

Effective 9/1/2021

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

**Part 1
General Provisions**

80-3-102 Definitions.

As used in this chapter:

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

Amended by Chapter 287, 2022 General Session

Amended by Chapter 334, 2022 General Session

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

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

Renumbered and Amended by Chapter 261, 2021 General Session

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

- (1)

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

Amended by Chapter 334, 2022 General Session

80-3-105 Consolidation of proceedings.

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

Enacted by Chapter 261, 2021 General Session

80-3-106 Record of proceedings.

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

Enacted by Chapter 261, 2021 General Session

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

- (1)
 - (a) Except as provided in Subsections (1)(c) through (e), in an abuse, neglect, or dependency proceeding occurring after the commencement of a shelter hearing under Section 80-3-301, or the filing of an abuse, neglect, or dependency petition, each party to the proceeding shall provide in writing to any other party or the other party's counsel any information that the party:
 - (i) plans to report to the juvenile court at the proceeding; or
 - (ii) could reasonably expect would be requested of the party by the juvenile court at the proceeding.
 - (b) A party providing the disclosure required under Subsection (1)(a) shall make the disclosure:
 - (i) for a dispositional hearing under Part 4, Adjudication, Disposition, and Permanency, no less than five days before the day on which the dispositional hearing is held; and

- (ii) for all other proceedings, no less than five days before the day on which the proceeding is held.
- (c) The division is not required to provide a court report or a child and family plan described in Section 80-3-307 to each party to the proceeding if:
 - (i) the information is electronically filed with the juvenile court; and
 - (ii) each party to the proceeding has access to the electronically filed information.
- (d) If a party to a proceeding obtains information after the deadline described in Subsection (1)(b), the information is exempt from the disclosure required under Subsection (1)(a) if the party certifies to the juvenile court that the information was obtained after the deadline.
- (e) Subsection (1)(a) does not apply to:
 - (i) pretrial hearings; and
 - (ii) the frequent, periodic review hearings held in a dependency drug court case to assess and promote the parent's progress in substance use disorder treatment.
- (2)
 - (a) Except as provided in Subsection (2)(b), and notwithstanding any other provision of law:
 - (i) counsel for all parties to the action shall be given access to all records, maintained by the division or any other state or local public agency, that are relevant to the abuse, neglect, or dependency proceeding under this chapter; and
 - (ii) if the natural parent of a child is not represented by counsel, the natural parent shall have access to the records described in Subsection (2)(a)(i).
 - (b) The disclosures described in Subsection (2)(a) are not required if:
 - (i) subject to Subsection (2)(c), the division or other state or local public agency did not originally create the record being requested;
 - (ii) disclosure of the record would jeopardize the life or physical safety of a child who has been a victim of abuse or neglect, or any individual who provided substitute care for the child;
 - (iii) disclosure of the record would jeopardize the anonymity of the individual making the initial report of abuse or neglect or any others involved in the subsequent investigation;
 - (iv) disclosure of the record would jeopardize the life or physical safety of an individual who has been a victim of domestic violence; or
 - (v) the record is a Children's Justice Center interview, including a video or audio recording, and a transcript of the recording, the release of which is governed by Section 77-37-4.
 - (c) If a disclosure is denied under Subsection (2)(b)(i), the division shall inform the individual making the request:
 - (i) of the existence of all records in the possession of the division or any other state or local public agency;
 - (ii) of the name and address of the individual or agency that originally created the record; and
 - (iii) that the individual making the request must seek access to the record from the individual or agency that originally created the record.

Amended by Chapter 335, 2022 General Session

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

- (1) As used in this section, "postadjudication hearing" means:
 - (a) a dispositional hearing;
 - (b) a permanency hearing; or
 - (c) a review hearing, except a drug court review hearing.

