

1 **CHILD WELFARE AMENDMENTS**

2 2014 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Wayne A. Harper**

5 House Sponsor: Ronda Rudd Menlove

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions of Title 62A, Chapter 4a, Child and Family Services.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ renames, clarifies, and modifies provisions related to in-home services for the
13 preservation of families; and
14 ▶ provides that a parent may not file a petition for restoration or modification of legal
15 custody during the existence of a permanent guardianship.

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **62A-4a-103**, as last amended by Laws of Utah 2009, Chapter 75

23 **62A-4a-105**, as last amended by Laws of Utah 2013, Chapter 416

24 **62A-4a-202**, as last amended by Laws of Utah 2006, Chapter 75

25 **78A-6-117**, as last amended by Laws of Utah 2011, Chapter 366

26 **78A-6-1103**, as last amended by Laws of Utah 2011, Chapter 208



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

29 Section 1. Section **62A-4a-103** is amended to read:

30 **62A-4a-103. Division -- Creation -- Purpose.**

31 (1) (a) There is created the Division of Child and Family Services within the
32 department, under the administration and general supervision of the executive director.

33 (b) The division is the child, youth, and family services authority of the state and has
34 all functions, powers, duties, rights, and responsibilities created in accordance with this
35 chapter, except those assumed by the department.

36 (2) (a) The primary purpose of the division is to provide child welfare services.

37 (b) The division shall, when possible and appropriate, provide [~~preventive services and~~
38 ~~family preservation services~~] in-home services for the preservation of families in an effort to
39 protect the child from the trauma of separation from his family, protect the integrity of the
40 family, and the constitutional rights of parents. In keeping with its ultimate goal and purpose
41 of protecting children, however, when a child's welfare is endangered or reasonable efforts to
42 maintain or reunify a child with his family have failed, the division shall act in a timely fashion
43 in accordance with the requirements of this chapter and Title 78A, Chapter 6, Part 3, Abuse,
44 Neglect, and Dependency Proceedings, to provide the child with a stable, permanent
45 environment.

46 (3) The division shall also provide domestic violence services in accordance with
47 federal law.

48 Section 2. Section **62A-4a-105** is amended to read:

49 **62A-4a-105. Division responsibilities.**

50 (1) The division shall:

51 (a) administer services to minors and families, including:

52 (i) child welfare services;

53 (ii) domestic violence services; and

54 (iii) all other responsibilities that the Legislature or the executive director may assign
55 to the division;

56 (b) provide the following services:

57 (i) financial and other assistance to an individual adopting a child with special needs
58 under Part 9, Adoption Assistance, not to exceed the amount the division would provide for the

59 child as a legal ward of the state;

60 (ii) non-custodial and in-home [~~preventative~~] services, including:

61 (A) services designed to prevent family break-up; and

62 (B) family preservation services;

63 (iii) reunification services to families whose children are in substitute care in

64 accordance with the requirements of this chapter and Title 78A, Chapter 6, Juvenile Court Act

65 [~~of 1996~~];

66 (iv) protective supervision of a family, upon court order, in an effort to eliminate abuse

67 or neglect of a child in that family;

68 (v) shelter care in accordance with the requirements of this chapter and Title 78A,

69 Chapter 6, Juvenile Court Act of 1996;

70 (vi) domestic violence services, in accordance with the requirements of federal law;

71 (vii) protective services to victims of domestic violence, as defined in Section 77-36-1,

72 and their children, in accordance with the provisions of this chapter and Title 78A, Chapter 6,

73 Part 3, Abuse, Neglect, and Dependency Proceedings;

74 (viii) substitute care for dependent, abused, neglected, and delinquent children;

75 (ix) programs and services for minors who have been placed in the custody of the

76 division for reasons other than abuse or neglect, under Section 62A-4a-250; and

77 (x) training for staff and providers involved in the administration and delivery of

78 services offered by the division in accordance with this chapter;

79 (c) establish standards for all:

80 (i) contract providers of out-of-home care for minors and families;

81 (ii) facilities that provide substitute care for dependent, abused, neglected, and

82 delinquent children placed in the custody of the division; and

83 (iii) direct or contract providers of domestic violence services described in Subsection

84 (1)(b)(vi);

85 (d) have authority to:

86 (i) contract with a private, nonprofit organization to recruit and train foster care

87 families and child welfare volunteers in accordance with Section 62A-4a-107.5; and

88 (ii) approve facilities that meet the standards established under Subsection (1)(c) to

89 provide substitute care for dependent, abused, neglected, and delinquent children placed in the

90 custody of the division;

91 (e) cooperate with the federal government in the administration of child welfare and
92 domestic violence programs and other human service activities assigned by the department;

93 (f) in accordance with Subsection (2)(a), promote and enforce state and federal laws
94 enacted for the protection of abused, neglected, dependent, delinquent, ungovernable, and
95 runaway children, and status offenders, in accordance with the requirements of this chapter,
96 unless administration is expressly vested in another division or department of the state;

97 (g) cooperate with the Employment Development Division in the Department of
98 Workforce Services in meeting the social and economic needs of an individual who is eligible
99 for public assistance;

100 (h) compile relevant information, statistics, and reports on child and family service
101 matters in the state;

102 (i) prepare and submit to the department, the governor, and the Legislature reports of
103 the operation and administration of the division in accordance with the requirements of
104 Sections [62A-4a-117](#) and [62A-4a-118](#);

105 (j) provide social studies and reports for the juvenile court in accordance with Section
106 [78A-6-605](#);

107 (k) within appropriations from the Legislature, provide or contract for a variety of
108 domestic violence services and treatment methods;

109 (l) ensure regular, periodic publication, including electronic publication, regarding the
110 number of children in the custody of the division who:

111 (i) have a permanency goal of adoption; or

112 (ii) have a final plan of termination of parental rights, pursuant to Section [78A-6-314](#),
113 and promote adoption of those children;

114 (m) subject to Subsection (2)(b), refer an individual receiving services from the
115 division to the local substance abuse authority or other private or public resource for a
116 court-ordered drug screening test; and

117 (n) perform other duties and functions required by law.

118 (2) (a) In carrying out the requirements of Subsection (1)(f), the division shall:

119 (i) cooperate with the juvenile courts, the Division of Juvenile Justice Services, and
120 with all public and private licensed child welfare agencies and institutions, to develop and

121 administer a broad range of services and support;

122 (ii) take the initiative in all matters involving the protection of abused or neglected
123 children, if adequate provisions have not been made or are not likely to be made; and

124 (iii) make expenditures necessary for the care and protection of the children described
125 in this Subsection (2)(a), within the division's budget.

126 (b) When an individual is referred to a local substance abuse authority or other private
127 or public resource for court-ordered drug screening under Subsection (1)(n), the court shall
128 order the individual to pay all costs of the tests unless:

129 (i) the cost of the drug screening is specifically funded or provided for by other federal
130 or state programs;

131 (ii) the individual is a participant in a drug court; or

132 (iii) the court finds that the individual is impecunious.

133 (3) Except to the extent provided by rule, the division is not responsible for
134 investigating domestic violence in the presence of a child, as described in Section 76-5-109.1.

135 (4) The division may not require a parent who has a child in the custody of the division
136 to pay for some or all of the cost of any drug testing the parent is required to undergo.

137 Section 3. Section 62A-4a-202 is amended to read:

138 **62A-4a-202. In-home services for the preservation of families.**

139 (1) (a) Within appropriations from the Legislature and money obtained under
140 Subsection (5), the division shall provide [~~preventive,~~] in-home services [~~and family~~
141 ~~preservation services for~~] for the purpose of family preservation to any family with a child
142 whose health and safety is not immediately endangered, when:

143 (i) (A) the child is at risk of being removed from the home; or

144 (B) the family is in crisis; and

145 (ii) the division determines that it is reasonable and appropriate.

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

149 (c) The division shall consider whether the services described in Subsection (1)(b):

150 (i) will be effective within a six-month period; and

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

152 (2) (a) The division shall maintain a statewide inventory of [~~early intervention,~~
153 ~~preventive, and family preservation~~] in-home services available through public and private
154 agencies or individuals for use by caseworkers.

155 (b) The inventory described in Subsection (2)(a) shall include:

156 (i) the method of accessing each service;

157 (ii) eligibility requirements for each service;

158 (iii) the geographic areas and the number of families that can be served by each
159 service; and

160 (iv) information regarding waiting lists for each service.

161 (3) As a part of its [~~preventive~~] in-home services for the preservation of families, the
162 division shall provide [~~family preservation~~] in-home services in varying degrees of intensity
163 and contact that:

164 (a) are [~~short-term, intensive, crisis intervention programs~~] specific to the individual
165 needs of the family;

166 (b) address:

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

168 (ii) the needs of the family; and

169 (iii) services necessary to aid in the preservation of the family and a child's ability to
170 remain in the home; and

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

173 (4) [~~(a)~~] The division may use specially trained caseworkers, private providers, or other
174 persons to provide the [~~family preservation~~] in-home services described in Subsection (3).

175 [~~(b) Family preservation caseworkers may:~~]

176 [~~(i) only be assigned a minimal number of families;~~]

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

178 [~~(iii) respond to an assigned family within 24 hours.~~]

179 [~~(c) The division shall allow family preservation caseworkers to be creative and~~
180 ~~flexible in responding to the needs of each individual family.~~]

181 (5) To provide, expand, and improve the delivery of in-home services to prevent the
182 removal of children from their homes and promote the preservation of families, the division

183 shall make substantial effort to obtain funding, including:

- 184 (a) federal grants;
- 185 (b) federal waivers; and
- 186 (c) private money.

187 Section 4. Section 78A-6-117 is amended to read:

188 **78A-6-117. Adjudication of jurisdiction of juvenile court -- Disposition of cases --**
189 **Enumeration of possible court orders -- Considerations of court -- Obtaining DNA**
190 **sample.**

191 (1) (a) When a minor is found to come within the provisions of Section 78A-6-103, the
192 court shall so adjudicate. The court shall make a finding of the facts upon which it bases its
193 jurisdiction over the minor. However, in cases within the provisions of Subsection
194 78A-6-103(1), findings of fact are not necessary.

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

- 200 (i) the specific offenses for which the minor was adjudicated; and
- 201 (ii) if available, if the victim:
 - 202 (A) resides in the same school district as the minor; or
 - 203 (B) attends the same school as the minor.

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

- 205 (a) (i) The court may place the minor on probation or under protective supervision in
206 the minor's own home and upon conditions determined by the court, including compensatory
207 service as provided in Subsection (2)(m)(iii).
- 208 (ii) The court may place the minor in state supervision with the probation department
209 of the court, under the legal custody of:
 - 210 (A) the minor's parent or guardian;
 - 211 (B) the Division of Juvenile Justice Services; or
 - 212 (C) the Division of Child and Family Services.
- 213 (iii) If the court orders probation or state supervision, the court shall direct that notice

214 of its order be provided to designated persons in the local law enforcement agency and the
215 school or transferee school, if applicable, that the minor attends. The designated persons may
216 receive the information for purposes of the minor's supervision and student safety.

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

219 (A) civilly liable except when the disclosure constitutes fraud or willful misconduct as
220 provided in Section 63G-7-202; and

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

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

226 (c) (i) The court may:

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

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

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

234 (iii) (A) A minor who is committed to the custody of the Division of Child and Family
235 Services on grounds other than abuse or neglect is subject to the provisions of Title 78A,
236 Chapter 6, Part 4, Minors in Custody on Grounds Other than Abuse or Neglect, and Title 62A,
237 Chapter 4a, Part 2a, Minors in Custody on Grounds other than Abuse or Neglect.

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

242 (C) Before committing a child to the custody of the Division of Child and Family
243 Services, the court shall make a finding as to what reasonable efforts have been attempted to
244 prevent the child's removal from the child's home.

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

247 (ii) A minor under the jurisdiction of the court solely on the ground of abuse, neglect,
248 or dependency under Subsection 78A-6-103(1)(c) may not be committed to the Division of
249 Juvenile Justice Services.

250 (e) The court may commit a minor, subject to the court retaining continuing
251 jurisdiction over the minor, to the temporary custody of the Division of Juvenile Justice
252 Services for observation and evaluation for a period not to exceed 45 days, which period may
253 be extended up to 15 days at the request of the director of the Division of Juvenile Justice
254 Services.

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

259 (ii) This Subsection (2)(f) applies only to a minor adjudicated for:

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

261 (B) contempt of court under Section 78A-6-1101.

262 (g) The court may vest legal custody of an abused, neglected, or dependent minor in
263 the Division of Child and Family Services or any other appropriate person in accordance with
264 the requirements and procedures of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and
265 Dependency Proceedings.

266 (h) The court may place a minor on a ranch or forestry camp, or similar facility for care
267 and also for work, if possible, if the person, agency, or association operating the facility has
268 been approved or has otherwise complied with all applicable state and local laws. A minor
269 placed in a forestry camp or similar facility may be required to work on fire prevention,
270 forestation and reforestation, recreational works, forest roads, and on other works on or off the
271 grounds of the facility and may be paid wages, subject to the approval of and under conditions
272 set by the court.

273 (i) (i) The court may order a minor to repair, replace, or otherwise make restitution for
274 damage or loss caused by the minor's wrongful act, including costs of treatment as stated in
275 Section 78A-6-321 and impose fines in limited amounts.

276 (ii) The court may also require a minor to reimburse an individual, entity, or
277 governmental agency who offered and paid a reward to a person or persons for providing
278 information resulting in a court adjudication that the minor is within the jurisdiction of the
279 juvenile court due to the commission of a criminal offense.

280 (iii) If a minor is returned to this state under the Interstate Compact on Juveniles, the
281 court may order the minor to make restitution for costs expended by any governmental entity
282 for the return.

283 (j) The court may issue orders necessary for the collection of restitution and fines
284 ordered by the court, including garnishments, wage withholdings, and executions.

285 (k) (i) The court may through its probation department encourage the development of
286 employment or work programs to enable minors to fulfill their obligations under Subsection
287 (2)(i) and for other purposes considered desirable by the court.

288 (ii) Consistent with the order of the court, the probation officer may permit a minor
289 found to be within the jurisdiction of the court to participate in a program of work restitution or
290 compensatory service in lieu of paying part or all of the fine imposed by the court.

291 (l) (i) In violations of traffic laws within the court's jurisdiction, the court may, in
292 addition to any other disposition authorized by this section:

293 (A) restrain the minor from driving for periods of time the court considers necessary;
294 and

295 (B) take possession of the minor's driver license.

296 (ii) The court may enter any other disposition under Subsection (2)(l)(i). However, the
297 suspension of driving privileges for an offense under Section 78A-6-606 is governed only by
298 Section 78A-6-606.

299 (m) (i) When a minor is found within the jurisdiction of the juvenile court under
300 Section 78A-6-103 because of violating Section 58-37-8, Title 58, Chapter 37a, Utah Drug
301 Paraphernalia Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, the court
302 shall, in addition to any fines or fees otherwise imposed, order that the minor perform a
303 minimum of 20 hours, but no more than 100 hours, of compensatory service. Satisfactory
304 completion of an approved substance abuse prevention or treatment program may be credited
305 by the court as compensatory service hours.

306 (ii) When a minor is found within the jurisdiction of the juvenile court under Section

307 78A-6-103 because of a violation of Section 32B-4-409 or Subsection 76-9-701(1), the court
308 may, upon the first adjudication, and shall, upon a second or subsequent adjudication, order
309 that the minor perform a minimum of 20 hours, but no more than 100 hours of compensatory
310 service, in addition to any fines or fees otherwise imposed. Satisfactory completion of an
311 approved substance abuse prevention or treatment program may be credited by the court as
312 compensatory service hours.

313 (iii) When a minor is found within the jurisdiction of the juvenile court under Section
314 78A-6-103 because of a violation of Section 76-6-106 or 76-6-206 using graffiti, the court may
315 order the minor to clean up graffiti created by the minor or any other person at a time and place
316 within the jurisdiction of the court. Compensatory service required under this section may be
317 performed in the presence and under the direct supervision of the minor's parent or legal
318 guardian. The parent or legal guardian shall report completion of the order to the court. The
319 minor or the minor's parent or legal guardian, if applicable, shall be responsible for removal
320 costs as determined under Section 76-6-107, unless waived by the court for good cause. The
321 court may also require the minor to perform other alternative forms of restitution or repair to
322 the damaged property pursuant to Subsection 77-18-1(8).

323 (A) For a first adjudication, the court may require the minor to clean up graffiti for not
324 less than eight hours.

325 (B) For a second adjudication, the court may require the minor to clean up graffiti for
326 not less than 16 hours.

327 (C) For a third adjudication, the court may require the minor to clean up graffiti for not
328 less than 24 hours.

329 (n) (i) Subject to Subsection (2)(n)(iii), the court may order that a minor:

330 (A) be examined or treated by a physician, surgeon, psychiatrist, or psychologist; or

331 (B) receive other special care.

332 (ii) For purposes of receiving the examination, treatment, or care described in
333 Subsection (2)(n)(i), the court may place the minor in a hospital or other suitable facility.

334 (iii) In determining whether to order the examination, treatment, or care described in
335 Subsection (2)(n)(i), the court shall consider:

336 (A) the desires of the minor;

337 (B) if the minor is under the age of 18, the desires of the parents or guardian of the

338 minor; and

339 (C) whether the potential benefits of the examination, treatment, or care outweigh the
340 potential risks and side-effects, including behavioral disturbances, suicidal ideation, brain
341 function impairment, or emotional or physical harm resulting from the compulsory nature of
342 the examination, treatment, or care.

343 (o) (i) The court may appoint a guardian for the minor if it appears necessary in the
344 interest of the minor, and may appoint as guardian a public or private institution or agency in
345 which legal custody of the minor is vested.

346 (ii) In placing a minor under the guardianship or legal custody of an individual or of a
347 private agency or institution, the court shall give primary consideration to the welfare of the
348 minor. When practicable, the court may take into consideration the religious preferences of the
349 minor and of a child's parents.

350 (p) (i) In support of a decree under Section [78A-6-103](#), the court may order reasonable
351 conditions to be complied with by a minor's parents or guardian, a minor, a minor's custodian,
352 or any other person who has been made a party to the proceedings. Conditions may include:

353 (A) parent-time by the parents or one parent;

354 (B) restrictions on the minor's associates;

355 (C) restrictions on the minor's occupation and other activities; and

356 (D) requirements to be observed by the parents or custodian.

357 (ii) A minor whose parents or guardians successfully complete a family or other
358 counseling program may be credited by the court for detention, confinement, or probation time.

359 (q) The court may order the child to be committed to the physical custody of a local
360 mental health authority, in accordance with the procedures and requirements of Title 62A,
361 Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and
362 Mental Health.

363 (r) (i) The court may make an order committing a minor within the court's jurisdiction
364 to the Utah State Developmental Center if the minor has an intellectual disability in accordance
365 with the provisions of Title 62A, Chapter 5, Part 3, Admission to an Intermediate Care Facility
366 for People with an Intellectual Disability.

367 (ii) The court shall follow the procedure applicable in the district courts with respect to
368 judicial commitments to the Utah State Developmental Center when ordering a commitment

369 under Subsection (2)(r)(i).

370 (s) The court may terminate all parental rights upon a finding of compliance with the
371 provisions of Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act.

372 (t) The court may make any other reasonable orders for the best interest of the minor or
373 as required for the protection of the public, except that a child may not be committed to jail or
374 prison.

375 (u) The court may combine the dispositions listed in this section if they are compatible.

376 (v) Before depriving any parent of custody, the court shall give due consideration to the
377 rights of parents concerning their child. The court may transfer custody of a minor to another
378 person, agency, or institution in accordance with the requirements and procedures of Title 78A,
379 Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

380 (w) Except as provided in Subsection (2)(y)(i), an order under this section for
381 probation or placement of a minor with an individual or an agency shall include a date certain
382 for a review of the case by the court. A new date shall be set upon each review.

383 (x) In reviewing foster home placements, special attention shall be given to making
384 adoptable children available for adoption without delay.

385 (y) (i) The juvenile court may enter an order of permanent custody and guardianship
386 with an individual or relative of a child where the court has previously acquired jurisdiction as
387 a result of an adjudication of abuse, neglect, or dependency. The juvenile court may enter an
388 order for child support on behalf of the child against the natural or adoptive parents of the
389 child.

390 (ii) Orders under Subsection (2)(y)(i):

391 (A) shall remain in effect until the child reaches majority;

392 (B) are not subject to review under Section 78A-6-118; and

393 (C) may be modified [~~by~~] upon petition or motion of a guardian as provided in Section
394 78A-6-1103.

395 (iii) Orders permanently terminating the rights of a parent, guardian, or custodian and
396 permanent orders of custody and guardianship do not expire with a termination of jurisdiction
397 of the juvenile court.

398 (3) In addition to the dispositions described in Subsection (2), when a minor comes
399 within the court's jurisdiction, the minor may be given a choice by the court to serve in the

400 National Guard in lieu of other sanctions, provided:

401 (a) the minor meets the current entrance qualifications for service in the National
402 Guard as determined by a recruiter, whose determination is final;

403 (b) the minor is not under the jurisdiction of the court for any act that:

404 (i) would be a felony if committed by an adult;

405 (ii) is a violation of Title 58, Chapter 37, Utah Controlled Substances Act; or

406 (iii) was committed with a weapon; and

407 (c) the court retains jurisdiction over the minor under conditions set by the court and
408 agreed upon by the recruiter or the unit commander to which the minor is eventually assigned.

409 (4) (a) A DNA specimen shall be obtained from a minor who is under the jurisdiction
410 of the court as described in Subsection 53-10-403(3). The specimen shall be obtained by
411 designated employees of the court or, if the minor is in the legal custody of the Division of
412 Juvenile Justice Services, then by designated employees of the division under Subsection
413 53-10-404(5)(b).

414 (b) The responsible agency shall ensure that employees designated to collect the saliva
415 DNA specimens receive appropriate training and that the specimens are obtained in accordance
416 with accepted protocol.

417 (c) Reimbursements paid under Subsection 53-10-404(2)(a) shall be placed in the DNA
418 Specimen Restricted Account created in Section 53-10-407.

419 (d) Payment of the reimbursement is second in priority to payments the minor is
420 ordered to make for restitution under this section and treatment under Section 78A-6-321.

421 Section 5. Section 78A-6-1103 is amended to read:

422 **78A-6-1103. Modification or termination of custody order or decree -- Grounds --**
423 **Procedure.**

424 (1) A parent or guardian of any child whose legal custody has been transferred by the
425 court to an individual, agency, or institution, except a secure youth corrections facility, may
426 petition the court for restoration of custody or other modification or revocation of the court's
427 order, on the ground that a change of circumstances has occurred which requires such
428 modification or revocation in the best interest of the child or the public.

429 (2) The court shall make a preliminary investigation. If the court finds that the alleged
430 change of circumstances, if proved, would not affect the decree, it may dismiss the petition. If

431 the court finds that a further examination of the facts is needed, or if the court on its own
432 motion determines that the decree should be reviewed, it shall conduct a hearing. Notice shall
433 be given to all persons concerned. At the hearing, the court may enter an order continuing,
434 modifying, or terminating the decree.

435 (3) A petition by a parent may not be filed under this section during the existence of a
436 permanent guardianship established for the child under Subsection 78A-6-117(2)(y) or after the
437 parent's parental rights have been terminated in accordance with Part 5, Termination of
438 Parental Rights Act.

439 (4) An individual, agency, or institution vested with legal custody of a child may
440 petition the court for a modification of the custody order on the ground that the change is
441 necessary for the welfare of the child or in the public interest. The court shall proceed upon the
442 petition in accordance with Subsections (1) and (2).

Legislative Review Note

as of 1-13-14 5:38 PM

Office of Legislative Research and General Counsel