with due process requirements under the United States Constitution as interpreted by the United States Supreme Court. All rules and amendments shall become binding as of the date specified, as published with the final version of the rule as approved by the commission.
- (3) When promulgating a rule, the commission shall, at a minimum:
    - (a) publish the proposed rule's entire text stating the reasons for that proposed rule;
    - (b) allow and invite any and all persons to submit written data, facts, opinions, and arguments, which information shall be added to the record, and be made publicly available;
    - (c) provide an opportunity for an informal hearing if petitioned by ten or more persons; and
    - (d) promulgate a final rule and its effective date, if appropriate, based on input from state or local officials, or interested parties.
  - (4) Not later than 60 days after a rule is promulgated, the commission shall allow any interested person to file a petition in the United States District Court for the District of Columbia or in the Federal District Court where the commission's principal office is located for judicial review of the rule. If the court finds that the commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it aside. For purposes of this Subsection (4), evidence is substantial if it would be considered substantial evidence under the Model State Administrative Procedures Act.
  - (5) If a majority of the legislatures of the compacting states reject a rule, those states may, by enactment of a statute or resolution in the same manner used to adopt the compact, state that the rule shall have no further force and effect in any compacting state.
  - (6) The existing rules governing the operation of the Interstate Compact on Juveniles superceded by this act shall be null and void 12 months after the first meeting of the Interstate Commission created in this part.
  - (7) Upon determination by the Interstate Commission that a state of emergency exists, it may promulgate an emergency rule which shall become effective immediately upon adoption, provided that the usual rulemaking procedures shall be retroactively applied to the rule as soon as reasonably possible, but no later than 90 days after the effective date of the emergency rule.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-6-1108 Article 7 -- Oversight, enforcement, and dispute resolution by the Interstate Commission.**

- (1) Section A. Oversight
  - (a) The Interstate Commission shall oversee the administration and operations of the interstate movement of juveniles subject to this compact in the compacting states and shall monitor activities being administered in noncompacting states which may significantly affect compacting states.
  - (b) The courts and executive agencies in each compacting state shall enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall be received by all the judges, public officers, commissions, and departments of the state government as evidence of the authorized statute and administrative rules. All courts shall take judicial notice of the compact and the rules. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the commission, it shall be entitled to receive all service of process in any proceeding, and shall have standing to intervene in the proceeding for all purposes.

(2) Section B. Dispute Resolution

- (a) The compacting states shall report to the Interstate Commission on all issues and activities necessary for the administration of the compact as well as issues and activities pertaining to compliance with the provisions of the compact and its by-laws and rules.
- (b) The Interstate Commission shall attempt, upon the request of a compacting state, to resolve any disputes or other issues which are subject to the compact and which may arise among compacting states and between compacting and noncompacting states. The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.
- (c) The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact using any or all means set forth in Section 80-6-1110.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-6-1109 Article 8 -- Finance.**

- (1) The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.
- (2) The commission shall levy on and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the commission and its staff which shall be in a total amount sufficient to cover the commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the commission, taking into consideration the population of each compacting state and the volume of interstate movement of juveniles in each compacting state. The commission shall promulgate a rule binding upon all compacting states which governs the assessment.
- (3) The commission may not incur any obligations of any kind prior to securing the funds adequate to meet the obligations, nor shall the commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state.
- (4) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its by-laws. All receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-6-1110 Article 9 -- State council.**

- (1) Each member state shall create a State Council for Interstate Juvenile Supervision.
- (2) While each state may determine the membership of its own state council, its membership shall include at least one representative from the legislative, judicial, and executive branches of government, victims groups, and the compact administrator, deputy compact administrator, or designee.
- (3) Each compacting state retains the right to determine the qualifications of the compact administrator or deputy compact administrator.
- (4) Each state council shall advise and may exercise oversight and advocacy concerning that state's participation in commission activities and other duties determined by that state, including but not limited to, development of policy concerning operations and procedures of the compact within that state.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-6-1111 Article 10 -- Compacting states, effective date, and amendment.**

- (1) Any state, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands as defined in Section 80-6-1103 is eligible to become a compacting state.
- (2) The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 35 states. The initial effective date shall be the later of July 1, 2004, or upon enactment into law by the 35th jurisdiction. Thereafter it shall become effective and binding as to any other compacting state upon enactment of the compact into law by that state.
- (3) The governors of nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the compact by all states and territories of the United States.
- (4) The commission may propose amendments to the compact for enactment by the compacting states. No amendment shall become effective and binding upon the commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-6-1112 Article 11 -- Withdrawal, default, termination, and judicial enforcement.**

- (1) Section A. Withdrawal
  - (a) Once effective, the compact shall continue in force and remain binding upon each and every compacting state.
  - (b) A compacting state may withdraw from the compact by specifically repealing the statute which enacted the compact into law. The effective date of withdrawal is the effective date of the repeal.
  - (c) The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing the compact in the withdrawing state. The commission shall notify the other compacting states of the withdrawing state's intent to withdraw within 60 days of its receipt thereof.
  - (d) The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal.
  - (e) Reinstatement following withdrawal of any compacting state shall occur upon the withdrawing state reenacting the compact or upon a later date as determined by the commission.
- (2) Section B. Technical Assistance, Fines, Suspension, Termination, and Default
  - (a) If the Interstate Commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under this compact, or the by-laws or duly promulgated rules, the commission may impose any or all of the following penalties:
    - (i) remedial training and technical assistance as directed by the commission;
    - (ii) alternative dispute resolution;
    - (iii) fines, fees, and costs in amounts considered to be reasonable as fixed by the commission; and
    - (iv) suspension or termination of membership in the compact.