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

Renumbered and Amended by Chapter 261, 2021 General Session

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

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

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

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

Amended by Chapter 334, 2022 General Session

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

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

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

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

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

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

Enacted by Chapter 309, 2023 General Session

Part 2

Petition Alleging Abuse, Neglect, or Dependency

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

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

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

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

Amended by Chapter 334, 2022 General Session

80-3-202 Expedited filing of petition.

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

Renumbered and Amended by Chapter 261, 2021 General Session

80-3-203 Expedited hearing for temporary custody.

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

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

Enacted by Chapter 261, 2021 General Session

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

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

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

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

Amended by Chapter 330, 2023 General Session

80-3-205 Coordination of proceedings.

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

Amended by Chapter 29, 2021 General Session

Renumbered and Amended by Chapter 261, 2021 General Session

80-3-206 Mediation.

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

Enacted by Chapter 261, 2021 General Session

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

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

Enacted by Chapter 261, 2021 General Session

Part 3

Shelter Proceedings and Placement of a Child

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

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

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

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

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

- (B) the parent or guardian is unwilling or unable to make reasonable changes that would remove the danger; or
- (xv) the child's natural parent:
 - (A) intentionally, knowingly, or recklessly causes the death of another parent of the child;
 - (B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or
 - (C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.
- (b)
 - (i) Prima facie evidence of the finding described in Subsection (9)(a)(i) is established if:
 - (A) a court previously adjudicated that the child suffered abuse, neglect, or dependency involving the parent; and
 - (B) a subsequent incident of abuse, neglect, or dependency involving the parent occurs.
 - (ii) For purposes of Subsection (9)(a)(iv), if the juvenile court finds that the parent knowingly allowed the child to be in the physical care of an individual after the parent received actual notice that the individual physically abused, sexually abused, or sexually exploited the child, that fact is prima facie evidence that there is a substantial risk that the child will be physically abused, sexually abused, or sexually exploited.
- (10)
 - (a)
 - (i) The juvenile court shall make a determination on the record as to whether reasonable efforts were made to prevent or eliminate the need for removal of the child from the child's home and whether there are available services that would prevent the need for continued removal.
 - (ii) If the juvenile court finds that the child can be safely returned to the custody of the child's parent or guardian through the provision of the services described in Subsection (10)(a)(i), the juvenile court shall place the child with the child's parent or guardian and order that the services be provided by the division.
 - (b) In accordance with federal law, the juvenile court shall consider the child's health, safety, and welfare as the paramount concern when making the determination described in Subsection (10)(a), and in ordering and providing the services described in Subsection (10)(a).
- (11) If the division's first contact with the family occurred during an emergency situation in which the child could not safely remain at home, the juvenile court shall make a finding that any lack of preplacement preventive efforts, as described in Section 80-2a-302, was appropriate.
- (12) In cases where sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved, the juvenile court and the division do not have any duty to make reasonable efforts or to, in any other way, attempt to maintain a child in the child's home, return a child to the child's home, provide reunification services, or attempt to rehabilitate the offending parent or parents.
- (13) The juvenile court may not order continued removal of a child solely on the basis of educational neglect, truancy, or failure to comply with a court order to attend school.
- (14)
 - (a) If a juvenile court orders continued removal of a child under this section, the juvenile court shall state the facts on which the decision is based.
 - (b) If no continued removal is ordered and the child is returned home, the juvenile court shall state the facts on which the decision is based.
- (15) If the juvenile court finds that continued removal and temporary custody are necessary for the protection of a child under Subsection (9)(a), the juvenile court shall order continued removal regardless of:

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

Amended by Chapter 309, 2023 General Session

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

(1) As used in this section:

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

(2)

