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**RIGHTS OF PARENTS AND CHILDREN**

2012 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: LaVar Christensen**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies Title 62A, Chapter 4a, Child and Family Services, Title 78A, Chapter 4, Court of Appeals, and Title 78A, Chapter 6, Juvenile Court Act of 1996, by affirming parental rights, amending procedures regarding the Division of Child and Family Services, and amending court procedures regarding the termination of parental rights.

**Highlighted Provisions:**

This bill:

- ▶ affirms parental rights in relation to the rights of the state;
- ▶ requires the court to consider the protections of parental rights described in Section 62A-4a-201 before terminating parental rights;
- ▶ emphasizes the importance of in-home services and kinship placement over other forms of state intervention;
- ▶ states that a court shall hold a permanency review hearing 12 months after the date of removal for a minor who is 36 months or younger at the date the minor is initially removed from the home;
- ▶ states that the termination of parental rights should be pursued as a last resort only;
- ▶ requires an appellate court to consider "fundamental liberty interests" in an appeal of a termination of parental rights; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**



28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **62A-4a-201**, as last amended by Laws of Utah 2008, Chapters 3 and 299

34 **78A-6-312**, as last amended by Laws of Utah 2011, Chapters 98 and 167

35 **78A-6-503**, as renumbered and amended by Laws of Utah 2008, Chapter 3

36 **78A-6-507**, as renumbered and amended by Laws of Utah 2008, Chapter 3

37 ENACTS:

38 **78A-4-201**, Utah Code Annotated 1953



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

41 Section 1. Section **62A-4a-201** is amended to read:

42 **62A-4a-201. Rights of parents -- Children's rights -- Interest and responsibility of**  
43 **state.**

44 (1) (a) Under both the United States Constitution and the constitution of this state, a  
45 parent possesses a fundamental liberty interest in the care, custody, and management of the  
46 parent's children. A fundamentally fair process must be provided to parents if the state moves  
47 to challenge or interfere with parental rights. A governmental entity must support any actions  
48 or allegations made in opposition to the rights and desires of a parent regarding the parent's  
49 children by sufficient evidence to satisfy a parent's constitutional entitlement to heightened  
50 protection against government interference with the parent's fundamental rights and liberty  
51 interests.

52 (b) The fundamental liberty interest of a parent concerning the care, custody, and  
53 management of the parent's children is recognized, protected, and does not cease to exist  
54 simply because a parent may fail to be a model parent or because the parent's child is placed in  
55 the temporary custody of the state. At all times, a parent retains a vital interest in preventing  
56 the irretrievable destruction of family life. Prior to an adjudication of unfitness, government  
57 action in relation to parents and their children may not exceed the least restrictive means or  
58 alternatives available to accomplish a compelling state interest. Until the state proves parental

59     unfitness, the child and the child's parents share a vital interest in preventing erroneous  
60     termination of their natural relationship and the state cannot presume that a child and the child's  
61     parents are adversaries.

62             (c) It is in the best interest and welfare of a child to be raised under the care and  
63     supervision of the child's natural parents. A child's need for a normal family life in a  
64     permanent home, and for positive, nurturing family relationships [~~will usually~~] is best [be] met  
65     by the child's natural parents, except in extreme cases where additional assistance may be  
66     needed. Additionally, the integrity of the family unit[;] and the right of parents to conceive and  
67     raise their children [~~have found protection in the due process clause of the Fourteenth~~  
68     ~~Amendment to the United States Constitution~~] are constitutionally protected. The right of a  
69     [~~fit, competent~~] parent to raise the parent's child without undue government interference is a  
70     fundamental liberty interest that has long been protected by the laws and Constitution [~~of this~~  
71     ~~state and of the United States~~] and is a fundamental public policy of this state.

72             (d) The state recognizes that:

73                 (i) a parent has the right, obligation, responsibility, and authority to raise, manage,  
74     train, educate, provide for, and reasonably discipline the parent's children; and

75                 (ii) the state's role is secondary and supportive to the primary role of a parent.

76             (e) It is the public policy of this state that parents retain the fundamental right and duty  
77     to exercise primary control over the care, supervision, upbringing, and education of their  
78     children.

79             (f) Subsections (2) through (7) shall be interpreted and applied consistent with this  
80     Subsection (1).