- (b) Suspension or termination of membership in the compact shall be imposed only after all other reasonable means of securing compliance under the by-laws and rules have been exhausted and the commission has determined that the offending state is in default.
  - (c) Immediate notice of suspension shall be given by the commission to the governor, the chief justice, or the chief judicial officer of the state, the majority and minority leaders of the defaulting state's legislature, and the state council.
  - (d) The grounds for default include, but are not limited to, failure of a compacting state to perform obligations or responsibilities imposed upon it by this compact, the by-laws, or duly promulgated rules, and any other grounds designated in commission by-laws and rules.
    - (i) The commission shall immediately notify the defaulting state in writing of the penalty imposed by the commission and of the default pending a cure of the default.
    - (ii) The commission shall stipulate the conditions and the time period within which the defaulting state must cure its default.
  - (e) If the defaulting state fails to cure the default within the time period specified by the commission, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the compacting states and all rights, privileges, and benefits conferred by this compact shall be terminated upon the effective date of termination.
  - (f) Within 60 days of the effective date of termination of a defaulting state, the commission shall notify the governor, the chief justice or chief judicial officer, the majority and minority leaders of the defaulting state's legislature, and the state council of the termination.
  - (g) The defaulting state is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination including any obligations, the performance of which extends beyond the effective date of termination.
  - (h) The commission may not bear any costs relating to the defaulting state unless otherwise mutually agreed upon in writing between the commission and the defaulting state.
  - (i) Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state and the approval of the commission pursuant to the rules.
- (3) Section C. Judicial Enforcement
- (a) The Interstate Commission may, by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its offices, to enforce compliance with the provisions of the compact, its duly promulgated rules and by-laws, against any compacting state in default.
  - (b) In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of litigation, including reasonable attorneys' fees.
- (4) Section D. Dissolution of Compact
- (a) The compact dissolves effective upon the date of the withdrawal or default of a compacting state, which reduces membership in the compact to one compacting state.
  - (b) Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, the business and affairs of the Interstate Commission shall be concluded, and any surplus funds shall be distributed in accordance with the by-laws.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-6-1113 Article 12 -- Severability and construction.**

- (1) The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is considered unenforceable, the remaining provisions of the compact shall be enforceable.

(2) The provisions of this compact shall be liberally construed to effectuate its purposes.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-6-1114 Article 13 -- Binding effect of compact and other laws.**

(1) Section A. Other Laws

- (a) Nothing herein prevents the enforcement of any other law of a compacting state that is not inconsistent with this compact.
- (b) All compacting states' laws other than state constitutions and other interstate compacts conflicting with this compact are superseded to the extent of the conflict.

(2) Section B. Binding Effect of the Compact

- (a) All lawful actions of the commission, including all rules and by-laws promulgated by the commission, are binding upon the compacting states.
- (b) All agreements between the commission and the compacting states are binding in accordance with their terms.
- (c) Upon the request of a party to a conflict over meaning or interpretation of commission actions, and upon a majority vote of the compacting states, the commission may issue advisory opinions regarding the meaning or interpretation.
- (d) In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers, or jurisdiction sought to be conferred by the provision upon the commission shall be ineffective and the obligations, duties, powers, or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which the obligations, duties, powers, or jurisdiction are delegated by law in effect at the time this compact becomes effective.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-6-1115 Juvenile compact administrator.**

- (1) Under this compact, the governor is authorized and empowered to designate a compact administrator and who, acting jointly with like administrators of other party states, shall promulgate rules and regulations to carry out more effectively the terms of the compact. The compact administrator shall serve subject to the pleasure of the governor.
- (2) The compact administrator is authorized, empowered and directed to cooperate with all departments, agencies and officers of and in the government of this state and this state's subdivisions in facilitating the proper administration of the compact or of any supplementary agreement or agreements entered into by this state.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-6-1116 Supplementary agreements.**

The compact administrator is authorized and empowered to enter into supplementary agreements with appropriate officials of other states under the compact. In the event that the supplementary agreement requires or contemplates the use of any institution or facility of this state or requires or contemplates the provision of any service by this state, the supplementary agreement shall have no force or effect until approved by the head of the department or agency under whose jurisdiction said institution or facility is operated or whose department or agency will be charged with the rendering of such service.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-6-1117 Financial arrangements.**

The compact administrator, subject to the approval of the Division of Finance, may make or arrange for any payments necessary to discharge any financial obligations imposed upon this state by the compact or by any supplementary agreement entered into.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-6-1118 Responsibility of parents.**

The compact administrator is authorized to take appropriate action to recover from parents or guardians, any and all costs expended by the state, or any of the state's subdivisions, to return a delinquent or nondelinquent juvenile to this state, for care provided under any supplementary agreement, or for care pending the return of the juvenile to this state.