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

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

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

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

- (B) After the day on which the time period described in Subsection (7)(b)(i)(A) expires, the division or the juvenile court may not grant preferential consideration to a friend, who has not obtained custody or asserted an interest in the child.
- (ii)
 - (A) Until eight months after the day on which the shelter hearing occurs, the preferential consideration that the juvenile court or division grants a relative under Subsection (7)(a)(i) is a rebuttable presumption that placement of the child with a relative is in the best interest of the child.
 - (B) After the rebuttable presumption described in Subsection (7)(b)(ii)(A) expires, the juvenile court or division shall give preferential consideration to a relative's request for placement of the child, if the placement is in the best interest of the child considering the totality of the circumstances.
 - (C) If a relative asserts an interest in becoming a placement for the child more than one year after the day on which the shelter hearing occurs, the juvenile court may not give the relative the preferential consideration described in Subsection (7)(b)(ii)(B).
- (c) The following order of preference shall be applied when determining the individual with whom a child will be placed, provided that the individual is willing and able to care for the child:
 - (i) a noncustodial parent of the child;
 - (ii) a relative of the child;
 - (iii) subject to Subsection (7)(d), a friend if the friend is a licensed foster parent; and
 - (iv) other placements that are consistent with the requirements of law.
- (d) In determining whether a friend is a willing, able, and appropriate placement for a child, the juvenile court or the division:
 - (i) subject to Subsections (7)(d)(ii) through (iv), shall consider the child's preferences or level of comfort with the friend;
 - (ii) is required to consider no more than one friend designated by each parent of the child and one friend designated by the child if the child is of sufficient maturity to articulate the child's wishes in relation to a placement;
 - (iii) may limit the number of designated friends to two, one of whom shall be a friend designated by the child if the child is of sufficient maturity to articulate the child's wishes in relation to a placement; and
 - (iv) shall give preference to a friend designated by the child if:
 - (A) the child is of sufficient maturity to articulate the child's wishes; and
 - (B) the basis for removing the child under Section 80-3-301 is sexual abuse of the child.
- (e)
 - (i) If a parent of the child or the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a placement, is not able to designate a friend who is a licensed foster parent for placement of the child, but is able to identify a friend who is willing to become licensed as a foster parent, the department shall fully cooperate to expedite the licensing process for the friend.
 - (ii) If the friend described in Subsection (7)(e)(i) becomes licensed as a foster parent within the time frame described in Subsection (7)(b)(i), the juvenile court shall determine whether it is in the best interest of the child to place the child with the friend.
- (8)
 - (a) If a relative or friend who is willing to cooperate with the child's permanency goal is identified under Subsection (6)(a), the juvenile court:
 - (i) shall make a specific finding regarding:
 - (A) the fitness of that relative or friend as a placement for the child; and

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

- (a) The juvenile court may place a child described in Subsection (2)(a) in the temporary custody of the division, pending the division's investigation under Subsection (8), and the juvenile court's determination regarding the appropriateness of the placement.
 - (b) The juvenile court shall ultimately base the juvenile court's determination regarding the appropriateness of a placement with a relative or friend on the best interest of the child.
- (10) If a juvenile court places a child described in Subsection (6) with the child's relative or friend:
- (a) the juvenile court shall:
 - (i) order the relative or friend take custody, subject to the continuing supervision of the juvenile court;
 - (ii) provide for reasonable parent-time with the parent or parents from whose custody the child is removed, unless parent-time is not in the best interest of the child; and
 - (iii) conduct a periodic review no less often than every six months, to determine whether:
 - (A) placement with a relative or friend continues to be in the child's best interest;
 - (B) the child should be returned home; or
 - (C) the child should be placed in the custody of the division;
 - (b) the juvenile court may enter an order:
 - (i) requiring the division to provide necessary services to the child and the child's relative or friend, including the monitoring of the child's safety and well-being; or
 - (ii) that the juvenile court considers necessary for the protection and best interest of the child; and
 - (c) the child and the relative or friend in whose custody the child is placed are under the continuing jurisdiction of the juvenile court.
- (11) No later than 12 months after the day on which the child is removed from the home, the juvenile court shall schedule a hearing for the purpose of entering a permanent order in accordance with the best interest of the child.
- (12) The time limitations described in Section 80-3-406, with regard to reunification efforts, apply to a child placed with a previously noncustodial parent under Subsection (2) or with a relative or friend under Subsection (6).
- (13)
- (a) If the juvenile court awards temporary custody of a child to the division, and the division places the child with a relative, the division shall:
 - (i) conduct a criminal background check of the relative that complies with the criminal background check provisions described in Section 80-3-305; and
 - (ii) if the results of the criminal background check described in Subsection (13)(a)(i) would prohibit the relative from having direct access to the child under Section 26B-2-120, the division shall:
 - (A) take the child into physical custody; and
 - (B) within three days, excluding weekends and holidays, after the day on which the child is taken into physical custody under Subsection (13)(a)(ii)(A), give written notice to the juvenile court, and all parties to the proceedings, of the division's action.
 - (b) Subsection (13)(a) does not prohibit the division from placing a child with a relative, pending the results of the background check described in Subsection (13)(a) on the relative.
- (14) If the juvenile court orders that a child be removed from the custody of the child's parent and does not award custody and guardianship to another parent, relative, or friend under this section, the juvenile court shall order that the child be placed in the temporary custody of the division, to proceed to adjudication and disposition and to be provided with care and services in accordance with this chapter, Chapter 2, Child Welfare Services, and Chapter 2a, Removal and Protective Custody of a Child.

