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**CHILD PROTECTION AND PARENTAL
RIGHTS AMENDMENTS**

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

Senate Sponsor: Margaret Dayton

LONG TITLE

General Description:

This bill amends provisions of the Utah Human Services Code and the Juvenile Court Act of 1996 relating to the placement of abused, neglected, and dependent children.

Highlighted Provisions:

This bill:

- ▶ replaces the term "emergency kinship placement" with "emergency placement";
- ▶ provides that investigative interviews of a child in protective custody ~~H→~~ **if the child is**

at least nine years old, ~~←H~~ may be

conducted without recording the interview ~~H→~~ [~~and without a support person present~~] ~~←H~~ , if the child refuses to have the interview recorded ~~H→~~ [~~and refuses the presence of a support person~~] ~~←H~~ ;

~~H→~~ **▶ provides that investigative interviews of a child in protective custody may be conducted without a support person present, if the child refuses the presence of a support person.** ~~←H~~

- ▶ modifies the requirement regarding notification of former foster parents when a child reenters custody of the Division of Child and Family Services;

▶ expands the options for emergency placement of a child to include placement with a friend of the child's parents if the friend is licensed as a foster parent or with another foster family;

▶ provides that the Division of Child and Family Services, within the Department of Human Services, has the discretion to determine whether the division will seek and contact references as part of the division's emergency placement background check;

- ▶ removes the requirement that the division convene a family unity meeting before a



- 28 shelter hearing;
- 29 ▶ establishes the order of priority among potential placements for a child;
- 30 ▶ expands the options for placing a child in shelter care to include placement with a
- 31 friend of the child's parent if the friend is licensed as a foster parent;
- 32 ▶ requires, subject to certain exceptions, that a child be present at certain hearings in
- 33 an abuse, neglect, or dependency case;
- 34 ▶ requires, subject to certain exceptions, that the court allow a child to address the
- 35 court or testify during certain court appearances relating to the abuse, neglect, or
- 36 dependency of the child;
- 37 ▶ requires the Department of Human Services to expedite the process for licensing a
- 38 friend of a parent whose child is in the custody of the Division of Child and Family
- 39 Services as a foster parent, and requires the court to determine whether it is in the
- 40 best interest of the child to be placed with the parent's friend if the friend becomes
- 41 licensed as a foster parent; and
- 42 ▶ makes technical changes.

43 **Monies Appropriated in this Bill:**

44 None

45 **Other Special Clauses:**

46 None

47 **Utah Code Sections Affected:**

48 AMENDS:

49 **62A-4a-202.1**, as last amended by Chapters 13, 75 and 281, Laws of Utah 2006

50 **62A-4a-202.3**, as last amended by Chapters 75 and 281, Laws of Utah 2006

51 **62A-4a-205**, as last amended by Chapter 75, Laws of Utah 2006

52 **62A-4a-206.1**, as enacted by Chapter 318, Laws of Utah 1996

53 **62A-4a-209**, as last amended by Chapter 71, Laws of Utah 2005

54 **62A-4a-414**, as enacted by Chapter 315, Laws of Utah 2004

55 **78-3a-306**, as last amended by Chapter 8, Laws of Utah 2006, Third Special Session

56 **78-3a-307**, as last amended by Chapter 281, Laws of Utah 2006

57 **78-3a-312**, as last amended by Chapter 286, Laws of Utah 2005

58 ENACTS:

59 78-3a-305.5, Utah Code Annotated 1953

60

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

62 Section 1. Section **62A-4a-202.1** is amended to read:

63 **62A-4a-202.1. Entering home of a child -- Taking a child into protective custody**
64 **-- Caseworker accompanied by peace officer -- Preventive services -- Shelter facility or**
65 **emergency placement.**

66 (1) A peace officer or child welfare worker may not enter the home of a child who is
67 not under the jurisdiction of the court, remove a child from the child's home or school, or take a
68 child into protective custody unless authorized under Subsection 78-3a-106(2).

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

72 (3) (a) If possible, consistent with the child's safety and welfare, before taking a child
73 into protective custody, the child welfare worker shall also determine whether there are
74 services available that, if provided to a parent or guardian of the child, would eliminate the
75 need to remove the child from the custody of the child's parent or guardian.

76 (b) If the services described in Subsection (3)(a) are reasonably available, they shall be
77 utilized.

78 (c) In determining whether the services described in Subsection (3)(a) are reasonably
79 available, and in making reasonable efforts to provide those services, the child's health, safety,
80 and welfare shall be the child welfare worker's paramount concern.

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

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

86 (i) a shelter facility; or

87 (ii) an emergency [kinship] placement in accordance with Section 62A-4a-209.

88 Section 2. Section **62A-4a-202.3** is amended to read:

89 **62A-4a-202.3. Investigation -- Supported or unsupported reports -- Child in**

90 **protective custody.**

91 (1) When a child is taken into protective custody in accordance with Section
92 62A-4a-202.1, 78-3a-106, or 78-3a-301, or when the division takes any other action which
93 would require a shelter hearing under Subsection 78-3a-306(1), the division shall immediately
94 initiate an investigation of the:

- 95 (a) circumstances of the child; and
- 96 (b) grounds upon which the decision to place the child into protective custody was
97 made.

98 (2) The division's investigation shall conform to reasonable professional standards, and
99 shall include:

100 (a) a search for and review of any records of past reports of abuse or neglect involving:

- 101 (i) the same child;
- 102 (ii) any sibling or other child residing in the same household as the child; and
- 103 (iii) the alleged perpetrator;

104 (b) with regard to a child who is five years of age or older, a personal interview with
105 the child:

- 106 (i) outside of the presence of the alleged perpetrator; and
- 107 (ii) conducted in accordance with the requirements of Subsection (7);
- 108 (c) if a parent or guardian can be located, an interview with at least one of the child's
109 parents or guardian;

110 (d) an interview with the person who reported the abuse, unless the report was made
111 anonymously;

112 (e) where possible and appropriate, interviews with other third parties who have had
113 direct contact with the child, including:

- 114 (i) school personnel; and
- 115 (ii) the child's health care provider;
- 116 (f) an unscheduled visit to the child's home, unless:

117 (i) there is a reasonable basis to believe that the reported abuse was committed by a
118 person who:

- 119 (A) is not the child's parent; and
- 120 (B) does not:

- 121 (I) live in the child's home; or
122 (II) otherwise have access to the child in the child's home; or
123 (ii) an unscheduled visit is not necessary to obtain evidence for the investigation; and
124 (g) if appropriate and indicated in any case alleging physical injury, sexual abuse, or
125 failure to meet the child's medical needs, a medical examination, obtained no later than 24
126 hours after the child is placed in protective custody.
- 127 (3) The division may rely on a written report of a prior interview rather than
128 conducting an additional interview, if:
- 129 (a) law enforcement:
- 130 (i) previously conducted a timely and thorough investigation regarding the alleged
131 abuse, neglect, or dependency; and
132 (ii) produced a written report;
- 133 (b) the investigation described in Subsection (3)(a)(i) included one or more of the
134 interviews required by Subsection (2); and
135 (c) the division finds that an additional interview is not in the best interest of the child.
- 136 (4) (a) The division's determination of whether a report is supported or unsupported
137 may be based on the child's statements alone.
- 138 (b) Inability to identify or locate the perpetrator may not be used by the division as a
139 basis for:
- 140 (i) determining that a report is unsupported; or
141 (ii) closing the case.
- 142 (c) The division may not determine a case to be unsupported or identify a case as
143 unsupported solely because the perpetrator was an out-of-home perpetrator.
- 144 (d) Decisions regarding whether a report is supported, unsupported, or without merit
145 shall be based on the facts of the case at the time the report was made.
- 146 (5) The division should maintain protective custody of the child if it finds that one or
147 more of the following conditions exist:
- 148 (a) the child does not have a natural parent, guardian, or responsible relative who is
149 able and willing to provide safe and appropriate care for the child;
- 150 (b) (i) shelter of the child is a matter of necessity for the protection of the child; and
151 (ii) there are no reasonable means by which the child can be protected in:

152 (A) the child's home; or
153 (B) the home of a responsible relative;
154 (c) there is substantial evidence that the parent or guardian is likely to flee the
155 jurisdiction of the court; or
156 (d) the child has left a previously court ordered placement.
157 (6) (a) Within 24 hours after receipt of a child into protective custody, excluding
158 weekends and holidays, the division shall:
159 (i) convene a child protection team to review the circumstances regarding removal of
160 the child from the child's home or school; and
161 (ii) prepare the testimony and evidence that will be required of the division at the
162 shelter hearing, in accordance with Section 78-3a-306.
163 (b) The child protection team described in Subsection (6)(a)(i) shall include:
164 (i) the caseworker assigned to the case;
165 (ii) the caseworker who made the decision to remove the child;
166 (iii) a representative of the school or school district where the child attends school;
167 (iv) the peace officer who removed the child from the home;
168 (v) a representative of the appropriate Children's Justice Center, if one is established
169 within the county where the child resides;
170 (vi) if appropriate, and known to the division, a therapist or counselor who is familiar
171 with the child's circumstances; and
172 (vii) any other individuals determined appropriate and necessary by the team
173 coordinator and chair.
174 (c) At the 24-hour meeting, the division shall have available for review and
175 consideration the complete child protective services and foster care history of the child and the
176 child's parents and siblings.
177 (7) (a) After receipt of a child into protective custody and prior to the adjudication
178 hearing, all investigative interviews with the child that are initiated by the division shall be:
179 (i) except as provided in Subsection (7)(b), audio or video taped; and
180 (ii) except as provided in Subsection (7)~~(b)~~ (c), conducted with a support person of
181 the child's choice present.
182 (b) (i) Subject to Subsection (7)(b)(ii), an interview described in Subsection (7)(a) may

183 be conducted without being taped if the child:

183a Ĥ→ (A) is at least nine years old;

184 [(A)] (B) ←Ĥ refuses to have the interview audio taped; and

185 Ĥ→ [(B)] (C) ←Ĥ refuses to have the interview video taped.

186 (ii) If, pursuant to Subsection (7)(b)(i), an interview is conducted without being taped,
187 the child's refusal shall be documented, as follows:

188 (A) the interviewer shall attempt to get the child's refusal on tape, including the reasons
189 for the refusal; or

190 (B) if the child does not allow the refusal, or the reasons for the refusal, to be taped, the
191 interviewer shall:

192 (I) state on the tape that the child is present, but has refused to have the interview,
193 refusal, or the reasons for the refusal taped; or

194 (II) if complying with Subsection (7)(b)(ii)(B)(I) will result in the child, who would
195 otherwise consent to be interviewed, to refuse to be interviewed, the interviewer shall
196 document, in writing, that the child refused to allow the interview to be taped and the reasons
197 for that refusal.

198 (iii) The division shall track the number of interviews under this Subsection (7) that are
199 not taped, and the number of refusals that are not taped, for each interviewer, in order to
200 determine whether a particular interviewer has a higher incidence of refusals, or taped refusals,
201 than other interviewers.

202 [(b)] (c) (i) Notwithstanding Subsection (7)(a)(ii), the support person who is present for
203 an interview of a child may not be an alleged perpetrator.

204 (ii) Subsection (7)(a)(ii) does not apply if the child refuses to have a support person
205 present during the interview.

206 (iii) If a child described in Subsection (7)(c)(ii) refuses to have a support person
207 present in the interview, the interviewer shall document, in writing, the refusal and the reasons
208 for the refusal.

209 (iv) The division shall track the number of interviews under this Subsection (7) where
210 a child refuses to have a support person present for each interviewer, in order to determine
211 whether a particular interviewer has a higher incidence of refusals than other interviewers.

212 (8) The division shall cooperate with law enforcement investigations regarding the
213 alleged perpetrator.

214 (9) The division may not close an investigation solely on the grounds that the division
215 investigator is unable to locate the child until all reasonable efforts have been made to locate
216 the child and family members including:

- 217 (a) visiting the home at times other than normal work hours;
- 218 (b) contacting local schools;
- 219 (c) contacting local, county, and state law enforcement agencies; and
- 220 (d) checking public assistance records.

221 Section 3. Section **62A-4a-205** is amended to read:

222 **62A-4a-205. Child and family plan -- Parent-time.**

223 (1) No more than 45 days after a child enters the temporary custody of the division, the
224 child's child and family plan shall be finalized.

225 (2) (a) The division shall use an interdisciplinary team approach in developing each
226 child and family plan.

227 (b) The interdisciplinary team described in Subsection (2)(a) shall include, but is not
228 limited to, representatives from the following fields:

- 229 (i) mental health;
- 230 (ii) education; and
- 231 (iii) if appropriate, law enforcement.

232 (3) (a) The division shall involve all of the following in the development of a child's
233 child and family plan:

- 234 (i) both of the child's natural parents, unless the whereabouts of a parent are unknown;
- 235 (ii) the child;
- 236 (iii) the child's foster parents; and
- 237 (iv) if appropriate, the child's stepparent.

