

Effective 9/1/2021

Part 1 General Provisions

80-3-102 Definitions.

As used in this chapter:

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

Amended by Chapter 287, 2022 General Session

Amended by Chapter 334, 2022 General Session

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

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

Renumbered and Amended by Chapter 261, 2021 General Session

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

- (1)
 - (a) A minor who is the subject of a juvenile court hearing, any person entitled to notice under Section 80-3-201 or 80-3-301, preadoptive parents, foster parents, and any relative providing care for the minor, are:

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

Amended by Chapter 334, 2022 General Session

80-3-105 Consolidation of proceedings.

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

- (2) Separate hearings may be held in proceedings consolidated under Subsection (1) with respect to disposition.

Enacted by Chapter 261, 2021 General Session

80-3-106 Record of proceedings.

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

Enacted by Chapter 261, 2021 General Session

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

- (1)
 - (a) Except as provided in Subsections (1)(c) through (e), in an abuse, neglect, or dependency proceeding occurring after the commencement of a shelter hearing under Section 80-3-301, or the filing of an abuse, neglect, or dependency petition, each party to the proceeding shall provide in writing to any other party or the other party's counsel any information that the party:
 - (i) plans to report to the juvenile court at the proceeding; or
 - (ii) could reasonably expect would be requested of the party by the juvenile court at the proceeding.
 - (b) A party providing the disclosure required under Subsection (1)(a) shall make the disclosure:
 - (i) for a dispositional hearing under Part 4, Adjudication, Disposition, and Permanency, no less than five days before the day on which the dispositional hearing is held; and
 - (ii) for all other proceedings, no less than five days before the day on which the proceeding is held.
 - (c) The division is not required to provide a court report or a child and family plan described in Section 80-3-307 to each party to the proceeding if:

- (i) the information is electronically filed with the juvenile court; and
 - (ii) each party to the proceeding has access to the electronically filed information.
- (d) If a party to a proceeding obtains information after the deadline described in Subsection (1)(b), the information is exempt from the disclosure required under Subsection (1)(a) if the party certifies to the juvenile court that the information was obtained after the deadline.
- (e) Subsection (1)(a) does not apply to:
- (i) pretrial hearings; and
 - (ii) the frequent, periodic review hearings held in a dependency drug court case to assess and promote the parent's progress in substance use disorder treatment.
- (2)
- (a) Except as provided in Subsection (2)(b), and notwithstanding any other provision of law:
- (i) counsel for all parties to the action shall be given access to all records, maintained by the division or any other state or local public agency, that are relevant to the abuse, neglect, or dependency proceeding under this chapter; and
 - (ii) if the natural parent of a child is not represented by counsel, the natural parent shall have access to the records described in Subsection (2)(a)(i).
- (b) The disclosures described in Subsection (2)(a) are not required if:
- (i) subject to Subsection (2)(c), the division or other state or local public agency did not originally create the record being requested;
 - (ii) disclosure of the record would jeopardize the life or physical safety of a child who has been a victim of abuse or neglect, or any individual who provided substitute care for the child;
 - (iii) disclosure of the record would jeopardize the anonymity of the individual making the initial report of abuse or neglect or any others involved in the subsequent investigation;
 - (iv) disclosure of the record would jeopardize the life or physical safety of an individual who has been a victim of domestic violence; or
 - (v) the record is a Children's Justice Center interview, including a video or audio recording, and a transcript of the recording, the release of which is governed by Section 77-37-4.
- (c) If a disclosure is denied under Subsection (2)(b)(i), the division shall inform the individual making the request:
- (i) of the existence of all records in the possession of the division or any other state or local public agency;
 - (ii) of the name and address of the individual or agency that originally created the record; and
 - (iii) that the individual making the request must seek access to the record from the individual or agency that originally created the record.

Amended by Chapter 335, 2022 General Session

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

- (1) As used in this section, "postadjudication hearing" means:
- (a) a dispositional hearing;
 - (b) a permanency hearing; or
 - (c) a review hearing, except a drug court review hearing.
- (2) A minor shall be present at any postadjudication hearing in a case relating to the abuse, neglect, or dependency of the minor, unless the juvenile court determines that:
- (a) requiring the minor to be present at the postadjudication hearing would be detrimental to the minor or impractical; or
 - (b) the minor is not sufficiently mature to articulate the minor's wishes in relation to the hearing.

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

Renumbered and Amended by Chapter 261, 2021 General Session

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

- (1) In a proceeding under this chapter, the juvenile court:
 - (a) may appoint any mental health therapist, as defined in Section 58-60-102, who the juvenile court finds to be qualified to:
 - (i) evaluate the mental health of a minor or provide mental health services to the minor; or
 - (ii) after notice and a hearing set for the specific purpose, evaluate the mental health of the minor's parent or guardian or provide mental health services to the parent or guardian if the juvenile court finds from the evidence presented at the hearing that the parent's or guardian's mental or emotional condition may be a factor in causing the abuse, neglect, or dependency of the minor; or
 - (b) may appoint a physician, or a physician assistant, who the juvenile court finds to be qualified to:
 - (i) physically examine the minor; or
 - (ii) after notice and a hearing set for the specific purpose, physically examine the minor's parent or guardian if the juvenile court finds from the evidence presented at the hearing that the parent's or guardian's physical condition may be a factor in causing the abuse, neglect, or dependency of the minor.
- (2) The juvenile court may not refuse to appoint a mental health therapist under Subsection (1) for the reason that the therapist's recommendations in another case did not follow the recommendations of the division.
- (3) The division shall, with regard to a minor in the division's custody:

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

Amended by Chapter 334, 2022 General Session

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

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

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

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

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

- (1) If, for a relative placement, an interstate placement requested under the Interstate Compact on the Placement of Children has been initiated by the division or is ordered by or pending before the juvenile court, the court may not finalize a non-relative placement unless the court gives due weight to:
- (a) the preferential consideration granted to a relative in Section 80-3-302;

- (b) the rebuttable presumption in Section 80-3-302; and
 - (c) the division's placement authority under Subsections 80-1-102(50) and 80-3-303(1).
- (2) Nothing in this section affects the ability of a foster parent to petition the juvenile court under Subsection 80-3-502(3).

Enacted by Chapter 309, 2023 General Session