

Effective 9/1/2022

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;
 - (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; and
 - (iii) approve an individual to provide short-term relief care to a foster parent if the individual:
 - (A) provides the relief care for less than six consecutive nights;
 - (B) provides the relief care in the short-term relief care provider's home;
 - (C) is direct access qualified, as that term is defined in Section 26B-2-120; and
 - (D) is an immediate family member or relative, as those terms are defined in Section 80-3-102, of the foster parent;

- (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);
 - (p) when a division child welfare caseworker identifies a safety concern with the foster home, cooperate with the Office of Licensing and make a recommendation to the Office of Licensing concerning whether the foster home's license should be placed on conditions, suspended, or revoked; and
 - (q) 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 and Youth 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.

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 based on a policy, procedure, program, or practice that demonstrates an ability to minimize retraumatization associated with the criminal and juvenile justice system; 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.

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 program -- Behavioral health service rates.

- (1) As used in this section:
- (a) "Advanced practice registered nurse" means an individual licensed to practice as an advanced practice registered nurse in this state under Title 58, Chapter 31b, Nurse Practice Act.
 - (b) "Division" means the Division of Integrated Healthcare created in Section 26B-1-204.
 - (c) "HIPAA" means 45 C.F.R. Parts 160, 162, and 164, Health Insurance Portability and Accountability Act of 1996, as amended.
 - (d) "Physician assistant" means an individual licensed to practice as a physician assistant in this state under Title 58, Chapter 70a, Utah Physician Assistant Act.
 - (e) "Psychotropic medication" means medication prescribed to affect or alter thought processes, mood, or behavior, including antipsychotic, antidepressant, anxiolytic, or behavior medication.
 - (f) "Qualifying minor" means a minor committed to the Division of Juvenile Justice and Youth Services under Section 80-6-703.
- (2) The division shall, through contract with the University of Utah or another qualified third party, operate a psychotropic medication oversight program for children in foster care and qualifying minors to ensure that each foster child and qualifying minor is prescribed psychotropic medication consistent with the foster child's or qualifying minor's needs and consistent with clinical best practices.

- (3) The division shall operate an oversight team to manage the psychotropic medication oversight program, composed of at least the following individuals:
 - (a) a physician assistant with pediatric mental health experience, or an advanced practice registered nurse with pediatric mental health experience, contracted with the division;
 - (b) a child psychiatrist contracted with the division;
 - (c) a data analyst contracted with the division; and
 - (d) an individual with care coordination experience.
- (4) The oversight team shall monitor foster children and qualifying minors:
 - (a) six years old or younger who are being prescribed one or more psychotropic medications;
 - (b) seven years old or older who are being prescribed two or more psychotropic medications; and
 - (c) who are prescribed one or more antipsychotic medications.
- (5) The division shall establish a business associate agreement with the oversight team by which the oversight team shall, upon request, be given information or records related to the foster child's or qualifying minor's health care history, including psychotropic medication history and mental and behavioral health history, from:
 - (a) the division's Medicaid pharmacy program;
 - (b) the department's written and electronic records and databases;
 - (c) the foster child's current or past caseworker, or the qualifying minor's current or past case manager;
 - (d) the foster child or qualifying minor; or
 - (e) the foster child's or qualifying minor'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 or qualifying minor:
 - (a) the foster child's or qualifying minor's history;
 - (b) the foster child's or qualifying minor'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 or qualifying minor's needs;
 - (d) the dosage or dosage range and appropriateness of the foster child's or qualifying minor's psychotropic medication;
 - (e) the short-term or long-term risks associated with the use of the foster child's or qualifying minor's psychotropic medication; or
 - (f) the reported benefits of the foster child's or qualifying minor's psychotropic medication.
- (7)
 - (a) On at least a quarterly basis, the oversight team shall:
 - (i) review the medical and mental or behavioral health history for each foster child and qualifying minor overseen by the program;
 - (ii) based on the review under Subsection (7)(a)(i), document the oversight team's findings and recommendations; and
 - (iii) make written recommendations concerning the foster child's or qualifying minor's psychotropic medication and the foster child's or qualifying minor's mental or behavioral health, including any recommendation for psychotherapy treatment.
 - (b) The oversight team's recommendations described in Subsection (7)(a) shall be provided to the foster child's current caseworker or the qualifying minor's current case manager, the foster child's or qualifying minor's parent or guardian, and the foster child's or qualifying minor's

current health care providers, in accordance with rules adopted pursuant to Subsection (8) and in compliance with HIPAA and other relevant state and federal privacy laws.

- (c) The member of the oversight team described in Subsection (3)(d) shall:
 - (i) provide the recommendations described in Subsection (7)(a) in writing and verbally, or as otherwise provided in rules adopted pursuant to Subsection (8), to the foster child's or qualifying minor's current health care providers; and
 - (ii) on at least a semiannual basis, follow up with the foster child's or qualifying minor's current health care providers to document whether recommendations made by the oversight team have been implemented.
- (d) A foster child's caseworker or qualifying minor's case manager shall maintain a confidential record of recommendations provided under Subsection (7)(b).
- (8) The division may adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to administer this section, including the rules described in Subsection (7)(b).
- (9) The division shall report regarding the psychotropic medication oversight program:
 - (a) to the Child Welfare Legislative Oversight Panel by October 1 of each even numbered year; and
 - (b) orally to the Health and Human Services Interim Committee, at least once every two years at or before the October interim meeting.
- (10) The oversight team shall report:
 - (a) quarterly to the division regarding the number of foster children and qualifying minors reviewed and the number of recommendations made; and
 - (b) annually to the division regarding outcomes for foster children and qualifying minors overseen by the program.
- (11) Beginning on July 1, 2024, the department shall pay for outpatient behavioral health services for children in foster care and qualifying minors at a rate no lower than the standard Medicaid fee schedule.

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) When a member of the clergy reasonably believes that a child is the subject of ongoing abuse or neglect, the member of the clergy may report the information even if the perpetrator made a confession to the member of the clergy regarding the abuse or neglect.
 - (c) 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.
 - (d) A report by a member of the clergy under Subsection (4) is not intended to have any effect on the application of a privilege outlined in the Utah Rules of Evidence.
- (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.

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 80-2-609, 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.

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) The division shall:
 - (a) provide the information deemed necessary for action on the complaint by the entities listed in Subsection (1); and
 - (b) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying the information the division shall provide under Subsection (1).
- (3)
 - (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 (3)(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 (3)(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 (3)(a) as the basis for charging the person with another offense.
- (e) A prosecution for failure to report under Subsection (3)(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.
- (4) 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.

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 Division of Continuous Quality and Improvement, 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.

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

Effective until 9/1/2024

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

Effective 9/1/2024

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 81, Chapter 6, Child Support, may also be invoked.

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, and

26B-2-708, 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.

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 Division of Licensing and Background Checks 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).

Effective until 7/1/2024

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 Division of Licensing and Background Checks 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.

Effective 7/1/2024

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 Division of Licensing and Background Checks 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; or
 - (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;
 - (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) to the Bureau of Emergency Medical Services, within the Department of Public Safety, in 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;
 - (vi) as provided in Section 26B-2-121; or
 - (vii) to the department or another person, as provided in this chapter.
- (5) A person designated by the Department of Health and Human Services, the Department of Workforce Services, or the Bureau of Emergency Medical 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.

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; and
 - (j) 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.