

- 26 ▶ addresses family preservation services and procedures for conducting an
- 27 investigation and developing a treatment plan;
- 28 ▶ clarifies when services should be provided to eliminate the need to remove a child
- 29 from the custody of the child's parent or guardian;
- 30 ▶ provides authority for taking protective custody of, and other action in regard to, a
- 31 child in danger of abuse;
- 32 ▶ expands the information that must be provided to a parent or guardian when the
- 33 child of the parent or guardian is taken into protective custody;
- 34 ▶ requires that all reasonable efforts be made to notify the parent or guardian of a
- 35 child taken into protective custody;
- 36 ▶ amends provisions relating to a treatment plan for a child in the temporary custody
- 37 of the Division of Child and Family Services;
- 38 ▶ lists the circumstances under which parental visitation may be denied by a court or
- 39 the Division of Child and Family Services;
- 40 ▶ lists the circumstances where reporting of abuse or neglect is required;
- 41 ▶ reduces the time that a physician may hold a child in protective custody without a
- 42 court order to 36 hours;
- 43 ▶ limits the services that a parent or guardian may be charged for when a child is
- 44 taken into protective custody by a physician;
- 45 ▶ describes when the Division of Child and Family Services is required to make a
- 46 preremoval investigation;
- 47 ▶ provides that when the Division of Child and Family Services is required to inform
- 48 a parent of an interview prior to interviewing a child, the division must inform the
- 49 parent of the specific allegations concerning the child and the time and place of the
- 50 interview;
- 51 ▶ lists circumstances under which a parent or guardian is not guilty of child abuse or
- 52 neglect of a disabled child;
- 53 ▶ describes when a court may order medical care for a disabled child;
- 54 ▶ describes the authority of a guardian;
- 55 ▶ describes and limits the circumstances where a court can issue a search warrant or
- 56 subpoena in a protective custody matter;

- 57 ▶ addresses the services that may be provided to a minor who is the subject of a
- 58 petition filed in juvenile court;
- 59 ▶ limits the authority of a court to order medical and mental health treatment of a
- 60 child;
- 61 ▶ requires that when placing a child in guardianship or legal custody, a court shall
- 62 take into consideration the religious preferences of a minor and the minor's parents;
- 63 ▶ limits the circumstances under which a court may order that a child be placed into
- 64 protective custody;
- 65 ▶ clarifies the evidence that may be presented by a parent or guardian at a shelter
- 66 hearing;
- 67 ▶ requires that a court honor, as nearly as practicable, a request by a parent or
- 68 guardian to continue a shelter hearing;
- 69 ▶ describes when a court must order a child released from protective custody;
- 70 ▶ describes the circumstances under which the Division of Child and Family Services
- 71 and the court are required to provide services to:
 - 72 • maintain or return a child to the child's home; or
 - 73 • attempt to rehabilitate an offending parent;
- 74 ▶ addresses reunification services;
- 75 ▶ describes the circumstances under which a court can order the termination of
- 76 parental rights;
- 77 ▶ establishes a rebuttable presumption that discipline of a child by a parent does not
- 78 constitute abusive conduct;
- 79 ▶ provides that upon granting a voluntary relinquishment of parental rights, a court
- 80 may enter an order relating to the child's health and safety;
- 81 ▶ increases the time within which a court must hold a permanency hearing from eight
- 82 months to 12 months; and
- 83 ▶ makes technical changes.

84 **Monies Appropriated in this Bill:**

85 None

86 **Other Special Clauses:**

87 None

88 **Utah Code Sections Affected:**

89 AMENDS:

- 90 **62A-2-121**, as last amended by Chapter 86, Laws of Utah 2004
- 91 **62A-4a-101**, as last amended by Chapter 356, Laws of Utah 2004
- 92 **62A-4a-106**, as renumbered and amended by Chapter 260, Laws of Utah 1994
- 93 **62A-4a-107**, as last amended by Chapter 94, Laws of Utah 2003
- 94 **62A-4a-116.1**, as last amended by Chapter 210, Laws of Utah 2003
- 95 **62A-4a-116.2**, as last amended by Chapter 86, Laws of Utah 2004
- 96 **62A-4a-116.4**, as enacted by Chapter 283, Laws of Utah 2002
- 97 **62A-4a-116.5**, as last amended by Chapter 74, Laws of Utah 2004
- 98 **62A-4a-116.6**, as last amended by Chapter 210, Laws of Utah 2003
- 99 **62A-4a-117**, as last amended by Chapter 94, Laws of Utah 2003
- 100 **62A-4a-201**, as last amended by Chapter 274, Laws of Utah 2000
- 101 **62A-4a-202**, as last amended by Chapter 100, Laws of Utah 2004
- 102 **62A-4a-202.1**, as last amended by Chapter 180, Laws of Utah 2004
- 103 **62A-4a-202.2**, as last amended by Chapter 10, Laws of Utah 2001, First Special
- 104 Session
- 105 **62A-4a-202.6**, as last amended by Chapter 58, Laws of Utah 2001
- 106 **62A-4a-203**, as last amended by Chapter 274, Laws of Utah 1998
- 107 **62A-4a-205**, as last amended by Chapter 356, Laws of Utah 2004
- 108 **62A-4a-208**, as enacted by Chapter 274, Laws of Utah 1998
- 109 **62A-4a-209**, as last amended by Chapters 265 and 306, Laws of Utah 2002
- 110 **62A-4a-302**, as renumbered and amended by Chapter 260, Laws of Utah 1994
- 111 **62A-4a-402**, as last amended by Chapter 274, Laws of Utah 1998
- 112 **62A-4a-403**, as last amended by Chapter 21, Laws of Utah 1999
- 113 **62A-4a-407**, as last amended by Chapter 302, Laws of Utah 1995
- 114 **62A-4a-409**, as last amended by Chapter 356, Laws of Utah 2004
- 115 **62A-4a-414**, as enacted by Chapter 315, Laws of Utah 2004
- 116 **63-55-262**, as last amended by Chapter 134, Laws of Utah 2001
- 117 **76-5-109**, as last amended by Chapter 125, Laws of Utah 2000
- 118 **76-5-110**, as last amended by Chapter 303, Laws of Utah 1997

119 **78-3a-103**, as last amended by Chapter 171, Laws of Utah 2003
 120 **78-3a-106**, as last amended by Chapter 267, Laws of Utah 2003
 121 **78-3a-109**, as last amended by Chapter 180, Laws of Utah 2001
 122 **78-3a-110**, as enacted by Chapter 365, Laws of Utah 1997
 123 **78-3a-118**, as last amended by Chapters 102 and 267, Laws of Utah 2004
 124 **78-3a-301**, as last amended by Chapter 356, Laws of Utah 2004
 125 **78-3a-306**, as last amended by Chapters 131 and 267, Laws of Utah 2003
 126 **78-3a-311**, as last amended by Chapter 356, Laws of Utah 2004
 127 **78-3a-320**, as last amended by Chapter 210, Laws of Utah 2003
 128 **78-3a-402**, as renumbered and amended by Chapter 260, Laws of Utah 1994
 129 **78-3a-406**, as last amended by Chapter 332, Laws of Utah 2003
 130 **78-3a-407**, as last amended by Chapter 246, Laws of Utah 2002
 131 **78-3a-408**, as last amended by Chapter 274, Laws of Utah 1998
 132 **78-3a-414**, as last amended by Chapter 101, Laws of Utah 2001

REPEALS:

134 **62A-4a-202.7**, as last amended by Chapter 94, Laws of Utah 2003
 135 **78-3a-403**, as last amended by Chapter 318, Laws of Utah 1996

136

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

138 Section 1. Section **62A-2-121** is amended to read:

139 **62A-2-121. Access to abuse and neglect information for licensing purposes.**

140 (1) With respect to human services licensees, the department may access only the
 141 Licensing Information System of the Division of Child and Family Services created by Section
 142 62A-4a-116.2 and juvenile court records under Subsection 78-3a-320(4), for the purpose of:

143 (a) determining whether:

144 (i) a person associated with a licensee, with direct access to children, is listed in the
 145 Licensing Information System; or [~~has a substantiated finding by~~]

146 (ii) a juvenile court [~~of a~~] made a substantiated finding that a person committed severe
 147 [~~type of~~] child abuse or neglect under Subsections 78-3a-320(1) and (2); and

148 (b) informing a licensee that:

149 (i) a person associated with the licensee is listed in the Licensing Information System;

150 or ~~[has a substantiated finding by a juvenile court of a severe type of]~~

151 (ii) a juvenile court made a substantiated finding that a person associated with the
152 licensee committed severe child abuse or neglect under Subsections 78-3a-320(1) and (2).

153 (2) Notwithstanding Subsection (1), the department may access the Division of Child
154 and Family Service's Management Information System under Section 62A-4a-116 for the
155 purpose of licensing and monitoring foster parents.

156 (3) After receiving identifying information for a person under Subsection
157 62A-2-120(1), the department shall process the information for the purposes described in
158 Subsection (1).

159 (4) The department shall adopt rules under Title 63, Chapter 46a, Utah Administrative
160 Rulemaking Act, consistent with this chapter, defining the circumstances under which a person
161 who has direct access to children and who is listed in the Licensing Information System or has
162 a substantiated finding by a court of a severe ~~[type of]~~ child abuse or neglect under Subsections
163 78-3a-320(1) and (2) may provide services to children.

164 Section 2. Section **62A-4a-101** is amended to read:

165 **62A-4a-101. Definitions.**

166 As used in this chapter:

167 (1) (a) "Abuse" means:

168 ~~[(a) actual or threatened nonaccidental physical or mental harm;]~~

169 ~~[(b) negligent treatment;]~~

170 ~~[(c) sexual exploitation; or]~~

171 ~~[(d) any sexual abuse].~~

172 (i) causing:

173 (A) nonaccidental physical harm;

174 (B) physical injury, as defined in Section 76-5-109; or

175 (C) serious physical injury, as defined in Section 76-5-109;

176 (ii) engaging in:

177 (A) mental cruelty, as defined in Section 76-5-109;

178 (B) sexual exploitation of a child, as defined in Section 62A-4a-402; or

179 (C) sexual abuse, as defined in Section 62A-4a-402;

180 (iii) while having care or custody of a child, causing or permitting another to:

- 181 (A) inflict on the child an injury or harm described in Subsection (1)(a)(i); or
 182 (B) engage in conduct, described in Subsection (1)(a)(ii), involving the child;
 183 ~~H→ [(iv) engaging in conduct described in Subsection 76-5-109.1(2);] ←H~~ or
 184 ~~H→ [(v)] (iv) ←H~~ subjecting a child to mistreatment or abuse.
 185 (b) "Abuse" does not include:
 186 (i) disciplining or managing a child in a manner that does not constitute abuse under
 187 Subsection (1)(a), including:
 188 (A) withholding privileges from a child; or
 189 (B) other discipline;
 190 (ii) accidental conduct;
 191 (iii) conduct described in Subsection 53A-11-802(2);
 192 (iv) conduct described in Section 76-2-401; or
 193 (v) the use of reasonable and necessary physical restraint or force on a child:
 194 (A) in self-defense;
 195 (B) in defense of others;
 196 (C) to protect the child; or
 197 (D) to remove a weapon in the possession of a child for any of the reasons described in
 198 Subsections (1)(b)(v)(A) through (C).
 199 (2) "Adoption services" means:
 200 (a) placing children for adoption[;];
 201 (b) subsidizing adoptions under Section 62A-4a-105[;];
 202 (c) supervising adoption placements until the adoption is finalized by the court[;];
 203 (d) conducting adoption studies[;];
 204 (e) preparing adoption reports upon request of the court[;]; and
 205 (f) providing postadoptive placement services, upon request of a family, for the
 206 purpose of stabilizing a possible disruptive placement.
 207 (3) "Board" means the Board of Child and Family Services established in accordance
 208 with Sections 62A-1-105, 62A-1-107, and 62A-4a-102.
 209 (4) "Child" [has the same meaning as "minor," as defined in this section] means a
 210 person under the age of 18.
 211 ~~[(6)]~~ (5) "Chronic [physical] abuse" means [repeated or patterned physical] a pattern of

212 abuse.

213 ~~[(7)]~~ (6) "Chronic neglect" means a ~~[repeated or patterned failure or refusal by a parent,~~
214 ~~guardian, or custodian to provide necessary care for a minor's safety, morals, or well-being]~~
215 ~~pattern of neglect.~~

216 ~~[(8)]~~ "Chronic emotional abuse" means ~~repeated or patterned emotional abuse.~~

217 ~~[(5)]~~ (7) "Consumer" means a person who receives services offered by the division in
218 accordance with this chapter.

219 (8) "Criminal negligence" is as defined in Section 76-2-103.

220 (9) "Custody," with regard to the division, means the custody of a ~~[child]~~ minor in the
221 division as of the date of disposition.

222 (10) "Day-care services" means care of a child for a portion of the day which is:

223 (a) less than 24 hours[;];

224 (b) in ~~[his]~~ the child's own home by a responsible person[;]; or

225 (c) outside of ~~[his]~~ the child's home in a:

226 (i) day-care center[;];

227 (ii) family group home[;]; or

228 (iii) family child care home.

229 (11) "Dependent child" or "dependency" means a child, or the condition of a child, who
230 is homeless or without proper care through no fault of the child's parent, guardian, or custodian.

231 (12) "Director" means the director of the Division of Child and Family Services.

232 (13) "Division" means the Division of Child and Family Services.

233 (14) (a) "Domestic violence services" means temporary shelter, treatment, and related
234 services to persons who are victims of abuse and their dependent children and treatment
235 services for domestic violence perpetrators.

236 (b) As used in this Subsection (14):

237 (i) "abuse" means the same as that term is defined in Section 30-6-1[;]; and

238 (ii) "domestic violence perpetrator" means a person who is alleged to have committed,
239 has been convicted of, or has pled guilty to an act of domestic violence as defined in
240 Subsection 77-36-1(2).

241 (15) "Homemaking service" means the care of individuals in their domiciles, and help
242 given to individual caretaker relatives to achieve improved household and family management

243 through the services of a trained homemaker.

244 (16) "Intentionally" is as defined in Section 76-2-103.

245 (17) "Knowingly" is as defined in Section 76-2-103.

246 ~~[(+16)]~~ (18) (a) "Minor" means a person under 18 years of age.

247 (b) "Minor" may also include a person under 21 years of age for whom the division has
248 been specifically ordered by the juvenile court to provide services.

249 ~~[(+17)]~~ (19) "Natural parent" means a minor's biological or adoptive parent, and
250 includes a minor's noncustodial parent.

251 ~~[(+18)]~~ (20) (a) "Neglect" means:

252 (i) ~~H→~~ [repeated or] ~~←H~~ substantial failure by a parent, guardian, or person with care
252a or custody

253 of a child to provide the child with proper or necessary:

254 (A) care;

255 (B) food;

256 (C) shelter;

257 (D) clothing;

258 (E) training;

259 (F) physical safety; or

260 (G) medical ~~H→~~ or mental health ~~←H~~ care;

261 ~~[(+)]~~ (ii) abandonment of a child, except as provided in Title 62A, Chapter 4a, Part 8,
262 Safe Relinquishment of a Newborn Child;

263 ~~[(ii) subjecting a child to mistreatment or abuse;]~~

264 ~~[(iii) lack of proper parental care by reason of the fault or habits of the parent,~~
265 ~~guardian, or custodian;]~~

266 ~~[(iv) failure or refusal of a parent, guardian, or custodian to provide proper or necessary~~
267 ~~subsistence, education, or medical care, including surgery or psychiatric services when~~
268 ~~required, or any other care necessary for his health, safety, morals, or well-being; or]~~

269 ~~[(v) a child at risk of being neglected or abused because another child in the same~~
270 ~~home is neglected or abused.]~~

271 ~~[(b) The aspect of neglect relating to education, described in Subsection (18)(a)(iv),~~
272 ~~means that, after receiving notice that a child has been frequently absent from school without~~
273 ~~good cause, or that the child has failed to cooperate with school authorities in a reasonable~~

274 manner, a parent or guardian fails to make a good faith effort to ensure that the child receives
 275 an appropriate education.]

276 (iii) that there is a substantial risk that a child ~~H→~~ [will] may ~~←H~~ suffer abuse or
 276a neglect by a caretaker

277 who neglected or abused another child in the child's home; ~~H→~~ [or] ~~←H~~

278 (iv) failure by a parent or guardian to make a good faith effort to ensure that the child
 279 receives an appropriate education after the parent or guardian receives notice that the child is
 280 frequently absent from school without good cause ~~H→~~ [:] ; or

280a (v) **an act or failure to act that presents an imminent risk of serious harm.** ~~←H~~

281 (b) "Neglect" does not include:

282 ~~(c) A~~ (i) a parent or guardian legitimately practicing religious beliefs [and] who, for
 283 that reason, does not provide specified medical or mental health treatment for a child[~~is not~~
 284 guilty of neglect.]; or

285 (ii) disciplining or managing a child.

286 ~~(19)~~ (21) "Protective custody," with regard to the division, means the shelter of a
 287 child by the division from the time the child is removed from the child's home until the shelter
 288 hearing, or the ~~[child's return]~~ child returns home, whichever occurs earlier.

289 ~~(20)~~ (22) "Protective services" means expedited services that are provided:

290 (a) in response to evidence of neglect, abuse, or dependency of a minor;

291 (b) to a cohabitant who is neglecting or abusing a child, in order to help the cohabitant
 292 develop recognition of the cohabitant's duty of care and of the causes of neglect or abuse, and
 293 to strengthen the cohabitant's ability to provide safe and acceptable care; and

294 (c) in cases where the child's welfare is endangered:

295 (i) to bring the situation to the attention of the appropriate juvenile court and law
 296 enforcement agency;

297 (ii) to cause a protective order to be issued for the protection of the minor, when
 298 appropriate; and

299 (iii) to protect the child from the circumstances that endanger the child's welfare
 300 including, when appropriate, removal from the child's home, placement in substitute care, and
 301 petitioning the court for termination of parental rights.

302 (23) "Recklessly" is as defined in Section 76-2-103.

303 ~~(22) "Severe"~~ (24) "Serious neglect" means neglect that causes ~~[or threatens to cause~~
 304 serious harm] serious physical injury, as defined in Section 76-5-109, to a minor.

305 ~~[(21) "Services to unwed parents" means social, educational, and medical services~~
306 ~~arranged for or provided to unwed parents to help them plan for themselves and the unborn~~
307 ~~child.]~~

308 (25) "Severe child abuse or neglect" means:

309 (a) if committed by a person 18 years of age or older:

310 (i) causing serious physical injury, as defined in Section 76-5-109; or

311 (ii) committing:

312 (A) chronic abuse;

313 (B) sexual abuse, as defined in Section 62A-4a-402;

314 (C) sexual exploitation of a child, as defined in Section 62A-4a-402;

315 (D) abandonment of a child, except as provided in Title 62A, Chapter 4a, Part 8, Safe

316 Relinquishment of a Newborn Child;

317 (E) serious neglect;

318 (F) chronic neglect; or

319 (G) mental cruelty, as defined in Section 76-5-109; or

320 (b) if committed by a person under the age of 18:

321 (i) inflicting serious physical injury, as defined in Section 76-5-109, to another child
322 when that conduct indicates that the person poses an actual risk to other children, as determined
323 in accordance with risk assessment factors established by the division, by rule, as provided in
324 Section 62A-4a-102; or

325 (ii) committing sexual behavior with or upon another child when that conduct
326 indicates that the person poses an actual risk to other children, as determined in accordance
327 with risk assessment factors established by the division, by rule, as provided in Section
328 62A-4a-102.

329 ~~[(23)]~~ (26) "Shelter care" means the temporary care of [minors] a minor in a nonsecure
330 [facilities] facility.

331 ~~[(24)]~~ (27) "State" means a state of the United States, the District of Columbia, the
332 Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern
333 Mariana Islands, or a territory or possession administered by the United States.

334 ~~[(25) "Severe emotional abuse" means emotional abuse that causes or threatens to~~
335 ~~cause serious harm to a minor.]~~

336 ~~[(26) "Severe physical abuse" means physical abuse that causes or threatens to cause~~
 337 ~~serious harm to a minor.]~~

338 ~~[(27)]~~ (28) "State plan" means the written description of the programs for children,
 339 youth, and family services administered by the division in accordance with federal law.

340 ~~[(28)]~~ (29) "Status offense" means a violation of the law that would not be a violation
 341 but for the age of the offender.

342 ~~[(29)]~~ (30) "Substantiated" or "substantiation" means a judicial finding based on a
 343 preponderance of the evidence that abuse or neglect occurred. Each allegation made or
 344 identified in a given case shall be considered separately in determining whether there should be
 345 a finding of substantiated.

346 ~~[(30)]~~ (31) "Substitute care" means:

347 (a) the placement of a minor in a family home, group care facility, or other placement
 348 outside the minor's own home, either at the request of a parent ~~[or other]~~, guardian, or
 349 responsible relative, or upon court order, when it is determined that continuation of care in the
 350 child's own home would be contrary to the child's welfare;

351 (b) services provided for a child awaiting placement; and

352 (c) the licensing and supervision of a substitute care facility.

353 ~~[(31)]~~ (32) "Supported" means a finding by the division ~~[based on the evidence~~
 354 ~~available]~~ at the completion of an investigation ~~H~~→ [f] **that there is a reasonable basis to**
 354a **conclude [f]**

355 **[that is more likely than not]** ←~~H~~ that abuse, neglect, or dependency occurred. Each allegation made
 356 or identified during the course of the investigation shall be considered separately in
 357 determining whether there should be a finding of supported.

358 ~~[(32)]~~ (33) "Temporary custody," with regard to the division, means the custody of a
 359 child in the division from the date of the shelter hearing until disposition.

360 ~~[(33)]~~ (34) "Transportation services" means travel assistance given to an individual
 361 with escort service, if necessary, to and from community facilities and resources as part of a
 362 service plan.

363 ~~[(34)]~~ (35) "Unsubstantiated" means a judicial finding that ~~[there is insufficient]~~ it has
 364 not been established beyond a preponderance of the evidence ~~[to conclude]~~ that abuse or
 365 neglect occurred.

366 ~~[(35)]~~ (36) "Unsupported" means a finding at the completion of an investigation by the

367 division that there is insufficient evidence to ~~H~~→ [f] **conclude** [i] [~~show that it is more likely than~~
367a **not**] ←~~H~~ that

368 abuse, neglect, or dependency occurred. However, a finding of unsupported means also that
369 the division worker did not conclude that the allegation was without merit.

370 [~~36~~] (37) "Without merit" means a finding at the completion of an investigation by
371 the division, or a judicial finding, that the alleged abuse, neglect, or dependency did not occur,
372 or that the alleged perpetrator was not responsible for the abuse, neglect, or dependency.

373 Section 3. Section **62A-4a-106** is amended to read:

374 **62A-4a-106. Services provided by division.**

375 (1) The division may provide, directly or through contract, services that include~~[-but~~
376 ~~are not limited to;]~~ the following:

- 377 (a) adoptions;
- 378 (b) day care for children;
- 379 [~~e~~] ~~services to unwed parents;~~
- 380 [~~d~~] (c) out-of-home placements for minors;
- 381 [~~e~~] (d) health-related services;
- 382 [~~f~~] (e) homemaking services;
- 383 [~~g~~] (f) home management services;
- 384 [~~h~~] (g) protective services for minors;
- 385 [~~i~~] (h) transportation services; and
- 386 [~~j~~] (i) domestic violence services.

387 (2) Services provided directly by the division or through contract shall be monitored by
388 the division to insure compliance with applicable:

- 389 (a) state law~~[-];~~ and
- 390 (b) standards and rules of the division.

391 Section 4. Section **62A-4a-107** is amended to read:

392 **62A-4a-107. Mandatory education and training of caseworkers -- Development of**
393 **curriculum.**

394 (1) There is created within the division a full-time position of Child Welfare Training
395 Coordinator, who shall be appointed by and serve at the pleasure of the director. The employee
396 in that position [~~shall~~] is not [~~be~~] responsible for direct casework services or the supervision of
397 those services, but [~~shall~~] is required to:

- 398 (a) develop child welfare curriculum that;
- 399 (i) is current and effective, consistent with the division's mission and purpose for child
- 400 welfare; and
- 401 (ii) utilizes curriculum and resources from a variety of sources including those from:
- 402 (A) the public sector;
- 403 (B) the private sector; and
- 404 (C) inside and outside of the state;
- 405 (b) recruit, select, and supervise child welfare trainers;
- 406 (c) develop a statewide training program, including a budget and identification of
- 407 sources of funding to support that training;
- 408 (d) evaluate the efficacy of training in improving job performance;
- 409 (e) assist child protective services and foster care workers in developing and fulfilling
- 410 their individual training plans;
- 411 (f) monitor staff compliance with division training requirements and individual training
- 412 plans; and
- 413 (g) expand the collaboration between the division and schools of social work within
- 414 institutions of higher education in developing child welfare services curriculum, and in
- 415 providing and evaluating training.
- 416 (2) (a) The director shall, with the assistance of the child welfare training coordinator,
- 417 establish a core curriculum for child welfare services that is substantially equivalent to the
- 418 Child Welfare League of America's Core Training for Child Welfare Caseworkers Curriculum.
- 419 (b) Any child welfare [~~worker~~] caseworker who is employed by the division for the
- 420 first time after July 1, 1999, shall, before assuming significant independent casework
- 421 responsibilities, successfully complete:
- 422 (i) the core curriculum; and
- 423 (ii) except as provided in Subsection (2)(c), on-the-job training that consists of
- 424 observing and accompanying at least two capable and experienced child welfare [~~workers~~]
- 425 caseworkers as they perform work-related functions:
- 426 (A) for three months if the [~~worker~~] caseworker has less than six months of on-the-job
- 427 experience as a child welfare [~~worker~~] caseworker; or
- 428 (B) for two months if the [~~worker~~] caseworker has six months or more but less than 24

429 months of on-the-job experience as a child welfare ~~[worker]~~ caseworker.

