

CHILD WELFARE - ALTERNATIVE DISPUTE RESOLUTION

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: A. Lamont Tyler

This act modifies the Judicial Code to authorize the courts to order a family unity conference under the authority of the Division of Child and Family Services when requested by the parents or the parties to an abuse or neglect action. The act establishes the purposes of a family unity conference and describes circumstances in which the court may not order a family unity conference. The act requires current statutory time-lines to be followed when family unity conferences are ordered and provides for confidentiality.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

78-3a-109, as last amended by Chapter 288, Laws of Utah 2000

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

Section 1. Section **78-3a-109** is amended to read:

78-3a-109. Title of petition and other court documents -- Form and contents of petition -- Order for temporary custody -- Physical or psychological examination of minor, parent, or guardian -- Dismissal of petition.

(1) The petition and all subsequent court documents in the proceeding shall be entitled: "State of Utah, in the interest of....., a person under 18 years of age (or a person under 21 years of age)."

(2) The petition shall be verified and statements in the petition may be made upon information and belief.

(3) The petition shall be written in simple and brief language and include the facts which bring the minor within the jurisdiction of the court, as provided in Section 78-3a-104.

(4) The petition shall further state:

- (a) the name, age, and residence of the minor;
- (b) the names and residences of the minor's parents;
- (c) the name and residence of the guardian, if there is one;

(d) the name and address of the nearest known relative, if no parent or guardian is known; and

(e) the name and residence of the person having physical custody of the minor. If any of the facts required are not known by the petitioner, the petition shall so state.

(5) At any time after a petition is filed, the court may make an order providing for temporary custody of the minor.

(6) The court may order that a minor concerning whom a petition has been filed shall be examined by a physician, surgeon, psychiatrist, or psychologist and may place the minor in a hospital or other facility for examination. After notice and a hearing set for the specific purpose, the court may order a similar examination of a parent or guardian whose ability to care for a minor is at issue, if the court finds from the evidence presented at the hearing that the parent's or guardian's physical, mental, or emotional condition may be a factor in causing the neglect, dependency, or delinquency of the minor.

(7) Pursuant to Rule 506(d)(3), Utah Rules of Evidence, examinations conducted pursuant to Subsection (6) are not privileged communications, but are exempt from the general rule of privilege.

(8) The court may dismiss a petition at any stage of the proceedings.

(9) If the petition is filed under Section 78-3a-305 or 78-3a-405 or if the matter is referred to the court under Subsection 78-3a-105(3)(b)[;]:

(a) the court may require the parties to participate in mediation in accordance with Title 78, Chapter 31b, Alternative Dispute Resolution[;]; and

(b) the Division of Child and Family Services or a party to the petition may request and the court may order the parties to participate in a family unity conference under the authority of the Division of Child and Family Services in accordance with Subsection (10).

(10) (a) A family unity conference may be ordered by the court for any of the following purposes:

(i) discussing and reviewing the case history;

(ii) designing a service plan for the child and family, including concurrent planning;

- (iii) discussing a visitation schedule and rules for visitation;
- (iv) identifying possible kinship placements under the requirements of Subsection 78-3a-307(5), and designing services to support the kinship placement;
- (v) conflict resolution between the family and Division of Child and Family Services staff;
- (vi) discussing child custody issues; or
- (vii) crisis clinical intervention to reduce trauma to the child and family.
- (b) The family unity conference may be attended by individuals chosen by the family and the Division of Child and Family Services, and may include extended family members, friends, clergy, service providers, and others who may support the family in keeping the child safe.
- (c) A family unity conference may not be held in the following circumstances:
 - (i) when there is a criminal charge pending in the case;
 - (ii) to resolve petition disputes; and
 - (iii) when a family unity conference may pose a threat to the safety of a child or other family member.
- (d) With regard to a family unity conference ordered by a court under Subsection (9)(b):
 - (i) the requirements of Subsection 78-31b-7(3)(b) apply except all parties to the proceeding:
 - (A) shall be given no less than five days notice of any recommendation made to the court from the family unity conference; and
 - (B) shall be given an opportunity to be heard by the court; and
 - (ii) the confidentiality requirements of Section 78-31b-8 apply, except that admissions by a party to the allegations on the petition are admissible at any proceeding.