238 (b) In relation to all information considered by the division in developing a child and
239 family plan, additional weight and attention shall be given to the input of the child's natural and
240 foster parents upon their involvement pursuant to Subsections (3)(a)(i) and (iii).

241 (c) (i) The division shall make a substantial effort to develop a child and family plan
242 with which the child's parents agree.

243 (ii) If a parent does not agree with a child and family plan:

244 (A) the division shall strive to resolve the disagreement between the division and the

245 parent; and

246 (B) if the disagreement is not resolved, the division shall inform the court of the
247 disagreement.

248 (4) A copy of the child and family plan shall, immediately upon completion, or as soon
249 as reasonably possible thereafter, be provided to the:

250 (a) guardian ad litem;

251 (b) child's natural parents; and

252 (c) child's foster parents.

253 (5) Each child and family plan shall:

254 (a) specifically provide for the safety of the child, in accordance with federal law; and

255 (b) clearly define what actions or precautions will, or may be, necessary to provide for
256 the health, safety, protection, and welfare of the child.

257 (6) The child and family plan shall set forth, with specificity, at least the following:

258 (a) the reason the child entered into the custody of the division;

259 (b) documentation of the:

260 (i) reasonable efforts made to prevent placement of the child in the custody of the
261 division; or

262 (ii) emergency situation that existed and that prevented the reasonable efforts
263 described in Subsection (6)(b)(i), from being made;

264 (c) the primary permanency goal for the child and the reason for selection of that goal;

265 (d) the concurrent permanency goal for the child and the reason for the selection of that
266 goal;

267 (e) if the plan is for the child to return to the child's family:

268 (i) specifically what the parents must do in order to enable the child to be returned
269 home;

270 (ii) specifically how the requirements described in Subsection (6)(e)(i) may be
271 accomplished; and

272 (iii) how the requirements described in Subsection (6)(e)(i) will be measured;

273 (f) the specific services needed to reduce the problems that necessitated placing the
274 child in the division's custody;

275 (g) the name of the person who will provide for and be responsible for case

276 management;

277 (h) subject to Subsection (10), a parent-time schedule between the natural parent and
278 the child;

279 (i) subject to Subsection (7), the health and mental health care to be provided to
280 address any known or diagnosed mental health needs of the child;

281 (j) if residential treatment rather than a foster home is the proposed placement, a
282 requirement for a specialized assessment of the child's health needs including an assessment of
283 mental illness and behavior and conduct disorders; and

284 (k) social summaries that include case history information pertinent to case planning.

285 (7) (a) Subject to Subsection (7)(b), in addition to the information required under
286 Subsection (6)(i), the plan shall include a specialized assessment of the medical and mental
287 health needs of a child, if the child:

288 (i) is placed in residential treatment; and

289 (ii) has medical or mental health issues that need to be addressed.

290 (b) Notwithstanding Subsection (7)(a), a parent shall retain the right to seek a separate
291 medical or mental health diagnosis of the parent's child from a licensed practitioner of the
292 parent's choice.

293 (8) (a) Each child and family plan shall be specific to each child and the child's family,
294 rather than general.

295 (b) The division shall train its workers to develop child and family plans that comply
296 with:

297 (i) federal mandates; and

298 (ii) the specific needs of the particular child and the child's family.

299 (c) All child and family plans and expectations shall be individualized and contain
300 specific time frames.

301 (d) Subject to Subsection (8)(h), child and family plans shall address problems that:

302 (i) keep a child in placement; and

303 (ii) keep a child from achieving permanence in the child's life.

304 (e) Each child and family plan shall be designed to minimize disruption to the normal
305 activities of the child's family, including employment and school.

306 (f) In particular, the time, place, and amount of services, hearings, and other

307 requirements ordered by the court in the child and family plan shall be designed, as much as
308 practicable, to help the child's parents maintain or obtain employment.

309 (g) The child's natural parents, foster parents, and where appropriate, stepparents, shall
310 be kept informed of and supported to participate in important meetings and procedures related
311 to the child's placement.

312 (h) For purposes of Subsection (8)(d), a child and family plan may only include
313 requirements that:

314 (i) address findings made by the court; or

315 (ii) (A) are requested or consented to by a parent or guardian of the child; and

316 (B) are agreed to by the division and the guardian ad litem.

317 (9) (a) Except as provided in Subsection (9)(b), with regard to a child who is three
318 years of age or younger, if the goal is not to return the child home, the permanency plan for that
319 child shall be adoption.

320 (b) Notwithstanding Subsection (9)(a), if the division documents to the court that there
321 is a compelling reason that adoption, reunification, guardianship, and ~~kinship~~ a placement
322 described in Subsection 78-3a-306(6)(e) are not in the child's best interest, the court may order
323 another planned permanent living arrangement in accordance with federal law.

324 (10) (a) Except as provided in Subsection (10)(b), parent-time may only be denied by a
325 court order issued pursuant to Subsections 78-3a-311(2)(a)(ii) and (b).

326 (b) Notwithstanding Subsection (10)(a), the person designated by the division or a
327 court to supervise a parent-time session may deny parent-time for that session if the supervising
328 person determines that, based on the parent's condition, it is necessary to deny parent-time in
329 order to:

330 (i) protect the physical safety of the child;

331 (ii) protect the life of the child; or

332 (iii) consistent with Subsection (10)(c), prevent the child from being traumatized by
333 contact with the parent.

334 (c) In determining whether the condition of the parent described in Subsection (10)(b)
335 will traumatize a child, the person supervising the parent-time session shall consider the impact
336 that the parent's condition will have on the child in light of:

337 (i) the child's fear of the parent; and

338 (ii) the nature of the alleged abuse or neglect.

339 Section 4. Section **62A-4a-206.1** is amended to read:

340 **62A-4a-206.1. Foster parent's preference upon child's reentry into foster care.**

341 When a child reenters the temporary custody or the custody of the division, and is to be
342 placed in foster care, the child's former foster parents shall be notified [~~immediately~~]. Upon a
343 determination of their willingness and ability to safely and appropriately care for the child,
344 those foster parents shall be given a preference for placement of the child.