(15)

- (a) If a child reenters the temporary custody or the custody of the division and the child is not placed with an individual who is a parent, relative, or friend, the division shall:
 - (i) notify the child's former foster parents; and
 - (ii) upon a determination of the former foster parents' willingness and ability to safely and appropriately care for the child, give the former foster parents preference for placement of the child.
- (b) If, after the shelter hearing, the child is placed with an individual who is not a parent, a relative, a friend, or a former foster parent of the child, priority shall be given to a foster placement with a married couple, unless it is in the best interests of the child to place the child with a single foster parent.

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

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

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

(19)

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

Amended by Chapter 309, 2023 General Session

Amended by Chapter 330, 2023 General Session

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

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

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

Amended by Chapter 309, 2023 General Session

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

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

Renumbered and Amended by Chapter 261, 2021 General Session

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

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

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

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

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

Amended by Chapter 330, 2023 General Session

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

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

Renumbered and Amended by Chapter 261, 2021 General Session

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

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

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

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

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

Amended by Chapter 309, 2023 General Session

Amended by Chapter 320, 2023 General Session

Part 4

Adjudication, Disposition, and Permanency

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

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

Renumbered and Amended by Chapter 261, 2021 General Session

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

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

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

Amended by Chapter 320, 2023 General Session

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

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

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

Renumbered and Amended by Chapter 261, 2021 General Session

Superseded 7/1/2024

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

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

Amended by Chapter 330, 2023 General Session

Effective 7/1/2024

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

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

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

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

Amended by Chapter 310, 2023 General Session

Amended by Chapter 330, 2023 General Session

80-3-405 Dispositions after adjudication.

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

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

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

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

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

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

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

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

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

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

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

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

Amended by Chapter 320, 2023 General Session

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

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

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

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

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

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

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

Renumbered and Amended by Chapter 261, 2021 General Session

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

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

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

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

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

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

Amended by Chapter 240, 2024 General Session

Part 5

Miscellaneous Hearings and Petitions

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

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

Renumbered and Amended by Chapter 261, 2021 General Session

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

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

Renumbered and Amended by Chapter 261, 2021 General Session

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

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

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

Enacted by Chapter 261, 2021 General Session

Superseded 7/1/2024

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

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

Amended by Chapter 330, 2023 General Session

Effective 7/1/2024

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

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

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

Amended by Chapter 310, 2023 General Session

Amended by Chapter 330, 2023 General Session

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

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

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

Enacted by Chapter 264, 2023 General Session