H.B. 36
CHILD WELFARE AMENDMENTS

Representative **Wayne A. Harper** proposes the following amendments:

1. *Page 2, Line 42:*

    42   { ~~None~~ }   **This bill provides an immediate effective date.**

2. *Page 2, Line 55:*

    55   78-30-3.6, as last amended by Laws of Utah 2007, Chapters 152 and 196

    ENACTS:

         78-3a-307.5, Utah Code Annotated 1953

3. *Page 4, Lines 108 through 114:*

    108   (h) The requirements under Subsections (1)(f) and (g) do not apply to the extent that:

    109   (i) federal law or rule permits otherwise; or

    110   (ii) the requirements would prohibit the Division of Child and Family Services or a

    111   court from placing a child with:

    112   (A) a noncustodial parent under Section 62A-4a-209 { ~~or~~ } **,** 78-3a-307 **, or Section 78-3a-307.5** ; or

    113   (B) a relative **, other than a noncustodial parent** , under Section 62A-4a-209 { ~~or~~ } **,** 78-3a-307 **, or Section 78-3a-307.5** , pending completion of the

    114   background check described in Subsections (1)(f) and (g).

4. *Page 26, Line 799 through Page 27, Line 805:*

    799   { ~~(B) conduct~~ } **(C)** a background check that complies with the criminal background check

    800   provisions described in Section 78-3a-307.1, of each adult nonrelative, as defined in

    801   Subsection 62A-4a-209(1)(a), of the child who resides in the household where the child may be

    802   placed;

    803   (ii) if the child will be placed with a noncustodial parent of the child, complete { ~~the~~

    804   ~~same~~ } **a background check that includes:**

         (A) **the** background check requirements applicable to an emergency placement with a

    805   noncustodial parent { ~~, as~~ } **that are** described in { ~~Section~~ } **Subsections** 62A-4a-209 **(5) and (7)** :

         (B) a completed search, relating to the noncustodial parent of the child, of the Management

    Information System described in Section 62A-4a-1003; and

(C) **a background check that complies with the criminal background check provisions described in Section 78-3a-307.1, of each adult nonrelative, as defined in Subsection 62A-4a-209(1)(a), of the child who resides in the household where the child may be placed;**

5. *Page 29, Lines 876 through 879:*

876   (A) take the child into physical custody; and

877   (B) within **{ ~~one day~~ }** **three days** , excluding weekends and holidays, **{ ~~of~~ }** **after** taking the child into physical

878   custody under Subsection (16)(a)(ii)(A), give written notice to the court, and all parties to the

879   proceedings, of the division's action.

6. *Page 31, Lines 938 through 941:*

938   (b) [~~Upon request by the Division of Child and Family Services~~] Except as provided in

939   Subsection (4), **upon request by** the division or the Office of the Guardian ad Litem Director, or upon the court's

940   order, persons subject to the requirements of Subsection (1) shall submit fingerprints and shall

941   be subject to an FBI fingerprint background check. The child may be temporarily placed,

7. *Page 32, Lines 970 through 978:*

970   (4) Subsections (2)(a) and (b) do not apply to a child who is placed with a noncustodial

971   parent or relative under Section 62A-4a-209 **{ ~~or~~ }** **,** 78-3a-307 **, or 78-3a-307.5** , unless the court finds that

972   compliance with Subsection (2)(a) or (b) is necessary to ensure the safety of the child.

973   (5) The requirements under Subsection (3) do not apply to the extent that:

974   (a) federal law or rule permits otherwise; or

975   (b) the requirements would prohibit the division or a court from placing a child with:

976   (i) a noncustodial parent, under Section 62A-4a-209 **{ ~~or~~ }** **,** 78-3a-307 **, or 78-3a-307.5** ; or

977   (ii) a relative, under Section 62A-4a-209 **{ ~~or~~ }** **,** 78-3a-307 **, or 78-3a-307.5** , pending completion of the

978   background check described in Subsection (3).

      Section 9. Section 78-3a-307.5 is enacted to read:

      78-3a-307.5. Post-shelter hearing placement of a child who is in division custody.

      (1) If the court awards custody of a child to the division under Section 78-3a-307, or as otherwise permitted by law, the division shall determine ongoing placement of the child.

      (2) In placing a child under Subsection (1), the division:

      (a) except as provided in Subsections (2)(b) and (d), shall comply with the applicable background check provisions described in Section 78-3a-307;

      (b) is not required to receive approval from the court prior to making the placement;

(c) shall, within three days, excluding weekends and holidays, after making the placement, give written notice to the court, and all parties to the proceedings, that the placement has been made; and

(d) may place the child with a noncustodial parent or relative of the child, using the same criteria established for an emergency placement under Section 62A-4a-209, pending the results of:

(i) the background check described in Subsection 78-3a-307(16)(a); and

(ii) evaluation with the noncustodial parent or relative to determine the noncustodial parent's or relative's capacity to provide ongoing care to the child.

8. Page 36, Lines 1105 through 1110:

1105 (9) The requirements under Subsection (8) do not apply to the extent that:

1106 (a) federal law or rule permits otherwise; or

1107 (b) the requirements would prohibit the division or a court from placing a child with:

1108 (i) a noncustodial parent, under Section 62A-4a-209 { or } **,** 78-3a-307 **,or 78-3a-307.5** ; or

1109 (ii) a relative, under Section 62A-4a-209 { or } **,** 78-3a-307 **, or 78-3a-307.5** , pending completion of the

1110 background check described in Subsection (8).

9. Page 38, Line 1151:

1151 Subsections 78-30-3.5(8)(a) through (d).

Section 12. Effective date.

If approved by two-thirds of all members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

Renumber remaining sections accordingly.