345 Section 5. Section **62A-4a-209** is amended to read:

346 **62A-4a-209. Emergency placement.**

347 (1) The division may use an emergency [~~kinship~~] placement under Subsection
348 62A-4a-202.1(4)(b)(ii) when:

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

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

351 (ii) removal is necessary under the provisions of Section 62A-4a-202.1; and

352 (iii) the child's custodial parent or guardian will agree to not remove the child from the
353 [~~relative's~~] home [~~who~~] of the person that serves as the [~~kinship~~] placement and not have any
354 contact with the child until after the shelter hearing required by Section 78-3a-306;

355 (b) a [~~relative~~] person, with preference being given [~~to a noncustodial parent in~~
356 ~~accordance with Section 78-3a-307~~] in accordance with Subsection (3), can be identified who
357 has the ability and is willing to provide care for the child who would otherwise be placed in
358 shelter care, including:

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

361 (ii) [~~the relative has the ability to make~~] making the child available to division services
362 and the guardian ad litem; and

363 (c) the [~~relative~~] person described in Subsection (1)(b) agrees to care for the child on
364 an emergency basis under the following conditions:

365 (i) the [~~relative~~] person meets the criteria for an emergency [~~kinship~~] placement under
366 Subsection (2);

367 (ii) the [~~relative~~] person agrees to not allow the custodial parent or guardian to have
368 any contact with the child until after the shelter hearing unless authorized by the division in

369 writing;

370 (iii) the ~~[relative]~~ person agrees to contact law enforcement and the division if the
371 custodial parent or guardian attempts to make unauthorized contact with the child;

372 (iv) the ~~[relative]~~ person agrees to allow the division and the child's guardian ad litem
373 to have access to the child;

374 (v) the ~~[relative]~~ person has been informed and understands that the division may
375 continue to search for other possible ~~[kinship]~~ placements for long-term care, if needed;

376 (vi) the ~~[relative]~~ person is willing to assist the custodial parent or guardian in
377 reunification efforts at the request of the division, and to follow all court orders; and

378 (vii) the child is comfortable with the ~~[relative]~~ person.

379 (2) Before the division places a child in an emergency ~~[kinship]~~ placement, the division
380 ~~[must]~~:

381 (a) may request the name of a reference and ~~[when possible,]~~ may contact the reference
382 ~~[and]~~ to determine the answer to the following questions:

383 (i) would the person identified as a reference place a child in the home of the
384 emergency ~~[kinship]~~ placement; and

385 (ii) are there any other relatives or friends to consider as a possible emergency or
386 long-term placement for the child;

387 (b) shall have the custodial parent or guardian sign an emergency ~~[kinship]~~ placement
388 agreement form during the investigation;

389 (c) shall complete a criminal background check described in Sections 62A-4a-202.4
390 and 78-3a-307.1 on all persons living in the ~~[relative's]~~ household where the child will be
391 placed;

392 (d) shall complete a home inspection of the ~~[relative's]~~ home where the emergency
393 placement is made; and

394 (e) shall have the emergency ~~[kinship]~~ placement approved by a family service
395 specialist.

396 ~~[(3) As soon as possible after the emergency placement and prior to the shelter hearing~~
397 ~~required by Section 78-3a-306, the division shall convene a family unity meeting.]~~

398 (3) (a) The following order of preference shall be applied when determining the person
399 with whom a child will be placed in an emergency placement described in this section.

400 provided that the person is willing, and has the ability, to care for the child:

401 (i) a noncustodial parent of the child in accordance with Section 78-3a-307;

402 (ii) a relative of the child;

403 (iii) subject to Subsection (3)(b), a friend designated by the custodial parent or

404 guardian of the child, if the friend is a licensed foster parent; and

405 (iv) a shelter facility, former foster placement, or other foster placement designated by

406 the division.

407 (b) Unless the division agrees otherwise, the custodial parent or guardian described in

408 Subsection (3)(a)(iii) may only designate one friend as a potential emergency placement.

409 (4) After an emergency [kinship] placement, the division caseworker must:

410 (a) respond to the emergency [kinship] placement's calls within one hour if the
411 custodial parents or guardians attempt to make unauthorized contact with the child or attempt
412 to remove the child;

413 (b) complete all removal paperwork, including the notice provided to the custodial
414 parents and guardians under Section 78-3a-306;

415 (c) contact the attorney general to schedule a shelter hearing;

416 (d) complete the [kinship] placement procedures required in Section 78-3a-307,
417 including, within five days after placement, the criminal history record check described in
418 Subsection (5); and

419 (e) continue to search for other relatives as a possible long-term placement, if needed.

420 (5) (a) In order to determine the suitability of [~~the kinship~~] a placement and to conduct
421 a background screening and investigation of individuals living in the household in which a
422 child is placed, each individual living in the household in which the child is placed who has not
423 lived in the state substantially year round for the most recent five consecutive years ending on
424 the date the investigation is commenced shall be fingerprinted. If no disqualifying record is
425 identified at the state level, the fingerprints shall be forwarded by the division to the Federal
426 Bureau of Investigation for a national criminal history record check.

427 (b) The cost of [~~those~~] the investigations described in Subsection (5)(a) shall be borne
428 by whomever received placement of the child, except that the division may pay all or part of
429 the cost of those investigations if the person with whom the child is placed is unable to pay.

430 Section 6. Section ~~62A-4a-414~~ is amended to read:

431 **62A-4a-414. Interviews of children -- Recording required -- Exceptions.**

432 (1) (a) [~~Interviews~~] Except as provided in Subsection (4), interviews of children during
 433 an investigation in accordance with Section 62A-4a-409, and involving allegations of sexual
 434 abuse or serious physical abuse of a child, shall be conducted only under the following
 435 conditions:

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

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

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

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

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

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

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

449 (b) [~~H~~] Except as provided in Subsection (4), if the equipment required under
 450 Subsection (1) is not available, the interview shall be audiotaped, provided that the interviewer
 451 shall clearly state at the beginning of the tape:

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

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

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

455 (3) [~~AH~~] Except as provided in Subsection (4), all other investigative interviews shall
 456 be audiotaped using electronic means. At the beginning of the tape, the worker shall state
 457 clearly the time, date, and place of the meeting, and the full name and age of the child in
 458 attendance.

459 (4) (a) Subject to Subsection (4)(b), an interview described in this section may be
 460 conducted without being taped if the child:

460a ~~H~~→ (i) **is at least nine years old;**

461 [~~t~~] (ii) ~~H~~ ← refuses to have the interview audio taped; and

462 ~~H→~~ [(iii)] (iii) ~~←H~~ refuses to have the interview video taped.

463 (b) If, pursuant to Subsection (4)(a), an interview is conducted without being taped, the
464 child's refusal shall be documented as follows:

465 (i) the interviewer shall attempt to get the child's refusal on tape, including the reasons
466 for the refusal; or

467 (ii) if the child does not allow the refusal, or the reasons for the refusal, to be taped, the
468 interviewer shall:

469 (A) state on the tape that the child is present, but has refused to have the interview,
470 refusal, or the reasons for the refusal taped; or

471 (B) if complying with Subsection (4)(b)(ii)(A) will result in the child, who would
472 otherwise consent to be interviewed, to refuse to be interviewed, the interviewer shall
473 document, in writing, that the child refused to allow the interview to be taped and the reasons
474 for that refusal.

