59   (a) shall grant a request for a jury trial and set a pretrial conference;

60   (b) may transfer the case to district court for trial by jury;

61   (c) shall require the petitioner to establish the facts by clear and convincing evidence[,

62 and shall give]; and

63   (d) shall give, or instruct the jury to give, full and careful consideration to all of the

64 evidence presented with regard to the constitutional rights and claims of the parent [and, if a

65 parent is found,].

65a   Ĥ➔ (9) (a) Unless the court finds that due process requires otherwise, in a jury trial

65b pursuant to this section:

65c   (i) a child may not be required or compelled to attend or testify unless the court

65d finds that:

65e   (A) the child desires an opportunity to be present or to testify and communicates the

65f child's desire to the guardian ad litem;

65g   (B) the child is sufficiently mature to articulate the child's wishes in relation to the

65h jury trial; and

65i   (C) it would not be detrimental to the child or impractical to have the child be present

65j or to testify; and

65k   (ii) the court shall take judicial notice of any adjudicated facts from an earlier hearing,

65l including any testimony from the child or any admissible recording of a child's statement or

65m testimony.

65n   (b) The court shall instruct the jury as to the noticed fact described in Subsection

65o (9)(a)(ii) in accordance with Rule 201 of the Utah Rule of Evidence.

66   [(9)] (10) ←Ĥ If the jury, or the court in cases where the parent does not request a jury

66a trial, finds

67 a parent, by reason of [his] the parent's conduct or condition, to be unfit or incompetent based

68 upon [any of] the grounds for termination described in this part, [the] and subject to the

69 principles and recognized rights described in Section 78A-6-503, the jury or court shall then

70 consider the welfare and best interest of the child of paramount importance in determining

71 whether termination of parental rights shall be ordered.

Legislative Review Note
        as of   2-4-14 11:54 AM

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