81             (2) It is also the public policy of this state that children have the right to protection  
82     from abuse and neglect, and that the state retains a compelling interest in investigating,  
83     prosecuting, and punishing abuse and neglect, as defined in this chapter, and in Title 78A,  
84     Chapter 6, Juvenile Court Act of 1996. Therefore, the state, as *parens patriae*, has an interest in  
85     and responsibility to protect children whose parents abuse them or do not adequately provide  
86     for their welfare. There may be circumstances where a parent's conduct or condition is a  
87     substantial departure from the norm and the parent is unable or unwilling to render safe and  
88     proper parental care and protection. Under those circumstances, the state may take limited  
89     action for the welfare and protection of the parent's children.

90 (3) When the division intervenes on behalf of an abused, neglected, or dependent child,  
91 it shall take into account the child's verified need for protection from immediate harm and the  
92 extent to which the child's extended family may provide needed protection. Throughout its  
93 involvement, the division shall utilize the least intrusive and least restrictive means available to  
94 protect a child, in an effort to ensure that children are brought up in stable, permanent families,  
95 rather than in temporary foster placements under the supervision of the state.

96 (4) When circumstances within the family pose a threat to the child's immediate safety  
97 or welfare, the division may [~~obtain~~] seek temporary custody of the child for a [~~planned~~]  
98 limited period and place the child in a safe environment, subject to the requirements of this  
99 section and in accordance with the requirements of Title 78A, Chapter 6, Part 3, Abuse,  
100 Neglect, and Dependency Proceedings.

101 (5) In determining and making "reasonable efforts" with regard to a child, pursuant to  
102 the provisions of Section 62A-4a-203, both the division's and the court's paramount concern  
103 shall be the child's health, safety, and welfare, and the constitutionally protected rights of  
104 parents. The desires of a parent for the parent's child shall be given full and serious  
105 consideration by the division and the court.

106 (6) In cases where actual sexual abuse, sexual exploitation, abandonment, severe  
107 abuse, or severe neglect are established, the state has no duty to make "reasonable efforts" or  
108 to, in any other way, attempt to maintain a child in the child's home, provide reunification  
109 services, or to attempt to rehabilitate the offending parent or parents. This Subsection (6) does  
110 not exempt the division from providing court-ordered services.

111 (7) (a) [~~It is the division's obligation, under federal law, to~~] The division shall strive to  
112 achieve appropriate permanency for children who are abused, neglected, or dependent. The  
113 division shall provide in-home services in an effort to help a parent to correct the behavior that  
114 resulted in abuse, neglect, or dependency of the parent's child. If in-home services fail or are  
115 otherwise insufficient or inappropriate, the division shall also seek extended family support or  
116 a kinship placement to maintain a sense of security and stability for the child. If in-home  
117 services and kinship placement fail and cannot be corrected, the division may pursue a foster  
118 placement.

119 (b) If the use or continuation of "reasonable efforts," as described in Subsections (5)  
120 and (6), is determined to be inconsistent with the permanency plan for a child, then measures

121 shall be taken, in a timely manner, to place the child in accordance with the permanency plan,  
122 and to complete whatever steps are necessary to finalize the permanent placement of the child.

123 ~~[(b) If,]~~ (c) Subject to the parental rights recognized and protected under this section,  
124 if, because of a parent's conduct or condition, the parent is conclusively determined to be unfit  
125 or incompetent based on the grounds for termination of parental rights described in Title 78A,  
126 Chapter 6, Part 5, Termination of Parental Rights Act, the continuing welfare and best interest  
127 of the child ~~[is of paramount importance, and shall govern]~~ shall be protected in determining  
128 whether that parent's rights should be terminated.

129 (8) The state's right to direct or intervene in the provision of medical or mental health  
130 care for a child is subject to Subsection 78A-6-117(2)(n).

131 Section 2. Section **78A-4-201** is enacted to read:

132 **78A-4-201. Appellate review of juvenile courts.**

133 To uphold the clear and compelling fundamental liberty interests and constitutionally  
134 protected rights of parents and the strong public policy in favor of maximizing family  
135 unification, appellate review shall be equitably applied and made available in furtherance of  
136 those interests and before a permanent termination of parental rights order may take full force  
137 and effect.

138 Section 3. Section **78A-6-312** is amended to read:

139 **78A-6-312. Dispositional hearing -- Reunification services -- Exceptions.**

140 (1) The court may:

141 (a) make any of the dispositions described in Section 78A-6-117;

142 (b) place the minor in the custody or guardianship of any:

143 (i) individual; or

144 (ii) public or private entity or agency; or

145 (c) order:

146 (i) protective supervision;

147 (ii) family preservation;

148 (iii) subject to Subsection 78A-6-117(2)(n)(iii), medical or mental health treatment; or

149 (iv) other services.

150 (2) Whenever the court orders continued removal at the dispositional hearing, and that  
151 the minor remain in the custody of the division, the court shall first:

152 (a) establish a primary permanency goal for the minor; and  
153 (b) determine whether, in view of the primary permanency goal, reunification services  
154 are appropriate for the minor and the minor's family, pursuant to Subsections (20) through (22).

155 (3) Subject to Subsections (6) and (7), if the court determines that reunification  
156 services are appropriate for the minor and the minor's family, the court shall provide for  
157 reasonable parent-time with the parent or parents from whose custody the minor was removed,  
158 unless parent-time is not in the best interest of the minor.

159 (4) In cases where obvious sexual abuse, sexual exploitation, abandonment, severe  
160 abuse, or severe neglect are involved, neither the division nor the court has any duty to make  
161 "reasonable efforts" or to, in any other way, attempt to provide reunification services, or to  
162 attempt to rehabilitate the offending parent or parents.

163 (5) In all cases, the minor's health, safety, and welfare shall be the court's paramount  
164 concern in determining whether reasonable efforts to reunify should be made.

165 (6) For purposes of Subsection (3), parent-time is in the best interests of a minor unless  
166 the court makes a finding that it is necessary to deny parent-time in order to:

- 167 (a) protect the physical safety of the minor;
- 168 (b) protect the life of the minor; or
- 169 (c) prevent the minor from being traumatized by contact with the parent due to the  
170 minor's fear of the parent in light of the nature of the alleged abuse or neglect.

171 (7) Notwithstanding Subsection (3), a court may not deny parent-time based solely on a  
172 parent's failure to:

- 173 (a) prove that the parent has not used legal or illegal substances; or
- 174 (b) comply with an aspect of the child and family plan that is ordered by the court.

175 (8) In addition to the primary permanency goal, the court shall establish a concurrent  
176 permanency goal that shall include:

- 177 (a) a representative list of the conditions under which the primary permanency goal  
178 will be abandoned in favor of the concurrent permanency goal; and
- 179 (b) an explanation of the effect of abandoning or modifying the primary permanency  
180 goal.

181 (9) A permanency hearing shall be conducted in accordance with Subsection  
182 78A-6-314(1)(b) within 30 days after the day on which the dispositional hearing ends if

183 something other than reunification is initially established as a minor's primary permanency  
184 goal.

185 (10) (a) The court may amend a minor's primary permanency goal before the  
186 establishment of a final permanency plan under Section 78A-6-314.

187 (b) The court is not limited to the terms of the concurrent permanency goal in the event  
188 that the primary permanency goal is abandoned.

189 (c) If, at any time, the court determines that reunification is no longer a minor's primary  
190 permanency goal, the court shall conduct a permanency hearing in accordance with Section  
191 78A-6-314 on or before the earlier of:

192 (i) 30 days after the day on which the court makes the determination described in this  
193 Subsection (10)(c); or

194 (ii) the day on which the provision of reunification services, described in Section  
195 78A-6-314, ends.

196 (11) (a) If the court determines that reunification services are appropriate, it shall order  
197 that the division make reasonable efforts to provide services to the minor and the minor's  
198 parent for the purpose of facilitating reunification of the family, for a specified period of time.

199 (b) In providing the services described in Subsection (11)(a), the minor's health, safety,  
200 and welfare shall be the division's paramount concern, and the court shall so order.

201 (12) The court shall:

202 (a) determine whether the services offered or provided by the division under the child  
203 and family plan constitute "reasonable efforts" on the part of the division;

204 (b) determine and define the responsibilities of the parent under the child and family  
205 plan in accordance with Subsection 62A-4a-205(6)(e); and

206 (c) identify verbally on the record, or in a written document provided to the parties, the  
207 responsibilities described in Subsection (12)(b), for the purpose of assisting in any future  
208 determination regarding the provision of reasonable efforts, in accordance with state and  
209 federal law.

210 (13) (a) The time period for reunification services may not exceed 12 months from the  
211 date that the minor was initially removed from the minor's home, unless the time period is  
212 extended under Subsection 78A-6-314(8).

213 (b) Nothing in this section may be construed to entitle any parent to an entire 12

214 months of reunification services.

215 (14) (a) If reunification services are ordered, the court may terminate those services at  
216 any time for good and clearly established cause.

217 (b) If, at any time, continuation of reasonable efforts to reunify a minor is determined  
218 to be inconsistent with the final permanency plan for the minor established pursuant to Section  
219 78A-6-314, then measures shall be taken, in a timely manner, to:

220 (i) place the minor in accordance with the permanency plan; and

221 (ii) complete whatever steps are necessary to finalize the permanent placement of the  
222 minor.

223 (15) Any physical custody of the minor by the parent or a relative during the period  
224 described in Subsections (11) through (14) does not interrupt the running of the period.

225 (16) (a) If reunification services are ordered, a permanency hearing shall be conducted  
226 by the court in accordance with Section 78A-6-314 at the expiration of the time period for  
227 reunification services.

228 (b) The permanency hearing shall be held no later than 12 months after the original  
229 removal of the minor.

230 (c) If reunification services are not ordered, a permanency hearing shall be conducted  
231 within 30 days, in accordance with Section 78A-6-314.

232 (17) With regard to a minor who is 36 months of age or younger at the time the minor  
233 is initially removed from the home, the court shall:

234 (a) hold a permanency hearing [~~eight~~] 12 months after the date of the initial removal,  
235 pursuant to Section 78A-6-314; and

236 (b) order the discontinuance of those services after [~~eight~~] 12 months from the initial  
237 removal of the minor from the home if the parent or parents have not made substantial efforts  
238 to comply with the child and family plan.

239 (18) With regard to a minor in the custody of the division whose parent or parents are  
240 ordered to receive reunification services but who have abandoned that minor for a period of six  
241 months from the date that reunification services were ordered:

242 (a) the court shall terminate reunification services; and

243 (b) the division shall petition the court for termination of parental rights.

244 (19) When a court conducts a permanency hearing for a minor under Section



245 78A-6-314, the court shall attempt to keep the minor's sibling group together if keeping the  
246 sibling group together is:

247 (a) practicable; and

248 (b) in accordance with the best interest of the minor.

249 (20) (a) Because of the state's interest in and responsibility to protect and provide  
250 permanency for minors who are abused, neglected, or dependent, the Legislature finds that a  
251 parent's interest in receiving reunification services is limited.

252 (b) The court may determine that:

253 (i) efforts to reunify a minor with the minor's family are not reasonable or appropriate,  
254 based on the individual circumstances; and

255 (ii) reunification services should not be provided.

256 (c) In determining "reasonable efforts" to be made with respect to a minor, and in  
257 making "reasonable efforts," the minor's health, safety, and welfare shall be the paramount  
258 concern.

259 (21) There is a presumption that reunification services should not be provided to a  
260 parent if the court finds, by clear and convincing evidence, that any of the following  
261 circumstances exist:

262 (a) the whereabouts of the parents are unknown, based upon a verified affidavit  
263 indicating that a reasonably diligent search has failed to locate the parent;

264 (b) subject to Subsection (22)(a), the parent is suffering from a mental illness of such  
265 magnitude that it renders the parent incapable of utilizing reunification services;

266 (c) the minor was previously adjudicated as an abused child due to physical abuse,  
267 sexual abuse, or sexual exploitation, and following the adjudication the minor:

268 (i) was removed from the custody of the minor's parent;

269 (ii) was subsequently returned to the custody of the parent; and

270 (iii) is being removed due to additional physical abuse, sexual abuse, or sexual  
271 exploitation;

272 (d) the parent:

273 (i) caused the death of another minor through abuse or neglect; or

274 (ii) committed, aided, abetted, attempted, conspired, or solicited to commit:

275 (A) murder or manslaughter of a child; or

276 (B) child abuse homicide;

277 (e) the minor suffered severe abuse by the parent or by any person known by the  
278 parent, if the parent knew or reasonably should have known that the person was abusing the  
279 minor;

280 (f) the minor is adjudicated an abused child as a result of severe abuse by the parent,  
281 and the court finds that it would not benefit the minor to pursue reunification services with the  
282 offending parent;

283 (g) the parent's rights are terminated with regard to any other minor;

284 (h) the minor is removed from the minor's home on at least two previous occasions and  
285 reunification services were offered or provided to the family at those times;

286 (i) the parent has abandoned the minor for a period of six months or longer;

287 (j) the parent permitted the child to reside, on a permanent or temporary basis, at a  
288 location where the parent knew or should have known that a clandestine laboratory operation  
289 was located;

290 (k) except as provided in Subsection (22)(b), with respect to a parent who is the child's  
291 birth mother, the child has fetal alcohol syndrome or was exposed to an illegal or prescription  
292 drug that was abused by the child's mother while the child was in utero, if the child was taken  
293 into division custody for that reason, unless the mother agrees to enroll in, is currently enrolled  
294 in, or has recently and successfully completed a substance abuse treatment program approved  
295 by the department; or

296 (l) any other circumstance that the court determines should preclude reunification  
297 efforts or services.

298 (22) (a) The finding under Subsection (21)(b) shall be based on competent evidence  
299 from at least two medical or mental health professionals, who are not associates, establishing  
300 that, even with the provision of services, the parent is not likely to be capable of adequately  
301 caring for the minor within 12 months after the day on which the court finding is made.

302 (b) A judge may disregard the provisions of Subsection (21)(k) if the court finds, under  
303 the circumstances of the case, that the substance abuse treatment described in Subsection  
304 (21)(k) is not warranted.

305 (23) In determining whether reunification services are appropriate, the court shall take  
306 into consideration:

307 (a) failure of the parent to respond to previous services or comply with a previous child  
308 and family plan;

309 (b) the fact that the minor was abused while the parent was under the influence of  
310 drugs or alcohol;

311 (c) any history of violent behavior directed at the child or an immediate family  
312 member;

313 (d) whether a parent continues to live with an individual who abused the minor;

314 (e) any patterns of the parent's behavior that have exposed the minor to repeated abuse;

315 (f) testimony by a competent professional that the parent's behavior is unlikely to be  
316 successful; and

317 (g) whether the parent has expressed an interest in reunification with the minor.

318 (24) (a) If reunification services are not ordered pursuant to Subsections (20) through  
319 (22), and the whereabouts of a parent become known within six months after the day on which  
320 the out-of-home placement of the minor is made, the court may order the division to provide  
321 reunification services.

322 (b) The time limits described in Subsections (2) through (19) are not tolled by the  
323 parent's absence.

324 (25) (a) If a parent is incarcerated or institutionalized, the court shall order reasonable  
325 services unless it determines that those services would be detrimental to the minor.

326 (b) In making the determination described in Subsection (25)(a), the court shall  
327 consider:

328 (i) the age of the minor;

329 (ii) the degree of parent-child bonding;

330 (iii) the length of the sentence;

331 (iv) the nature of the treatment;

332 (v) the nature of the crime or illness;

333 (vi) the degree of detriment to the minor if services are not offered;

334 (vii) for a minor 10 years of age or older, the minor's attitude toward the  
335 implementation of family reunification services; and

336 (viii) any other appropriate factors.

337 (c) Reunification services for an incarcerated parent are subject to the time limitations

338 imposed in Subsections (2) through (19).

339 (d) Reunification services for an institutionalized parent are subject to the time  
340 limitations imposed in Subsections (2) through (19), unless the court determines that continued  
341 reunification services would be in the minor's best interest.

342 (26) If, pursuant to Subsections (21)(b) through (1), the court does not order  
343 reunification services, a permanency hearing shall be conducted within 30 days, in accordance  
344 with Section 78A-6-314.

345 Section 4. Section 78A-6-503 is amended to read:

346 **78A-6-503. Recognition of rights of parents and children -- Judicial process for**  
347 **termination -- Parent unfit or incompetent -- Best interest of child.**

348 (1) The state may only terminate parental rights in extreme cases and after fully and  
349 fairly exhausting all reasonably available alternatives and using the least restrictive means as  
350 required to satisfy the constitutional protection of parental rights, and to achieve the strong  
351 public policy in favor of strengthening and uniting families and avoiding or minimizing  
352 removal of a child from the home of the parent to the fullest extent possible.

353 (2) In no event may parental rights be terminated without fully satisfying Section  
354 62A-4a-201.

355 (3) The state shall provide a parent with reasonably sufficient time and support to  
356 prevent or correct conditions that may otherwise cause a parent to be charged with unfitness  
357 and loss of the parent's child.