430 (c) A child welfare ~~[worker]~~ caseworker with at least 24 months of on-the-job
431 experience is not required to receive on-the-job training under Subsection (2)(b)(ii).

432 (3) Child welfare caseworkers shall complete training in:

433 (a) the legal duties of a child welfare caseworker;

434 (b) the responsibility of a child welfare caseworker to protect the safety and legal rights
435 of children, parents, and families at all stages of a case, including:

436 (i) initial contact;

437 (ii) investigation; and

438 (iii) treatment;

439 (c) recognizing situations involving:

440 (i) substance abuse;

441 (ii) domestic violence;

442 (iii) abuse; and

443 (iv) neglect; and

444 (d) the relationship of the Fourth and Fourteenth Amendments of the Constitution of
445 the United States to the child welfare caseworker's job, including:

446 (i) search and seizure of evidence;

447 (ii) the warrant requirement;

448 (iii) exceptions to the warrant requirement; and

449 (iv) removing a child from the custody of the child's parent or guardian.

450 (4) The division shall train its child welfare caseworkers to apply the risk assessment
451 factors and rules described in Subsection 62A-4a-101(25)(b)(ii).

452 (5) When a child welfare caseworker is hired, before assuming significant independent
453 casework responsibilities, the child welfare caseworker shall complete the training described in
454 Subsections (3) and (4).

455 Section 5. Section **62A-4a-116.1** is amended to read:

456 **62A-4a-116.1. Supported finding of severe types of abuse or neglect -- Notation in**
457 **Licensing Information System -- Juvenile court petition or notice to alleged perpetrator --**
458 **Rights of alleged perpetrator -- Juvenile court finding.**

459 (1) If the division makes a supported finding ~~[of one or more of the]~~ that a person

460 committed severe [~~types of~~] child abuse or neglect [~~described in Subsection (2)~~], the division
461 shall:

- 462 (a) serve notice of the finding on the alleged perpetrator [~~and~~];
- 463 (b) enter into the Licensing Information System created in Section 62A-4a-116.2 the
464 name and other identifying information of the perpetrator with the supported finding[~~;~~];
- 465 (i) without identifying the person as a perpetrator or alleged perpetrator[~~;~~]; and
- 466 (ii) with a notation to the effect that an investigation regarding the person is pending;

467 and
468 (c) if the division considers it advisable, file a petition for substantiation within
469 one year of the supported finding.

470 [~~(2) Except as otherwise provided in Subsection (3), the severe types of child abuse or~~
471 ~~neglect referred to in Subsection (1) are as follows:~~]

- 472 [~~(a) if committed by a person 18 years of age or older;~~]
- 473 [~~(i) severe or chronic physical abuse;~~]
- 474 [~~(ii) sexual abuse;~~]
- 475 [~~(iii) sexual exploitation;~~]
- 476 [~~(iv) abandonment;~~]
- 477 [~~(v) medical neglect resulting in death, disability, or serious illness;~~]
- 478 [~~(vi) chronic or severe neglect; or~~]
- 479 [~~(vii) chronic or severe emotional abuse; or~~]
- 480 (b) if committed by a person under the age of 18:
- 481 (i) serious physical injury, as defined in Subsection 76-5-109(1)(d), to another child
482 which indicates a significant risk to other children; or]
- 483 (ii) sexual behavior with or upon another child which indicates a significant risk to
484 other children.]

485 [(3) Severe child abuse or neglect in Subsection (2) does not include:]

- 486 (a) the use of reasonable and necessary physical restraint or force by an educator in
487 accordance with Subsection 53A-11-802(2) or Section 76-2-401; or]
- 488 (b) a person's conduct that:
- 489 (i) is justified under Section 76-2-401; or]
- 490 (ii) constitutes the use of reasonable and necessary physical restraint or force in

491 self-defense or otherwise appropriate to the circumstances to obtain possession of a weapon or
492 other dangerous object in the possession or under the control of a child or to protect the child or
493 another person from physical injury.]

494 [~~(4)~~(a) For purposes of Subsection (2)(b), "significant risk" shall be determined in
495 accordance with risk assessment tools and rules established by the division that focus on age,
496 social factors, emotional factors, sexual factors, intellectual factors, family risk factors, and
497 other related considerations.]

498 [~~(b)~~ The division shall train its child protection workers to apply the risk assessment
499 tools and rules established under Subsection (4)(a).]

500 [~~(5)~~ (2) The notice referred to in Subsection (1)(a):

501 (a) shall state that:

502 [~~(a)~~ (i) the division has conducted an investigation regarding alleged child abuse or
503 neglect;

504 [~~(b)~~ (ii) the division has made a supported finding ~~[of one of the]~~ that the person
505 described in Subsection (1) committed severe ~~[types of]~~ child abuse or neglect ~~[described in~~
506 Subsection (2)]];

507 [~~(c)~~ (iii) facts gathered by the division support the supported finding;

508 [~~(d)~~ (iv) as a result of the supported finding, the ~~[alleged perpetrator's]~~ name and other
509 identifying information of the person described in Subsection (1) have been listed in the
510 Licensing Information System in accordance with Subsection (1)~~(a)~~ (b);

511 [~~(e)~~ (v) the ~~[alleged perpetrator]~~ person described in Subsection (1) may be
512 disqualified from adopting a child or being licensed by:

513 [~~(i)~~ (A) the department;

514 [~~(ii)~~ (B) a human services licensee;

515 [~~(iii)~~ (C) a child care provider or program; ~~[and]~~

516 [~~(iv)~~ (D) a covered health care facility;

517 [~~(f)~~ (E) the alleged perpetrator has the rights described in Subsection ~~[(6)]~~ (3); and

518 [~~(g)~~ (F) failure to take either action described in Subsection ~~[(6)]~~ (3)(a) within one
519 year after service of the notice will result in the action described in Subsection ~~[(6)]~~ (3)(b)~~[-]~~];

520 (b) shall include a general statement of the nature of the findings; and

521 (c) may not include:

522 (i) the name of a victim or witness; or

523 (ii) any privacy information related to the victim or a witness.

524 ~~[(6)] (3) (a) Upon receipt of the notice described in [Subsection (5)] Subsections (1)(a)~~
525 ~~and (2), the alleged perpetrator shall have the right to:~~

526 (i) file a written request asking the division to review the findings made under
527 Subsection ~~[(2)] (1);~~

528 (ii) immediately petition the juvenile court under Section 78-3a-320; or

529 (iii) sign a written consent to:

530 (A) the supported finding made under Subsection (1); and

531 (B) entry into the Licensing Information System of:

532 (I) the alleged perpetrator's name; and

533 (II) other information regarding the supported finding [of abuse or neglect into the
534 Licensing Information System] made under Subsection (1).

535 **(b) ~~H~~→ [The] Except as provided in Subsection (3)(e), the ~~←H~~ alleged perpetrator's**
535a **name and the information described in Subsection (1)(b)**

536 **shall remain in the Licensing Information System:**

537 ~~[(b) H] (i) if the alleged perpetrator fails to take action as described in Subsection [(6)]~~
538 ~~(3)(a) within one year after service of the notice described in [Subsection (5), the alleged~~
539 ~~perpetrator's name and the notation described in Subsection (1)(a) shall remain in the Licensing~~
540 ~~Information System. This information shall also remain in the Licensing Information System~~
541 ~~while] Subsections (1)(a) and (2);~~

542 (ii) during the time that the division awaits a response from the alleged perpetrator
543 pursuant to Subsection ~~[(6)] (3)(a); and~~

544 (iii) during the pendency of any proceeding ~~H~~→ [; including an appeal of a finding of
545 **unsubstantiated or without merit, under Section 78-3a-320] ~~←H~~ .**

546 (c) The alleged perpetrator ~~[shall have]~~ has no right to petition the juvenile court under
547 Subsection ~~[(6)(b)] (3)(a)(ii)~~ if the court ~~[has]~~ previously held a hearing on the same alleged
548 incident of abuse or neglect pursuant to the filing of a petition under Section 78-3a-305 by
549 some other party.

550 (d) Consent under Subsection ~~[(6)] (3)(a)(iii)~~ by a minor ~~[shall]~~ may only be given by
551 the minor's parent or guardian.

551a **~~H~~→ (e) (i) Notwithstanding Subsection (3)(b), the alleged perpetrator's name and the**
551b **information described in Subsection (1)(b) shall be removed from the Licensing Information**
551c **System if the severe child abuse or neglect upon which the Licensing Information System**
551d **entry was made:**

551e **(A) is found to be unsubstantiated or without merit by the juvenile court under Section**
551f **79-3a-320; or**

551g (B) is found to be substantiated, but is subsequently reversed on appeal.
551h (ii) An alleged perpetrator's name and information that is removed from the Licensing
551i Information System under Subsection (3)(e)(i), may be placed back on the
551j Licensing Information System if the court action that was the basis for removing the alleged
551k perpetrator's name and information is subsequently reversed on appeal. ←H
552 [~~7~~] (4) Upon the filing of a petition under Subsection (1)[~~(b)~~](c), the juvenile court

553 shall make a finding of substantiated, unsubstantiated, or without merit as provided in
 554 Subsections 78-3a-320(1) and (2).

555 ~~[(8)]~~ (5) Service of the notice under Subsections (1)(a) and ~~[(5)]~~ (2):

556 (a) shall be personal service in accordance with ~~[Rule 4 of the]~~ Utah Rules of Civil
 557 Procedure, Rule 4; and

558 (b) does not preclude civil or criminal action against the alleged perpetrator.

559 Section 6. Section **62A-4a-116.2** is amended to read:

560 **62A-4a-116.2. Licensing Information System -- Contents -- Juvenile court finding**
 561 **-- Protected record -- Access -- Criminal penalty.**

562 (1) The division shall maintain a sub-part of the Management Information System
 563 established pursuant to Section 62A-4a-116, to be known as the Licensing Information System,
 564 to be used solely for licensing purposes. The Licensing Information System shall include only
 565 the following information:

566 (a) the information described in Subsections 62A-4a-116.1(1)~~[(a)]~~ (b) and ~~[(6)]~~ (3)(b);

567 (b) consented-to supported findings by alleged perpetrators under Subsection
 568 62A-4a-116.1~~[(6)]~~(3)(a)(iii); and

569 (c) the information in the licensing part of the division's Management Information
 570 System as of May 6, 2002.

571 (2) Notwithstanding Subsection (1), the department's access to information in the
 572 Management Information System for the licensure and monitoring of foster parents is governed
 573 by Sections 62A-4a-116 and 62A-2-121.

574 (3) ~~[The division shall promptly amend the Licensing Information System;]~~ Except as
 575 provided in ~~Ĥ~~→ [Subsection] Subsections ←Ĥ 62A-4a-116.1(3)(b)(iii) Ĥ → and (e) ←Ĥ ,
 575a upon receipt of a finding from the juvenile

576 court under Section 78-3a-320, the division shall:

577 (a) promptly amend the Licensing Information System; and ~~[shall]~~

578 (b) enter the same information in the Management Information System. ~~[However, if a~~
 579 ~~finding of unsubstantiated or without merit is appealed, the supported finding shall not be~~
 580 ~~amended until the appeal is concluded.]~~

581 (4) Information contained in the Licensing Information System is classified as a
 582 protected record under Title 63, Chapter 2, Government Records Access and Management Act.

583 (5) Notwithstanding the disclosure provisions of Title 63, Chapter 2, Government

584 Records Access and Management Act, the information contained in the Licensing Information
 585 System may only be used or disclosed as specifically provided in this chapter and Section
 586 62A-2-121 and is accessible only to:

- 587 (a) the Office of Licensing within the department, for licensing purposes only;
- 588 (b) the division, for the following purposes:
- 589 (i) to screen a person at the request of the Office of the Guardian Ad Litem Director~~[7]~~:

590 (A) at the time that person seeks a paid or voluntary position with the Office of the
 591 Guardian Ad Litem Director; and ~~[each year thereafter]~~

592 (B) on an annual basis, throughout the time that the person remains with ~~[that office]~~
 593 the Office of the Guardian Ad Litem Director; and

594 (ii) to respond to a request for information from a person whose name is listed in the
 595 Licensing Information System;

596 (c) two persons designated by and within the Department of Health, only for the
 597 following purposes:

- 598 (i) licensing a child care program or provider; or
- 599 (ii) determining whether a person associated with a covered health care facility, as
 600 defined by the Department of Health by rule, who provides direct care to a child, has a
 601 supported finding of severe child abuse or neglect; and

602 (d) the department, as specifically provided in this chapter.

603 ~~[(5)]~~ (6) The two persons designated by the Department of Health under Subsection
 604 ~~[(4)]~~ (5)(c) shall adopt measures to:

- 605 (a) protect the security of the Licensing Information System; and
- 606 (b) strictly limit access to the Licensing Information System to those persons
 607 designated by statute.

608 ~~[(6)]~~ (7) All persons designated by statute as having access to information contained in
 609 the Licensing Information System shall receive training from the department with respect to:

- 610 (a) accessing the Licensing Information System;
- 611 (b) maintaining strict security; and
- 612 (c) the criminal provisions of Sections 62A-4a-412 and 63-2-801 pertaining to the
 613 improper release of information.

614 ~~[(7) No]~~ (8) A person, except those authorized by this chapter, may not request

615 another person to obtain or release any other information in the Licensing Information System
616 to screen for potential perpetrators of child abuse or neglect.

617 (9) A person who requests information knowing that it is a violation of [~~this~~]
618 Subsection [~~(7)~~] (8) to do so is subject to the criminal penalty described in Sections
619 62A-4a-412 and 63-2-801.

620 Section 7. Section **62A-4a-116.4** is amended to read:

621 **62A-4a-116.4. Timeframes for deletion of specified information or reports.**

622 (1) Unless the executive director determines that there is good cause for keeping a
623 report of abuse or neglect in the Management Information System, based on standards
624 established by rule, the division shall delete any reference to:

625 (a) a report that is without merit, if no subsequent report involving the same alleged
626 perpetrator has occurred within one year; or

627 (b) a report that has been determined by a court of competent jurisdiction to be
628 unsubstantiated or without merit, if no subsequent report involving the same alleged
629 perpetrator has occurred within five years.

630 (2) (a) The division shall maintain a separation of reports as follows:

631 (i) those that are supported;

632 (ii) those that are unsupported;

633 (iii) those that are without merit;

634 (iv) those that are unsubstantiated under the law in effect prior to May 6, 2002;

635 (v) those that are substantiated under the law in effect prior to May 6, 2002; and

636 (vi) those that are consented-to supported findings under Subsection

637 62A-4a-116.1[~~(6)(a)(ii)~~](3)(a)(iii).

638 (b) Only persons with statutory authority have access to information contained in any
639 of the reports identified in Subsection (2)(a).

640 Section 8. Section **62A-4a-116.5** is amended to read:

641 **62A-4a-116.5. Notice and opportunity to challenge supported finding in**

642 **Management Information System -- Right of judicial review.**

643 (1) (a) Except as provided in Subsection (2), the division shall send a notice of agency
644 action to a person with respect to whom the division makes a supported finding. In addition, if
645 the alleged perpetrator is under the age of 18, the division shall:

646 (i) make reasonable efforts to identify the alleged perpetrator's parent or guardian; and
647 (ii) send a notice to each parent or guardian identified under Subsection (1)(a)(i) that
648 lives at a different address, unless there is good cause, as defined by rule, for not sending a
649 notice to a parent or guardian.

650 (b) Nothing in this section may be construed as affecting:

651 (i) the manner in which the division conducts an investigation; or

652 (ii) the use or effect, in any other setting, of a supported finding by the division at the
653 completion of an investigation for any purpose other than for notification under Subsection (1)
654 (a).

655 (2) Subsection (1) does not apply to a person who has been served with notice under
656 Subsection 62A-4a-116.1(1)(a).

657 (3) The notice described in Subsection (1) shall state:

658 (a) that the division has conducted an investigation regarding alleged child abuse,
659 neglect, or dependency;

660 (b) that the division has made a supported finding of abuse, neglect, or dependency;

661 (c) that facts gathered by the division support the supported finding;

662 (d) that the person has the right to request:

663 (i) a copy of the report; and

664 (ii) an opportunity to challenge the supported finding by the division; and

665 (e) that failure to request an opportunity to challenge the supported finding within 30
666 days of receiving the notice will result in an unappealable supported finding of child abuse,
667 neglect, or dependency unless the person can show good cause for why compliance within the
668 30-day requirement was virtually impossible or unreasonably burdensome.

669 (4) (a) A person may make a request to challenge a supported finding within 30 days of
670 a notice being received under this section.

671 (b) Upon receipt of a request under Subsection (4)(a), the Office of Administrative
672 Hearings shall hold an adjudicative proceeding pursuant to Title 63, Chapter 46b,
673 Administrative Procedures Act.

674 (5) (a) In an adjudicative proceeding held pursuant to this section, the division shall
675 have the burden of proving, by a preponderance of the evidence, [~~that there is a reasonable~~
676 ~~basis to conclude~~] that child abuse, neglect, or dependency occurred and that the alleged

677 perpetrator was substantially responsible for the abuse or neglect that occurred.

678 (b) Any party shall have the right of judicial review of final agency action, in
679 accordance with Title 63, Chapter 46b, Administrative Procedures Act.

680 (6) Except as otherwise provided in this chapter, an alleged perpetrator who, after
681 receiving notice, fails to challenge a supported finding in accordance with this section, may not
682 further challenge the finding and shall have no right to agency review or to an adjudicative
683 hearing or judicial review of the finding.

684 (7) (a) An alleged perpetrator may not make a request under Subsection (4) to
685 challenge a supported finding if a court of competent jurisdiction entered a finding, in a
686 proceeding in which the alleged perpetrator was a party, that the alleged perpetrator is
687 substantially responsible for the abuse, neglect, or dependency which was also the subject of
688 the supported finding. This Subsection (7)(a) does not apply to pleas in abeyance or diversion
689 agreements.

690 (b) An adjudicative proceeding under Subsection (5) may be stayed during the time a
691 judicial action on the same matter is pending.

692 (8) ~~[An]~~ Pursuant to Section 78-3a-320, an adjudicative proceeding on a supported
693 finding of ~~[one of the nonsevere types of]~~ a type of abuse or neglect that does not constitute
694 severe child abuse or neglect ~~[under Section 78-3a-320]~~ may be joined in the juvenile court
695 with an adjudicative proceeding on a supported finding of ~~[a]~~ severe ~~[type of]~~ child abuse or
696 neglect.

697 Section 9. Section **62A-4a-116.6** is amended to read:

698 **62A-4a-116.6. Notice and opportunity for court hearing for persons listed in**
699 **Licensing Information System.**

700 (1) Persons whose names were listed on the Licensing Information System as of May
701 6, 2002 and who have not been the subject of a court determination with respect to the alleged
702 incident of abuse or neglect may at any time:

703 (a) request review by the division of their case and removal of their name from the
704 Licensing Information System pursuant to Subsection (3); or

705 (b) file a petition for an evidentiary hearing and a request for a finding of
706 unsubstantiated or without merit.

707 (2) Subsection (1) does not apply to an individual who has been the subject of any of

708 the following court determinations with respect to the alleged incident of abuse or neglect:

- 709 (a) conviction;
- 710 (b) adjudication under Title 78, Chapter 3a, Juvenile ~~[Courts]~~ Court Act of 1996;
- 711 (c) plea of guilty;
- 712 (d) plea of guilty and mentally ill; or
- 713 (e) no contest.

714 (3) If an alleged perpetrator listed on the Licensing Information System prior to May 6,
715 2002 requests removal of ~~[their]~~ the alleged perpetrator's name from the Licensing Information
716 System, the division shall, within 30 days:

717 (a) (i) review the case to determine whether the incident of alleged abuse or neglect
718 qualifies as severe ~~[or chronic under Subsection 62A-4a-116.1(2) and if it does not,]~~ child
719 abuse or neglect; and

720 (ii) if the alleged abuse or neglect does not qualify as severe child abuse or neglect,
721 remove the name of the alleged perpetrator from the Licensing Information System; or

722 (b) determine whether to file a petition for substantiation.

723 (4) If the division decides to file a petition, that petition must be filed no more than 14
724 days after the decision.

725 (5) The juvenile court shall act on the petition as provided in Subsection 78-3a-320(3).

726 (6) If a person whose name appears on the Licensing Information System prior to May
727 6, 2002 files a petition pursuant to Section 78-3a-320 during the time that an alleged
728 perpetrator's application for clearance to work with children or vulnerable adults is pending, the
729 court shall hear the matter on an expedited basis.

730 Section 10. Section **62A-4a-117** is amended to read:

731 **62A-4a-117. Performance monitoring system.**

732 (1) As used in this section:

733 (a) "Performance goals" means a target level of performance or an expected level of
734 performance against which actual performance is compared.

735 (b) "Performance indicators" means actual performance information regarding a
736 program or activity.

737 (c) "Performance monitoring system" means a process to regularly collect and analyze
738 performance information including performance indicators and performance goals.

739 (2) On or before May 1, 1996, the director, in cooperation with the board, shall develop
740 a performance monitoring system of each area in the child welfare system, including foster care
741 and other substitute care, child protective services, and adoption.

742 (3) On or before June 1, 1996, the director shall submit a description of that monitoring
743 system to the Child Welfare Legislative Oversight Panel for review.

744 (4) The division shall fully implement a performance monitoring system on or before
745 October 1, 1996.

746 (5) Before January 1 each year the director shall submit a written report describing the
747 difference between actual performance and performance goals for the prior fiscal year to the
748 Child Welfare Legislative Oversight Panel, the Joint Health and Human Services
749 Appropriations Subcommittee, and the Utah Tomorrow Strategic Planning Committee. The
750 report shall include:

751 (a) a summary of the division's efforts during the prior fiscal year to implement the
752 Performance Milestone Plan;

753 (b) a summary of how performance must be improved to achieve full implementation
754 of the Performance Milestone Plan;

755 (c) data on the extent to which new and experienced division employees have received
756 training pursuant to statute and division policy; and

757 (d) an analysis of the use and efficacy of family preservation services, both before and
758 after removal of children from their homes[; ~~and~~].

759 [~~(e) a description of the extent to which the pilot program under Section 62A-4a-202.7
760 has been expanded during the prior fiscal year and an explanation of how the performance of
761 regions that have previously implemented the program has been affected by the program,
762 including data showing the number of referrals to the division:]~~

763 [~~(i) accepted for an investigation;]~~

764 [~~(ii) accepted for a family assessment; or]~~

765 [~~(iii) not accepted.]~~

766 Section 11. Section **62A-4a-201** is amended to read:

767 **62A-4a-201. Rights of parents -- Children's rights -- Interest and responsibility of**
768 **state.**

769 (1) [~~(a)~~] Courts have recognized a general presumption that it is in the best interest and

770 welfare of a child to be raised under the care and supervision of [~~his~~] the child's natural parents.
 771 A child's need for a normal family life in a permanent home, and for positive, nurturing family
 772 relationships will usually best be met by [~~his~~] the child's natural parents. [~~Additionally, the~~]

773 (2) The integrity of the family unit, and the right of parents to conceive and raise their
 774 children have found protection in the due process clause of the Fourteenth Amendment to the
 775 United States Constitution. The right of a fit, competent parent to raise his child has long been
 776 protected by the laws and Constitution of this state and of the United States.

777 (3) The state recognizes that:

778 (a) a parent has the right, obligation, responsibility, and authority to raise, manage,
 779 train, educate, provide for, and discipline his child;

780 (b) the state's role is secondary and supportive to the primary role of a parent; and

781 (c) the reasonable exercise of a parent's right to discipline a child is not grounds to
 782 subject a parent to punishment, restriction, disqualification ~~H→~~ [~~or surveillance of any kind,~~
 783 including:

784 —— (i) ~~arrest;~~

785 —— (ii) ~~criminal liability;~~

786 —— (iii) ~~removing a child from the physical custody of a parent;~~

787 —— (iv) ~~adversely altering a parent's physical custody of a child;~~

788 —— (v) ~~issuance of a protective order;~~

789 —— (vi) ~~requiring reporting; or~~

790 —— (vii) ~~withholding or revoking a license~~ ←~~H~~ .