475 (c) The division shall track the number of interviews under this section that are not
476 taped, and the number of refusals that are not taped, for each interviewer, in order to determine
477 whether a particular interviewer has a higher incidence of refusals, or taped refusals, than other
478 interviewers.

479 Section 7. Section **78-3a-305.5** is enacted to read:

480 **78-3a-305.5. Opportunity for a child to testify or address the court.**

481 (1) For purposes of this section, "postadjudication hearing" means:

482 (a) a disposition hearing;

483 (b) a permanency hearing; or

484 (c) a review hearing, except a drug court review hearing.

485 (2) A child shall be present at any postadjudication hearing in a case relating to the
486 abuse, neglect, or dependency of the child, unless the court determines that:

487 (a) requiring the child to be present at the postadjudication hearing would be
488 detrimental to the child ~~H→~~, or impractical ~~←H~~; or

489 (b) the child is not sufficiently mature to articulate the child's wishes in relation to the
490 hearing.

491 (3) A court may, in the court's discretion, order that a child described in Subsection (2)
492 be present at a hearing that is not a postadjudication hearing.

493 (4) (a) Except as provided in Subsection (4)(b), at any hearing in a case relating to the
 494 abuse, neglect, or dependency of a child, when the child is present at the hearing, the court
 495 shall:

496 (i) ask the child whether the child desires the opportunity to address the court or testify;

497 and

498 (ii) if the child desires an opportunity to address the court or testify, allow the child to
 499 address the court or testify.

500 (b) Subsection (4)(a) does not apply if the court determines that:

501 (i) it would be detrimental to the child ~~H~~→ [or impractical] ←~~H~~ to comply with

501a Subsection (4)(a); or

502 (ii) the child is not sufficiently mature to articulate the child's wishes in relation to the
 503 hearing.

504 (c) Subject to applicable court rules, the court may allow the child to address the court
 505 in camera.

506 (5) Nothing in this section prohibits a child from being present at a hearing that the
 507 child is not required to be at by this section or by court order, unless the court orders otherwise.

508 Section 8. Section **78-3a-306** is amended to read:

509 **78-3a-306. Shelter hearing.**

510 (1) A shelter hearing shall be held within 72 hours excluding weekends and holidays
 511 after any one or all of the following occur:

512 (a) removal of the child from the child's home by the division;

513 (b) placement of the child in the protective custody of the division;

514 (c) emergency [kinship] placement under Subsection 62A-4a-202.1(4);

515 (d) as an alternative to removal of the child, a parent enters a domestic violence shelter
 516 at the request of the division; or

517 (e) a "Motion for Expedited Placement in Temporary Custody" is filed under
 518 Subsection 78-3a-106(4).

519 (2) Upon the occurrence of any of the circumstances described in Subsections (1)(a)
 520 through (e), the division shall issue a notice that contains all of the following:

521 (a) the name and address of the person to whom the notice is directed;

522 (b) the date, time, and place of the shelter hearing;

523 (c) the name of the child on whose behalf a petition is being brought;

524 (d) a concise statement regarding:
525 (i) the reasons for removal or other action of the division under Subsection (1); and
526 (ii) the allegations and code sections under which the proceeding has been instituted;
527 (e) a statement that the parent or guardian to whom notice is given, and the child, are
528 entitled to have an attorney present at the shelter hearing, and that if the parent or guardian is
529 indigent and cannot afford an attorney, and desires to be represented by an attorney, one will be
530 provided; and

531 (f) a statement that the parent or guardian is liable for the cost of support of the child in
532 the protective custody, temporary custody, and custody of the division, and the cost for legal
533 counsel appointed for the parent or guardian under Subsection (2)(e), according to the financial
534 ability of the parent or guardian.

535 (3) The notice described in Subsection (2) shall be personally served as soon as
536 possible, but no later than one business day after removal of the child from the child's home, or
537 the filing of a "Motion for Expedited Placement in Temporary Custody" under Subsection
538 78-3a-106(4), on:

539 (a) the appropriate guardian ad litem; and
540 (b) both parents and any guardian of the child, unless the parents or guardians cannot
541 be located.

542 (4) The following persons shall be present at the shelter hearing:

543 (a) the child, unless it would be detrimental for the child;
544 (b) the child's parents or guardian, unless the parents or guardian cannot be located, or
545 fail to appear in response to the notice;
546 (c) counsel for the parents, if one is requested;
547 (d) the child's guardian ad litem;
548 (e) the caseworker from the division who is assigned to the case; and
549 (f) the attorney from the attorney general's office who is representing the division.

550 (5) (a) At the shelter hearing, the court shall:

551 (i) [~~shall~~] provide an opportunity to provide relevant testimony to:
552 (A) the child's parent or guardian, if present; and
553 (B) any other person having relevant knowledge; and
554 (ii) [~~may also~~] subject to Section 78-3a-305.5, provide an opportunity for the child to

555 testify.

556 (b) The court:

557 (i) may consider all relevant evidence, in accordance with the Utah Rules of Juvenile
558 Procedure;

559 (ii) shall hear relevant evidence presented by the child, the child's parent or guardian,
560 the requesting party, or their counsel; and

561 (iii) may in its discretion limit testimony and evidence to only that which goes to the
562 issues of removal and the child's need for continued protection.

563 (6) If the child is in the protective custody of the division, the division shall report to
564 the court:

565 (a) the reason why the child was removed from the parent's or guardian's custody;

566 (b) any services provided to the child and the child's family in an effort to prevent
567 removal;

568 (c) the need, if any, for continued shelter;

569 (d) the available services that could facilitate the return of the child to the custody of
570 the child's parent or guardian; and

571 (e) subject to Subsection 78-3a-307(8)(c), whether [~~the child has~~] any relatives [~~who~~]
572 of the child or friends of the child's parents may be able and willing to take temporary custody.

573 (7) The court shall consider all relevant evidence provided by persons or entities
574 authorized to present relevant evidence pursuant to this section.

575 (8) (a) If necessary to protect the child, preserve the rights of a party, or for other good
576 cause shown, the court may grant no more than one continuance, not to exceed five judicial
577 days.

578 (b) A court shall honor, as nearly as practicable, the request by a parent or guardian for
579 a continuance under Subsection (8)(a).

580 (9) (a) If the child is in the protective custody of the division, the court shall order that
581 the child be released from the protective custody of the division unless it finds, by a
582 preponderance of the evidence, that any one of the following exist:

583 (i) subject to Subsection (9)(b)(i), there is a substantial danger to the physical health or
584 safety of the child and the child's physical health or safety may not be protected without
585 removing the child from the custody of the child's parent;

586 (ii) (A) the child is suffering emotional damage; and
587 (B) there are no reasonable means available by which the child's emotional health may
588 be protected without removing the child from the custody of the child's parent;
589 (iii) there is a substantial risk that the child will suffer abuse or neglect if the child is
590 not removed from the custody of the child's parents;
591 (iv) subject to Subsection (9)(b)(ii), the child or a minor residing in the same
592 household has been physically or sexually abused, or is considered to be at substantial risk of
593 being physically or sexually abused, by a:
594 (A) parent;
595 (B) member of the parent's household; or
596 (C) person known to the parent;
597 (v) the parent is unwilling to have physical custody of the child;
598 (vi) the child is without any provision for the child's support;
599 (vii) a parent who is incarcerated or institutionalized has not or cannot arrange for safe
600 and appropriate care for the child;
601 (viii) (A) a relative or other adult custodian with whom the child is left by the parent is
602 unwilling or unable to provide care or support for the child;
603 (B) the whereabouts of the parent are unknown; and
604 (C) reasonable efforts to locate the parent are unsuccessful;
605 (ix) the child is in urgent need of medical care;
606 (x) the physical environment or the fact that the child is left unattended beyond a
607 reasonable period of time poses a threat to the child's health or safety;
608 (xi) the child or a minor residing in the same household has been neglected;
609 (xii) the parent, or an adult residing in the same household as the parent, is charged or
610 arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act, and any clandestine
611 laboratory operation was located in the residence or on the property where the child resided; or
612 (xiii) the child's welfare is substantially endangered.
613 (b) (i) Prima facie evidence of the finding described in Subsection (9)(a)(i) is
614 established if:
615 (A) a court previously adjudicated that the child suffered abuse, neglect, or dependency
616 involving the parent; and

617 (B) a subsequent incident of abuse, neglect, or dependency involving the parent occurs.

618 (ii) For purposes of Subsection (9)(a)(iv), if the court finds that the parent knowingly
619 allowed the child to be in the physical care of a person after the parent received actual notice
620 that the person physically or sexually abused the child, that fact constitutes prima facie
621 evidence that there is a substantial risk that the child will be physically or sexually abused.

622 (10) (a) (i) The court shall also make a determination on the record as to whether
623 reasonable efforts were made to prevent or eliminate the need for removal of the child from the
624 child's home and whether there are available services that would prevent the need for continued
625 removal.

626 (ii) If the court finds that the child can be safely returned to the custody of the child's
627 parent or guardian through the provision of those services, the court shall place the child with
628 the child's parent or guardian and order that those services be provided by the division.

629 (b) In making the determination described in Subsection (10)(a), and in ordering and
630 providing services, the child's health, safety, and welfare shall be the paramount concern, in
631 accordance with federal law.

632 (11) Where the division's first contact with the family occurred during an emergency
633 situation in which the child could not safely remain at home, the court shall make a finding that
634 any lack of preplacement preventive efforts was appropriate.

635 (12) In cases where actual sexual abuse or abandonment, or serious physical abuse or
636 neglect are involved, neither the division nor the court has any duty to make "reasonable
637 efforts" or to, in any other way, attempt to maintain a child in the child's home, return a child to
638 the child's home, provide reunification services, or attempt to rehabilitate the offending parent
639 or parents.

640 (13) The court may not order continued removal of a child solely on the basis of
641 educational neglect as described in Subsection 78-3a-103(1)(u)(ii).

642 (14) (a) Whenever a court orders continued removal of a child under this section, the
643 court shall state the facts on which that decision is based.

644 (b) If no continued removal is ordered and the child is returned home, the court shall
645 state the facts on which that decision is based.

646 (15) If the court finds that continued removal and temporary custody are necessary for
647 the protection of a child because harm may result to the child if the child were returned home,

648 the court shall order continued removal regardless of:

- 649 (a) any error in the initial removal of the child;
- 650 (b) the failure of a party to comply with notice provisions; or
- 651 (c) any other procedural requirement of this chapter or Title 62A, Chapter 4a, Child
652 and Family Services.

653 Section 9. Section **78-3a-307** is amended to read:

654 **78-3a-307. Shelter hearing -- Placement -- DCFS custody.**

655 (1) (a) At the shelter hearing, when the court orders that a child be removed from the
656 custody of the child's parent in accordance with the requirements of Section 78-3a-306, the
657 court shall first determine whether there is another natural parent as defined in Subsection
658 (1)(b), with whom the child was not residing at the time the events or conditions that brought
659 the child within the court's jurisdiction occurred, who desires to assume custody of the child. If
660 that parent requests custody, the court shall place the child with that parent unless it finds that
661 the placement would be unsafe or otherwise detrimental to the child. The provisions of this
662 Subsection (1) are limited by the provisions of Subsection (8)(b).

663 (b) Notwithstanding the provisions of Section 78-3a-103, for purposes of this section
664 "natural parent" includes only a biological or adoptive mother, an adoptive father, or a
665 biological father who was married to the child's biological mother at the time the child was
666 conceived or born, or who has strictly complied with the provisions of Section 78-30-4.14 prior
667 to removal of the child or voluntary surrender of the child by the custodial parent. This
668 definition applies regardless of whether the child has been or will be placed with adoptive
669 parents or whether adoption has been or will be considered as a long term goal for the child.

670 (c) (i) The court shall make a specific finding regarding the fitness of that parent to
671 assume custody, and the safety and appropriateness of the placement.

672 (ii) The court shall, at a minimum, order the division to visit the parent's home,
673 perform criminal background checks described in Sections 78-3a-307.1 and 62A-4a-202.4, and
674 check the division's management information system for any previous reports of abuse or
675 neglect received by the division regarding the parent at issue.

676 (iii) The court may order the Division of Child and Family Services to conduct any
677 further investigation regarding the safety and appropriateness of the placement.

678 (iv) The division shall report its findings in writing to the court.

679 (v) The court may place the child in the temporary custody of the division, pending its
680 determination regarding that placement.

681 (2) If the court orders placement with a parent under Subsection (1), the child and the
682 parent are under the continuing jurisdiction of the court. The court may order that the parent
683 assume custody subject to the supervision of the court, and order that services be provided to
684 the parent from whose custody the child was removed, the parent who has assumed custody, or
685 both. The court shall also provide for reasonable parent-time with the parent from whose
686 custody the child was removed, unless parent-time is not in the best interest of the child. The
687 court's order shall be periodically reviewed to determine whether:

688 (a) placement with the parent continues to be in the child's best interest;

689 (b) the child should be returned to the original custodial parent;

690 (c) the child should be placed with a relative, pursuant to Subsection (5); or

691 (d) the child should be placed in the custody of the division.

692 (3) The time limitations described in Section 78-3a-311 with regard to reunification
693 efforts, apply to children placed with a previously noncustodial parent in accordance with
694 Subsection (1).

695 (4) Legal custody of the child is not affected by an order entered under Subsection (1)
696 or (2). In order to affect a previous court order regarding legal custody, the party must petition
697 that court for modification of the order.

698 (5) (a) (i) If, at the time of the shelter hearing, a child is removed from the custody of
699 the child's parent and is not placed in the custody of his other parent, the court shall, at that
700 time, determine whether, subject to Subsection (8)(c), there is a relative of the child or a friend
701 of a parent of the child who is able and willing to care for the child.

702 (ii) The court may order the Division of Child and Family Services to conduct a
703 reasonable search to determine whether, subject to Subsection (8)(c), there are relatives of the
704 child or friends of a parent of the child who are willing and appropriate, in accordance with the
705 requirements of this part and Title 62A, Chapter 4a, Part 2, Child Welfare Services, for
706 placement of the child. The court shall order the parents to cooperate with the division, within
707 five working days, to, subject to Subsection (8)(c), provide information regarding relatives of
708 the child or friends who may be able and willing to care for the child.

709 (iii) The child may be placed in the temporary custody of the division pending the

710 determination under Subsection (5)(a)(ii).

711 (iv) This section may not be construed as a guarantee that an identified relative or
712 friend will receive custody of the child. However, subject to Subsection (8)(c), preferential
713 consideration shall be given to a relative's or a friend's request for placement of the child, if it is
714 in the best interest of the child, and the provisions of this section are satisfied.

715 (b) (i) If a willing relative or friend is identified pursuant to Subsection (5)(a), the court
716 shall make a specific finding regarding the fitness of that relative or friend to assume custody,
717 and the safety and appropriateness of placement with that relative or friend. In order to be
718 considered a "willing relative or friend" under this section, the relative or friend shall be willing
719 to cooperate if the child's permanency goal is reunification with his parent or parents, and be
720 willing to adopt or take permanent custody of the child if that is determined to be in the best
721 interest of the child.

722 (ii) The court shall, at a minimum, order the division to conduct criminal background
723 checks described in Sections 78-3a-307.1 and 62A-4a-202.4, visit the relative's or friend's
724 home, check the division's management information system for any previous reports of abuse
725 or neglect regarding the relative or friend at issue, report its findings in writing to the court, and
726 provide sufficient information so that the court may determine whether:

727 (A) the relative or friend has any history of abusive or neglectful behavior toward other
728 children that may indicate or present a danger to this child;

729 (B) the child is comfortable with the relative or friend;

730 (C) the relative or friend recognizes the parent's history of abuse and is determined to
731 protect the child;

732 (D) the relative or friend is strong enough to resist inappropriate requests by the parent
733 for access to the child, in accordance with court orders;

734 (E) the relative or friend is committed to caring for the child as long as necessary; and

735 (F) the relative or friend can provide a secure and stable environment for the child.

736 (iii) The court may order the Division of Child and Family Services to conduct any
737 further investigation regarding the safety and appropriateness of the placement.

738 (iv) The division shall complete and file its assessment regarding placement with a
739 relative or friend as soon as practicable, in an effort to facilitate placement of the child with a
740 relative or friend.

741 (c) The court may place the child in the temporary custody of the division, pending the
742 division's investigation pursuant to Subsection (5)(b), and the court's determination regarding
743 that placement. The court shall ultimately base its determination regarding placement with a
744 relative or friend on the best interest of the child.

745 (d) For purposes of this section, "relative" means an adult who is a grandparent, great
746 grandparent, aunt, great aunt, uncle, great uncle, brother-in-law, sister-in-law, stepparent, first
747 cousin, stepsibling, or sibling of the child. In the case of a child defined as an "Indian" under
748 the Indian Child Welfare Act, 25 U.S.C. Section 1903, "relative" also means an "extended
749 family member" as defined by that statute.

750 (6) (a) When the court vests physical custody of a child with a relative or friend
751 pursuant to Subsection (5), it shall order that the relative or friend assume custody subject to
752 the continuing supervision of the court, and shall order that any necessary services be provided
753 to the child and the relative or friend. That child is not within the temporary custody or
754 custody of the Division of Child and Family Services. The child and any relative or friend with
755 whom the child is placed are under the continuing jurisdiction of the court. The court may
756 enter any order that it considers necessary for the protection and best interest of the child. The
757 court shall provide for reasonable parent-time with the parent or parents from whose custody
758 the child was removed unless parent-time is not in the best interest of the child.

759 (b) (i) Placement with a relative or friend pursuant to Subsection (5) shall be
760 periodically reviewed by the court, no less often than every six months, to determine whether:

- 761 (A) placement with the relative or friend continues to be in the child's best interest;
762 (B) the child should be returned home; or
763 (C) the child should be placed in the custody of the division.

764 (ii) No later than 12 months after placement with a relative or friend, the court shall
765 schedule a hearing for the purpose of entering a permanent order in accordance with the best
766 interest of the child.

767 (iii) The time limitations described in Section 78-3a-311, with regard to reunification
768 efforts, apply to children placed with a relative or friend pursuant to Subsection (5).

769 (7) When the court orders that a child be removed from the custody of the child's
770 parent and does not vest custody in another parent [~~or~~], relative, or friend under this section, the
771 court shall order that the child be placed in the temporary custody of the Division of Child and

772 Family Services, to proceed to adjudication and disposition and to be provided with care and
773 services in accordance with this chapter and Title 62A, Chapter 4a, Child and Family Services.

774 (8) (a) Any preferential consideration that a relative or friend is initially granted
775 pursuant to Subsection (5) expires 120 days from the date of the shelter hearing. After that
776 time period has expired, a relative or friend who has not obtained custody or asserted an
777 interest in a child, may not be granted preferential consideration by the division or the court.

778 (b) When the time period described in Subsection (8)(a) has expired, the preferential
779 consideration which is initially granted to a natural parent in accordance with Subsection (1), is
780 limited. After that time the court shall base its custody decision on the best interest of the
781 child.

782 (c) (i) Prior to the expiration of the 120-day period described in Subsection (8)(a), the
783 following order of preference shall be applied when determining the person with whom a child
784 will be placed, provided that the person is willing, and has the ability, to care for the child:

785 (A) a noncustodial parent of the child;

786 (B) a relative of the child;

787 (C) subject to Subsection (8)(c)(ii), a friend of a parent of the child, if the friend is a
788 licensed foster parent; and

789 (D) other placements that are consistent with the requirements of law.

790 (ii) In determining whether a friend is a willing and appropriate placement for a child,
791 neither the court, nor the division, is required to consider more than one friend designated by
792 each parent of the child.

793 (iii) If a parent of the child is not able to designate a friend who is a licensed foster
794 parent for placement of the child, but is able to identify a friend who is willing to become
795 licensed as a foster parent:

796 (A) the department shall fully cooperate to expedite the licensing process for the
797 friend; and

798 (B) if the friend becomes licensed as a foster parent within the time frame described in
799 Subsection (8)(a), the court shall determine whether it is in the best interests of the child to
800 place the child in the physical custody of the friend.

801 Section 10. Section **78-3a-312** is amended to read:

802 **78-3a-312. Permanency hearing -- Final plan -- Petition for termination of**

803 **parental rights filed -- Hearing on termination of parental rights.**

804 (1) (a) When reunification services have been ordered in accordance with Section
805 78-3a-311, with regard to a minor who is in the custody of the Division of Child and Family
806 Services, a permanency hearing shall be held by the court no later than 12 months after the
807 original removal of the minor.

808 (b) If reunification services were not ordered at the dispositional hearing, a permanency
809 hearing shall be held within 30 days from the date of the dispositional hearing.

810 (2) (a) If reunification services were ordered by the court in accordance with Section
811 78-3a-311, the court shall, at the permanency hearing, determine, consistent with Subsection
812 (3), whether the minor may safely be returned to the custody of the minor's parent.

813 (b) If the court finds, by a preponderance of the evidence, that return of the minor
814 would create a substantial risk of detriment to the minor's physical or emotional well-being, the
815 minor may not be returned to the custody of the minor's parent.

816 (c) Prima facie evidence that return of the minor to a parent or guardian would create a
817 substantial risk of detriment to the minor is established if the parent or guardian fails to:

818 (i) participate in a court approved child and family plan;

819 (ii) comply with a court approved child and family plan in whole or in part; or

820 (iii) meet the goals of a court approved child and family plan.

821 (3) In making a determination under Subsection (2)(a), the court shall review and
822 consider:

823 (a) the report prepared by the Division of Child and Family Services;

824 (b) any admissible evidence offered by the minor's guardian ad litem;

825 (c) any report prepared by a foster care citizen review board pursuant to Section
826 78-3g-103;

827 (d) any evidence regarding the efforts or progress demonstrated by the parent; and

828 (e) the extent to which the parent cooperated and availed himself of the services
829 provided.

830 (4) (a) With regard to a case where reunification services were ordered by the court, if
831 a minor is not returned to the minor's parent or guardian at the permanency hearing, the court
832 shall:

833 (i) order termination of reunification services to the parent;

834 (ii) make a final determination regarding whether termination of parental rights,
835 adoption, or permanent custody and guardianship is the most appropriate final plan for the
836 minor, taking into account the minor's primary permanency goal established by the court
837 pursuant to Section 78-3a-311; and

838 (iii) establish a concurrent plan that identifies the second most appropriate final plan
839 for the minor.

840 (b) If the Division of Child and Family Services documents to the court that there is a
841 compelling reason that adoption, reunification, guardianship, and [kinship] a placement
842 described in Subsection 78-3a-306(6)(e) are not in the minor's best interest, the court may order
843 another planned permanent living arrangement, in accordance with federal law.

844 (c) If the minor clearly desires contact with the parent, the court shall take the minor's
845 desire into consideration in determining the final plan.

846 (d) Consistent with Subsection (4)(e), the court may not extend reunification services
847 beyond 12 months from the date the minor was initially removed from the minor's home, in
848 accordance with the provisions of Section 78-3a-311, except that the court may extend
849 reunification services for no more than 90 days if the court finds that:

850 (i) there has been substantial compliance with the child and family plan;

851 (ii) reunification is probable within that 90-day period; and

852 (iii) the extension is in the best interest of the minor.

853 (e) (i) In no event may any reunification services extend beyond 15 months from the
854 date the minor was initially removed from the minor's home.

855 (ii) Delay or failure of a parent to establish paternity or seek custody does not provide a
856 basis for the court to extend services for that parent beyond that 12-month period.

857 (f) The court may, in its discretion:

858 (i) enter any additional order that it determines to be in the best interest of the minor,
859 so long as that order does not conflict with the requirements and provisions of Subsections
860 (4)(a) through (e); or

861 (ii) order the division to provide protective supervision or other services to a minor and
862 the minor's family after the division's custody of a minor has been terminated.

863 (5) If the final plan for the minor is to proceed toward termination of parental rights,
864 the petition for termination of parental rights shall be filed, and a pretrial held, within 45

865 calendar days after the permanency hearing.

866 (6) (a) Any party to an action may, at any time, petition the court for an expedited
867 permanency hearing on the basis that continuation of reunification efforts are inconsistent with
868 the permanency needs of the minor.

869 (b) If the court so determines, it shall order, in accordance with federal law, that:

870 (i) the minor be placed in accordance with the permanency plan; and

871 (ii) whatever steps are necessary to finalize the permanent placement of the minor be
872 completed as quickly as possible.

873 (7) Nothing in this section may be construed to:

874 (a) entitle any parent to reunification services for any specified period of time;

875 (b) limit a court's ability to terminate reunification services at any time prior to a
876 permanency hearing; or

877 (c) limit or prohibit the filing of a petition for termination of parental rights by any
878 party, or a hearing on termination of parental rights, at any time prior to a permanency hearing.

879 (8) (a) Subject to Subsection (8)(b), if a petition for termination of parental rights is
880 filed prior to the date scheduled for a permanency hearing, the court may consolidate the
881 hearing on termination of parental rights with the permanency hearing.

882 (b) For purposes of Subsection (8)(a), if the court consolidates the hearing on
883 termination of parental rights with the permanency hearing:

884 (i) the court shall first make a finding regarding whether reasonable efforts have been
885 made by the Division of Child and Family Services to finalize the permanency goal for the
886 minor; and

887 (ii) any reunification services shall be terminated in accordance with the time lines
888 described in Section 78-3a-311.

889 (c) A decision on a petition for termination of parental rights shall be made within 18
890 months from the day on which the minor is removed from the minor's home.

Legislative Review Note
as of 1-22-07 2:35 PM

Office of Legislative Research and General Counsel

H.B. 328 - Child Protection and Parental Rights Amendments

Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

1/25/2007, 3:17:46 PM, Lead Analyst: Headden, D.

Office of the Legislative Fiscal Analyst