Renumbered and Amended by Chapter 334, 2022 General Session

**80-6-1119 Responsibilities of state courts, departments, agencies, and officers.**

The courts, departments, agencies and officers of this state and this state's subdivisions shall enforce this compact and do all things appropriate to the effectuation of the compact's purposes and intent which may be within their respective jurisdictions.

Renumbered and Amended by Chapter 334, 2022 General Session

## **Chapter 7 Emancipation**

**80-7-102 Definitions.**

As used in this chapter:

- (1) "Emancipation" or "emancipated" means a legal status created by court order that allows a minor to:
  - (a) live independent of the minor's parents or guardian; and
  - (b) exercise the same rights as an adult under Subsection 80-7-105(1).
- (2) "Guardian" has the same meaning as in Section 75-1-201.
- (3) "Minor" means an individual who is 16 years old or older.
- (4) "Parent" means a natural parent as defined in Section 80-1-102.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-7-103 Petition for emancipation -- Amending a petition -- Continuance.**

- (1) A minor may petition the juvenile court on the minor's own behalf for a declaration of emancipation.
- (2) The petition under Subsection (1) shall:
  - (a) be on a form provided by the clerk of the juvenile court; and
  - (b) state that the minor is:

- (i) 16 years old or older;
  - (ii) capable of living independently of the minor's parents or guardian; and
  - (iii) capable of managing the minor's own financial affairs.
- (3) Notice of the petition shall be served on the minor's parents, guardian, any other person or agency with custody of the minor, and the Child and Family Support Division of the Office of the Attorney General, unless the juvenile court determines that service is impractical.
- (4)
- (a) When it appears in a proceeding under this chapter that evidence presented points to material facts not alleged in the petition described in Subsection (1), the juvenile court may consider the additional or different material facts raised by the evidence if the parties consent.
  - (b) The juvenile court, on a motion from any interested party or on the court's own motion, shall direct that the petition be amended to conform to the evidence.
  - (c) If an amended petition under Subsection (4)(b) results in a substantial departure from the material facts originally alleged, the juvenile court shall grant a continuance as justice may require in accordance with Utah Rules of Juvenile Procedure, Rule 54.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-7-104 Procedure for emancipation.**

- (1)
- (a) Upon the filing of a petition in accordance with Section 80-7-103, the juvenile court shall review the petition for completeness and whether the petitioner meets the age requirement for filing the petition.
  - (b) If the petition is incomplete or the petitioner does not meet the age requirement, the juvenile court may dismiss the action immediately.
  - (c) If the petition is complete and the petitioner meets the age requirement, the juvenile court shall schedule a pretrial hearing on the matter within 30 days.
- (2) The juvenile court may appoint an attorney guardian ad litem in accordance with Section 78A-2-803 to represent the minor.
- (3) At the hearing, the juvenile court shall consider the best interests of the minor according to:
- (a) whether the minor is capable of assuming adult responsibilities;
  - (b) whether the minor is capable of living independently of the minor's parents, guardian, or custodian;
  - (c) opinions and recommendations from the attorney guardian ad litem, parents, guardian, or custodian, and any other evidence; and
  - (d) whether emancipation will create a risk of harm to the minor.
- (4) If the juvenile court determines, by clear and convincing evidence, that emancipation is in the best interests of the minor, the juvenile court shall issue a declaration of emancipation for the minor.
- (5) A juvenile court may modify or set aside any order or decree made by the court in accordance with Section 78A-6-357.

Renumbered and Amended by Chapter 261, 2021 General Session

**80-7-105 Emancipation.**

- (1) A minor who is emancipated may:
- (a) enter into contracts;
  - (b) buy and sell property;

- (c) sue or be sued;
  - (d) retain the minor's own earnings;
  - (e) borrow money for any purpose, including for education; and
  - (f) obtain healthcare without parental consent.
- (2) A minor who is emancipated may not be considered an adult:
- (a) under the criminal laws of the state, unless the requirements of Chapter 6, Part 5, Transfer to District Court, have been met;
  - (b) under the criminal laws of the state when the minor is a victim and the age of the victim is an element of the offense; and
  - (c) for specific constitutional and statutory age requirements regarding voting, use of alcoholic beverages, possession of tobacco or firearms, and other health and safety regulations relevant to the minor because of the minor's age.
- (3)
- (a) An order of emancipation prospectively terminates parental responsibilities that accrue based on the minor's status as a minor under the custody and control of a parent, guardian, or custodian, including parental tort liability for the acts of the minor.
  - (b) Nothing in this chapter shall be construed to interfere with the integrity of the family or to minimize the rights of parents or children.

Renumbered and Amended by Chapter 261, 2021 General Session