791 [~~(b)~~] (4) (a) It is the public policy of this state that [~~parents retain~~]:

792 (i) a parent retains the fundamental right and duty to exercise primary control over the
 793 care, supervision, upbringing, and education of [~~their children who are in their custody.~~] (2) It is
 794 also the public policy of this state that children have] any child of the parent who is in the
 795 parent's custody;

796 (ii) each child has the right to protection from abuse and neglect[~~;~~]; and [~~that~~]

797 (iii) the state retains a compelling interest in investigating, prosecuting, and punishing
 798 abuse and neglect, as defined in this chapter, and in Title 78, Chapter 3a, Juvenile Court Act of
 799 1996. [~~Therefore, as~~]

800 (b) As a counterweight to parental rights, the state[~~as parens patriae;~~] has an interest

801 in, and responsibility to protect [~~children whose parents abuse them or do not adequately~~
802 ~~provide for their welfare. There are circumstances where a parent's conduct or condition is a~~
803 ~~substantial departure from the norm and the parent is unable or unwilling to render safe and~~
804 ~~proper parental care and protection. Under those circumstances, the welfare and protection of~~
805 ~~children is the consideration of paramount importance.], a child who is abused or neglected by
806 his parents.~~

807 [~~(3)~~] (5) When the division intervenes on behalf of an abused, neglected, or dependent
808 child, it shall take into account the child's need for protection from immediate harm.

809 Throughout [~~its~~] the division's involvement, the division shall utilize the least intrusive means
810 available to protect a child, in an effort to ensure that children are brought up in stable,
811 permanent families, rather than in temporary foster placements, or other placements, under the
812 supervision of the state.

813 [~~(4)~~] (6) (a) When circumstances within the family pose [~~a~~] an immediate serious threat
814 to the child's safety [~~or welfare~~];

815 (i) the state's interest in the child's welfare is paramount to the rights of a parent[~~-~~
816 The]; and

817 (ii) the division may;

818 (A) obtain custody of the child for a planned period; and

819 (B) place [~~him~~] the child in a safe environment, in accordance with the requirements of
820 Title 78, Chapter 3a, Part 3, Abuse, Neglect, and Dependency Proceedings.

821 (b) Subject to Subsection (6)(c), the fact that a child's home is dirty or unkempt does
822 not constitute grounds for the division to intervene or to remove a child from the child's home,
823 unless the condition of the home poses a serious threat to a child's safety.

824 (c) Nothing in Subsection (6)(b) shall be interpreted to limit the division's:

825 (i) investigation responsibilities; or

826 (ii) ability to provide voluntary services to a family.

827 [~~(5)~~] (7) In determining and making "reasonable efforts" [~~with regard to a child~~] to
828 maintain a child in the child's home, pursuant to the provisions of Section 62A-4a-203, and in
829 keeping with the presumptions described in Subsection (1), both the division's and the court's
830 paramount concern shall be the child's health[;] and safety[~~, and welfare~~].

831 [~~(6)~~] (8) (a) In cases where actual sexual abuse, abandonment, or serious physical

832 [~~abuse~~] injury or serious neglect are involved, the state has no duty to:

833 (i) make "reasonable efforts" to maintain a child in the child's home; or [~~to~~]

834 (ii) in any other way, attempt to:

835 (A) maintain a child in [~~his~~] the child's home[;];

836 (B) provide reunification services[;]; or [~~to~~]

837 (C) attempt to rehabilitate the offending parent or parents. [~~This Subsection (6) does~~
838 ~~not exempt~~]

839 (b) Notwithstanding Subsection (8)(a), the division [~~from providing~~] shall provide
840 court-ordered services.

841 [~~(7)~~] (9) (a) It is the division's obligation, under federal law, to achieve permanency for
842 children who are:

843 (i) abused[;];

844 (ii) neglected[;]; or

845 (iii) dependent.

846 (b) If the use or continuation of "reasonable efforts[;]" to maintain a child in the child's
847 home as described in Subsections [~~(5) and (6)~~] (7) and (8), is determined to be inconsistent
848 with the permanency plan for a child, then measures shall be taken, in a timely manner[;] to:

849 (i) place the child in accordance with the permanency plan[;]; and [~~to~~]

850 (ii) complete whatever steps are necessary to finalize the permanent placement of the
851 child.

852 [~~(b)~~] (c) If, because of [~~his~~] a parent's conduct or condition, a parent is determined to
853 be unfit or incompetent based on the grounds for termination of parental rights described in
854 Title 78, Chapter 3a, Part 4, Termination of Parental Rights Act, the welfare and best interest of
855 the child is of paramount importance, and shall govern in determining whether that parent's
856 rights should be terminated.

857 (10) The state's right to direct or intervene in the provision of medical or mental health
858 care for a child is subject to Subsection 78-3a-118(2)(n).

859 Section 12. Section **62A-4a-202** is amended to read:

860 **62A-4a-202. Preventive services -- Family preservation services.**

861 (1) (a) Within appropriations from the Legislature and monies obtained under
862 Subsection (5), the division shall provide preventive, in-home services and family preservation

863 services for ~~[families whose children are]~~ any family with a child whose health and safety is
864 not immediately endangered, when:

865 (i) the child is at immediate risk of being removed from the home ~~[and for families]; or~~

866 (ii) the family is in crisis~~[-if:]~~.

867 ~~[(i) the child's welfare is not immediately endangered; and]~~

868 ~~[(ii) the division determines that it is possible and appropriate.]~~

869 (b) In determining whether preventive or family preservation services are reasonable
870 and appropriate, in keeping with the provisions of Subsection 62A-4a-201(1) the child's health,
871 safety, and welfare shall be the paramount concern.

872 (c) The division shall consider whether ~~[those]~~ the services described in Subsection
873 (1)(b):

874 (i) will be effective within a six-month period~~[-];~~ and ~~[whether they]~~

875 (ii) are likely to prevent ~~[reabuse]~~ abuse or continued neglect of the child.

876 (2) The division shall maintain a statewide inventory of early intervention, preventive,
877 and family preservation services available through public and private agencies or individuals
878 for use by caseworkers. The inventory shall include:

879 (a) the method of accessing each service;

880 (b) eligibility requirements for each service; ~~[and]~~

881 (c) the geographic areas and the number of families that can be served by each
882 service~~[-];~~ and

883 (d) information regarding waiting lists for each service.

884 (3) As a part of its preventive services, the division shall provide family preservation
885 services that:

886 (a) are short-term, intensive, crisis intervention programs~~[-and that];~~

887 (b) address:

888 ~~[(a)]~~ (i) the safety of children; and

889 ~~[(b)]~~ (ii) the physical and emotional needs of parents and children~~[-including~~
890 ~~evaluating specific needs of the family, including depression, addiction, and mental illness];~~

891 and

892 ~~[(c) the child's physical surroundings, including cleaning and repairing physical~~
893 ~~housing, and addressing needs for necessities such as food, heat, and electricity;]~~

894 ~~[(d) personal cleanliness, nutrition, and provision of personal grooming supplies and~~
895 ~~clothing;]~~

896 ~~[(e) budgeting, money management, and employment; and]~~

897 ~~[(f) parenting skills, including nonviolent discipline, nurturing, and structure, and~~
898 ~~teaching responsibility, respect for others, cooperation, and moral values.]~~

899 (c) as practicable, are provided within the region that the family resides, using existing
900 division staff.

901 (4) (a) The division may use [~~only~~] specially trained caseworkers [~~or~~], private
902 providers, or other persons to provide the family preservation services described in Subsection
903 (3).

904 (b) Family preservation caseworkers ~~H→~~ [f] may [j] shall ~~←H~~ :

905 (i) only be assigned a [~~minimum~~] minimal number of families[, ~~but the division shall~~
906 ~~require that they~~];

907 (ii) be available 24 hours for an intensive period of at least six weeks[;]; and [that they]

908 (iii) respond to an assigned family within 24 hours.

909 (c) The division shall allow family preservation caseworkers to be creative and flexible
910 in responding to the needs of each individual family.

911 (5) To provide, expand, and improve the delivery of in-home services to prevent the
912 removal of children from their homes and promote the preservation of families, the division
913 shall make substantial effort to obtain funding, including:

914 (a) federal grants;

915 (b) federal waivers; and

916 (c) private monies.

917 Section 13. Section **62A-4a-202.1** is amended to read:

918 **62A-4a-202.1. Entering home of a minor -- Taking a minor into protective**
919 **custody -- Caseworker accompanied by peace officer -- Preventive services -- Shelter care**
920 **or emergency kinship.**

921 (1) A state officer, peace officer, or child welfare worker may not enter the home of a
922 minor who is not under the jurisdiction of the court, remove a minor from the minor's home or
923 school, or take a minor into protective custody unless:

924 (a) the state officer, peace officer, or child welfare worker has obtained:

- 925 (i) the consent of the minor's parent or guardian; or
- 926 (ii) a court order issued under Section 78-3a-106; or
- 927 (b) there exist exigent circumstances.

928 (2) A child welfare worker within the division may take action under Subsection (1)
929 accompanied by a peace officer, or without a peace officer when a peace officer is not
930 reasonably available.

931 (3) (a) If possible, consistent with the minor's safety and welfare, before taking a minor
932 into protective custody, the worker shall also determine whether there are services [~~reasonably~~]
933 available to the worker which, if provided to the minor's parent or to the minor, would
934 eliminate the need to remove the minor from the custody of the minor's parent or guardian.

935 (b) If [~~those services~~] the services described in Subsection (3)(a) are reasonably
936 available, they shall be utilized.

937 (c) In determining whether the services described in Subsection (3)(a) are reasonably
938 available, and in making all reasonable efforts to provide those services, the minor's health,
939 safety, and welfare shall be the worker's paramount concern.

940 (4) (a) A minor removed or taken into custody under this section may not be placed or
941 kept in a secure detention facility pending court proceedings unless the minor is detainable
942 based on guidelines promulgated by the Division of Juvenile Justice Services.

943 (b) A minor removed from the custody of the minor's parent or guardian but who does
944 not require physical restriction shall be given temporary care in:

- 945 (i) a shelter facility; or
- 946 (ii) an emergency kinship placement in accordance with Section 62A-4a-209.

947 Section 14. Section **62A-4a-202.2** is amended to read:

948 **62A-4a-202.2. Notice to parents upon removal of child -- Locating noncustodial**
949 **parent -- Written statement of procedural rights and preliminary proceedings.**

950 (1) (a) Any peace officer or caseworker who takes a minor into protective custody
951 pursuant to Section 62A-4a-202.1 shall immediately use reasonable efforts to locate and
952 inform, through the most efficient means available, the parents, including a noncustodial
953 parent, the guardian, or responsible relative:

- 954 (i) that the minor has been taken into protective custody;
- 955 (ii) the reasons for removal and placement of the minor in protective custody;

956 (iii) that a written statement is available that explains;
 957 (A) the parent's or guardian's procedural rights; and
 958 (B) the preliminary stages of the investigation and shelter hearing; ~~[and]~~
 959 (iv) of a telephone number where the parent or guardian may access further
 960 information[-];
 961 (v) that the minor and the minor's parent or guardian are entitled to have an attorney
 962 present at the shelter hearing;
 963 (vi) that if the minor's parent or guardian is indigent and desires to have an attorney,
 964 one will be provided; and
 965 (vii) that resources are available to assist the minor's parent or guardian in locating:
 966 (A) a parent advocate;
 967 (B) a qualified attorney; and
 968 (C) potential expert witnesses to testify on behalf of the:
 969 (I) minor;
 970 (II) minor's parent;
 971 (III) minor's guardian; or
 972 (IV) minor's family.

973 (b) For purposes of locating and informing the noncustodial parent as required in
 974 Subsection (1)(a), the division shall search for the noncustodial parent through the national
 975 parent locator database if the division is unable to locate the noncustodial parent through other
 976 reasonable efforts.

977 (2) (a) The ~~[attorney general's office]~~ Office of the Attorney General shall adopt, print,
 978 and distribute a form for the written statement described in Subsection (1)(a)(iii).

979 (b) The statement described in Subsections (1)(a)(iii) and (2)(a) shall:
 980 (i) be made available to the division and for distribution in;
 981 (A) schools[-];
 982 (B) health care facilities[-];
 983 (C) local police and sheriff's offices[-];
 984 (D) the division[-]; and
 985 (E) any other appropriate office within the Department of Human Services[-~~The~~
 986 ~~notice shall~~];

987 (ii) be in simple language; and
 988 (iii) include at least the following information:
 989 [~~(a)~~] (A) the conditions under which a minor may be released[~~;~~];
 990 (B) hearings that may be required[~~;~~and];
 991 (C) the means by which the parent or guardian may access further specific information
 992 about a minor's case and conditions of protective and temporary custody; and
 993 [~~(b)~~] (D) the rights of a minor and of the parent or guardian to legal counsel and to
 994 appeal.

995 (3) If [~~a good faith attempt was~~] all reasonable efforts are made by the peace officer or
 996 caseworker to notify the parent or guardian or a responsible relative in accordance with the
 997 requirements of Subsection (1), failure to notify ~~it~~ → [shall] ← ~~it~~ :

998 (a) ~~it~~ → shall ← ~~it~~ be considered to be due to circumstances beyond the control of the
 998a peace officer or
 999 caseworker; and

1000 (b) may not be construed to:

1001 (i) permit a new defense to any juvenile or judicial proceeding; or [to]

1002 (ii) interfere with any rights, procedures, or investigations provided for by this chapter
 1003 or Title 78, Chapter 3a, Juvenile [~~Courts~~] Court Act of 1996.

1004 Section 15. Section **62A-4a-202.6** is amended to read:

1005 **62A-4a-202.6. Child protective services investigators within attorney general's**
 1006 **office -- Authority.**

1007 (1) (a) Pursuant to Section 67-5-16 the attorney general may employ, with the consent
 1008 of the division, child protective services investigators to investigate reports of abuse or neglect
 1009 of a child that occur while the child is in the custody of the division.

1010 (b) (i) Under the direction of the Board of Child and Family Services, the division
 1011 shall, in accordance with Subsection 62A-4a-409(5), contract with an independent child
 1012 protective service investigator to investigate reports of abuse or neglect of a child that occur
 1013 while the child is in the custody of the division.

1014 (ii) The executive director of the department shall designate an entity within the
 1015 department, other than the division, to monitor the contract for the investigators described in
 1016 Subsection (1)(b)(i).

1017 (2) The investigators described in Subsection (1) may also investigate allegations of

1018 abuse or neglect of a child by a department employee or a licensed substitute care provider.

1019 (3) The investigators described in Subsection (1), if not peace officers, shall have the
1020 same rights, duties, and authority of a child protective services investigator employed by the
1021 division to:

1022 (a) make a thorough investigation upon receiving either an oral or written report of
1023 alleged abuse or neglect of a child, with the primary purpose of that investigation being the
1024 protection of the child;

1025 (b) make an inquiry into the ~~child's~~:

1026 (i) child's home environment;

1027 (ii) child's emotional~~, or mental health, the~~ health;

1028 (iii) nature and extent of the child's injuries; and ~~the child's~~

1029 (iv) child's physical safety;

1030 (c) (i) make a written report of ~~their~~ the investigation, including determination
1031 regarding whether the alleged abuse or neglect was:

1032 (A) substantiated;

1033 (B) unsubstantiated; or

1034 (C) without merit; and

1035 (ii) forward a copy of ~~that report~~ the report described in Subsection (3)(c)(i) to the
1036 division within the time mandates for investigations established by the division;

1037 (d) immediately consult with school authorities to verify the child's status in
1038 accordance with Sections 53A-11-101 through 53A-11-103 when a report is based upon or
1039 includes an allegation of educational neglect;

1040 (e) enter upon public or private premises, using appropriate legal processes, to
1041 investigate reports of alleged ~~child~~ abuse or neglect of a child; and

1042 (f) take a child into protective custody, and deliver the child to a law enforcement
1043 officer, or to the division.

1044 (4) Control and jurisdiction over the child described in Subsection (3)(f) shall be
1045 determined;

1046 (a) by the provisions of Title 62A, Chapter 4a, Part 2, Child Welfare Services;

1047 (b) by the provisions of Title 78, Chapter 3a, Juvenile ~~Courts, and~~ Court Act of 1996;

1048 or

1049 (c) as otherwise provided by law.

1050 Section 16. Section **62A-4a-203** is amended to read:

1051 **62A-4a-203. Removal of a child from home -- Reasonable efforts to maintain**
1052 **child in home -- Exception -- Reasonable efforts for reunification.**

1053 (1) Because removal of a child from [~~his~~] the child's home [~~may affect~~] affects
1054 protected, constitutional rights of the parent and has a dramatic, long-term impact on a child,
1055 the division shall:

1056 (a) when possible and appropriate, without danger to the child's [~~welfare~~] safety, make
1057 reasonable efforts to prevent or eliminate the need for removal of a child from [~~his~~] the child's
1058 home prior to placement in substitute care;

1059 (b) determine whether there is substantial cause to believe that a child [~~has been or~~] is
1060 in danger of abuse or neglect, in accordance with the guidelines described in Title 78, Chapter
1061 3a, Part 3, Abuse, Neglect, and Dependency Proceedings, prior to removing the child from
1062 [~~his~~] the child's home; and

1063 (c) when it is possible and appropriate, and in accordance with the limitations and
1064 requirements of Sections 78-3a-311 and 78-3a-312, make reasonable efforts to make it possible
1065 for a child in substitute care to return to [~~his~~] the child's home.

1066 (2) (a) In determining the reasonableness of efforts needed to maintain a child in [~~his~~]
1067 the child's home or to return a child to [~~his~~] the child's home, in accordance with Subsection
1068 (1)(a) or (c), the child's [~~health,~~] safety and welfare shall be the paramount concern.
1069 [~~Additionally, the~~]

1070 (b) The division shall consider whether [~~those services would be effective within a~~
1071 ~~six-month period, and whether they would be~~] the efforts described in Subsections (1) and
1072 (2)(a) are likely to prevent [~~reabuse~~] abuse or continued neglect of the child.

1073 (3) When removal and placement in substitute care is necessary to protect a child, the
1074 "efforts" described in Subsections (1) and (2) [~~would not be~~]:

1075 (a) are not reasonable or appropriate; and [~~therefore,~~]

1076 (b) should not be utilized.

1077 (4) In cases where [~~obvious~~] sexual abuse, abandonment, [~~or~~] serious physical [~~abuse~~]
1078 injury, or serious neglect are involved, the state has no duty to make "reasonable efforts" [~~or~~]
1079 to;

- 1080 (a) maintain a child in the child's home;
 1081 (b) provide reunification services; or
 1082 (c) in any [other] way[;];
 1083 (i) attempt to maintain a child in [his] the child's home[;];
 1084 (ii) provide reunification services[;]; or [to]
 1085 (iii) attempt to rehabilitate the offending parent or parents. [This subsection does not
 1086 exempt]

1087 (5) Nothing in Subsection (4) exempts the division from providing court ordered
 1088 services.

1089 Section 17. Section **62A-4a-205** is amended to read:

1090 **62A-4a-205. Treatment plans.**

1091 (1) No more than 45 days after a child enters the temporary custody of the division, the
 1092 child's treatment plan shall be finalized.

1093 ~~[(2) The division shall use an interdisciplinary team approach in developing each~~
 1094 ~~treatment plan. An interdisciplinary team shall include, but is not limited to, representatives~~
 1095 ~~from mental health, education, and, where appropriate, a representative of law enforcement.]~~

1096 (2) In developing the treatment plan, the division shall use the approach that it
 1097 determines best serves the needs of the child ~~H~~→ and family ←~~H~~ .

1098 (3) (a) The division shall involve all of the following in the development of a child's
 1099 treatment plan:

- 1100 (i) both of the child's natural parents, unless the whereabouts of a parent are unknown;
 1101 (ii) the child;
 1102 (iii) the child's foster parents; and
 1103 (iv) where appropriate, the child's stepparent.

1104 (b) In relation to all information considered by the division in developing a treatment
 1105 plan, additional weight and attention shall be given to the input of the child's natural and foster
 1106 parents upon their involvement pursuant to Subsections (3)(a)(i) and (iii)[;], including their
 1107 preference to:

- 1108 (i) participate in a particular treatment program; or
 1109 (ii) receive services from a particular medical or mental health professional.

1110 (4) (a) The division shall make a substantial effort to develop a treatment plan with

1111 which the child's parents agree.

1112 (b) If a parent does not agree with a treatment plan:

1113 (i) ~~H→~~the division shall strive to resolve the disagreement between the division and the
1113a parent; and

1113b (ii) if the disagreement described in Subsection (4)(b)(i) is not resolved, ~~←H~~ the division shall
1113c inform the court of the disagreement ~~H→~~ [~~;~~ and

1114 —— (ii) the parent shall be permitted to submit an alternate treatment plan for the court's
1115 consideration] ~~←H~~ .

1116 ~~H→~~ [(c) Prior to ordering a treatment plan, the court shall consider the treatment plan
1117 proposed by:

1118 —— (i) the division; and

1119 —— (ii) a parent, if one is submitted.] ~~←H~~

1120 [(4)] (5) A copy of the treatment plan that is ordered by the court shall be provided to
1121 the guardian ad litem, and to the child's natural parents and foster parents immediately upon
1122 completion, or as soon as is reasonably possible thereafter.

1123 [(5)] (6) Each treatment plan shall:

1124 (a) specifically provide for the safety of the child, in accordance with federal law[;];
1125 and

1126 (b) clearly define what actions or precautions will, or may be, necessary to provide for
1127 the health[; safety, protection,] and welfare of the child.

1128 [(6)] (7) The plan shall set forth, with specificity, at least the following:

1129 (a) the reason the child entered [~~Division of Child and Family Services]~~ the division's

1130 custody[; and];

1131 (b) documentation of the:

1132 (i) reasonable efforts made to prevent placement[;]; or [documentation of the]

1133 (ii) emergency situation that [~~existed and that]~~ prevented the reasonable efforts

1134 described in Subsection (7)(b)(i) from being made;

1135 [(b)] (c) the primary permanency goal for the child and the reason for selection of that

1136 goal;

1137 [(c)] (d) the concurrent permanency goal for the child and the reason for the selection

1138 of that goal;

1139 [(d)] (e) if the plan is for the child to return to the child's family[; specifically] what the

1140 child's parents must do in order to enable the child to be returned home[; specifically] including

1141 how those requirements;

1142 (i) may be accomplished~~[-];~~ and ~~[how those requirements]~~
1143 (ii) will be measured;
1144 ~~[(e)]~~ (f) the specific services needed to reduce the problems that necessitated placement
1145 in the division's custody~~[-and];~~
1146 (g) who will provide ~~[for]~~ and be responsible for case management;
1147 ~~[(f)]~~ (h) a parent-time schedule between the natural parent and the child;
1148 ~~[(g)]~~ (i) subject to Subsection (9), the health and mental health care to be provided to
1149 address any known or diagnosed mental health needs of the child ~~[and, if residential treatment~~
1150 ~~rather than a foster home is the proposed placement, a requirement for a specialized assessment~~
1151 ~~of the child's health needs including an assessment of mental illness and behavior and conduct~~
1152 ~~disorders];~~ and
1153 ~~[(h)]~~ (j) social summaries that include case history information pertinent to case
1154 planning.
1155 (8) (a) Except as provided in Subsection (8)(b), parent-time may only be denied by
1156 court order issued pursuant to Subsections 78-3a-311(2)(a)(ii) and (b).
1157 (b) Notwithstanding Subsection (8)(a), the person designated by the division or a court
1158 to supervise a parent-time session may deny parent-time for that session if the supervising
1159 person determines that, based on the parent's condition, it is necessary to deny parent-time in
1160 order to:
1161 (i) protect the physical safety of the child;
1162 (ii) protect the life of the child; or
1163 (iii) consistent with Subsection (8)(c), prevent the child from being traumatized by
1164 contact with the parent.
1165 (c) In determining whether the condition of the parent described in Subsection (8)(b)
1166 will traumatize a child, the person supervising a parent-time session shall consider the impact
1167 that the parent's condition will have on the child in light of:
1168 (i) the child's fear of the parent; and
1169 (ii) the nature of the alleged abuse or neglect.
1170 (9) (a) Subject to Subsection (9)(b), in addition to the information required under
1171 Subsection (7)(i), the plan shall include a specialized assessment of the medical and mental
1172 health needs of a child if the child:

1173 (i) is placed in residential treatment; and
 1174 (ii) has medical or mental health issues that need to be addressed.
 1175 (b) Notwithstanding Subsection (9)(a), a parent shall retain the right to seek a separate
 1176 medical or mental health diagnosis of the parent's child from a licensed practitioner of the
 1177 parent's choice.
 1178 ~~[(7)]~~ (10) (a) Each treatment plan shall be specific to each child and the child's family,
 1179 rather than general.
 1180 (b) The division shall train its workers to develop treatment plans that comply with
 1181 federal mandates and the specific needs of the particular child and the child's family.
 1182 ~~[(b) All treatment plans and expectations]~~
 1183 (c) A treatment plan and the plan's expectations shall be individualized and contain
 1184 specific time frames.
 1185 ~~[(c) Treatment plans]~~ (d) Subject to Subsection (10)(e), a treatment plan shall address
 1186 problems that keep ~~[children]~~ a child:
 1187 (i) in placement; and ~~[keep them]~~
 1188 (ii) from achieving permanence in ~~[their lives;]~~ the child's life.
 1189 ~~[(d) Each treatment plan shall]~~
 1190 (e) For purposes of Subsection (10)(d), a treatment plan shall:
 1191 (i) only include requirements that:
 1192 (A) address findings ~~H~~→ or orders ←~~H~~ made by the court; or
 1193 (B) (I) are requested or consented to by a parent or guardian of the child; and
 1194 (II) are agreed to by the division and the guardian ad litem; and
 1195 (ii) be designed to minimize disruption to the normal activities of the child's family,
 1196 including:
 1197 (A) employment; and
 1198 (B) school. ~~[In particular]~~
 1199 (f) For purposes of Subsection (10)(e)(ii)(A), the time, place, [and] amount of services,
 1200 hearings, and other requirements ordered by the court shall be designed, as much as practicable,
 1201 to help the child's parents maintain or obtain employment.
 1202 ~~[(e) The]~~ (11) A child's natural parents, foster parents, and where appropriate,
 1203 stepparents, shall be kept informed of, and supported to participate in, important meetings and

1204 procedures related to the child's placement.