358 (4) The state shall make all reasonable efforts to avoid removing a child from the  
359 custody of the child's parent and the child's home.

360 (5) When a child is removed from the custody of a parent, the state shall earnestly  
361 strive to reunify the family.

362 (6) No federal law, mandate, regulation, or financial contribution to the state shall be  
363 allowed to interfere with or undermine parental rights and the public policy of this state.

364 (7) When conditions arise that may limit a parent's ability to care and provide for a  
365 child, grandparents, extended family, and kin who are willing and able to provide family  
366 support are entitled to offer and provide support without interference from the state.

367 (8) Temporary deficiencies of a parent are not grounds for permanent termination of  
368 parental rights.

369           (9) The court may not impose a premature or fixed time limit on the continuing  
370 progress of a parent who earnestly seeks to improve the parent's parenting abilities and protect  
371 the best interests of the parent's child. The state shall be a support and not a threat thereto.

372           ~~[(1)]~~ (10) This part provides a judicial process for voluntary and involuntary severance  
373 of the parent-child relationship, designed to safeguard the rights and interests of all parties  
374 concerned and promote their welfare and that of the state.

375           ~~[(2)]~~ (11) Wherever possible family life should be strengthened and preserved, but if a  
376 parent is found, by reason of ~~[his]~~ the parent's conduct or condition, to be unfit or incompetent  
377 based upon any of the grounds for termination described in this part, the court shall then  
378 balance and consider the welfare and best interest of the child ~~[of paramount importance]~~ in  
379 determining whether termination of parental rights shall be ordered.

380           Section 5. Section **78A-6-507** is amended to read:

381           **78A-6-507. Grounds for termination of parental rights -- Findings regarding**  
382 **reasonable efforts.**

383           (1) ~~[The]~~ As a final, extreme act, subject to the protections and requirements of Section  
384 62A-4a-201 and Section 78A-6-503, the court may terminate all parental rights with respect to  
385 a parent if the court finds any one of the following:

386           (a) that the parent has abandoned the child;

387           (b) that the parent has neglected or abused the child;

388           (c) that the parent is properly deemed permanently unfit or incompetent;

389           (d) (i) that the child is being cared for in an out-of-home placement under the  
390 supervision of the court or the division;

391           (ii) that the parent has substantially neglected, wilfully refused, or has been unable or  
392 unwilling to remedy the circumstances that cause the child to be in an out-of-home placement;  
393 and

394           (iii) that there is a substantial likelihood that the parent will not be capable of  
395 exercising proper and effective parental care in the near future;

396           (e) failure of parental adjustment, as defined in this chapter;

397           (f) that only token efforts have been made by the parent:

398           (i) to support or communicate with the child;

399           (ii) to prevent neglect of the child;

- 400 (iii) to eliminate the risk of serious harm to the child; or
- 401 (iv) to avoid being an unfit parent;
- 402 (g) (i) that the parent has voluntarily relinquished the parent's parental rights to the
- 403 child; and
- 404 (ii) that termination is in the child's best interest;
- 405 (h) that, after a period of trial during which the child was returned to live in the child's
- 406 own home, the parent substantially and continuously or repeatedly refused or failed to give the
- 407 child proper parental care and protection; or
- 408 (i) the terms and conditions of safe relinquishment of a newborn child have been
- 409 complied with, pursuant to Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a Newborn
- 410 Child.
- 411 (2) The court may not terminate the parental rights of a parent because the parent has
- 412 failed to complete the requirements of a child and family plan.
- 413 (3) (a) Except as provided in Subsection (3)(b), in any case in which the court has
- 414 directed the division to provide reunification services to a parent, the court must find that the
- 415 division made reasonable efforts to provide those services before the court may terminate the
- 416 parent's rights under Subsection (1)(b), (c), (d), (e), (f), or (h).
- 417 (b) Notwithstanding Subsection (3)(a), the court is not required to make the finding
- 418 under Subsection (3)(a) before terminating a parent's rights[~~-(i)~~] under Subsection (1)(b), if the
- 419 court finds that the abuse or neglect occurred subsequent to adjudication[~~;-or~~].
- 420 [~~(ii) if reasonable efforts to provide the services described in Subsection (3)(a) are not~~
- 421 ~~required under federal law.~~]

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**Legislative Review Note**  
as of 2-6-12 3:44 PM

**Office of Legislative Research and General Counsel**