1205 ~~[(8)]~~ (12) With regard to a child who is three years of age or younger, if the goal is not
1206 to return the child home, the permanency plan for that child shall be adoption. However, if the
1207 division documents to the court that there is a compelling reason that adoption, reunification,
1208 guardianship, and kinship placement are not in the child's best interest, the court may order
1209 another planned permanent living arrangement in accordance with federal law.

1210 Section 18. Section **62A-4a-208** is amended to read:

1211 **62A-4a-208. Child protection ombudsman -- Responsibility -- Authority.**

1212 (1) As used in this section:

1213 (a) "Complainant" means a person who initiates a complaint with the ombudsman.

1214 (b) "Ombudsman" means the child protection ombudsman appointed pursuant to this
1215 section.

1216 (2) (a) (i) There is created within the department the position of child protection
1217 ombudsman.

1218 (ii) The ombudsman described in Subsection (2)(a)(i) shall be appointed by and serve
1219 at the pleasure of the executive director.

1220 (b) The ombudsman shall be:

1221 (i) an individual of recognized executive and administrative capacity;

1222 (ii) selected solely with regard to qualifications and fitness to discharge the duties of
1223 ombudsman; and

1224 (iii) have experience in child welfare, and in state laws and policies governing abused,
1225 neglected, and dependent children.

1226 (c) The ombudsman shall devote full time to the duties of office.

1227 (3) (a) Except as provided in Subsection (3)(b), the ombudsman shall, upon receipt of a
1228 complaint from any person, investigate whether an act or omission of the division with respect
1229 to a particular ~~[child]~~ minor:

1230 (i) is contrary to statute, rule, or policy;

1231 (ii) places a ~~[child's]~~ minor's health or safety at risk;

1232 (iii) is made without an adequate statement of reason; or

1233 (iv) is based on irrelevant, immaterial, or erroneous grounds.

1234 (b) The ombudsman may decline to investigate any complaint. If the ombudsman

1235 declines to investigate a complaint or continue an investigation, the ombudsman shall notify
1236 the complainant and the division of the decision and of the reasons for that decision.

1237 (c) The ombudsman may conduct an investigation on his own initiative.

1238 (4) The ombudsman shall:

1239 (a) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
1240 make rules that govern the following:

1241 (i) receiving and processing complaints;

1242 (ii) notifying complainants and the division regarding a decision to investigate or to
1243 decline to investigate a complaint;

1244 (iii) prioritizing workload;

1245 (iv) maximum time within which investigations shall be completed;

1246 (v) conducting investigations;

1247 (vi) notifying complainants and the division regarding the results of investigations; and

1248 (vii) making recommendations based on the findings and results of recommendations;

1249 (b) report findings and recommendations in writing to the complainant and the
1250 division, in accordance with the provisions of this section;

1251 (c) within appropriations from the Legislature, employ staff as may be necessary to
1252 carry out the ombudsman's duties under this part;

1253 (d) provide information regarding the role, duties, and functions of the ombudsman to
1254 public agencies, private entities, and individuals;

1255 (e) annually report to the:

1256 (i) Child Welfare Legislative Oversight Panel;

1257 (ii) governor;

1258 (iii) Board of Child and Family Services;

1259 (iv) executive director of the department; and

1260 (v) director of the division; and

1261 (f) as appropriate, make recommendations to the division regarding individual cases,
1262 and the rules, policies, and operations of the division.

1263 (5) (a) Upon rendering a decision to investigate a complaint, the ombudsman shall
1264 notify the complainant and the division of that decision.

1265 (b) (i) The ombudsman may advise a complainant to pursue all administrative remedies

1266 or channels of complaint before pursuing a complaint with the ombudsman.

1267 (ii) Subsequent to processing a complaint, the ombudsman may conduct further
1268 investigations upon the request of the complainant or upon the ombudsman's own initiative.

1269 (iii) Nothing in this Subsection (5) precludes a complainant from making a complaint
1270 directly to the ombudsman before pursuing an administrative remedy.

1271 (c) If the ombudsman finds that an individual's act or omission violates state or federal
1272 criminal law, the ombudsman shall immediately report that finding to the appropriate county or
1273 district attorney or to the attorney general.

1274 (d) The ombudsman shall immediately notify the division if the ombudsman finds that
1275 a child needs protective custody, as that term is defined in Section 78-3a-103.

1276 (e) The ombudsman shall immediately comply with Part 4, Child Abuse or Neglect
1277 Reporting Requirements.

1278 (6) (a) (i) All records of the ombudsman regarding individual cases shall be classified
1279 in accordance with federal law and the provisions of Title 63, Chapter 2, Government Records
1280 Access and Management Act.

1281 (ii) The ombudsman may make public a report prepared pursuant to this section in
1282 accordance with the provisions of Title 63, Chapter 2, Government Records Access and
1283 Management Act.

1284 (b) (i) The ombudsman shall have access to all of the department's written and
1285 electronic records and databases, including those regarding individual cases.

1286 (ii) In accordance with Title 63, Chapter 2, Government Records Access and
1287 Management Act, all documents and information received by the ombudsman shall maintain
1288 the same classification that was designated by the department.

1289 (7) (a) The ombudsman shall prepare a written report of the findings and
1290 recommendations, if any, of each investigation.

1291 (b) The ombudsman shall make recommendations to the division if the ombudsman
1292 finds that:

1293 (i) a matter should be further considered by the division;

1294 (ii) an administrative act should be addressed, modified, or canceled;

1295 (iii) action should be taken by the division with regard to one of its employees; or

1296 (iv) any other action should be taken by the division.

1297 Section 19. Section **62A-4a-209** is amended to read:

1298 **62A-4a-209. Emergency kinship placement.**

1299 (1) The division may use an emergency kinship placement under Subsection
1300 62A-4a-202.1~~[(6)]~~(4) when:

1301 (a) the case worker has made the determination that:

1302 (i) the child's home is unsafe;

1303 (ii) removal is necessary under ~~[the provisions of]~~ Section 62A-4a-202.1; and

1304 (iii) the child's custodial parent or guardian will agree to not remove the child from the
1305 relative's home who serves as the kinship placement and not have any contact with the child
1306 until after the shelter hearing required by Section 78-3a-306;

1307 (b) a relative, with preference being given to a noncustodial parent in accordance with
1308 Section 78-3a-307, can be identified who has the ability and is willing to provide care for the
1309 child who would otherwise be placed in shelter care, including:

1310 (i) taking the child to medical, mental health, dental, and educational appointments at
1311 the request of the division; and

1312 (ii) the relative has the ability to make the child available to division services and the
1313 guardian ad litem; and

1314 (c) the relative agrees to care for the child on an emergency basis under the following
1315 conditions:

1316 (i) the relative meets the criteria for an emergency kinship placement under Subsection
1317 (2);

1318 (ii) the relative agrees to not allow the custodial parent or guardian to have any contact
1319 with the child until after the shelter hearing unless authorized by the division in writing;

1320 (iii) the relative agrees to contact law enforcement and the division if the custodial
1321 parent or guardian attempts to make unauthorized contact with the child;

1322 (iv) the relative agrees to allow the division and the child's guardian ad litem to have
1323 access to the child;

1324 (v) the relative has been informed and understands that the division may continue to
1325 search for other possible kinship placements for long-term care, if needed;

1326 (vi) the relative is willing to assist the custodial parent or guardian in reunification
1327 efforts at the request of the division, and to follow all court orders; and

- 1328 (vii) the child is comfortable with the relative.
- 1329 (2) Before the division places a child in an emergency kinship placement, the division
1330 must:
- 1331 (a) request the name of a reference and when possible, contact the reference and
1332 determine the answer to the following questions:
- 1333 (i) would the person identified as a reference place a child in the home of the
1334 emergency kinship placement; and
- 1335 (ii) are there any other relatives to consider as a possible emergency or long-term
1336 placement for the child;
- 1337 (b) have the custodial parent or guardian sign an emergency kinship placement
1338 agreement form during the investigation;
- 1339 (c) complete a criminal background check described in Sections 62A-4a-202.4 and
1340 78-3a-307.1 on all persons living in the relative's household;
- 1341 (d) complete a home inspection of the relative's home; and
- 1342 (e) have the emergency kinship placement approved by a family service specialist.
- 1343 (3) As soon as possible after the emergency placement and prior to the shelter hearing
1344 required by Section 78-3a-306, the division shall convene a family unity meeting.
- 1345 (4) After an emergency kinship placement, the division caseworker must:
- 1346 (a) respond to the emergency kinship placement's calls within one hour if the custodial
1347 parents or guardians attempt to make unauthorized contact with the child or attempt to remove
1348 the child;
- 1349 (b) complete all removal paperwork, including the notice provided to the custodial
1350 parents and guardians under Section 78-3a-306;
- 1351 (c) contact the attorney general to schedule a shelter hearing;
- 1352 (d) complete the kinship procedures required in Section 78-3a-307, including, within
1353 five days after placement, the criminal history record check described in Subsection (5); and
- 1354 (e) continue to search for other relatives as a possible long-term placement, if needed.
- 1355 (5) (a) In order to determine the suitability of the kinship placement and to conduct a
1356 background screening and investigation of individuals living in the household in which a child
1357 is placed, each individual living in the household in which the child is placed who has not lived
1358 in the state substantially year round for the most recent five consecutive years ending on the

1359 date the investigation is commenced shall be fingerprinted. If no disqualifying record is
1360 identified at the state level, the fingerprints shall be forwarded by the division to the Federal
1361 Bureau of Investigation for a national criminal history record check.

1362 (b) The cost of those investigations shall be borne by whomever received placement of
1363 the child, except that the division may pay all or part of the cost of those investigations if the
1364 person with whom the child is placed is unable to pay.

1365 Section 20. Section **62A-4a-302** is amended to read:

1366 **62A-4a-302. Definitions.**

1367 As used in this part:

1368 (1) "Council" means the Child Abuse Advisory Council established under Section
1369 62A-4a-311.

1370 (2) "Child abuse and neglect" [~~means the same as the term "child abuse or neglect,"~~] is
1371 as defined in Section 62A-4a-402.

1372 Section 21. Section **62A-4a-402** is amended to read:

1373 **62A-4a-402. Definitions.**

1374 As used in this part:

1375 (1) "A person responsible for a child's care" means the child's parent, guardian, or other
1376 person responsible for the child's care, whether in:

1377 (a) the same home as the child[;];

1378 (b) a relative's home[;];

1379 (c) a group, family, or center day care facility[;];

1380 (d) a foster care home[;]; or

1381 (e) a residential institution.

1382 [~~(2) "Child" means a person under 18 years of age.~~]

1383 [~~(3)~~] (2) "Child abuse or neglect" means [~~causing harm or threatened harm to a child's~~
1384 ~~health or welfare.~~];

1385 [~~(4) "Harm or threatened harm" means damage or threatened damage to the physical or~~
1386 ~~emotional health and welfare of a child through neglect or abuse, and includes but is not~~
1387 ~~limited to:~~]

1388 [~~(a) causing nonaccidental physical or mental injury;~~]

1389 [~~(b) incest;~~]

1390 ~~[(c) sexual abuse;]~~
 1391 ~~[(d) sexual exploitation;]~~
 1392 ~~[(e) molestation; or]~~
 1393 ~~[(f) repeated negligent treatment or maltreatment.]~~
 1394 (a) abuse, as defined in Section 62A-4a-101; or
 1395 (b) neglect, as defined in Section 62A-4a-101.
 1396 ~~[(5)]~~ (3) (a) "Incest" means having sexual intercourse with a person whom the
 1397 perpetrator knows to be ~~[his or her]~~ the perpetrator's:
 1398 (i) ancestor[;];
 1399 (ii) descendant[;];
 1400 (iii) brother[;];
 1401 (iv) sister[;];
 1402 (v) uncle[;];
 1403 (vi) aunt[;];
 1404 (vii) nephew[;];
 1405 (viii) niece[;]; or
 1406 (ix) first cousin.
 1407 (b) The relationships referred to in [this] Subsection (3)(a) include:
 1408 (i) blood relationships of the whole or half blood without regard to legitimacy[~~and~~
 1409 include];
 1410 (ii) relationships of parent and child by adoption[;]; and
 1411 (iii) relationships of stepparent and stepchild while the marriage creating the
 1412 relationship of a stepparent and stepchild exists.
 1413 ~~[(6)]~~ (4) "Molestation" means:
 1414 (a) touching;
 1415 (i) the anus of a child; or
 1416 (ii) any part of the genitals of a child [or];
 1417 (b) otherwise taking indecent liberties with a child[;]; or
 1418 (c) causing a child to take indecent liberties with the perpetrator or another with the
 1419 intent to arouse or gratify the sexual desire of any person.
 1420 ~~[(7)]~~ (5) "Sexual abuse" means acts or attempted acts of sexual intercourse, sodomy, or

1421 molestation directed towards a child.

1422 ~~[(8)]~~ (6) "Sexual exploitation of ~~[minors]~~ a child" means knowingly employing, using,
 1423 persuading, inducing, enticing or coercing ~~[any minor]~~ a child to pose in the nude for the
 1424 purpose of sexual arousal of any person or for profit, or to engage in any sexual or simulated
 1425 sexual conduct for the purpose of photographing, filming, recording, or displaying in any way
 1426 the sexual or simulated sexual conduct, and includes displaying, distributing, possessing for the
 1427 purpose of distribution, or selling material depicting ~~[minors]~~ a child in the nude or engaging in
 1428 sexual or simulated sexual conduct.

1429 ~~[(9)]~~ (7) "Subject" or "subject of the report" means any person reported under this part,
 1430 including~~[-but not limited to,];~~:

1431 (a) a child~~[-];~~;

1432 (b) a parent~~[-];~~;

1433 (c) a guardian~~[-];~~ or

1434 (d) any other person responsible for a child's care.

1435 Section 22. Section **62A-4a-403** is amended to read:

1436 **62A-4a-403. Reporting requirements.**

1437 (1) For purposes of this section:

1438 (a) "Child abuse or neglect" means:

1439 (i) "abuse" as defined in Section 62A-4a-101;

1440 (ii) "neglect" as defined in Section 62A-4a-101; and

1441 (iii) conduct that constitutes a violation of:

1442 (A) child abuse, as described in Section 76-5-109;

1443 (B) enticement of a minor, as described in Section 76-4-401;

1444 (C) child kidnaping, as described in Section 76-5-301.1;

1445 ~~Ĥ→ [(D) custodial interference, as described in Section 76-5-303;~~

1446 ~~—[(E)] (D) ←Ĥ~~ unlawful detention, as described in Section 76-5-304, if the victim is a person
 1447 under the age of 18 at the time of the conduct; and

1448 ~~Ĥ→ [(F)] (E) ←Ĥ~~ any of the offenses described in Title 76, Chapter 5, Part 4, Sexual

1448a Offenses, if the

1449 victim is a person under the age of 18 at the time of the conduct.

1450 (b) "Minister" means a person recognized by a bona fide religious organization as a:

1451 (i) minister;

1452 (ii) member of the clergy;

1453 (iii) priest; or

1454 (iv) ~~H~~→ [counselor] similar religious official ←H .

1455 (c) "Serious harm" means:

1456 (i) serious physical injury, as defined in Section 76-5-109; or

1457 (ii) mental cruelty, as defined in Section 76-5-109.

1458 [(+)] (2) (a) Except as provided in [Subsection (2), when any] Subsections (3) through
 1459 (5), a person, including persons licensed under Title 58, Chapter 67, Utah Medical Practice
 1460 Act, or Title 58, Chapter 31b, Nurse Practice Act, shall immediately notify a peace officer, law
 1461 enforcement agency, or office of the division when that person:

1462 (i) has reason to believe that a child has been subjected to [incest, molestation, sexual
 1463 exploitation, sexual abuse, physical abuse, or neglect, or who] child abuse or neglect; or

1464 (ii) observes a child being subjected to conditions or circumstances which would
 1465 reasonably result in [sexual abuse, physical abuse, or neglect, he shall immediately notify the
 1466 nearest peace officer, law enforcement agency, or office of the division] child abuse or neglect.

1467 (b) On receipt of [this] the notice described in Subsection (2)(a), the peace officer or
 1468 law enforcement agency shall immediately notify the nearest office of the division.

1469 (c) If an initial report of child abuse or neglect is made to the division, the division
 1470 shall immediately notify the appropriate local law enforcement agency.

1471 (d) The division shall, in addition to its own investigation, comply with and lend
 1472 support to investigations by law enforcement undertaken pursuant to a report made under this
 1473 section.

1474 [(-)] (3) The notification requirements of Subsection [(+)] (2) do not apply to a
 1475 [clergyman or priest] minister, without the consent of the person making the confession, with
 1476 regard to any confession made to [him in his] the minister in the minister's professional
 1477 character in the course of discipline enjoined by the church to which [he] the minister belongs,
 1478 if the:

1479 (a) [the] confession was made directly to the [clergyman or priest] minister by the
 1480 perpetrator; and

1481 [(-) the clergyman or priest is, under canon law or church doctrine or practice, bound
 1482 to maintain the confidentiality of that confession.]

1483 (b) minister is bound to maintain the confidentiality of that confession under:
1484 (i) canon law;
1485 (ii) church doctrine; or
1486 (iii) practice.

1487 ~~(3)~~ (4) (a) When a ~~[clergyman or priest]~~ minister receives information about child
1488 abuse or neglect from any source other than confession of the perpetrator, ~~[he]~~ the minister is
1489 required to give notification on the basis of that information even though ~~[he]~~ the minister may
1490 have also received a report of child abuse or neglect from the confession of the perpetrator.

1491 (b) Exemption of notification requirements for a ~~[clergyman or priest]~~ minister does
1492 not exempt a ~~[clergyman or priest]~~ minister from any other efforts required by law to prevent
1493 further child abuse or neglect by the perpetrator.

1494 (5) In the case of potential neglect due to failure to provide adequate medical care, the
1495 notification described in Subsection (2) is not required if a parent or guardian of the child:

1496 (a) declines counsel or treatment for the child's condition:

1497 (i) in order to seek counsel or treatment for the child's condition from one or more
1498 other licensed practitioners, as defined in Section 78-3a-103; or

1499 (ii) because the treatment poses a substantial risk of serious harm to the child;

1500 (b) obtains counsel or treatment for the child's condition from a licensed practitioner,
1501 as defined in Section 78-3a-103, other than the child's usual primary care doctor or specialist;

1502 (c) obtains reasonable nontraditional treatment for the child's condition; or

1503 (d) acts in a manner consistent with what a reasonable parent or guardian would do
1504 under similar circumstances.

1505 Section 23. Section ~~62A-4a-407~~ is amended to read:

1506 **~~62A-4a-407. Protective custody.~~**

1507 (1) A physician examining or treating a child may take the child into protective custody
1508 not to exceed ~~[72]~~ 36 hours, without the consent of the child's parent, guardian, or any other
1509 person responsible for the child's care or exercising temporary or permanent control over the
1510 child, when the physician has reason to believe that the child's life or safety will be in danger
1511 unless protective custody is exercised.

1512 (2) The person in charge of a hospital or similar medical facility may retain protective
1513 custody of a child suspected of being abused or neglected, when he reasonably believes the

1514 facts warrant that retention. This action may be taken regardless of whether additional medical
 1515 treatment is required, and regardless of whether the person responsible for the child's care
 1516 requests the child's return.

1517 (3) The division shall be immediately notified of protective custody exercised under
 1518 this section. Protective custody under this section may not exceed ~~[72]~~ 36 hours without an
 1519 order of the district or juvenile court.

1520 (4) A person who takes a child into, or retains a child in, protective custody under this
 1521 section, shall document the grounds upon which the child was taken into, or retained in,
 1522 protective custody.

1523 (5) A parent or guardian of a child placed in protective custody under this section may
 1524 not be charged for any services or medical treatment rendered to the child during the period of
 1525 protective custody described in this section, unless:

1526 (a) the services or medical treatment are necessary to medically stabilize the child; or

1527 (b) a parent or guardian of the child consents to the services or medical treatment.

1528 Section 24. Section **62A-4a-409** is amended to read:

1529 **62A-4a-409. Investigation by division -- Temporary protective custody --**
 1530 **Preremoval interviews of children.**

1531 (1) (a) The division shall make a thorough preremoval investigation upon receiving
 1532 either an oral or written report of alleged abuse, neglect, fetal alcohol syndrome, or fetal drug
 1533 dependency, when there is reasonable ~~[cause to suspect]~~ suspicion to believe that a situation of
 1534 abuse, neglect, fetal alcohol syndrome, or fetal drug dependency exists.

1535 (b) The primary purpose of ~~[that]~~ the investigation described in Subsection (1)(a) shall
 1536 be protection of the child.

1537 (2) The preremoval investigation described in Subsection (1)(a) shall include the same
 1538 investigative requirements described in Section 62A-4a-202.3.

1539 (3) The division shall make a written report of its investigation~~[- The written report]~~
 1540 that shall include a determination regarding whether the alleged abuse or neglect ~~[was]~~ is:

1541 (a) supported[;];

1542 (b) unsupported[;]; or

1543 (c) without merit.

1544 (4) ~~[(a)]~~ The division ~~[shall]~~ may use an interdisciplinary approach ~~[whenever~~

1545 possible] when appropriate in dealing with reports made under this part.

1546 ~~[(b) For this purpose, the division shall convene appropriate interdisciplinary "child~~
1547 ~~protection teams" to assist it in its protective, diagnostic, assessment, treatment, and~~
1548 ~~coordination services.]~~

1549 ~~[(c) A representative of the division shall serve as the team's coordinator and chair.~~
1550 ~~Members of the team shall serve at the coordinator's invitation. Whenever possible, the team~~
1551 ~~shall include representatives of:]~~

1552 ~~[(i) health, mental health, education, and law enforcement agencies;]~~

1553 ~~[(ii) the child;]~~

1554 ~~[(iii) parent and family support groups unless the parent is alleged to be the perpetrator;~~
1555 ~~and]~~

1556 ~~[(iv) other appropriate agencies or individuals.]~~

1557 (5) In any case where the division supervises, governs, or directs the affairs of any
1558 individual, institution, or facility that ~~[has been]~~ is alleged to be involved in acts or omissions
1559 of child abuse or neglect, the investigation of the reported child abuse or neglect shall be
1560 conducted by an agency other than the division.

1561 (6) If a report of neglect is based upon or includes an allegation of educational neglect,
1562 the division shall immediately consult with school authorities to verify the child's status in
1563 accordance with Sections 53A-11-101 through 53A-11-103.

1564 (7) When the division ~~[has completed]~~ completes its initial investigation under this
1565 part, it shall give notice of that completion to the person who made the initial report.

1566 (8) Division workers or other child protection team members have authority to enter
1567 upon public or private premises, using appropriate legal processes, to investigate reports of
1568 alleged child abuse or neglect, upon notice to parents of their rights under the Child Abuse
1569 Prevention and Treatment Act, 42 U.S.C. Sec. 5106, or any successor thereof.

1570 (9) With regard to any interview of a child prior to removal of that child from the
1571 child's home:

1572 (a) except as provided in Subsection (9)(b) or (c), the division shall ~~[notify]~~ inform a
1573 parent of the child prior to the interview[;] of:

1574 (i) the specific allegations concerning the child; and

1575 (ii) the time and place of the interview;

1576 (b) if a child's parent or stepparent, or a parent's paramour has been identified as the
 1577 alleged perpetrator, the division [~~need not notify a parent of the child prior to an initial~~
 1578 ~~interview with the child~~] is not required to comply with Subsection (9)(a);

1579 (c) if the perpetrator is unknown, or if the perpetrator's relationship to the child's family
 1580 is unknown, the division may conduct a minimal interview or conversation, not to exceed 15
 1581 minutes, with the child prior to [~~notification of the child's parent~~] complying with Subsection
 1582 (9)(a);

1583 (d) in all cases described in Subsection (9)(b) or (c), a parent of the child shall be
 1584 notified as soon as practicable after the child has been interviewed, but in no case later than 24
 1585 hours after the interview has taken place;

1586 (e) a child's parents shall be notified of the time and place of all subsequent interviews
 1587 with the child; and

1588 (f) (i) the child shall be allowed to have a support person of the child's choice present;
 1589 and

1590 (ii) the person described in Subsection (9)(f)(i):

1591 (A) may include:

1592 (I) a school teacher;

1593 (II) an administrator;

1594 (III) a guidance counselor;

1595 (IV) a child care provider; [~~or~~]

1596 (V) a family member;

1597 (VI) a family advocate ~~H→~~ [;]

1598 ~~(VII) an attorney~~ ~~←H~~ ; or

1599 [~~(V) clergy~~] ~~H→~~ [~~(VIII)~~] (VII) ←H a minister, as defined in Section 62A-4a-403; and

1600 (B) may not be a person who is alleged to be, or potentially may be, the perpetrator.

1601 (10) In accordance with the procedures and requirements of Sections 62A-4a-202.1
 1602 through 62A-4a-202.3, a division worker or child protection team member may take a child
 1603 into protective custody and deliver the child to a law enforcement officer, or place the child in
 1604 an emergency shelter facility approved by the juvenile court, at the earliest opportunity
 1605 subsequent to the child's removal from the child's original environment. Control and
 1606 jurisdiction over the child is determined by the provisions of Title 78, Chapter 3a, Juvenile

1607 Court Act of 1996, and as otherwise provided by law.

1608 (11) With regard to cases in which law enforcement has or is conducting an
1609 investigation of alleged abuse or neglect of a child:

1610 (a) the division shall coordinate with law enforcement to ensure that there is an
1611 adequate safety plan to protect the child from further abuse or neglect; and

1612 (b) the division is not required to duplicate an aspect of the investigation that, in the
1613 division's determination, has been satisfactorily completed by law enforcement.

1614 Section 25. Section **62A-4a-414** is amended to read:

1615 **62A-4a-414. Interviews of children -- Recording required.**

1616 (1) (a) Interviews of children during an investigation in accordance with Section
1617 62A-4a-409, and involving allegations of sexual abuse or serious physical [~~abuse~~] injury of a
1618 child, shall be conducted only under the following conditions:

1619 (i) the interview shall be recorded visually and aurally on film, videotape, or by other
1620 electronic means;

1621 (ii) both the interviewer and the child shall be simultaneously recorded and visible on
1622 the final product;

1623 (iii) the time and date of the interview shall be continuously and clearly visible to any
1624 subsequent viewer of the recording; and

1625 (iv) the recording equipment shall run continuously for the duration of the interview.

1626 (b) This Subsection (1) does not apply to initial or minimal interviews conducted in
1627 accordance with Subsection 62A-4a-409(9)(b) or (c).

1628 (2) Interviews conducted in accordance with Subsection (1) shall be carried out in an
1629 existing Children's Justice Center or in a soft interview room, when available.

1630 (a) If the Children's Justice Center or a soft interview room is not available, the
1631 interviewer shall use the best setting available under the circumstances.

1632 (b) If the equipment required under Subsection (1) is not available, the interview shall
1633 be audiotaped, provided that the interviewer shall clearly state at the beginning of the tape:

1634 (i) the time, date, and place of the interview;

1635 (ii) the full name and age of the child being interviewed; and

1636 (iii) that the equipment required under Subsection (1) is not available and why.

1637 (3) All other investigative interviews shall be audiotaped using electronic means. At

1638 the beginning of the tape, the worker shall state clearly the time, date, and place of the meeting,
1639 and the full name and age of the child in attendance.

1640 Section 26. Section **63-55-262** is amended to read:

1641 **63-55-262. Repeal dates, Title 62A.**

1642 [~~(1) Section 62A-4a-202.7, Pilot Program for Differentiated Responses to Child Abuse~~
1643 ~~and Neglect Reports, is repealed July 1, 2005.~~]

1644 [~~(2) Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a Newborn Child, is~~
1645 ~~repealed July 1, 2006.~~]

1646 Section 27. Section **76-5-109** is amended to read:

1647 **76-5-109. Child abuse.**

1648 (1) As used in this section:

1649 (a) "Child" means a [~~human being~~] person who is under 18 years of age.

1650 (b) "Child abuse" means any offense described in Subsection (2) or (3), or in Section
1651 76-5-109.1.

1652 (c) "Mental cruelty" means conduct that ~~H→~~ **causes** **is reasonably likely to cause** ~~←H~~
1652a a child to suffer:

1653 (i) mental anguish; or

1654 (ii) serious emotional injury.

1655 [~~(c)~~] (d) (i) "Physical injury" means an injury [~~to or condition~~] or set of injuries of a
1656 child [~~which impairs~~] that:

1657 (A) results in actual harm to the physical condition or health of the child [~~, including~~];
1658 and

1659 (B) is not a serious physical injury.

1660 (ii) Subject to Subsection (1)(d)(i)(B), "physical injury" includes:

1661 [~~(i)~~] (A) a serious bruise or other contusion of the skin;

1662 [~~(ii)~~] (B) a minor laceration or abrasion;

1663 [~~(iii)~~] (C) failure to thrive or malnutrition; or

1664 [~~(iv) any other~~] (D) a condition [which] that imperils the child's health [or], welfare
1665 [~~and which is not a serious physical injury as defined in Subsection (1)(d)], or safety.~~]

1666 [~~(d)~~] (e) "Serious physical injury" means [~~any physical~~];

1667 (i) an injury or set of injuries [~~which~~] that:

1668 (A) seriously impairs the child's health [~~, or which involves~~];

1669 (B) constitutes or results from physical torture [~~or causes serious emotional harm to the~~
1670 ~~child, or which involves a substantial risk of death to the child, including: (i)~~
1671 ~~[fracture of any bone or bones];~~
1672 (C) causes:
1673 (I) death;
1674 (II) disability;
1675 (III) serious illness;
1676 (IV) substantial impairment of a major bodily function;
1677 (V) permanent disfigurement; or
1678 (VI) protracted loss or impairment of the function of a:
1679 (Aa) body member;
1680 (Bb) limb; or
1681 (Cc) organ;
1682 (D) poses a substantial risk of death; or
1683 (E) that results in substantial physical harm, including:
1684 (I) fracture of a bone;
1685 [(ii)] (II) intracranial bleeding, swelling, or contusion of the brain [~~whether~~] caused by
1686 any method, including:
1687 (Aa) blows[-];
1688 (Bb) shaking[-]; or
1689 (Cc) causing the child's head to impact with an object or surface;
1690 [(iii)] (III) any burn, including burns inflicted by:
1691 (Aa) hot water[-]; or [~~those caused by~~]
1692 (Bb) placing a hot object upon the skin or body of the child;
1693 [(iv)] (IV) any injury caused by use of a dangerous weapon as defined in Section
1694 76-1-601;
1695 [(v)] (V) any combination of two or more reportable physical injuries inflicted by the
1696 same person [~~either~~];
1697 (Aa) at the same time; or [~~on different occasions;~~]
1698 (Bb) within a three-year period; or
1699 [(vi)] (VI) any damage to internal organs of the body;

- 1700 (ii) mental cruelty;
- 1701 [~~(vii)~~] (iii) any conduct toward a child [~~which~~] that results in [~~severe emotional harm,~~]
- 1702 severe developmental delay [~~or retardation, or severe impairment of the child's ability to~~
- 1703 ~~function~~];
- 1704 [~~(viii) any injury which creates a permanent disfigurement or protracted loss or~~
- 1705 ~~impairment of the function of a bodily member, limb, or organ;~~]
- 1706 [~~(ix)~~] (iv) any conduct [~~which~~] that causes a child to cease breathing, even if
- 1707 resuscitation is successful following the conduct; or
- 1708 [~~(x)~~] (v) any conduct [~~which~~] that results in starvation or failure to thrive or
- 1709 malnutrition that jeopardizes [~~the~~] a child's life.
- 1710 (2) [~~Any~~] Subject to Subsections (5) and (6), any person who inflicts upon a child
- 1711 serious physical injury or, having the care or custody of such child, causes or permits another to
- 1712 inflict serious physical injury upon a child is guilty of an offense as follows:
- 1713 (a) if done intentionally or knowingly, the offense is a felony of the second degree;
- 1714 (b) if done recklessly, the offense is a felony of the third degree; or
- 1715 (c) if done with criminal negligence, the offense is a class A misdemeanor.
- 1716 (3) [~~Any~~] Subject to Subsections (5) and (6), any person who inflicts upon a child
- 1717 physical injury or, having the care or custody of such child, causes or permits another to inflict
- 1718 physical injury upon a child is guilty of an offense as follows:
- 1719 (a) if done intentionally or knowingly, the offense is a class A misdemeanor;
- 1720 (b) if done recklessly, the offense is a class B misdemeanor; or
- 1721 (c) if done with criminal negligence, the offense is a class C misdemeanor.
- 1722 (4) A parent or legal guardian who provides a child with treatment by spiritual means
- 1723 alone through prayer, in lieu of medical or mental health treatment, in accordance with the
- 1724 tenets and practices of an established church or religious denomination of which the parent or
- 1725 legal guardian is a member or adherent [~~shall~~] may not, for that reason alone, be [~~deemed~~]
- 1726 considered to have committed an offense under this section.
- 1727 (5) A parent or guardian is not guilty of an offense under this section for refusing
- 1728 traditional medical or mental health treatment on behalf of the parent's or guardian's child in
- 1729 order to seek reasonable nontraditional treatment.
- 1730 (6) A person is not guilty of an offense under this section for conduct that constitutes:

- 1731 (a) discipline or management of a child, including:
- 1732 (i) withholding privileges from a child; or
- 1733 (ii) other discipline that does not result in:
- 1734 (A) physical injury; or
- 1735 (B) serious physical injury;
- 1736 (b) accidental conduct;
- 1737 (c) conduct described in Subsection 53A-11-802(2);
- 1738 (d) conduct described in Section 76-2-401; or
- 1739 (e) the use of reasonable and necessary physical restraint or force on a child:
- 1740 (i) in self-defense;
- 1741 (ii) in defense of others;
- 1742 (iii) to protect the child; or
- 1743 (iv) to remove a weapon in the possession of a child for any of the reasons described in
- 1744 Subsections (6)(e)(i) through (iii).
- 1745 Section 28. Section **76-5-110** is amended to read:
- 1746 **76-5-110. Abuse or neglect of disabled child.**
- 1747 (1) As used in this section:
- 1748 (a) "Abuse" means:
- 1749 (i) inflicting physical injury, as that term is defined in Section 76-5-109;
- 1750 (ii) having the care or custody of a disabled child, causing or permitting another to
- 1751 inflict physical injury, as that term is defined in Section 76-5-109; or
- 1752 (iii) unreasonable confinement.
- 1753 (b) "Caretaker" means:
- 1754 (i) [~~any~~] a parent, legal guardian, or other person having under his care and custody a
- 1755 disabled child; or
- 1756 (ii) [~~any~~] a person, corporation, or public institution that has assumed by contract or
- 1757 court order the responsibility to provide food, shelter, clothing, medical or mental health, and
- 1758 other necessities to a disabled child.
- 1759 (c) "Disabled child" means any person under 18 years of age who is impaired because
- 1760 of mental illness, mental deficiency, physical illness or disability, or other cause, to the extent
- 1761 that [~~he~~] the person is unable to;

1762 (i) care for ~~[his]~~ the person's own personal safety; or ~~[to]~~
 1763 (ii) provide necessities such as food, shelter, clothing, and medical care.
 1764 (d) "Neglect" means failure by a caretaker to provide care, nutrition, clothing, shelter,
 1765 supervision, or medical care.

1766 (2) Any caretaker who abuses or neglects a disabled child is guilty of a third degree
 1767 felony.

1768 (3) (a) A parent or legal guardian who provides a child with treatment by spiritual
 1769 means alone through prayer, in lieu of medical or mental health treatment, in accordance with
 1770 the tenets and practices of an established church or religious denomination of which the parent
 1771 or legal guardian is a member or adherent ~~[shall]~~ may not, for that reason alone, be considered
 1772 to be in violation under this section.

1773 (b) ~~[The]~~ Subject to Subsection 78-3a-118(2)(n), the exception under Subsection (3)(a)
 1774 ~~[shall]~~ does not preclude a court from ordering medical services from a ~~[physician]~~ licensed ~~[to~~
 1775 engage in the practice of medicine] practitioner, as defined in Section 78-3a-103, to be
 1776 provided to the child where there is an actual and substantial risk of harm to the child's health
 1777 or ~~[welfare]~~ safety if the treatment is not provided.

1778 Section 29. Section **78-3a-103** is amended to read:

1779 **78-3a-103. Definitions.**

1780 (1) As used in this chapter:

1781 ~~[(a) "Abused child" includes a minor less than 18 years of age who:]~~

1782 ~~[(i) has suffered or been threatened with nonaccidental physical or mental harm;~~
 1783 ~~negligent treatment, or sexual exploitation; or]~~

1784 ~~[(ii) has been the victim of any sexual abuse:]~~

1785 (a) "Abuse" is as defined in Section 62A-4a-101.

1786 (b) "Abused child" means a person under the age of 18 who has suffered abuse as
 1787 defined in Section 62A-4a-101.

1788 ~~[(b)]~~ (c) "Adjudication" means a finding by the court, incorporated in a decree, that the
 1789 facts alleged in the petition have been proved.

1790 ~~[(c)]~~ (d) "Adult" means a person 18 years of age or over, except that persons 18 years
 1791 or over under the continuing jurisdiction of the juvenile court pursuant to Section 78-3a-121
 1792 shall be referred to as minors.

- 1793 ~~[(d)]~~ (e) "Board" means the Board of Juvenile Court Judges.
- 1794 ~~[(e)]~~ (f) "Child placement agency" means:
- 1795 (i) a private agency licensed to receive minors for placement or adoption under this
- 1796 code; or
- 1797 (ii) a private agency receiving minors for placement or adoption in another state, which
- 1798 agency is licensed or approved where such license or approval is required by law.
- 1799 ~~[(f)]~~ (g) "Commit" means to transfer legal custody.
- 1800 ~~[(g)]~~ (h) "Court" means the juvenile court.
- 1801 ~~[(h)]~~ (i) "Dependent child" includes a minor who is homeless or without proper care
- 1802 through no fault of ~~[his]~~ the minor's parent, guardian, or custodian.
- 1803 ~~[(i)]~~ (j) "Deprivation of custody" means transfer of legal custody by the court from a
- 1804 parent or the parents or a previous legal custodian to another person, agency, or institution.
- 1805 ~~[(j)]~~ (k) "Detention" means home detention and secure detention as defined in Section
- 1806 62A-7-101 for the temporary care of minors who require secure custody in physically
- 1807 restricting facilities:
- 1808 (i) pending court disposition or transfer to another jurisdiction; or
- 1809 (ii) while under the continuing jurisdiction of the court.
- 1810 ~~[(k)]~~ (l) "Division" means the Division of Child and Family Services.
- 1811 ~~[(l)]~~ (m) "Formal referral" means a written report from a peace officer or other person
- 1812 informing the court that a minor is or appears to be within the court's jurisdiction and that a
- 1813 petition may be filed.
- 1814 ~~[(m)]~~ (n) "Group rehabilitation therapy" means psychological and social counseling of
- 1815 one or more persons in the group, depending upon the recommendation of the therapist.
- 1816 ~~[(n)]~~ (o) "Guardianship of the person" includes the authority to consent to:
- 1817 (i) marriage~~[-to]~~;
- 1818 (ii) enlistment in the armed forces~~[-to]~~;
- 1819 (iii) major medical~~[-]~~ treatment;
- 1820 (iv) major surgical ~~H→~~ [f] , or psychiatric [f] ~~←H~~ treatment;
- 1821 (v) mental health treatment~~[-and-to]~~; or
- 1822 (vi) legal custody, if legal custody is not vested in another person, agency, or
- 1823 institution.

- 1824 ~~[(p)]~~ (p) "Habitual truant" [is] means a school-age minor who ~~[has received]~~:
- 1825 (i) receives:
- 1826 (A) more than two truancy citations within one school year from the school in which
- 1827 the minor is or should be enrolled; and
- 1828 (B) eight absences without a legitimate or valid excuse; or ~~[who];~~
- 1829 (ii) in defiance of efforts on the part of school authorities as required under Section
- 1830 53A-11-103, refuses to regularly attend;
- 1831 (A) school; or
- 1832 (B) any scheduled period of the school day.
- 1833 ~~[(p)]~~ (q) "Legal custody" means a relationship embodying the following rights and
- 1834 duties:
- 1835 (i) the right to physical custody of the minor;
- 1836 (ii) the right and duty to protect, train, and discipline the minor;
- 1837 (iii) the duty to provide the minor with:
- 1838 (A) food[;];
- 1839 (B) clothing[;];
- 1840 (C) shelter[;];
- 1841 (D) education[;]; and
- 1842 (E) ordinary medical care;
- 1843 (iv) the right to determine where and with whom the minor shall live; and
- 1844 (v) the right, in an emergency, to authorize surgery or other extraordinary care.
- 1845 (r) "Licensed practitioner" means a person who is:
- 1846 (i) a health care provider, as defined in Section 78-14-3; and
- 1847 (ii) licensed under the law of any state, district, or territory of the United States.
- 1848 (s) "Mental cruelty" is as defined in Section 76-5-109.
- 1849 ~~[(q)]~~ (t) (i) "Minor" means a person under the age of 18 years. ~~[It]~~
- 1850 (ii) "Minor" includes the term "child" as used in other parts of this chapter.
- 1851 ~~[(r)]~~ (u) (i) "Natural parent" means a minor's biological or adoptive parent~~[, and]~~.
- 1852 (ii) "Natural parent" includes the minor's noncustodial parent.
- 1853 (v) "Neglect" is as defined in Section 62A-4a-101.
- 1854 ~~[(s)]~~ (t) (i) (w) "Neglected child" means a minor~~[:]~~ who has suffered neglect as defined in

1855 Section 62A-4a-101.

1856 ~~[(A) whose parent, guardian, or custodian has abandoned the minor, except as provided~~
1857 ~~in Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a Newborn Child;]~~

1858 ~~[(B) whose parent, guardian, or custodian has subjected the minor to mistreatment or~~
1859 ~~abuse;]~~

1860 ~~[(C) who lacks proper parental care by reason of the fault or habits of the parent,~~
1861 ~~guardian, or custodian;]~~

1862 ~~[(D) whose parent, guardian, or custodian fails or refuses to provide proper or~~
1863 ~~necessary subsistence, education, or medical care, including surgery or psychiatric services~~
1864 ~~when required, or any other care necessary for health, safety, morals, or well-being; or]~~

1865 ~~[(E) who is at risk of being a neglected or abused child as defined in this chapter~~
1866 ~~because another minor in the same home is a neglected or abused child as defined in this~~
1867 ~~chapter.]~~

1868 ~~[(ii) The aspect of neglect related to education, described in Subsection (1)(s)(i)(D),~~
1869 ~~means that, after receiving notice that a minor has been frequently absent from school without~~
1870 ~~good cause, or that the minor has failed to cooperate with school authorities in a reasonable~~
1871 ~~manner, a parent or guardian fails to make a good faith effort to ensure that the minor receives~~
1872 ~~an appropriate education.]~~

1873 ~~[(iii) A parent or guardian legitimately practicing religious beliefs and who, for that~~
1874 ~~reason, does not provide specified medical treatment for a minor, is not guilty of neglect.]~~

1875 ~~[(t) (x) "Nonjudicial adjustment" means closure of the case by the assigned probation~~
1876 ~~officer without judicial determination upon the consent in writing of the:~~

1877 ~~(i) minor[; the];~~

1878 ~~(ii) parent, legal guardian or custodian[;]; and [the]~~

1879 ~~(iii) assigned probation officer.~~

1880 ~~(y) "Physical injury" is as defined in Section 76-5-109.~~

1881 ~~[(u) (z) "Probation" means a legal status created by court order following an~~
1882 ~~adjudication on the ground of a violation of law or under Section 78-3a-104, whereby the~~
1883 ~~minor is permitted to remain in [his] the minor's home under prescribed conditions and under~~
1884 ~~supervision by the probation department or other agency designated by the court, subject to~~
1885 ~~return to the court for violation of any of the conditions prescribed.~~

1886 [~~(v)~~] (aa) "Protective supervision" means a legal status created by court order following
 1887 an adjudication on the ground of abuse, neglect, or dependency, whereby the minor is permitted
 1888 to remain in ~~his~~ the minor's home, and supervision and assistance to correct the abuse,
 1889 neglect, or dependency is provided by the probation department or other agency designated by
 1890 the court.

1891 [~~(w)~~] (bb) (i) "Residual parental rights and duties" means those rights and duties
 1892 remaining with the parent after legal custody or guardianship, or both, ~~have been~~ are vested in
 1893 another person or agency, including:

1894 (A) the responsibility for support~~;~~; and

1895 (B) the right to:

1896 (I) consent to adoption~~;~~ ~~the right to~~;

1897 (II) determine the child's religious affiliation~~;~~ ~~and the right to~~; and

1898 (III) reasonable parent-time unless restricted by the court.

1899 (ii) If no guardian has been appointed, "residual parental rights and duties" also include
 1900 the right to consent to:

1901 (A) marriage~~;~~ ~~to~~;

1902 (B) enlistment~~;~~ ~~and to~~;

1903 (C) major medical~~;~~ treatment;

1904 (D) major surgical~~;~~ treatment; or ~~psychiatric~~

1905 (E) mental health treatment.

1906 [~~(x)~~] (cc) "Secure facility" means any facility operated by or under contract with the
 1907 Division of Juvenile Justice Services, that provides 24-hour supervision and confinement for
 1908 youth offenders committed to the division for custody and rehabilitation.

1909 (dd) "Serious neglect" is as defined in Section 62A-4a-101.

1910 (ee) "Serious physical injury" is as defined in Section 76-5-109.

1911 (ff) "Severe child abuse or neglect" is as defined in Section 62A-4a-101.

1912 (gg) "Sexual abuse" is as defined in Section 62A-4a-402.

1913 (hh) "Sexual exploitation of a child" is as defined in Section 62A-4a-402.

1914 [~~(y)~~] (ii) "Shelter" means the temporary care of minors in physically unrestricted
 1915 facilities pending court disposition or transfer to another jurisdiction.

1916 [~~(z)~~] (jj) "State supervision" means a disposition ~~which~~ that provides a more intensive

1917 level of intervention than standard probation but is less intensive or restrictive than a
1918 community placement with the Division of Juvenile Justice Services.
1919 [(aa)] (kk) "Substantiated" [~~has the same meaning~~] is as defined in Section
1920 62A-4a-101.
1921 [(bb)] (ll) "Supported" [~~has the same meaning~~] is as defined in Section 62A-4a-101.
1922 [(cc)] (mm) "Termination of parental rights" means the permanent elimination of all
1923 parental rights and duties, including residual parental rights and duties, by court order.
1924 [(dd)] (nn) "Therapist" means:
1925 (i) a person employed by a [state] division or agency of any state, district, or territory of
1926 the United States for the purpose of conducting psychological treatment and counseling of a
1927 minor in its custody[;]; or
1928 (ii) any other person licensed or approved by [~~the~~] any state, district, or territory of the
1929 United States for the purpose of conducting psychological treatment and counseling.
1930 [(ee)] (oo) "Unsubstantiated" [~~has the same meaning~~] is as defined in Section
1931 62A-4a-101.
1932 [(ff)] (pp) "Without merit" [~~has the same meaning~~] is as defined in Section
1933 62A-4a-101.
1934 (2) As used in Part 3, Abuse, Neglect, and Dependency Proceedings, with regard to the
1935 [~~Division of Child and Family Services~~] division:
1936 (a) "Custody" means the custody of a minor in the [~~Division of Child and Family~~
1937 ~~Services~~] division as of the date of disposition.
1938 (b) "Protective custody" means the shelter of a minor by the [~~Division of Child and~~
1939 ~~Family Services~~] division from the time the minor is removed from home until the shelter
1940 hearing, or the minor's return home, whichever occurs earlier.
1941 (c) "Temporary custody" means the custody of a minor in the [~~Division of Child and~~
1942 ~~Family Services~~] division from the date of the shelter hearing until disposition.
1943 Section 30. Section **78-3a-106** is amended to read:
1944 **78-3a-106. Search warrants and subpoenas -- Authority to issue.**
1945 (1) For purposes of this section:
1946 (a) "Child" means a person under the age of 18.
1947 (b) "Custody" means:

1948 (i) custody;
 1949 (ii) care; and
 1950 (iii) control.
 1951 (c) "Officer" means a:
 1952 (i) child welfare worker;
 1953 (ii) peace officer; or
 1954 (iii) state officer.
 1955 ~~[(1)]~~ (2) The court has authority to issue search warrants, subpoenas, or investigative
 1956 subpoenas:
 1957 (a) in;
 1958 (i) criminal cases[;];
 1959 (ii) delinquency[~~, and~~] proceedings; and
 1960 (iii) abuse, neglect, and dependency proceedings; and
 1961 (b) for the same purposes, in the same manner and pursuant to the same procedures set
 1962 forth in the code of criminal procedure for the issuance of search warrants[~~, subpoenas,~~] or
 1963 [~~investigative~~] subpoenas in other trial courts in the state.
 1964 ~~[(2)(a) The]~~ (3) (a) Subject to Subsection (4), a court may issue a warrant authorizing
 1965 [~~a child protective services worker or peace~~] an officer to search for a child and take the child
 1966 into protective custody if it appears to the court [~~upon a verified petition, recorded sworn~~
 1967 testimony or an affidavit sworn to by a peace officer or any other person, and upon the
 1968 examination of other witnesses, if required by the judge,] that there is probable cause to believe
 1969 that:
 1970 (i) there is an immediate threat to the safety of a child; [~~and~~]
 1971 (ii) there is a substantial risk that the child will suffer abuse or neglect if the child is not
 1972 taken into protective custody; and
 1973 ~~[(ii)]~~ (iii) the applicant certifies to the court in writing or by recorded sworn testimony
 1974 [~~as to~~];
 1975 (A) the efforts, if any, [~~that have been~~] made to give notice to the minor's parent or
 1976 guardian; and
 1977 (B) the reasons supporting the claim that notice and an opportunity to be heard should
 1978 not be required.

1979 (b) The court's decision on whether to issue a warrant under Subsection (3)(a), shall be
1980 based on:

1981 (i) (A) a verified petition;

1982 (B) recorded sworn testimony; or

1983 (C) a sworn affidavit; and

1984 (ii) if required by the judge, the examination of other witnesses.

1985 ~~[(b)]~~ (c) A warrant removing a child from [his] the child's home or school, or having
1986 the effect of depriving a parent or guardian of the [care,] custody[, and control of their minor]
1987 of the parent's or guardian's child, may not be issued without notice to the [minor's] child's
1988 parents and an opportunity to be heard unless the requirements of [Subsections (2)] Subsection
1989 (3)(a)[(i) and (ii) have been] are satisfied.

1990 ~~[(c)]~~ (d) Pursuant to Section 77-23-210, a peace officer making the search described in
1991 Subsection (3)(a) may enter a house or premises by force, if necessary, in order to remove the
1992 child.

1993 ~~[(d)]~~ (e) The person executing the warrant described in Subsection (3)(a) shall [then]
1994 take the child to the place of shelter designated by the court.

1995 (4) A warrant based solely on grounds of medical neglect may not be issued under
1996 Subsection (2):

1997 (a) if the sole basis for the warrant is that a parent or guardian of a child:

1998 (i) declines medical counsel or treatment on behalf of the child to seek the medical
1999 counsel or treatment of other licensed practitioners;

2000 (ii) obtains medical counsel or treatment from a licensed practitioner other than the
2001 child's primary licensed practitioner;

2002 (iii) declines treatment on behalf of the child when the treatment poses a substantial
2003 risk of serious harm to the child's immediate or future physical or mental health;

2004 (iv) obtains reasonable nontraditional treatment; or

2005 (v) acts in a manner consistent with what a reasonable parent or guardian would do
2006 under the circumstances; and

2007 (b) unless not practicable, until the court examines the parent's or guardian's response,
2008 whether oral or written, to the allegation of medical neglect.

2009 ~~[(3)]~~ (5) The parent or guardian to be notified must be the minor's primary caregiver, or

2010 the person who has custody of the minor, when the order is sought.

2011 Section 31. Section **78-3a-109** is amended to read:

2012 **78-3a-109. Title of petition and other court documents -- Form and contents of**
2013 **petition -- Order for temporary custody -- Physical or psychological examination of**
2014 **minor, parent, or guardian -- Dismissal of petition.**

2015 (1) The petition and all subsequent court documents in the proceeding shall be entitled:
2016 "State of Utah, in the interest of....., a person under 18 years of age (or a
2017 person under 21 years of age)."

2018 (2) The petition shall be verified and statements in the petition may be made upon
2019 information and belief.

2020 (3) The petition shall be written in simple and brief language and include the facts
2021 which bring the minor within the jurisdiction of the court, as provided in Section 78-3a-104.

2022 (4) The petition shall further state:

2023 (a) the name, age, and residence of the minor;

2024 (b) the names and residences of the minor's parents;

2025 (c) the name and residence of the guardian, if there is one;

2026 (d) the name and address of the nearest known relative, if no parent or guardian is
2027 known; and

2028 (e) the name and residence of the person having physical custody of the minor. If any
2029 of the facts required are not known by the petitioner, the petition shall so state.

2030 (5) At any time after a petition is filed, the court may make an order:

2031 (a) providing for temporary custody of the minor[-]; or

2032 (b) that the Division of Child and Family Services provide protective services to the
2033 child, if the court determines that:

2034 (i) the child is at risk of being removed from the child's home due to abuse or neglect;
2035 and

2036 (ii) the provision of protective services will make the removal described in Subsection
2037 (5)(b)(i) unnecessary.

2038 (6) The court may order that a minor concerning whom a petition has been filed shall
2039 be examined by a physician, surgeon, psychiatrist, or psychologist and may place the minor in a
2040 hospital or other facility for examination. After notice and a hearing set for the specific

2041 purpose, the court may order a similar examination of a parent or guardian whose ability to care
 2042 for a minor is at issue, if the court finds from the evidence presented at the hearing that the
 2043 parent's or guardian's physical, mental, or emotional condition may be a factor in causing the
 2044 neglect, dependency, or delinquency of the minor.

2045 (7) Pursuant to Rule 506(d)(3), Utah Rules of Evidence, examinations conducted
 2046 pursuant to Subsection (6) are not privileged communications, but are exempt from the general
 2047 rule of privilege.

2048 (8) The court may dismiss a petition at any stage of the proceedings.

2049 (9) If the petition is filed under Section 78-3a-305 or 78-3a-405 or if the matter is
 2050 referred to the court under Subsection 78-3a-105[(3)] ~~H~~→ [(4)(b)] (5) ←~~H~~ :

2051 (a) the court may require the parties to participate in mediation in accordance with Title
 2052 78, Chapter 31b, Alternative Dispute Resolution Act; and

2053 (b) the Division of Child and Family Services or a party to the petition may request and
 2054 the court may order the parties to participate in a family unity conference under the authority of
 2055 the Division of Child and Family Services in accordance with Subsection (10).

2056 (10) (a) A family unity conference may be ordered by the court for any of the following
 2057 purposes:

2058 (i) discussing and reviewing the case history;

2059 (ii) designing a service plan for the child and family, including concurrent planning;

2060 (iii) discussing a visitation schedule and rules for visitation;

2061 (iv) identifying possible kinship placements under the requirements of Subsection
 2062 78-3a-307(5), and designing services to support the kinship placement;

2063 (v) conflict resolution between the family and Division of Child and Family Services
 2064 staff;

2065 (vi) discussing child custody issues; or

2066 (vii) crisis clinical intervention to reduce trauma to the child and family.

2067 (b) ~~The~~ Unless otherwise ordered by the court, the family unity conference may:

2068 (i) only be attended by individuals [~~chosen~~] agreed upon by the family and the Division
 2069 of Child and Family Services[;]; and [~~may~~]

2070 (ii) subject to Subsection (10)(b)(i), include extended family members, friends, clergy,
 2071 service providers, and others who may support the family in keeping the child safe.

2072 (c) A family unity conference may not be held in the following circumstances:
 2073 (i) when there is a criminal charge pending in the case;
 2074 (ii) to resolve petition disputes; and
 2075 (iii) when a family unity conference may pose a threat to the safety of a child or other
 2076 family member.

2077 (d) With regard to a family unity conference ordered by a court under Subsection
 2078 (9)(b):

2079 (i) the requirements of Subsection 78-31b-7(3)(b) apply except all parties to the
 2080 proceeding:

2081 (A) shall be given no less than five days notice of any recommendation made to the
 2082 court from the family unity conference; and

2083 (B) shall be given an opportunity to be heard by the court; and

2084 (ii) the confidentiality requirements of Section 78-31b-8 apply, except that admissions
 2085 by a party to the allegations on the petition are admissible at any proceeding.

2086 (e) A family unity conference may only be held if:

2087 (i) ordered by the court; or

2088 (ii) agreed upon by a parent or guardian of the minor concerning whom a petition
 2089 described in this section has been filed.

2090 Section 32. Section **78-3a-110** is amended to read:

2091 **78-3a-110. Summons -- Service and process -- Issuance and contents -- Notice to**
 2092 **absent parent or guardian -- Emergency medical or surgical treatment -- Compulsory**
 2093 **process for attendance of witnesses when authorized.**

2094 (1) (a) After a petition is filed, the court shall promptly issue a summons, unless the
 2095 judge directs that a further investigation is needed. [~~No~~]

2096 (b) A summons is not required as to any person who appears voluntarily or who files a
 2097 written waiver of service with the clerk of the court at or prior to the hearing.

2098 (2) The summons shall contain:

2099 (a) the name of the court;

2100 (b) the title of the proceedings; and

2101 (c) except for a published summons, a brief statement of the substance of the
 2102 allegations in the petition.

- 2103 (3) A published summons shall state:
- 2104 (a) that a proceeding concerning the minor is pending in the court; and
- 2105 (b) an adjudication will be made.
- 2106 (4) ~~(a)~~ The summons shall require the person or persons who have physical custody of
- 2107 the minor to appear personally and bring the minor before the court at a time and place stated.
- 2108 ~~(b)~~ If the person or persons summoned under Subsection (4)(a) are not the parent,
- 2109 parents, or guardian of the minor, the summons shall also be issued to the parent, parents, or
- 2110 guardian, as the case may be, notifying them of the pendency of the case and of the time and
- 2111 place set for the hearing.
- 2112 (5) Summons may be issued requiring the appearance of any other person whose
- 2113 presence the court finds necessary.
- 2114 (6) If it appears to the court that the welfare of the minor or of the public requires that
- 2115 the minor be taken into custody, the court may by endorsement upon the summons direct that
- 2116 the person serving the summons take the minor into custody at once.
- 2117 (7) ~~Upon~~ Subject to Subsection 78-3a-118(2)(n), upon the sworn testimony of one or
- 2118 more reputable physicians, the court may order emergency medical or surgical treatment that is
- 2119 immediately necessary for a minor concerning whom a petition has been filed pending the
- 2120 service of summons upon ~~his~~ the minor's parents, guardian, or custodian.
- 2121 (8) ~~(a)~~ A parent or guardian is entitled to the issuance of compulsory process for the
- 2122 attendance of witnesses on ~~his~~:
- 2123 ~~(i) the parent's or guardian's own behalf; or [on]~~
- 2124 ~~(ii) behalf of the minor.~~
- 2125 ~~(b)~~ A guardian ad litem or a probation officer is entitled to compulsory process for the
- 2126 attendance of witnesses on behalf of the minor.
- 2127 (9) Service of summons and process and proof of service shall be made in the manner
- 2128 provided in the Utah Rules of Civil Procedure.
- 2129 (10) Service of summons or process shall be made:
- 2130 ~~(a) by the sheriff, or a deputy sheriff, of the county where the service is to be made[~~or~~~~
- 2131 ~~by his deputy, but]; or~~
- 2132 ~~(b) upon request of the court [service shall be made] by;~~
- 2133 ~~(i) any other peace officer[~~or by~~]; or~~

2134 (ii) another suitable person selected by the court.

2135 (11) (a) Service of summons in the state shall be made personally, by delivering a copy
2136 to the person summoned~~[- provided, however, that].~~

2137 (b) If the parents of a minor ~~[living]~~ live together at ~~[their]~~ the parent's usual place of
2138 abode ~~[may]~~, both parents may be served by personal delivery to either parent of ~~[copies of the~~
2139 ~~summons;]~~ one copy of the summons for each parent.

2140 (12) If ~~[the]~~ a judge makes a written finding that ~~[he]~~ the judge has reason to believe
2141 that personal service of the summons will be unsuccessful, or will not accomplish notification
2142 within a reasonable time after issuance of the summons, ~~[he]~~ the judge may order service by
2143 registered mail, with a return receipt to be signed by the addressee only, to be addressed to the
2144 last-known address of the person to be served in the state. Service shall be complete upon
2145 return to the court of the signed receipt.

2146 (13) (a) If the parents, parent, or guardian required to be summoned under Subsection
2147 (4) cannot be found within the state, the fact of their minor's presence within the state shall
2148 confer jurisdiction on the court in proceedings in minor's cases under this chapter as to any
2149 absent parent or guardian, provided that due notice has been given ~~[in the following manner:]~~
2150 as provided in Subsection (13)(b).

2151 ~~[(a)]~~ (b) (i) If the address of the parent or guardian is known, due notice is given by
2152 sending ~~[him]~~ the parent or guardian a copy of the summons by registered mail with a return
2153 receipt to be signed by the addressee only, or by personal service outside the state, as provided
2154 in the Utah Rules of Civil Procedure. Service by registered mail shall be complete upon return
2155 to the court of the signed receipt.

2156 ~~[(b)]~~ (ii) If the address or whereabouts of the parent or guardian outside the state
2157 cannot after diligent inquiry be ascertained, due notice is given by publishing a summons in a
2158 newspaper having general circulation in the county in which the proceeding is pending. The
2159 summons shall be published once a week for four successive weeks. Service shall be complete
2160 on the day of the last publication.

2161 (c) Service of summons as provided in this Subsection (13) shall vest the court with
2162 jurisdiction over the parent or guardian served in the same manner and to the same extent as if
2163 the person served was served personally within the state.

2164 (14) (a) In the case of service in the state, service completed not less than 48 hours

2165 before the time set in the summons for the appearance of the person served, shall be sufficient
2166 to confer jurisdiction.

2167 (b) In the case of service outside the state, service completed not less than five days
2168 before the time set in the summons for appearance of the person served, shall be sufficient to
2169 confer jurisdiction.

2170 (15) Computation of periods of time under this chapter shall be made in accordance
2171 with the Utah Rules of Civil Procedure.

2172 Section 33. Section **78-3a-118** is amended to read:

2173 **78-3a-118. Adjudication of jurisdiction of juvenile court -- Disposition of cases --**
2174 **Enumeration of possible court orders -- Considerations of court -- Obtaining DNA**
2175 **sample.**

2176 (1) (a) When a minor is found to come within the provisions of Section 78-3a-104, the
2177 court shall so adjudicate. The court shall make a finding of the facts upon which it bases its
2178 jurisdiction over the minor. However, in cases within the provisions of Subsection
2179 78-3a-104(1), findings of fact are not necessary.

2180 (b) If the court adjudicates a minor for a crime of violence or an offense in violation of
2181 Title 76, Chapter 10, Part 5, Weapons, it shall order that notice of the adjudication be provided
2182 to the school superintendent of the district in which the minor resides or attends school. Notice
2183 shall be made to the district superintendent within three days of the adjudication and shall
2184 include:

2185 (i) the specific offenses for which the minor was adjudicated; and

2186 (ii) if available, [if] whether the victim:

2187 (A) resides in the same school district as the minor; or

2188 (B) attends the same school as the minor.

2189 (2) Upon adjudication the court may make the following dispositions by court order:

2190 (a) (i) The court may place the minor on probation or under protective supervision in
2191 the minor's own home and upon conditions determined by the court, including compensatory
2192 service as provided in Section 78-11-20.7.

2193 (ii) The court may place the minor in state supervision with the probation department
2194 of the court, under the legal custody of:

2195 (A) [~~his~~] the minor's parent or guardian;

2196 (B) the Division of Juvenile Justice Services; or
2197 (C) the Division of Child and Family Services.

2198 (iii) If the court orders probation or state supervision, the court shall direct that notice
2199 of its order be provided to designated persons in the local law enforcement agency and the
2200 school or transferee school, if applicable, which the minor attends. The designated persons
2201 may receive the information for purposes of the minor's supervision and student safety.

2202 (iv) Any employee of the local law enforcement agency and the school which the
2203 minor attends who discloses the court's order of probation is not:

2204 (A) civilly liable except when the disclosure constitutes fraud or willful misconduct as
2205 provided in Section 63-30d-202; and

2206 (B) civilly or criminally liable except when the disclosure constitutes a knowing
2207 violation of Section 63-2-801.

2208 (b) The court may place the minor in the legal custody of a relative or other suitable
2209 person, with or without probation or protective supervision, but the juvenile court may not
2210 assume the function of developing foster home services.

2211 (c) (i) The court may:

2212 (A) vest legal custody of the minor in the Division of Child and Family Services,
2213 Division of Juvenile Justice Services, or the Division of Substance Abuse and Mental Health;
2214 and

2215 (B) order the Department of Human Services to provide dispositional
2216 recommendations and services.

2217 (ii) For minors who may qualify for services from two or more divisions within the
2218 Department of Human Services, the court may vest legal custody with the department.

2219 (iii) (A) Minors who are committed to the custody of the Division of Child and Family
2220 Services on grounds other than abuse or neglect are subject to the provisions of Title 78,
2221 Chapter 3a, Part 3A, Minors in Custody on Grounds Other Than Abuse or Neglect, and Title
2222 62A, Chapter 4a, Part 2A, Minors in Custody on Grounds Other Than Abuse or Neglect.

2223 (B) Prior to the court entering an order to place a minor in the custody of the Division
2224 of Child and Family Services on grounds other than abuse or neglect, the court shall provide
2225 the division with notice of the hearing no later than five days before the time specified for the
2226 hearing so the division may attend the hearing.

2227 (C) Prior to committing a minor to the custody of the Division of Child and Family
2228 Services, the court shall make a finding as to what reasonable efforts have been attempted to
2229 prevent the minor's removal from [~~his~~] the minor's home.

2230 (d) (i) The court may commit the minor to the Division of Juvenile Justice Services for
2231 secure confinement.

2232 (ii) A minor under the jurisdiction of the court solely on the ground of abuse, neglect,
2233 or dependency under Subsection 78-3a-104(1)(c) may not be committed to the Division of
2234 Juvenile Justice Services.

2235 (e) The court may commit the minor, subject to the court retaining continuing
2236 jurisdiction over [~~him~~] the minor, to the temporary custody of the Division of Juvenile Justice
2237 Services for observation and evaluation for a period not to exceed 45 days, which period may
2238 be extended up to 15 days at the request of the director of the Division of Juvenile Justice
2239 Services.

2240 (f) (i) The court may commit the minor to a place of detention or an alternative to
2241 detention for a period not to exceed 30 days subject to the court retaining continuing
2242 jurisdiction over the minor. This commitment may be stayed or suspended upon conditions
2243 ordered by the court.

2244 (ii) This Subsection (2)(f) applies only to those minors adjudicated for:

2245 (A) an act which if committed by an adult would be a criminal offense; or

2246 (B) contempt of court under Section 78-3a-901.

2247 (g) The court may vest legal custody of an abused, neglected, or dependent minor in
2248 the Division of Child and Family Services or any other appropriate person in accordance with
2249 the requirements and procedures of Title 78, Chapter 3a, Part 3, Abuse, Neglect, and
2250 Dependency Proceedings.

2251 (h) (i) The court may place the minor on a ranch or forestry camp, or similar facility for
2252 care and also for work, if possible, if the person, agency, or association operating the facility
2253 has been approved or has otherwise complied with all applicable state and local laws.

2254 (ii) A minor placed in a forestry camp or similar facility may be required to work on
2255 fire prevention, forestation and reforestation, recreational works, forest roads, and on other
2256 works on or off the grounds of the facility and may be paid wages, subject to the approval of
2257 and under conditions set by the court.

2258 (i) (i) The court may order the minor to repair, replace, or otherwise make restitution
2259 for damage or loss caused by the minor's wrongful act, including costs of treatment as stated in
2260 Section 78-3a-318 and impose fines in limited amounts.

2261 (ii) The court may also require the minor to reimburse an individual, entity, or
2262 governmental agency who offered and paid a reward to a person or persons for providing
2263 information resulting in a court adjudication that the minor is within the jurisdiction of the
2264 juvenile court due to the commission of a criminal offense.

2265 (iii) If a minor has been returned to this state under the Interstate Compact on
2266 Juveniles, the court may order the minor to make restitution for costs expended by any
2267 governmental entity for the return.

2268 (j) The court may issue orders necessary for the collection of restitution and fines
2269 ordered by the court, including garnishments, wage withholdings, and executions.

2270 (k) (i) The court may through its probation department encourage the development of
2271 employment or work programs;

2272 (A) to enable [~~minors~~] a minor to fulfill [~~their~~] the minor's obligations under
2273 Subsection (2)(i); and

2274 (B) for other purposes considered desirable by the court.

2275 (ii) Consistent with the order of the court, the probation officer may permit the minor
2276 found to be within the jurisdiction of the court to participate in a program of work restitution or
2277 compensatory service in lieu of paying part or all of the fine imposed by the court.

2278 (l) (i) [~~In violations of traffic laws~~] For a violation of a traffic law within the court's
2279 jurisdiction, the court may, in addition to any other disposition authorized by this section:

2280 (A) restrain the minor from driving for periods of time the court considers necessary;
2281 and

2282 (B) take possession of the minor's driver license.

2283 (ii) The court may enter any other disposition under Subsection (2)(l)(i); however, the
2284 suspension of driving privileges for an offense under Section 78-3a-506 are governed only by
2285 Section 78-3a-506.

2286 (m) (i) When a minor is found within the jurisdiction of the juvenile court under
2287 Section 78-3a-104 because of violating Section 58-37-8, Title 58, Chapter 37a, Utah Drug
2288 Paraphernalia Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, the court

2289 shall, in addition to any fines or fees otherwise imposed, order that the minor perform a
2290 minimum of 20 hours, but no more than 100 hours, of compensatory service. Satisfactory
2291 completion of an approved substance abuse prevention or treatment program may be credited
2292 by the court as compensatory service hours.

2293 (ii) When a minor is found within the jurisdiction of the juvenile court under Section
2294 78-3a-104 because of a violation of Section 32A-12-209 or Subsection 76-9-701(1), the court
2295 may, upon the first adjudication, and shall, upon a second or subsequent adjudication, order
2296 that the minor perform a minimum of 20 hours, but no more than 100 hours of compensatory
2297 service, in addition to any fines or fees otherwise imposed. Satisfactory completion of an
2298 approved substance abuse prevention or treatment program may be credited by the court as
2299 compensatory service hours.

2300 (n) (i) [The] Subject to Subsection (2)(n)(iii), the court may order that the minor:

2301 (A) be examined or treated by a physician, surgeon, psychiatrist, or psychologist; or
2302 [that he]

2303 (B) receive other special care.

2304 (ii) For [these] purposes of receiving the examination, treatment, or care described in
2305 Subsection (2)(n)(i), the court may place the minor in a hospital or other suitable facility.

2306 (iii) A court may not enter an order under this Subsection (2)(n) or any other provision
2307 of law unless the examination, treatment, or care described in Subsection (2)(n)(i):

2308 (A) is ordered with the consent of a parent or guardian of the minor;

2309 (B) does not pose a significant risk of producing serious side effects including:

2310 (I) death;

2311 (II) blindness;

2312 (III) suppression of growth;

2313 (IV) behavioral disturbances, including:

2314 (Aa) suicidal ideation; or

2315 (Bb) homicidal ideation;

2316 (V) thought disorders;

2317 (VI) tardive dyskinesia;

2318 (VII) brain function impairment; or

2319 (VIII) emotional or physical harm resulting from the compulsory nature of the

2320 examination, treatment, or care; or
2321 (C) is shown, by clear and convincing evidence, to be necessary to avoid an immediate
2322 serious threat to the minor's:
2323 (I) life; or
2324 (II) essential physiological functions.
2325 (o) (i) The court may appoint:
2326 (A) a guardian for the minor if [it] an appointment appears necessary in the interest of
2327 the minor[;]; and [~~may appoint~~]
2328 (B) as guardian a public or private institution or agency in which legal custody of the
2329 minor is vested.
2330 (ii) In placing a minor under the guardianship or legal custody of an individual or of a
2331 private agency or institution, the court shall:
2332 (A) give primary consideration to the welfare of the minor[. ~~When practicable, the~~
2333 court may]; and
2334 (B) take into consideration the religious preferences of the minor and [of] the minor's
2335 parents.
2336 (p) (i) In support of a decree under Section 78-3a-104, the court may order reasonable
2337 conditions to be complied with by [~~the parents or guardian;];~~
2338 (A) a parent or guardian of the minor;
2339 (B) the minor[;];
2340 (C) the minor's custodian[;]; or
2341 (D) any other person who has been made a party to the proceedings. [~~Conditions~~]
2342 (ii) The conditions described in Subsection (2)(p)(i) may include:
2343 (A) parent-time [~~by the parents or one parent~~];
2344 (B) restrictions on the minor's associates;
2345 (C) restrictions on the minor's occupation and other activities; and
2346 (D) requirements to be observed by [~~the parents~~] a parent or custodian.
2347 [~~(ii)~~] (iii) A minor whose parents or guardians successfully complete a family or other
2348 counseling program may be credited by the court for detention, confinement, or probation time.
2349 (q) The court may order the minor to be committed to the physical custody of a local
2350 mental health authority, in accordance with the procedures and requirements of Title 62A,

2351 Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and
2352 Mental Health.

2353 (r) (i) The court may make an order committing a minor within [~~its~~] the court's
2354 jurisdiction to the Utah State Developmental Center if the minor has mental retardation in
2355 accordance with the provisions of Title 62A, Chapter 5, Part 3, Admission to Mental
2356 Retardation Facility.

2357 (ii) The court shall follow the procedure applicable in the district courts with respect to
2358 judicial commitments to the Utah State Developmental Center when ordering a commitment
2359 under Subsection (2)(r)(i).

2360 (s) The court may terminate all parental rights upon a finding of compliance with the
2361 provisions of Title 78, Chapter 3a, Part 4, Termination of Parental Rights Act.

2362 (t) The court may make any other reasonable orders for the best interest of the minor or
2363 as required for the protection of the public, except that a person younger than 18 years of age
2364 may not be committed to jail or prison.

2365 (u) The court may combine the dispositions listed in this section if they are compatible.

2366 (v) (i) Before depriving any parent of custody, the court shall give due consideration to
2367 the rights of [~~parents~~] the parent concerning [~~their~~] the parent's minor.

2368 (ii) The court may transfer custody of a minor to another person, agency, or institution
2369 in accordance with the requirements and procedures of Title 78, Chapter 3a, Part 3, Abuse,
2370 Neglect, and Dependency Proceedings.

2371 (w) (i) Except as provided in Subsection (2)(y)(i), an order under this section for
2372 probation or placement of a minor with an individual or an agency shall include a date certain
2373 for a review of the case by the court.

2374 (ii) A new case review date shall be set [~~upon~~] at each review described in Subsection
2375 (2)(w)(i).

2376 (x) In reviewing foster home placements, special attention shall be given to making
2377 adoptable minors available for adoption without delay.

2378 (y) (i) The juvenile court may enter an order of permanent custody and guardianship
2379 with a relative or individual of a minor where the court [~~has~~] previously acquired jurisdiction
2380 as a result of an adjudication of abuse, neglect, or dependency. The juvenile court may enter an
2381 order for child support on behalf of the minor child against the natural or adoptive parents of

2382 the child.

2383 (ii) Orders under Subsection (2)(y)(i):

2384 (A) shall remain in effect until the minor reaches majority;

2385 (B) are not subject to review under Section 78-3a-119; and

2386 (C) may be modified by petition or motion as provided in Section 78-3a-903.

2387 (iii) Orders permanently terminating the rights of a parent, guardian, or custodian and
2388 permanent orders of custody and guardianship do not expire with a termination of jurisdiction
2389 of the juvenile court.

2390 (3) In addition to the dispositions described in Subsection (2), when a minor comes
2391 within the court's jurisdiction ~~[he]~~ the minor may be given a choice by the court to serve in the
2392 National Guard in lieu of other sanctions, provided:

2393 (a) the minor meets the current entrance qualifications for service in the National
2394 Guard as determined by a recruiter, whose determination is final;

2395 (b) the minor is not under the jurisdiction of the court for any act that:

2396 (i) would be a felony if committed by an adult;

2397 (ii) is a violation of Title 58, Chapter 37, Utah Controlled Substances Act; or

2398 (iii) was committed with a weapon; and

2399 (c) the court retains jurisdiction over the minor under conditions set by the court and
2400 agreed upon by the recruiter or the unit commander to which the minor is eventually assigned.

2401 (4) (a) A DNA specimen shall be obtained from a minor who is under the jurisdiction
2402 of the court as described in Subsection 53-10-403(3).

2403 (b) The specimen described in Subsection (4)(a) shall be:

2404 (i) obtained by designated employees of the court; or~~;~~

2405 (ii) if the minor is in the legal custody of the Division of Juvenile Justice Services,
2406 ~~[then]~~ by designated employees of the division under Subsection 53-10-404(5)(b).

2407 ~~[(b)]~~ (c) The responsible agency shall ensure that:

2408 (i) employees designated to collect the saliva DNA specimens receive appropriate
2409 training; and ~~[that]~~

2410 (ii) the specimens are obtained in accordance with accepted protocol.

2411 ~~[(c)]~~ (d) Reimbursements paid under Subsection 53-10-404(2)(a) shall be placed in the
2412 DNA Specimen Restricted Account created in Section 53-10-407.

2413 ~~[(d)]~~ (e) Payment of the reimbursement is second in priority to payments the minor is
 2414 ordered to make for restitution under this section and treatment under Section 78-3a-318.

2415 Section 34. Section **78-3a-301** is amended to read:

2416 **78-3a-301. Court-ordered protective custody of a minor following petition filing**
 2417 **-- Grounds.**

2418 (1) After a petition has been filed under Subsection 78-3a-305(1), if the minor who is
 2419 the subject of the petition is not in the protective custody of the division, a court may order that
 2420 the minor be removed from the minor's home or otherwise taken into protective custody if the
 2421 court finds, by a preponderance of the evidence, that any one or more of the following
 2422 circumstances exist:

2423 (a) there is ~~[an]~~ imminent danger to the physical health or safety of the minor and the
 2424 minor's physical health or safety may not be protected without removing the minor from the
 2425 custody of the minor's parent or guardian;

2426 (b) a parent or guardian engages in ~~[or threatens the minor with unreasonable conduct~~
 2427 ~~that causes the minor to suffer emotional damage]~~ mental cruelty of a minor and there are no
 2428 reasonable means available by which the minor's emotional health may be protected without
 2429 removing the minor from the custody of the minor's parent or guardian;

2430 (c) the minor or another minor residing in the same household has been physically or
 2431 sexually abused, or is considered to be at substantial risk of being physically or sexually
 2432 abused, by a:

2433 (i) parent ~~[or]~~;

2434 (ii) guardian~~[-a]~~;

2435 (iii) member of the parent's or guardian's household~~[-]~~; or ~~[other]~~

2436 (iv) person known to the parent or guardian;

2437 (d) the parent or guardian is unwilling to have physical custody of the minor;

2438 (e) the minor has been abandoned or left without any provision for the minor's support;

2439 (f) a parent or guardian who has been incarcerated or institutionalized has not arranged
 2440 or cannot arrange for safe and appropriate care for the minor;

2441 (g) (i) a relative or other adult custodian with whom the minor ~~[has been]~~ is left by the
 2442 parent or guardian is unwilling or unable to provide care or support for the minor~~[-]~~;

2443 (ii) the whereabouts of the parent or guardian are unknown~~[-]~~; and

2444 (iii) reasonable efforts to locate the parent or guardian ~~[have been]~~ are unsuccessful;

2445 (h) the minor is in immediate need of medical care;

2446 (i) (i) a parent's or guardian's actions, omissions, or habitual action create an

2447 environment that poses a substantial threat to the minor's health or safety; or

2448 (ii) a parent's or guardian's action in leaving a minor unattended would reasonably pose

2449 a substantial threat to the minor's health or safety;

2450 (j) subject to Subsection (2)(c), the minor or another minor residing in the same

2451 household ~~[has been]~~ is neglected;

2452 (k) an infant ~~[has been]~~ is abandoned, as defined in Section 78-3a-313.5;

2453 (l) (i) the parent or guardian, or an adult residing in the same household as the parent or

2454 guardian, ~~[has been]~~ is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug

2455 Lab Act~~[-]~~; and

2456 (ii) any clandestine laboratory operation, as defined in Section 58-37d-3, was located in

2457 the residence or on the property where the minor resided; or

2458 (m) the minor's welfare is otherwise endangered.

2459 (2) (a) For purposes of Subsection (1)(a), if a minor has previously been adjudicated as

2460 abused, neglected, or dependent, and a subsequent incident of abuse, neglect, or dependency

2461 has occurred involving the same substantiated abuser or under similar circumstance as the

2462 previous abuse, that fact ~~[constitutes prima facie]~~ is evidence that the minor cannot safely

2463 remain in the custody of the minor's parent.

2464 (b) For purposes of Subsection (1)(c):

2465 (i) another minor residing in the same household may not be removed from the home

2466 unless that minor is considered to be at substantial risk of being physically or sexually abused

2467 as described in Subsection (1)(c) or Subsection (2)(b)(ii); and

2468 (ii) if a parent or guardian has received actual notice that physical or sexual abuse by a

2469 person known to the parent has occurred, and there is evidence that the parent or guardian

2470 failed to protect the minor, after having received the notice, by allowing the minor to be in the

2471 physical presence of the alleged abuser, that fact constitutes prima facie evidence that the

2472 minor is at substantial risk of being physically or sexually abused.

2473 (c) For purposes of Subsection (1)(j), a minor residing in the same household as a

2474 neglected minor may not be removed unless there is a substantial risk that the minor will also

2475 be neglected.

2476 (3) In the absence of one of the factors described in Subsection (1), a court may not
2477 remove a minor from the parent's or guardian's custody on the basis of:

2478 (a) educational neglect;

2479 (b) mental illness or poverty of the parent or guardian; or

2480 (c) disability of the parent or guardian, as defined in Subsection [~~57-21-3~~] 57-21-2(9).

2481 (4) A minor removed from the custody of the minor's parent or guardian under this
2482 section may not be placed or kept in a secure detention facility pending further court
2483 proceedings unless the minor is detainable based on guidelines promulgated by the Division of
2484 Juvenile Justice Services.

2485 (5) This section does not preclude removal of a minor from the minor's home without a
2486 warrant or court order under Section 62A-4a-202.1.

2487 Section 35. Section ~~78-3a-306~~ is amended to read:

2488 **78-3a-306. Shelter hearing.**

2489 (1) A shelter hearing shall be held within 72 hours excluding weekends and holidays
2490 after any one or all of the following occur:

2491 (a) removal of the child from [~~his~~] the child's home by the [~~Division of Child and~~
2492 ~~Family Services~~] division;

2493 (b) placement of the child in the protective custody of the [~~Division of Child and~~
2494 ~~Family Services~~] division;

2495 (c) emergency kinship placement under Subsection 62A-4a-202.1(4); or

2496 (d) as an alternative to removal of the child, a parent [~~has entered~~] enters a domestic
2497 violence shelter at the request of the [~~Division of Child and Family Services~~] division.

2498 (2) Upon the occurrence of any of the circumstances described in Subsections (1)(a)
2499 through (1)(d), the division shall issue a notice that contains all of the following:

2500 (a) the name and address of the person to whom the notice is directed;

2501 (b) the date, time, and place of the shelter hearing;

2502 (c) the name of the [~~minor~~] child on whose behalf a petition is being brought;

2503 (d) a concise statement regarding:

2504 (i) the reasons for removal or other action of the division under Subsection (1); and

2505 (ii) the allegations and code sections under which the proceeding has been instituted;

2506 (e) a statement that the parent or guardian to whom notice is given, and the [minor]
 2507 child, are entitled to have an attorney present at the shelter hearing, and that if the parent or
 2508 guardian is indigent and cannot afford an attorney, and desires to be represented by an attorney,
 2509 one will be provided; and

2510 (f) a statement that the parent or guardian is liable for the cost of support of the [minor]
 2511 child in the protective custody, temporary custody, and custody of the division, and the cost for
 2512 legal counsel appointed for the parent or guardian under Subsection (2)(e), according to [his]
 2513 the financial ability of the parent or guardian.

2514 (3) [~~That notice~~] The notice described in Subsection (2) shall be personally served as
 2515 soon as possible, but no later than one business day after removal of a child from [his] the
 2516 child's home, on:

2517 (a) the appropriate guardian ad litem; and

2518 (b) both parents and any guardian of the [minor] child, unless they cannot be located.

2519 (4) The following persons shall be present at the shelter hearing:

2520 (a) the child, unless it would be detrimental for the child;

2521 (b) the child's parents or guardian, unless they cannot be located, or fail to appear in
 2522 response to the notice;

2523 (c) counsel for the parents, if one [~~has been~~] is requested;

2524 (d) the child's guardian ad litem;

2525 (e) the caseworker from the [~~Division of Child and Family Services~~] division who [~~has~~
 2526 ~~been~~] is assigned to the case; and

2527 (f) the attorney from the attorney general's office who is representing the division.

2528 (5) (a) At the shelter hearing, the court:

2529 (i) shall provide an opportunity [~~for~~] to provide relevant testimony to:

2530 (A) the [minor's] child's parent or guardian, if present[;]; and

2531 (B) any [~~other~~] person having relevant knowledge, [~~to provide relevant testimony~~. ~~The~~
 2532 ~~court~~] including any person requested by the parent or guardian; and

2533 (ii) may also provide an opportunity for the [minor] child to testify.

2534 (b) The court:

2535 (i) may consider all relevant evidence, in accordance with the Utah Rules of Juvenile
 2536 Procedure[; ~~The court~~];

2537 (ii) shall hear relevant evidence presented by the [~~minor, his~~] child, the child's parent or
 2538 guardian, the requesting party, or their counsel[~~, but~~]; and

2539 (iii) may in its discretion limit testimony and evidence to only that which goes to the
 2540 issues of removal and the child's need for continued protection.

2541 (6) If the child is in the protective custody of the division, the division shall report to
 2542 the court:

2543 (a) the [~~reasons~~] reason why the [~~minor~~] child was removed from the parent's or
 2544 guardian's custody;

2545 (b) any services provided to the child and [~~his~~] the child's family in an effort to prevent
 2546 removal;

2547 (c) the need, if any, for continued shelter;

2548 (d) the available services that could facilitate the return of the [~~minor~~] child to the
 2549 custody of [~~his~~] the child's parent or guardian; and

2550 (e) whether the child has any relatives who may be able and willing to take temporary
 2551 custody.

2552 (7) The court shall consider all relevant evidence provided by persons or entities
 2553 authorized to present relevant evidence pursuant to this section.

2554 (8) (a) If necessary to protect the child, preserve the rights of a party, or for other good
 2555 cause shown, the court may grant no more than one [~~time-limited~~] continuance, not to exceed
 2556 five judicial days.

2557 (b) A court shall honor, as nearly as practicable, the request by a parent or guardian for
 2558 a continuance under Subsection (8)(a).

2559 (9) (a) If the child is in the protective custody of the division, the court shall order that
 2560 the minor be released from the protective custody of the division unless it finds, by a
 2561 preponderance of the evidence, that any one of the following exist:

2562 [~~(a)~~] (i) subject to Subsection (9)(b)(i), there is a substantial danger to the physical
 2563 health or safety of the [~~minor~~] child and the [~~minor's~~] child's physical health or safety may not
 2564 be protected without removing [~~him~~] the child from [~~his parent's~~] the custody[~~:-If a minor has~~
 2565 previously been adjudicated as abused, neglected, or dependent and a subsequent incident of
 2566 abuse, neglect, or dependency occurs, that fact constitutes prima facie evidence that the child
 2567 cannot safely remain in the custody of his parent] of the child's parents ~~H~~→ or caretaker ←~~H~~ ;

2568 ~~[(b)]~~ (ii) the ~~[minor]~~ child is suffering emotional damage~~[-as may be indicated by, but~~
 2569 ~~is not limited to, extreme anxiety, depression, withdrawal, or negative aggressive behavior~~
 2570 ~~toward self or others,]~~ and there are no reasonable means available by which the ~~[minor's]~~
 2571 child's emotional health may be protected without removing the ~~[minor]~~ child from the custody
 2572 of ~~[his parent]~~ the child's parents ~~H→ or caretaker ←H~~ ;

2573 (iii) there is a substantial risk that the child will suffer abuse or neglect if the child is
 2574 not removed from the custody of the child's parents ~~H→ or caretaker ←H~~ ;

2575 ~~[(c)]~~ (iv) subject to Subsection (9)(b)(ii), the [minor] child or another [minor] child
 2576 residing in the same household [has been] is physically or sexually abused, or is considered to
 2577 be at substantial risk of being physically or sexually abused, by a:

2578 (A) parent ~~H→ or caretaker ←H~~ [-a];

2579 (B) member of the parent's ~~H→ or caretaker's ←H~~ household[-]; or ~~[other]~~

2580 (C) person known to the parent ~~H→ or caretaker ←H~~ [-~~If a parent has received actual~~
 2580a notice that physical or

2581 sexual abuse by a person known to the parent has occurred, and there is evidence that the
 2582 parent has allowed the child to be in the physical presence of the alleged abuser, that fact
 2583 constitutes prima facie evidence that the child is at substantial risk of being physically or
 2584 sexually abused];

2585 ~~[(d)]~~ (v) the parent is unwilling to have physical custody of the child;

2586 ~~[(e)]~~ (vi) the [minor has been] child is left without any provision for [his] the child's
 2587 support;

2588 ~~[(f)]~~ (vii) a parent who [has been] is incarcerated or institutionalized has not or cannot
 2589 arrange for safe and appropriate care for the [minor] child;

2590 ~~[(g)]~~ (viii) (A) a relative or other adult custodian with whom the [minor has been] child
 2591 is left by the parent is unwilling or unable to provide care or support for the [minor,] child;

2592 (B) the whereabouts of the parent are unknown[-]; and

2593 (C) reasonable efforts to locate [him have been] the parent are unsuccessful;

2594 ~~[(h) the minor is in immediate need of medical care;]~~

2595 ~~[(i)]~~ (ix) the physical environment or the fact that the child is left unattended beyond a
 2596 reasonable period of time poses a threat to the child's health or safety;

2597 ~~[(j) the minor or another minor residing in the same household has been neglected;]~~

2598 ~~[(k)]~~ (x) the parent, or an adult residing in the same household as the parent, [has been]

2599 is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act, and any
 2600 clandestine laboratory operation, as defined in Section 58-37d-3, was located in the residence
 2601 or on the property where the child resided; or

2602 ~~[(+)]~~ (xi) the child's welfare is ~~[otherwise]~~ substantially endangered.

2603 (b) (i) For purposes of Subsection (9)(a)(i), evidence that a child cannot safely remain
 2604 in the custody of a parent ~~H→~~ or caretaker ~~←H~~ of the child is established if:

2605 (A) a court previously adjudicated that the child suffered abuse, neglect, or dependency
 2606 involving the parent ~~H→~~ or caretaker ~~←H~~ ; and

2607 (B) a subsequent incident of abuse, neglect, or dependency involving the parent ~~H→~~ or
 2607a caretaker ~~←H~~ occurs.

2608 (ii) For purposes of Subsection (9)(a)(iv), there is a substantial risk that a child will be
 2609 physically or sexually abused if the court finds, by a preponderance of the evidence, that the
 2610 parent ~~H→~~ or caretaker ~~←H~~ :

2611 (A) received actual notice that abuse by a person known to the parent ~~H→~~ or caretaker ~~←H~~
 2611a occurred; and

2612 (B) after receiving the notice described in Subsection (9)(b)(ii)(A), allowed the child to
 2613 be in the physical presence of the abuser.

2614 (10) (a) The court shall also make a determination on the record as to whether:

2615 (i) reasonable efforts were made to prevent or eliminate the need for removal of the
 2616 [minor] child from [his] the child's home; and [whether]

2617 (ii) there are available services that would prevent the need for continued removal.

2618 (b) If the court finds that the [minor] child can be safely returned to the custody of [his]
 2619 the child's parent or guardian through the provision of [those services, it shall] the services
 2620 described in Subsection (10)(a)(ii), the court shall:

2621 (i) place the [minor] child with [his] the child's parent or guardian; and

2622 (ii) order that those services be provided by the division.

2623 ~~[(b) In making that determination, and in ordering and providing services, the child's]~~

2624 (c) In complying with this Subsection (10), the child's health[-] and safety[-] and
 2625 welfare] shall be the paramount concern, in accordance with federal law.

2626 (11) Where the division's first contact with the family occurred during an emergency
 2627 situation in which the child could not safely remain at home, the court shall make a finding that
 2628 any lack of preplacement preventive efforts was appropriate.

2629 (12) In cases where actual sexual abuse ~~[or]~~, abandonment, ~~[or]~~ serious physical

2630 [~~abuse~~] injury, or serious neglect are involved, neither the division nor the court has any duty to
 2631 make "reasonable efforts" or to, in any other way, attempt to:

- 2632 (a) maintain a child in [~~his~~] the child's home[;];
 2633 (b) return a child to [~~his~~] the child's home[;]; or
 2634 (c) provide reunification services[;]; or
 2635 (d) attempt to rehabilitate [~~the~~] an offending parent [~~or parents~~].

2636 (13) The court may not order continued removal of a [~~minor~~] child solely on the basis
 2637 of educational neglect as described in Subsection [~~78-3a-103(1)(s)(ii)~~] 62A-4a-101(20)(a)(iv).

2638 (14) (a) Whenever a court orders continued removal of a [~~minor~~] child under this
 2639 section, it shall state the facts on which that decision is based.

2640 (b) If no continued removal is ordered and the [~~minor~~] child is returned home, the court
 2641 shall state the facts on which that decision is based.

2642 (15) If the court finds that continued removal and temporary custody are necessary for
 2643 the protection of a child because harm may result to the child if [~~he were~~] the child is returned
 2644 home, [~~it~~] the court shall order continued removal regardless of:

- 2645 (a) any error in the initial removal of the child[;]; or
 2646 (b) the failure of a party to comply with:
 2647 (i) notice provisions[;]; or
 2648 (ii) any other procedural requirement of this chapter or Title 62A, Chapter 4a, Child
 2649 and Family Services.

2650 Section 36. Section **78-3a-311** is amended to read:

2651 **78-3a-311. Dispositional hearing -- Reunification services -- Exceptions.**

2652 (1) The court may:

- 2653 (a) make any of the dispositions described in Section 78-3a-118[;];
 2654 (b) place the child in the custody or guardianship of any:
 2655 (i) individual; or
 2656 (ii) public or private entity or agency[;]; or
 2657 (c) order:
 2658 (i) protective supervision[;];
 2659 (ii) family preservation[;];
 2660 (iii) subject to Subsection 78-3a-118(2)(n)(iii), medical or mental health treatment[;];

2661 or

2662 (iv) other services.

2663 (2) (a) (i) Whenever the court orders continued removal at the dispositional hearing,
2664 and that the minor remain in the custody of the [~~Division of Child and Family Services, it~~]
2665 division, the court shall first:

2666 (A) establish a primary permanency goal for the minor; and

2667 (B) determine whether, in view of the primary permanency goal, reunification services
2668 are appropriate for the child and the child's family, pursuant to Subsection (3).

2669 (ii) [~~When~~] Subject to Subsection (2)(b), if the court determines that reunification
2670 services are appropriate for the child and the child's family, the court shall provide for
2671 reasonable parent-time with the parent or parents from whose custody the child was removed,
2672 unless parent-time is not in the best interest of the child.

2673 (iii) In cases where obvious sexual abuse, abandonment, [~~or~~] serious physical [~~abuse~~]
2674 injury, or serious neglect are involved, neither the division nor the court has any duty to make
2675 "reasonable efforts" or to, in any other way, attempt to provide reunification services[~~, or to~~
2676 attempt] to rehabilitate [~~the~~] an offending parent [~~or parents~~].

2677 (iv) In all cases, the child's health, safety, and welfare shall be the court's paramount
2678 concern in determining whether reasonable efforts to reunify should be made.

2679 (b) (i) For purposes of Subsection (2)(a)(ii), parent-time is in the best interests of a
2680 child unless the court makes a finding that it is necessary to deny parent-time in order to:

2681 (A) protect the physical safety of the child;

2682 (B) protect the life of the child; or

2683 (C) prevent the child from being traumatized by contact with the parent due to the
2684 child's fear of the parent in light of the nature of the alleged abuse or neglect.

2685 (ii) Notwithstanding Subsection (2)(a)(ii), a court may not deny parent-time based
2686 solely on a parent's failure to:

2687 (A) prove that the parent has not used legal or illegal substances; or

2688 (B) comply with an aspect of the treatment plan that is ordered by the court.

2689 [~~(b)~~] (c) (i) In addition to the primary permanency goal, the court shall establish a
2690 concurrent permanency goal[~~. The concurrent permanency goal~~] that shall include:

2691 (A) a representative list of the conditions under which the primary permanency goal

2692 will be abandoned in favor of the concurrent permanency goal; and

2693 (B) an explanation of the effect of abandoning or modifying the primary permanency
2694 goal.

2695 (ii) A permanency hearing shall be conducted in accordance with Subsection
2696 78-3a-312(1)(b) within 30 days if something other than reunification is initially established as a
2697 child's primary permanency goal.

2698 (iii) (A) The court may amend a child's primary permanency goal before the
2699 establishment of a final permanency plan under Section 78-3a-312.

2700 (B) The court is not limited to the terms of the concurrent permanency goal in the event
2701 that the primary permanency goal is abandoned.

2702 (C) If, at anytime, the court determines that reunification is no longer a child's primary
2703 permanency goal, the court shall conduct a permanency hearing in accordance with Section
2704 78-3a-312 within the earlier of:

2705 (I) 30 days of the court's determination; or

2706 (II) 12 months from the original removal of the child.

2707 ~~(d)~~ (d) (i) If the court determines that reunification services are appropriate, it shall
2708 order that the division make reasonable efforts to provide services to the child and the child's
2709 parent for the purpose of facilitating reunification of the family, for a specified period of time.
2710 In providing those services, the child's health, safety, and welfare shall be the division's
2711 paramount concern, and the court shall so order.

2712 (ii) The court shall:

2713 (A) determine whether the services offered or provided by the division under the
2714 treatment plan constitute "reasonable efforts" on the part of the division~~[- The court shall also];~~

2715 (B) determine and define the responsibilities of the parent under the treatment plan in
2716 accordance with Section 62A-4a-205~~[- Those duties and responsibilities shall be identified];~~
2717 and

2718 (C) identify on the record the responsibilities described in Subsection (2)(d)(ii)(B), for
2719 the purpose of assisting in any future determination regarding the provision of reasonable
2720 efforts, in accordance with state and federal law.

2721 (iii) (A) The time period for reunification services may not exceed 12 months from the
2722 date that the child was initially removed from the child's home.

2723 (B) Nothing in this section may be construed to entitle any parent to an entire 12
2724 months of reunification services.

2725 (iv) If reunification services [~~have been~~] are ordered, the court may terminate those
2726 services at any time.

2727 (v) If, at any time, continuation of reasonable efforts to reunify a child is determined to
2728 be inconsistent with the final permanency plan for the child established pursuant to Subsection
2729 78-3a-312, then measures shall be taken, in a timely manner, to:

2730 (A) place the child in accordance with the permanency plan[;]; and [~~to~~]

2731 (B) complete whatever steps are necessary to finalize the permanent placement of the
2732 child.

2733 [~~(d)~~] (e) Any physical custody of the minor by the parent or a relative during the period
2734 described in Subsection (2)[~~(e)~~](d) does not interrupt the running of the period.

2735 [~~(e)~~] (f) (i) If reunification services [~~have been~~] are ordered, a permanency hearing
2736 shall be conducted by the court in accordance with Section 78-3a-312 at the expiration of the
2737 time period for reunification services.

2738 (ii) The permanency hearing described in Subsection (2)(f)(i) shall be held no later than
2739 12 months after the original removal of the child.

2740 [~~(i)~~] (iii) If reunification services [~~have not been~~] are not ordered, a permanency
2741 hearing shall be conducted within 30 days, in accordance with Section 78-3a-312.

2742 [~~(f)~~] (g) With regard to a child who is 36 months of age or younger at the time the child
2743 is initially removed from the home, the court shall:

2744 (i) hold a permanency hearing [~~eight~~] 12 months after the date of the initial removal,
2745 pursuant to Section 78-3a-312; and

2746 (ii) order the discontinuance of those services after [~~eight~~] 12 months from the initial
2747 removal of the child from the home if the parent or parents have not made substantial efforts to
2748 comply with the treatment plan.

2749 [~~(g)~~] (h) With regard to a child in the custody of the division whose parent or parents
2750 [~~have been~~] are ordered to receive reunification services but who have abandoned that child for
2751 a period of six months since the date that reunification services were ordered[;];

2752 (i) the court shall terminate reunification services[;]; and

2753 (ii) the division shall petition the court for termination of parental rights.

2754 (3) (a) Because of the state's interest in and responsibility to protect and provide
 2755 permanency for children who are abused, neglected, or dependent, the Legislature finds that a
 2756 parent's interest in receiving reunification services is limited.

2757 (b) The court may determine that:

2758 (i) efforts to reunify a child with the child's family are not reasonable or appropriate,
 2759 based on the individual circumstances~~;~~; and ~~that~~

2760 (ii) reunification services should not be provided.

2761 (c) In determining "reasonable efforts" to be made with respect to a child, and in
 2762 making "reasonable efforts," the child's health, safety, and welfare shall be the paramount
 2763 concern.

2764 ~~(b)~~ (d) (i) There is a presumption that reunification services should not be provided to
 2765 a parent if the court finds, by clear and convincing evidence, that any of the following
 2766 circumstances exist:

2767 ~~(i)~~ (A) the whereabouts of the parents are unknown, based upon a verified affidavit
 2768 indicating that a reasonably diligent search has failed to locate the parent;

2769 ~~(ii)~~ (B) subject to Subsection (3)(d)(ii), the parent is suffering from a mental illness of
 2770 such magnitude that it renders ~~him~~ the parent incapable of utilizing reunification services;
 2771 ~~[that finding shall be based on competent evidence from mental health professionals~~
 2772 ~~establishing that, even with the provision of services, the parent is unlikely to be capable of~~
 2773 ~~adequately caring for the child within 12 months;]~~

2774 ~~(iii)~~ (C) the ~~minor has been~~ child was previously adjudicated as an abused child
 2775 due to physical or sexual abuse, ~~that~~ and following the adjudication the child:

2776 (I) was removed from the custody of ~~his~~ the child's parent~~;~~~~was~~;

2777 (II) subsequently returned to the custody of ~~that~~ the parent~~;~~; and ~~the minor~~

2778 (III) is being removed due to additional physical or sexual abuse;

2779 ~~(iv)~~ (D) the parent ~~has~~;

2780 (I) caused the death of another child through abuse or neglect; or ~~has~~

2781 (II) committed, aided, abetted, attempted, conspired, or solicited to commit;

2782 (Aa) murder or manslaughter of a child; or

2783 (Bb) child abuse homicide;

2784 ~~(v)~~ (E) the ~~minor has~~ child suffered severe child abuse or neglect by the parent or

2785 by any person known by the parent, if the parent knew ~~[or reasonably should have known]~~ that
2786 the person was abusing or neglecting the ~~[minor]~~ child;

2787 ~~[(vi)]~~ (F) the ~~[minor has been]~~ child is adjudicated an abused child as a result of severe
2788 child abuse or neglect by the parent, and the court finds that it would not benefit the child to
2789 pursue reunification services with the offending parent;

2790 ~~[(vii)]~~ (G) the parent's rights ~~[have been]~~ are terminated with regard to any other child;

2791 ~~[(viii)]~~ (H) the child ~~[has been]~~ is removed from ~~[his]~~ the child's home on at least two
2792 previous occasions and reunification services were offered or provided to the family at those
2793 times; or

2794 ~~[(ix)]~~ (I) the parent has abandoned the child for a period of six months or longer~~[-or]~~.

2795 ~~[(x) any other circumstance that the court determines should preclude reunification
2796 efforts or services.]~~

2797 ~~[(4) (a) Failure]~~

2798 (ii) The finding under Subsection (3)(d)(i)(B) shall be based on competent evidence
2799 from at least two medical or mental health professionals, who are not associates, establishing
2800 that, even with the provision of services, the parent is not likely to be capable of adequately
2801 caring for the child within 12 months of the court's finding.

2802 (4) In determining whether reunification services are appropriate, the court shall take
2803 into consideration:

2804 (a) failure of the parent to ~~[respond to previous services or]~~ make a reasonable effort to
2805 comply with ~~[any]~~ a previous treatment plan[-];

2806 (b) the fact that the child was abused while the parent was under the influence of drugs
2807 or alcohol[-a past];

2808 (c) ~~any~~ history of violent behavior[-] directed at the child or an immediate family
2809 member;

2810 (d) whether a parent continues to live with an individual who abused the child[-];

2811 (e) any patterns of the parent's behavior that have exposed the child to repeated abuse[-;
2812 or testimony by a competent professional that the parent's behavior is unlikely to be successful;
2813 shall be considered in determining whether reunification services are appropriate.]; and

2814 ~~[(b) The court shall also consider]~~ (f) whether the parent has expressed an interest in
2815 reunification with the child[-, ~~in determining whether reunification services are appropriate~~].

2816 (5) (a) If reunification services are not ordered pursuant to Subsection (3)(a), and the
2817 whereabouts of a parent become known within six months of the out-of-home placement of the
2818 [~~minor~~] child, the court may order the division to provide reunification services.

2819 (b) The time limits described in Subsection (2)[~~-, however,~~] are not tolled by the
2820 parent's absence.

2821 (6) (a) If a parent is incarcerated or institutionalized, the court shall order reasonable
2822 services unless it determines that those services would be seriously detrimental to the [~~minor~~]
2823 health or safety of the child. [~~In determining detriment~~]

2824 (b) In making the determination described in Subsection (6)(a), the court shall
2825 consider:

2826 (i) the age of the child[;];

2827 (ii) the degree of parent-child bonding[;];

2828 (iii) the length of the sentence[;];

2829 (iv) the nature of the treatment[;];

2830 (v) the nature of the crime or mental illness[;];

2831 (vi) the degree of detriment to the [~~child~~] child's health and safety if services are not
2832 offered [~~and~~];

2833 (vii) for [~~minors~~] a child ten years of age or older, the [~~minor's~~] child's attitude toward
2834 the implementation of family reunification services[;]; and

2835 (viii) any other appropriate factors.

2836 (c) In making the determination described in Subsection (6)(a), the court shall give
2837 particular weight to the consideration described in Subsection (6)(b)(vii).

2838 (d) Reunification services for an incarcerated parent are subject to the 12-month
2839 limitation imposed in Subsection (2).

2840 (e) Reunification services for an institutionalized parent are subject to the 12-month
2841 limitation imposed in Subsection (2), unless the court determines that continued reunification
2842 services would be in the child's best interest.

2843 (7) If, pursuant to Subsection (3)(b)[~~(ii), (iii), (iv), (v), (vi), (vii), (viii), (ix), or (x)~~], the
2844 court does not order reunification services, a permanency hearing shall be conducted within 30
2845 days, in accordance with Section 78-3a-312.

2846 Section 37. Section **78-3a-320** is amended to read:

2847 **78-3a-320. Additional finding at adjudication hearing -- Petition -- Court records.**

2848 (1) Upon the filing with the court of a petition under Section 78-3a-305 by the
2849 ~~[Division of Child and Family Services]~~ division or any interested person informing the court,
2850 among other things, that the division ~~[has]~~ made a supported finding ~~[of one or more of the~~
2851 ~~severe types of]~~, pursuant to Section 62A-4a-116.1, that a person committed severe child abuse
2852 or neglect ~~[described in Subsection 62A-4a-116.1(2),]~~ the court shall:

- 2853 (a) make a finding of substantiated, unsubstantiated, or without merit;
2854 (b) include the finding described in Subsection (1)(a) in a written order; and
2855 (c) deliver a certified copy of the order described in Subsection (1)(b) to the division.

2856 (2) The judicial finding under Subsection (1) shall be made:

- 2857 (a) as part of or at the conclusion of the adjudication hearing; or
2858 (b) as part of a court order entered pursuant to a written stipulation of the parties.

2859 (3) (a) Any person described in Subsection 62A-4a-116.6(1) may at any time file with
2860 the court a petition for removal of the person's name from the Licensing Information System.

2861 (b) At the conclusion of the hearing on the petition described in Subsection (3)(a), the
2862 court shall:

- 2863 ~~[(a)]~~ (i) make a finding of substantiated, unsubstantiated, or without merit;
2864 ~~[(b)]~~ (ii) include the finding described in Subsection (1)(a) in a written order; and
2865 ~~[(c)]~~ (iii) deliver a certified copy of the order described in Subsection (1)(b) to the
2866 division.

2867 (4) A proceeding for adjudication under this section of a supported finding of a
2868 ~~[nonsevere]~~ type of abuse or neglect ~~[under this section]~~ that does not constitute severe child
2869 abuse or neglect may be joined in the juvenile court with an adjudication of ~~[a]~~ severe ~~[type of]~~
2870 child abuse or neglect.

2871 (5) If a person whose name appears on the Licensing Information System ~~[prior to]~~
2872 before May 6, 2002 files a petition during the time that an alleged perpetrator's application for
2873 clearance to work with children or vulnerable adults is pending, the court shall hear the matter
2874 and enter a final decision no later than 60 days after the filing of the petition.

2875 (6) For the purposes of licensing under Sections 26-21-9.5, 26-39-105.5, 62A-1-118,
2876 and 62A-2-121:

2877 (a) the court shall make available records of its findings under Subsections (1) and (2)

2878 for licensing purposes, only to those with statutory authority to access also the Licensing
2879 Information System created under Section 62A-4a-116.2; and

2880 (b) any appellate court shall make available court records of appeals from juvenile
2881 court decisions under Subsections (1), (2), (3), and (4) for licensing purposes, only to those
2882 with statutory authority to access also the Licensing Information System.

2883 Section 38. Section **78-3a-402** is amended to read:

2884 **78-3a-402. Judicial process for termination -- Parent unfit or incompetent -- Best**
2885 **interest of child.**

2886 (1) This part provides a judicial process for voluntary and involuntary severance of the
2887 parent-child relationship, designed to safeguard the rights and interests of all parties concerned
2888 and promote their welfare and that of the state.

2889 (2) Wherever possible family life should be strengthened and preserved, but if a parent
2890 is found, by reason of [~~his~~] the parent's conduct or condition, to be unfit or incompetent based
2891 upon any of the grounds for termination described in this part, the court shall then consider the
2892 welfare and best interest of the child of paramount importance in determining whether
2893 termination of parental rights shall be ordered.

2894 Section 39. Section **78-3a-406** is amended to read:

2895 **78-3a-406. Notice -- Nature of proceedings.**

2896 (1) After a petition for termination of parental rights [~~has been~~] is filed, notice of that
2897 fact and of the time and place of the hearing shall be provided, in accordance with the Utah
2898 Rules of Civil Procedure, to:

2899 (a) the parents[;];

2900 (b) the guardian[;];

2901 (c) the person or agency having legal custody of the child[;]; and [~~to~~]

2902 (d) any person acting in loco parentis to the child.

2903 (2) (a) A hearing shall be held specifically on the question of termination of parental
2904 rights no sooner than ten days after service of summons is complete.

2905 (b) A verbatim record of the proceedings of the hearing described in Subsection (2)(a)
2906 shall be taken and the parties shall be advised of their right to counsel.

2907 (c) The summons described in Subsection (2)(a) shall contain a statement to the effect
2908 that the rights of the parent or parents are proposed to be permanently terminated in the

2909 proceedings. [~~That~~]

2910 (d) The statement described in Subsection (2)(c) may be contained in:

2911 (i) the summons originally issued in the proceeding; or [in]

2912 (ii) a separate summons subsequently issued.

2913 (3) (a) The proceedings in this section are civil in nature and are governed by the Utah
2914 Rules of Civil Procedure.

2915 (b) The court shall in all cases:

2916 (i) require the petitioner to establish the facts by clear and convincing evidence[;]; and
2917 [shall]

2918 (ii) give full and careful consideration to all of the evidence presented with regard to
2919 the constitutional rights and claims of the parent [and, if].

2920 (c) If a parent is found, by reason of [his] the parent's conduct or condition, to be unfit
2921 or incompetent based upon any of the grounds for termination described in this part, the court
2922 shall then consider the welfare and best interest of the child of paramount importance in
2923 determining whether termination of parental rights shall be ordered.

2924 Section 40. Section **78-3a-407** is amended to read:

2925 **78-3a-407. Grounds for termination of parental rights -- Findings regarding**
2926 **reasonable efforts.**

2927 (1) The court may terminate all parental rights with respect to a parent if it finds [~~any~~]
2928 one or more of the following:

2929 (a) [~~that~~] the parent has abandoned the child;

2930 [~~(b) that the parent has neglected or abused the child;~~]

2931 [~~(c) that the parent is unfit or incompetent;~~]

2932 [~~(d) that the child is being cared for in an out-of-home placement under the supervision~~
2933 ~~of the court or the division and the parent has substantially neglected, wilfully refused, or has~~
2934 ~~been unable or unwilling to remedy the circumstances that cause the child to be in an~~
2935 ~~out-of-home placement, and there is a substantial likelihood that the parent will not be capable~~
2936 ~~of exercising proper and effective parental care in the near future;]~~

2937 [~~(e) failure of parental adjustment, as defined in this chapter;~~]

2938 [~~(f) that only token efforts have been made by the parent;~~]

2939 [~~(i) to support or communicate with the child;~~]

2940 ~~[(ii) to prevent neglect of the child;]~~
 2941 ~~[(iii) to eliminate the risk of serious physical, mental, or emotional abuse of the child;~~
 2942 ~~or]~~
 2943 ~~[(iv) to avoid being an unfit parent;]~~
 2944 ~~[(g) the parent has]~~
 2945 (b) the parent:
 2946 (i) is unfit or incompetent based on conduct or a condition that is seriously detrimental
 2947 to the health and safety of the child; and
 2948 (ii) is unable or unwilling to correct the unfitness or incompetence described in
 2949 Subsection (1)(b)(i);
 2950 (c) the parent commits:
 2951 (i) severe child abuse or neglect;
 2952 (ii) abuse that resulted in serious physical injury;
 2953 (iii) serious neglect; or
 2954 (iv) sexual abuse;
 2955 (d) (i) the parent voluntarily relinquished the parent's parental rights to the child[;]; and
 2956 (ii) the court finds that termination is in the child's best interest;
 2957 ~~[(h) the parent, after a period of trial during which the child was returned to live in the~~
 2958 ~~child's own home, substantially and continuously or repeatedly refused or failed to give the~~
 2959 ~~child proper parental care and protection; or]~~
 2960 (e) for at least one year the parent without just cause failed to:
 2961 (i) communicate with the child by mail, telephone, or any other means; or
 2962 (ii) show the normal interest of a natural parent in the child; or
 2963 ~~[(i)]~~ (f) the terms and conditions of safe relinquishment of a newborn child have been
 2964 complied with, pursuant to Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a Newborn
 2965 Child.
 2966 (2) For purposes of Subsection (1)(a), prima facie evidence of abandonment is
 2967 established if it is shown that, while having legal custody of the child, a parent:
 2968 (a) wilfully surrendered physical custody of the child; and
 2969 (b) for a period of six months following the surrender described in Subsection (2)(a),
 2970 does not manifest to the child or the person with physical custody of the child:

2971 (i) a firm intention to resume physical custody of the child; or
2972 (ii) to make arrangements for the care of the child.

2973 ~~[(2)]~~ (3) The court may not terminate the parental rights of a parent because the parent
2974 ~~[has failed]~~ fails to complete the requirements of a treatment plan.

2975 ~~[(3)]~~ (4) (a) ~~[It]~~ Subject to Subsection (4)(b), in any case in which the court has
2976 directed the division to provide reunification services to a parent, the court must find that the
2977 division made reasonable efforts to provide those services before the court may terminate the
2978 parent's rights under Subsection (1)(b), (c), ~~[(d);]~~ (e), or (f)~~[-or (h)]~~.

2979 (b) The court is not required to make the finding under Subsection ~~[(3)]~~ (4)(a) before
2980 terminating a parent's rights:

2981 (i) under Subsection (1)~~[(b)]~~(c) based upon abuse or neglect found by the court to have
2982 occurred subsequent to adjudication; or

2983 (ii) if reasonable efforts are not required under federal law.

2984 Section 41. Section **78-3a-408** is amended to read:

2985 **78-3a-408. Evidence of grounds for termination.**

2986 ~~[(1) In determining whether a parent or parents have abandoned a child, it is prima~~
2987 ~~facie evidence of abandonment that the parent or parents:]~~

2988 ~~[(a) although having legal custody of the child, have surrendered physical custody of~~
2989 ~~the child, and for a period of six months following the surrender have not manifested to the~~
2990 ~~child or to the person having the physical custody of the child a firm intention to resume~~
2991 ~~physical custody or to make arrangements for the care of the child;]~~

2992 ~~[(b) have failed to communicate with the child by mail, telephone, or otherwise for six~~
2993 ~~months;]~~

2994 ~~[(c) failed to have shown the normal interest of a natural parent, without just cause; or]~~

2995 ~~[(d) have abandoned an infant, as described in Section 78-3a-313.5.]~~

2996 ~~[(2) In determining whether a parent or parents are unfit or have neglected a child the~~
2997 ~~court shall consider, but is not limited to, the following circumstances, conduct, or conditions:]~~

2998 ~~[(a) emotional illness, mental illness, or mental deficiency of the parent that renders~~
2999 ~~him unable to care for the immediate and continuing physical or emotional needs of the child~~
3000 ~~for extended periods of time;]~~

3001 (1) When considering evidence for grounds supporting the termination of parental

3002 rights, the court shall consider:

3003 ~~[(b)]~~ (a) subject to Subsection (3), conduct toward a child of a physically, emotionally,
3004 or sexually ~~[cruel or]~~ abusive nature;

3005 ~~[(c)]~~ (b) habitual or excessive use of intoxicating liquors, controlled substances, or
3006 dangerous drugs that render the parent unable to care for the child;

3007 ~~[(d)]~~ (c) subject to Subsection (2), repeated or continuous failure to provide the child
3008 with adequate food, clothing, shelter, ~~[education,]~~ or other care ~~[necessary for his]~~ that results
3009 in substantial harm to the child's physical~~[-, mental, and emotional]~~ and mental health ~~[and~~
3010 development by a parent or parents who are capable of providing that care. However, a parent
3011 who, legitimately practicing his religious beliefs, does not provide specified medical treatment
3012 for a child is not for that reason alone a negligent or unfit parent] or safety;

3013 ~~[(e)]~~ (d) with regard to a child ~~[who is]~~ in the custody of the division, ~~[if]~~ whether:

3014 (i) the parent is incarcerated as a result of a felony conviction ~~[of a felony,];~~ and

3015 (ii) the sentence is of such length that the child will be deprived of a normal home for
3016 more than one year; [or]

3017 ~~[(f)]~~ (e) a history of violent behavior~~[-];~~

3018 ~~[(3) If a child has been placed in the custody of the division and the parent or parents~~
3019 ~~fail to comply substantially with the terms and conditions of a plan within six months after the~~
3020 ~~date on which the child was placed or the plan was commenced, whichever occurs later, that~~
3021 ~~failure to comply is evidence of failure of parental adjustment.]~~

3022 ~~[(4) The following circumstances constitute prima facie evidence of unfitness:]~~

3023 ~~[(a)]~~ (f) sexual abuse, injury, or death of ~~[a sibling of the child, or of]~~ any child, due to
3024 known or substantiated abuse or neglect by ~~[the]~~ a parent ~~[or parents];~~

3025 ~~[(b)]~~ (g) conviction of a crime, if the facts surrounding the crime are of such a nature as
3026 to indicate the unfitness of the parent to provide adequate care to the extent necessary for the
3027 child's physical, mental, or emotional health and development;

3028 ~~[(c)]~~ (h) a single incident of life-threatening or gravely disabling injury to or
3029 disfigurement of the child; or

3030 ~~[(d)]~~ (i) whether the parent has committed, aided, abetted, attempted, conspired, or
3031 solicited to commit;

3032 (i) murder or manslaughter of a child; or

3033 (ii) child abuse homicide.
3034 (2) For purposes of Subsection (1)(c), failure by a parent, due to the legitimate practice
3035 of religious beliefs, to provide specified medical treatment for a child, is not for that reason
3036 alone, grounds for terminating parental rights.

3037 (3) (a) For purposes of Subsection (1)(a), discipline of a child by a parent is presumed
3038 to not constitute abusive conduct.

3039 (b) The presumption described in Subsection (3)(a) may only be rebutted by clear and
3040 convincing evidence that the discipline constitutes abuse.

3041 Section 42. Section **78-3a-414** is amended to read:

3042 **78-3a-414. Voluntary relinquishment -- Irrevocable.**

3043 (1) Voluntary relinquishment or consent for termination of parental rights shall be
3044 signed or confirmed under oath [~~either~~] before:

3045 (a) [~~before~~] a judge of any court that has jurisdiction over proceedings for termination
3046 of parental rights in this state or any other state[~~, or~~];

3047 (b) a public officer appointed by [~~that~~] a court described in Subsection (1)(a) for the
3048 purpose of taking consents or relinquishments; or

3049 [~~(b)~~] (c) except as provided in Subsection (2), any person authorized to take consents
3050 or relinquishments under Subsections 78-30-4.18(1) and (2).

3051 (2) Only the juvenile court is authorized to take consents or relinquishments from a
3052 parent who has:

3053 (a) any child [~~who is~~] in the custody of a state agency; or [~~who has~~]

3054 (b) a child who is otherwise under the jurisdiction of the juvenile court.

3055 (3) The court, appointed officer, or other authorized person shall certify to the best of
3056 that person's information and belief that the person executing the consent or relinquishment
3057 has:

3058 (a) read and understands the consent or relinquishment; and [~~has signed it~~]

3059 (b) signed the consent or relinquishment freely and voluntarily.

3060 (4) A voluntary relinquishment or consent for termination of parental rights is effective
3061 when it is signed and may not be revoked.

3062 (5) The requirements and processes described in Sections 78-3a-402 through 78-3a-410
3063 do not apply to a voluntary relinquishment or consent for termination of parental rights. The

3064 court need only find that the relinquishment or termination is in the child's best interest.

3065 (6) (a) There is a presumption that voluntary relinquishment or consent for termination
3066 of parental rights is not in the child's best interest where it appears to the court that the primary
3067 purpose is to avoid a financial support obligation.

3068 (b) The presumption described in Subsection (6)(a) may be rebutted[~~-, however,~~] if the
3069 court finds the relinquishment or consent to termination of parental rights will facilitate the
3070 establishment of stability and permanency for the child.

3071 (7) Upon granting a voluntary relinquishment the court may make orders relating to the
3072 child's care, health, and [~~welfare~~] safety that the court considers to be in the child's best interest.

3073 Section 43. **Repealer.**

3074 This bill repeals:

3075 Section 62A-4a-202.7, **Pilot program for differentiated responses to child abuse**
3076 **and neglect reports.**

3077 Section 78-3a-403, **Definitions.**

3077a **Ĥ→ Section 44. Effective date.**

3077b **This bill takes effect January 1, 2006. ←Ĥ**

Fiscal Note
Bill Number HB0202S02

Revisions to Child Welfare

22-Feb-05

5:32 PM

AMENDED BILL

State Impact

Provisions of this legislation can be handled within existing budgets.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst

