

Representative Karianne Lisonbee proposes the following substitute bill:

MARRIAGE AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Angela Romero

Senate Sponsor: Luz Escamilla

LONG TITLE

General Description:

This bill modifies provisions related to marriage.

Highlighted Provisions:

This bill:

- ▶ imposes an age, below which an individual may not marry;
- ▶ allows for court authorization of a minor's marriage in certain circumstances; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

30-1-2, as last amended by Laws of Utah 1999, Chapter 15

30-1-4, as last amended by Laws of Utah 1996, Chapter 83

30-1-8, as last amended by Laws of Utah 2004, Chapter 261

30-1-9, as last amended by Laws of Utah 2018, Chapter 415

30-1-13, as last amended by Laws of Utah 2001, Chapter 129



26 [30-1-14](#), as last amended by Laws of Utah 2001, Chapter 129
 27 [30-1-17](#), as last amended by Laws of Utah 1971, Chapter 65
 28 [30-1-17.3](#), as enacted by Laws of Utah 1971, Chapter 65
 29 [75-5-103](#), as last amended by Laws of Utah 2018, Chapter 64
 30 [75-5-209](#), as last amended by Laws of Utah 2008, Chapter 3
 31 [75-5-210](#), as enacted by Laws of Utah 1975, Chapter 150
 32 [75-5-424](#), as last amended by Laws of Utah 2018, Chapter 244
 33 [78A-6-103](#), as last amended by Laws of Utah 2018, Chapter 415
 34 [78A-6-105](#), as last amended by Laws of Utah 2018, Chapters 45, 91, 192, 235, 285, and
 35 415



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

38 Section 1. Section **30-1-2** is amended to read:

39 **30-1-2. Marriages prohibited and void.**

40 (1) The following marriages are prohibited and declared void:

41 ~~[(1)]~~ (a) when there is a ~~[husband or wife]~~ spouse living, from whom the ~~[person]~~
 42 individual marrying has not been divorced;

43 ~~[(2)]~~ (b) except as provided in Subsection (2), when the [male or female] applicant is
 44 under 18 years [of age unless consent is obtained as provided in Section 30-1-9;] old; and

45 ~~[(3) when the male or female is under 14 years of age or, beginning May 3, 1999, when~~
 46 ~~the male or female is under 16 years of age at the time the parties attempt to enter into the~~
 47 ~~marriage; however, exceptions may be made for a person 15 years of age, under conditions set~~
 48 ~~in accordance with Section 30-1-9;]~~

49 ~~[(4)]~~ (c) between a divorced ~~[person]~~ individual and any ~~[person]~~ individual other than
 50 the one from whom the divorce was secured until the divorce decree becomes absolute, and, if
 51 an appeal is taken, until after the affirmance of the decree~~[-and].~~

52 ~~[(5) between persons of the same sex.]~~

53 (2) A marriage of an individual under 18 years old is not void if the individual:

54 (a) obtains juvenile court authorization in accordance with Section 30-1-9; or

55 (b) lawfully marries before May 14, 2019.

56 Section 2. Section **30-1-4** is amended to read:

57 **30-1-4. Validity of foreign marriages -- Exceptions.**

58 A marriage solemnized in any other country, state, or territory, if valid where
59 solemnized, is valid [~~here~~] in this state, unless it is a marriage:

60 (1) that would be prohibited and declared void in this state, under Subsection

61 ~~30-1-2(1)[, (3), or (5)]~~ (a); or

62 (2) between parties who are related to each other within and including three degrees of
63 consanguinity, except as provided in Subsection ~~30-1-1~~(2).

64 Section 3. Section ~~30-1-8~~ is amended to read:

65 **30-1-8. Application for license -- Contents.**

66 (1) A marriage license may be issued [~~by the county clerk to a man and a woman~~] only
67 after an application [~~has been filed in his~~] is filed with the county clerk's office, requiring the
68 following information:

69 (a) the full names of the [~~man and the woman~~] applicants, including the maiden or
70 bachelor name of [~~the woman~~] each applicant;

71 (b) the [~~Social Security~~] social security numbers of the [~~parties~~] applicants, unless the
72 [~~party~~] applicant has not been assigned a number;

73 (c) the current address of each [~~party~~] applicant;

74 (d) the date and place of birth [~~(~~], including the town or city, county, state or country, if
75 possible);

76 (e) the names of [~~their~~] the applicants' respective parents, including the maiden name
77 of [~~the~~] a mother;

78 (f) the birthplaces of [~~fathers and mothers~~(] the respective parents, including the town
79 or city, county, state or country, if possible); and

80 (g) the distinctive race or nationality of each of the respective parents.

81 (2) If [~~the~~] a woman is a widow, her maiden name shall be shown in brackets.

82 (3) If one or both of the parties is under 16 years of age, the clerk shall provide [~~them~~]
83 the parties with a standard petition on a form approved by the Judicial Council to be presented
84 to the juvenile court to obtain the authorization required by Section ~~30-1-9~~.

85 (4) (a) The [~~Social Security~~] social security numbers obtained under the authority of
86 this section may not be recorded on the marriage license, and are not open to inspection as a
87 part of the vital statistics files.

88 (b) The Department of Health, Bureau of Vital Records and Health Statistics shall,
89 upon request, supply ~~[those Social Security]~~ the social security numbers to the Office of
90 Recovery Services within the Department of Human Services.

91 (c) The Office of Recovery Services may not use ~~[any Social Security numbers]~~ a
92 social security number obtained under the authority of this section for any reason other than the
93 administration of child support services.

94 Section 4. Section **30-1-9** is amended to read:

95 **30-1-9. Marriage by minors -- Consent of parent or guardian -- Juvenile court**
96 **authorization.**

97 (1) (a) For purposes of this section, "minor" means ~~[a male or female]~~ an individual
98 under 18 years ~~[of age]~~ old.

99 ~~[(2)(a) If at the time of applying for a license the applicant is a minor, and not before~~
100 ~~married, a license may not be issued without the signed consent of the minor's father, mother,~~
101 ~~or guardian given in person to the clerk; however:]~~

102 ~~[(i) if the parents of the minor are divorced, consent shall be given by the parent having~~
103 ~~legal custody of the minor as evidenced by an oath of affirmation to the clerk;]~~

104 ~~[(ii) if the parents of the minor are divorced and have been awarded joint custody of the~~
105 ~~minor, consent shall be given by the parent having physical custody of the minor the majority~~
106 ~~of the time as evidenced by an oath of affirmation to the clerk; or]~~

107 ~~[(iii) if the minor is not in the custody of a parent, the legal guardian shall provide the~~
108 ~~consent and provide proof of guardianship by court order as well as an oath of affirmation.]~~

109 (b) If the ~~[male or female is 15 years of age]~~ minor is 16 or 17 years old, the minor
110 ~~[and the parent or guardian of the minor]~~ shall obtain a written authorization to marry from:

111 (i) a judge of the court exercising juvenile jurisdiction in the county where either party
112 to the marriage resides; or

113 (ii) a court commissioner as permitted by rule of the Judicial Council.

114 ~~[(3)]~~ (2) (a) Before issuing written authorization for a minor to marry, the judge or
115 court commissioner shall determine:

116 (i) that the minor is entering into the marriage voluntarily; and

117 (ii) the marriage is in the best interests of the minor under the circumstances.

118 (b) The judge or court commissioner shall require that both parties to the marriage

119 complete premarital counseling~~[. This]~~, except the requirement for premarital counseling may
 120 be waived if premarital counseling is not reasonably available.

121 (c) The judge or court commissioner may require:

122 (i) that the ~~[person]~~ minor continue to attend school, unless excused under Section
 123 53G-6-204; and

124 (ii) any other conditions that the court deems reasonable under the circumstances.

125 ~~[(4)]~~ (3) (a) The determination required in Subsection ~~[(3)]~~ (2) shall be made on the
 126 record.

127 (b) Any inquiry conducted by the judge or commissioner may be conducted in
 128 chambers.

129 Section 5. Section **30-1-13** is amended to read:

130 **30-1-13. Solemnization without license -- Penalty.**

131 If ~~[any person]~~ an individual knowingly solemnizes a marriage without a license, and if
 132 either party is under ~~[16 years of age]~~ 18 years old, without a written authorization from a
 133 juvenile court, ~~[he]~~ the individual is guilty of a third degree felony.

134 Section 6. Section **30-1-14** is amended to read:

135 **30-1-14. Acting without authority -- Penalty.**

136 ~~[A person]~~ An individual is guilty of a third degree felony if ~~[he: (1)]~~ the individual
 137 knowingly solemnizes a marriage in violation of ~~[either]~~ Section 30-1-6, 30-1-7, or 30-1-9.1 ~~[;].~~

138 ~~[(2) impersonates a parent or guardian of a minor to obtain a license for the minor to~~
 139 ~~marry; or]~~

140 ~~[(3) forges the name of a parent or guardian of a minor on any writing purporting to~~
 141 ~~give consent to a marriage of a minor;]~~

142 Section 7. Section **30-1-17** is amended to read:

143 **30-1-17. Action to determine validity of marriage -- Judgment of validity or**
 144 **annulment.**

145 When there is doubt as to the validity of a marriage, either party may, in a court of
 146 equity in a county where either party is domiciled, demand ~~[its]~~ avoidance or affirmance of the
 147 marriage, but when one of the parties was under ~~[the age of consent]~~ 18 years old at the time of
 148 the marriage, the other party, being of proper age, ~~[shall have no such]~~ does not have a
 149 proceeding for that cause against the party under ~~[age]~~ 18 years old. The judgment in the action

150 shall either declare the marriage valid or annulled and shall be conclusive upon all persons
151 concerned with the marriage.

152 Section 8. Section **30-1-17.3** is amended to read:

153 **30-1-17.3. Age as basis of action to determine validity of marriage -- Refusal to**
154 **grant annulment.**

155 If an action to determine the validity of a marriage is commenced upon the ground that
156 one or both of the parties were prohibited from marriage because of their age, in addition to ~~[all~~
157 ~~of the foregoing provisions, the following shall apply. The]~~ the application of Sections 30-1-17
158 through 30-1-17.4, the provisions of this code regarding marriage by a person or persons under
159 [the age of consent] 18 years old to the contrary notwithstanding, the court may~~[, in its~~
160 ~~discretion,]~~ refuse to grant an annulment if [it] the court finds that it is in the best interest of the
161 parties or their children, to refuse the annulment. The refusal ~~[shall make]~~ to annul under this
162 section makes the marriage valid and subsisting for all purposes.

163 Section 9. Section **75-5-103** is amended to read:

164 **75-5-103. Delegation of powers by parent or guardian.**

165 A parent or a guardian of a minor or incapacitated person, by a properly-executed
166 power of attorney, may delegate to another person, for a period not exceeding six months, any
167 of the parent's or guardian's powers regarding care, custody, or property of the minor child or
168 ward:

169 (1) except the power to consent to:

170 (a) marriage of an incapacitated individual; or

171 (b) adoption of a minor ward; and

172 (2) subject to Section **53G-6-302**, including making decisions related to schooling.

173 Section 10. Section **75-5-209** is amended to read:

174 **75-5-209. Powers and duties of guardian of minor -- Residual parental rights and**
175 **duties -- Adoption of a ward.**

176 (1) For purposes of this section, "residual parental rights and duties" is as defined in
177 Section **78A-6-105**.

178 (2) Except as provided in Subsection (4)(a), a guardian of a minor has the powers and
179 responsibilities of a parent who has not been deprived of custody of the parent's unemancipated
180 minor, including the powers and responsibilities described in Subsection (3).

- 181 (3) A guardian of a minor:
- 182 (a) must take reasonable care of the personal effects of the guardian's ward;
- 183 (b) must commence protective proceedings if necessary to protect other property of the
- 184 guardian's ward;
- 185 (c) subject to Subsection (4)(b), may receive money payable for the support of the ward
- 186 to the ward's parent, guardian, or custodian under the terms of a:
- 187 (i) statutory benefit or insurance system;
- 188 (ii) private contract;
- 189 (iii) devise;
- 190 (iv) trust;
- 191 (v) conservatorship; or
- 192 (vi) custodianship;
- 193 (d) subject to Subsection (4)(b), may receive money or property of the ward paid or
- 194 delivered by virtue of Section [75-5-102](#);
- 195 (e) except as provided in Subsection (4)(c), must exercise due care to conserve any
- 196 excess money or property described in Subsection (3)(d) for the ward's future needs;
- 197 (f) unless otherwise provided by statute, may institute proceedings to compel the
- 198 performance by any person of a duty to:
- 199 (i) support the ward; or
- 200 (ii) pay sums for the welfare of the ward;
- 201 (g) is empowered to:
- 202 (i) facilitate the ward's education, social, or other activities; and
- 203 (ii) subject to Subsection (4)(d), authorize medical or other professional care,
- 204 treatment, or advice;
- 205 (h) may consent to the adoption of the guardian's ward if the:
- 206 ~~[(i) marriage of the guardian's ward, if specifically authorized by a court to give this~~
- 207 ~~consent; or]~~
- 208 ~~[(ii) adoption of the guardian's ward if the:]~~
- 209 ~~[(A)]~~ (i) guardian of the ward is specifically authorized by a court to give ~~[this]~~ the
- 210 consent; and
- 211 ~~[(B)]~~ (ii) parental rights of the ward's parents have been terminated; and

212 (i) must report the condition of the minor and of the minor's estate that has been subject
213 to the guardian's possession or control:

- 214 (i) as ordered by court on petition of any person interested in the minor's welfare; or
- 215 (ii) as required by court rule.

216 (4) (a) Notwithstanding Subsection (2), a guardian of a minor is not:

- 217 (i) legally obligated to provide from the guardian's own funds for the ward; and
- 218 (ii) liable to third persons by reason of the guardian's relationship for acts of the ward.

219 (b) Sums received under Subsection (3)(c) or (d):

- 220 (i) may not be used for compensation for the services of a guardian, except as:
- 221 (A) approved by court order; or

222 (B) determined by a duly appointed conservator other than the guardian; and

- 223 (ii) shall be applied to the ward's current needs for support, care, and education.

224 (c) Notwithstanding Subsection (3)(e), if a conservator is appointed for the estate of the
225 ward, the excess shall be paid over at least annually to the conservator.

226 (d) A guardian of a minor is not, by reason of giving the authorization described in
227 Subsection (3)(g)(ii), liable for injury to the minor resulting from the negligence or acts of third
228 persons, unless it would have been illegal for a parent to have given the authorization.

229 (5) A parent of a minor for whom a guardian is appointed retains residual parental
230 rights and duties.

231 (6) If a parent of a minor for whom a guardian is appointed consents to the adoption of
232 the minor, the guardian is entitled to:

233 (a) receive notice of the adoption proceeding pursuant to Section 78B-6-110;

234 (b) intervene in the adoption; and

235 (c) present evidence to the court relevant to the best interest of the child pursuant to
236 Subsection 78B-6-110(11).

237 (7) If a minor for whom a guardian is appointed is adopted subsequent to the
238 appointment, the guardianship shall terminate when the adoption is finalized.

239 Section 11. Section 75-5-210 is amended to read:

240 **75-5-210. Termination of appointment of guardian -- General.**

241 (1) A guardian's authority and responsibility terminates upon the death, resignation, or
242 removal of the guardian or upon the minor's death, adoption, [~~marriage, or~~] attainment of

243 majority, or as provided in Subsection (2), but termination does not affect [~~his~~] the guardian's
244 liability for prior acts nor [~~his~~] the guardian's obligation to account for funds and assets of [~~his~~]
245 the guardian's ward. Resignation of a guardian does not terminate the guardianship until [~~it has~~
246 ~~been~~] termination is approved by the court. A testamentary appointment under an informally
247 probated will terminates if the will is later denied probate in a formal proceeding.

248 (2) A guardian's authority and responsibility terminates upon a minor's lawful marriage
249 if the minor:

250 (a) is lawfully married after obtaining juvenile court authorization in accordance with
251 Section [30-1-9](#);

252 (b) is lawfully married in another state; or

253 (c) is lawfully married in Utah before May 14, 2019, or under Section [30-1-17.3](#).

254 Section 12. Section **75-5-424** is amended to read:

255 **75-5-424. Powers of conservator in administration.**

256 (1) A conservator has all of the powers conferred in this chapter and any additional
257 powers conferred by law on trustees in this state. In addition, a conservator of the estate of an
258 unmarried minor as to whom no one has parental rights, has the duties and powers of a
259 guardian of a minor described in Section [75-5-209](#) until the minor attains majority or lawfully
260 marries, but the parental rights so conferred on a conservator do not preclude appointment of a
261 guardian as provided by Part 2, Guardians of Minors.

262 (2) (a) A conservator has the power to compel the production of the protected person's
263 estate documents, including the protected person's will, trust, power of attorney, and any
264 advance health care directives.

265 (b) If a guardian is also appointed for the ward, the conservator shall share with the
266 guardian the estate documents the conservator receives.

267 (3) A conservator has power without court authorization or confirmation to invest and
268 reinvest funds of the estate as would a trustee.

269 (4) A conservator, acting reasonably in efforts to accomplish the purpose for which the
270 conservator was appointed, may use the funds of the estate and act without court authorization
271 or confirmation, to:

272 (a) collect, hold, and retain assets of the estate, including land in another state, until, in
273 the conservator's judgment, disposition of the assets should be made, and the assets may be

- 274 retained even though they include an asset in which the conservator is personally interested;
- 275 (b) receive additions to the estate;
- 276 (c) continue or participate in the operation of any business or other enterprise;
- 277 (d) acquire an undivided interest in an estate asset in which the conservator, in any
- 278 fiduciary capacity, holds an undivided interest;
- 279 (e) invest and reinvest estate assets in accordance with Subsection (3);
- 280 (f) deposit estate funds in a bank including a bank operated by the conservator;
- 281 (g) acquire or dispose of an estate asset, including land in another state, for cash or on
- 282 credit, at public or private sale; and to manage, develop, improve, exchange, partition, change
- 283 the character of, or abandon an estate asset;
- 284 (h) make ordinary or extraordinary repairs or alterations in buildings or other
- 285 structures, demolish any improvements, and raze existing or erect new party walls or buildings;
- 286 (i) (i) subdivide, develop, or dedicate land to public use;
- 287 (ii) make or obtain the vacation of plats and adjust boundaries;
- 288 (iii) adjust differences in valuation on exchange or partition by giving or receiving
- 289 considerations; and
- 290 (iv) dedicate easements to public use without consideration;
- 291 (j) enter for any purpose into a lease as lessor or lessee with or without option to
- 292 purchase or renew for a term within or extending beyond the term of the conservatorship;
- 293 (k) enter into a lease or arrangement for exploration and removal of minerals or other
- 294 natural resources or enter into a pooling or unitization agreement;
- 295 (l) grant an option involving disposition of an estate asset or take an option for the
- 296 acquisition of any asset;
- 297 (m) vote a security, in person or by general or limited proxy;
- 298 (n) pay calls, assessments, and any other sums chargeable or accruing against or on
- 299 account of securities;
- 300 (o) (i) sell or exercise stock subscription or conversion rights; and
- 301 (ii) consent, directly or through a committee or other agent, to the reorganization,
- 302 consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise;
- 303 (p) hold a security in the name of a nominee or in other form without disclosure of the
- 304 conservatorship so that title to the security may pass by delivery, but the conservator is liable

305 for any act of the nominee in connection with the stock so held;

306 (q) insure the assets of the estate against damage or loss and the conservator against
307 liability with respect to third persons;

308 (r) (i) borrow money to be repaid from estate assets or otherwise; and
309 (ii) advance money for the protection of the estate or the protected person, and for all
310 expenses, losses, and liabilities sustained in the administration of the estate or because of the
311 holding or ownership of any estate assets, and the conservator has a lien on the estate as against
312 the protected person for advances so made;

313 (s) (i) pay or contest any claim;
314 (ii) settle a claim by or against the estate or the protected person by compromise,
315 arbitration, or otherwise; and
316 (iii) release, in whole or in part, any claim belonging to the estate to the extent that the
317 claim is uncollectible;

318 (t) pay taxes, assessments, compensation of the conservator, and other expenses
319 incurred in the collection, care, administration, and protection of the estate;

320 (u) allocate items of income or expense to either estate income or principal, as
321 provided by law, including creation of reserves out of income for depreciation, obsolescence,
322 or amortization, or for depletion in mineral or timber properties;

323 (v) pay any sum distributable to a protected person or dependent without liability to the
324 conservator, by paying the sum to the distributee or by paying the sum for the use of the
325 distributee either to the distributee's guardian, or if none, to a relative or other person with
326 custody of the [person] individual;

327 (w) (i) employ persons, including attorneys, auditors, investment advisors, or agents,
328 even though they are associated with the conservator, to advise or assist in the performance of
329 administrative duties;

330 (ii) act upon a recommendation made by a person listed in Subsection (4)(w)(i) without
331 independent investigation; and
332 (iii) instead of acting personally, employ one or more agents to perform any act of
333 administration, whether or not discretionary;

334 (x) prosecute or defend actions, claims, or proceedings in any jurisdiction for the
335 protection of estate assets and of the conservator in the performance of the conservator's duties;

336 (y) act as a qualified beneficiary of any trust in which the protected person is a
337 qualified beneficiary; and

338 (z) execute and deliver the instruments that will accomplish or facilitate the exercise of
339 the powers vested in the conservator.

340 Section 13. Section **78A-6-103** is amended to read:

341 **78A-6-103. Jurisdiction of juvenile court -- Original -- Exclusive.**

342 (1) Except as otherwise provided by law, the juvenile court has exclusive original
343 jurisdiction in proceedings concerning:

344 (a) a child who has violated any federal, state, or local law or municipal ordinance or a
345 person younger than 21 years of age who has violated any law or ordinance before becoming
346 18 years of age, regardless of where the violation occurred, excluding offenses:

347 (i) in Section **53G-8-211** until such time that the child is referred to the courts under
348 Section **53G-8-211**; and

349 (ii) in Subsection **78A-7-106(2)**;

350 (b) a child who is an abused child, neglected child, or dependent child, as those terms
351 are defined in Section **78A-6-105**;

352 (c) a protective order for a child pursuant to Title 78B, Chapter 7, Part 2, Child
353 Protective Orders, which the juvenile court may transfer to the district court if the juvenile
354 court has entered an ex parte protective order and finds that:

355 (i) the petitioner and the respondent are the natural parent, adoptive parent, or step
356 parent of the child who is the object of the petition;

357 (ii) the district court has a petition pending or an order related to custody or parent-time
358 entered under Title 30, Chapter 3, Divorce, Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act,
359 or Title 78B, Chapter 15, Utah Uniform Parentage Act, in which the petitioner and the
360 respondent are parties; and

361 (iii) the best interests of the child will be better served in the district court;

362 (d) appointment of a guardian of the person or other guardian of a minor who comes
363 within the court's jurisdiction under other provisions of this section;

364 (e) the emancipation of a minor in accordance with Part 8, Emancipation;

365 (f) the termination of the legal parent-child relationship in accordance with Part 5,
366 Termination of Parental Rights Act, including termination of residual parental rights and

367 duties;

368 (g) the treatment or commitment of a minor who has an intellectual disability;

369 ~~[(h) the judicial consent to the marriage of a child under age 16 upon a determination~~
370 ~~of voluntariness or where otherwise required by law, employment, or enlistment of a child~~
371 ~~when consent is required by law;]~~

372 ~~[(†)]~~ (h) any parent or parents of a child committed to a secure youth facility, to order,
373 at the discretion of the court and on the recommendation of a secure facility, the parent or
374 parents of a child committed to a secure facility for a custodial term, to undergo group
375 rehabilitation therapy under the direction of a secure facility therapist, who has supervision of
376 that parent's or parents' child, or any other therapist the court may direct, for a period directed
377 by the court as recommended by a secure facility;

378 ~~[(‡)]~~ (i) a minor under Title 55, Chapter 12, Interstate Compact for Juveniles;

379 ~~[(k)]~~ (j) subject to Subsection (8), the treatment or commitment of a child with a
380 mental illness;

381 ~~[(†)]~~ (k) the commitment of a child to a secure drug or alcohol facility in accordance
382 with Section [62A-15-301](#);

383 ~~[(m)]~~ (l) a minor found not competent to proceed pursuant to Section [78A-6-1301](#);

384 ~~[(n)]~~ (m) de novo review of final agency actions resulting from an informal
385 adjudicative proceeding as provided in Section [63G-4-402](#); and

386 ~~[(o)]~~ (n) adoptions conducted in accordance with the procedures described in Title
387 78B, Chapter 6, Part 1, Utah Adoption Act, when the juvenile court has previously entered an
388 order terminating the rights of a parent and finds that adoption is in the best interest of the
389 child.

390 (2) (a) Notwithstanding Section [78A-7-106](#) and Subsection [78A-5-102\(9\)](#), the juvenile
391 court has exclusive jurisdiction over the following offenses committed by a child:

392 (i) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

393 (ii) Section [73-18-12](#), reckless operation; and

394 (iii) class B and C misdemeanors, infractions, or violations of ordinances that are part
395 of a single criminal episode filed in a petition that contains an offense over which the court has
396 jurisdiction.

397 (b) A juvenile court may only order substance use disorder treatment or an educational

398 series if the minor has an assessed need for the intervention on the basis of the results of a
399 validated assessment.

400 (3) The juvenile court has jurisdiction over an ungovernable or runaway child who is
401 referred to it by the Division of Child and Family Services or by public or private agencies that
402 contract with the division to provide services to that child when, despite earnest and persistent
403 efforts by the division or agency, the child has demonstrated that the child:

404 (a) is beyond the control of the child's parent, guardian, or lawful custodian to the
405 extent that the child's behavior or condition endangers the child's own welfare or the welfare of
406 others; or

407 (b) has run away from home.

408 (4) This section does not restrict the right of access to the juvenile court by private
409 agencies or other persons.

410 (5) The juvenile court has jurisdiction of all magistrate functions relative to cases
411 arising under Section [78A-6-702](#).

412 (6) The juvenile court has jurisdiction to make a finding of substantiated,
413 unsubstantiated, or without merit, in accordance with Section [78A-6-323](#).

414 (7) The juvenile court has jurisdiction of matters transferred to it by another trial court
415 pursuant to Subsection [78A-7-106\(5\)](#) and subject to Section [53G-8-211](#).

416 (8) The court may commit a child to the physical custody of a local mental health
417 authority in accordance with Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age
418 18 to Division of Substance Abuse and Mental Health, but not directly to the Utah State
419 Hospital.

420 Section 14. Section **78A-6-105** is amended to read:

421 **78A-6-105. Definitions.**

422 As used in this chapter:

423 (1) (a) "Abuse" means:

424 (i) (A) nonaccidental harm of a child;

425 (B) threatened harm of a child;

426 (C) sexual exploitation;

427 (D) sexual abuse; or

428 (E) human trafficking of a child in violation of Section [76-5-308.5](#); or

- 429 (ii) that a child's natural parent:
430 (A) intentionally, knowingly, or recklessly causes the death of another parent of the
431 child;
432 (B) is identified by a law enforcement agency as the primary suspect in an investigation
433 for intentionally, knowingly, or recklessly causing the death of another parent of the child; or
434 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or
435 recklessly causing the death of another parent of the child.
- 436 (b) "Abuse" does not include:
437 (i) reasonable discipline or management of a child, including withholding privileges;
438 (ii) conduct described in Section 76-2-401; or
439 (iii) the use of reasonable and necessary physical restraint or force on a child:
440 (A) in self-defense;
441 (B) in defense of others;
442 (C) to protect the child; or
443 (D) to remove a weapon in the possession of a child for any of the reasons described in
444 Subsections (1)(b)(iii)(A) through (C).
- 445 (2) "Abused child" means a child who has been subjected to abuse.
- 446 (3) "Adjudication" means a finding by the court, incorporated in a decree, that the facts
447 alleged in the petition have been proved. A finding of not competent to proceed pursuant to
448 Section 78A-6-1302 is not an adjudication.
- 449 (4) "Adult" means an individual 18 years of age or over, except that an individual 18
450 years or over under the continuing jurisdiction of the juvenile court pursuant to Section
451 78A-6-120 shall be referred to as a minor.
- 452 (5) "Board" means the Board of Juvenile Court Judges.
- 453 (6) "Child" means an individual under 18 years of age.
- 454 (7) "Child placement agency" means:
455 (a) a private agency licensed to receive a child for placement or adoption under this
456 code; or
457 (b) a private agency that receives a child for placement or adoption in another state,
458 which agency is licensed or approved where such license or approval is required by law.
- 459 (8) "Clandestine laboratory operation" means the same as that term is defined in

460 Section 58-37d-3.

461 (9) "Commit" means, unless specified otherwise:

462 (a) with respect to a child, to transfer legal custody; and

463 (b) with respect to a minor who is at least 18 years of age, to transfer custody.

464 (10) "Court" means the juvenile court.

465 (11) "Criminogenic risk factors" means evidence-based factors that are associated with
466 a minor's likelihood of reoffending.

467 (12) "Delinquent act" means an act that would constitute a felony or misdemeanor if
468 committed by an adult.

469 (13) "Dependent child" includes a child who is homeless or without proper care
470 through no fault of the child's parent, guardian, or custodian.

471 (14) "Deprivation of custody" means transfer of legal custody by the court from a
472 parent or the parents or a previous legal custodian to another person, agency, or institution.

473 (15) "Detention" means home detention and secure detention as defined in Section
474 62A-7-101 for the temporary care of a minor who requires secure custody in a physically
475 restricting facility:

476 (a) pending court disposition or transfer to another jurisdiction; or

477 (b) while under the continuing jurisdiction of the court.

478 (16) "Detention risk assessment tool" means an evidence-based tool established under
479 Section 78A-6-124, on and after July 1, 2018, that assesses a minor's risk of failing to appear in
480 court or reoffending pre-adjudication and designed to assist in making detention
481 determinations.

482 (17) "Division" means the Division of Child and Family Services.

483 (18) "Educational neglect" means that, after receiving a notice of compulsory education
484 violation under Section 53G-6-202, the parent or guardian fails to make a good faith effort to
485 ensure that the child receives an appropriate education.

486 (19) "Evidence-based" means a program or practice that has had multiple randomized
487 control studies or a meta-analysis demonstrating that the program or practice is effective for a
488 specific population or has been rated as effective by a standardized program evaluation tool.

489 (20) "Formal probation" means a minor is under field supervision by the probation
490 department or other agency designated by the court and subject to return to the court in

491 accordance with Section [78A-6-123](#) on and after July 1, 2018.

492 (21) "Formal referral" means a written report from a peace officer or other person
493 informing the court that a minor is or appears to be within the court's jurisdiction and that a
494 case must be reviewed.

495 (22) "Group rehabilitation therapy" means psychological and social counseling of one
496 or more individuals in the group, depending upon the recommendation of the therapist.

497 (23) "Guardianship of the person" includes the authority to consent to:

498 (a) marriage of an incapacitated individual;

499 (b) enlistment in the armed forces;

500 (c) major medical, surgical, or psychiatric treatment; or

501 (d) legal custody, if legal custody is not vested in another individual, agency, or
502 institution.

503 (24) "Habitual truant" means the same as that term is defined in Section [53G-6-201](#).

504 (25) "Harm" means:

505 (a) physical or developmental injury or damage;

506 (b) emotional damage that results in a serious impairment in the child's growth,
507 development, behavior, or psychological functioning;

508 (c) sexual abuse; or

509 (d) sexual exploitation.

510 (26) (a) "Incest" means engaging in sexual intercourse with an individual whom the
511 perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt,
512 nephew, niece, or first cousin.

513 (b) The relationships described in Subsection (26)(a) include:

514 (i) blood relationships of the whole or half blood, without regard to legitimacy;

515 (ii) relationships of parent and child by adoption; and

516 (iii) relationships of stepparent and stepchild while the marriage creating the
517 relationship of a stepparent and stepchild exists.

518 (27) "Intake probation" means a period of court monitoring that does not include field
519 supervision, but is overseen by a juvenile probation officer, during which a minor is subject to
520 return to the court in accordance with Section [78A-6-123](#) on and after July 1, 2018.

521 (28) "Intellectual disability" means:

522 (a) significantly subaverage intellectual functioning, an IQ of approximately 70 or
523 below on an individually administered IQ test, for infants, a clinical judgment of significantly
524 subaverage intellectual functioning;

525 (b) concurrent deficits or impairments in present adaptive functioning, regarding the
526 individual's effectiveness in meeting the standards expected for the individual's age by the
527 individual's cultural group, in at least two of the following areas: communication, self-care,
528 home living, social/interpersonal skills, use of community resources, self-direction, functional
529 academic skills, work, leisure, health, and safety; and

530 (c) the onset is before the individual reaches the age of 18 years.

531 (29) "Legal custody" means a relationship embodying the following rights and duties:

532 (a) the right to physical custody of the minor;

533 (b) the right and duty to protect, train, and discipline the minor;

534 (c) the duty to provide the minor with food, clothing, shelter, education, and ordinary
535 medical care;

536 (d) the right to determine where and with whom the minor shall live; and

537 (e) the right, in an emergency, to authorize surgery or other extraordinary care.

538 (30) "Material loss" means an uninsured:

539 (a) property loss;

540 (b) out-of-pocket monetary loss;

541 (c) lost wages; or

542 (d) medical expenses.

543 (31) "Mental disorder" means a serious emotional and mental disturbance that severely
544 limits a minor's development and welfare over a significant period of time.

545 (32) "Minor" means:

546 (a) a child; or

547 (b) an individual who is:

548 (i) at least 18 years of age and younger than 21 years of age; and

549 (ii) under the jurisdiction of the juvenile court.

550 (33) "Mobile crisis outreach team" means a crisis intervention service for minors or
551 families of minors experiencing behavioral health or psychiatric emergencies.

552 (34) "Molestation" means that an individual, with the intent to arouse or gratify the

553 sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child,
554 or the breast of a female child, or takes indecent liberties with a child as defined in Section
555 [76-5-416](#).

556 (35) "Natural parent" means a minor's biological or adoptive parent, and includes the
557 minor's noncustodial parent.

558 (36) (a) "Neglect" means action or inaction causing:

559 (i) abandonment of a child, except as provided in Title 62A, Chapter 4a, Part 8, Safe
560 Relinquishment of a Newborn Child;

561 (ii) lack of proper parental care of a child by reason of the fault or habits of the parent,
562 guardian, or custodian;

563 (iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary
564 subsistence or medical care, or any other care necessary for the child's health, safety, morals, or
565 well-being;

566 (iv) a child to be at risk of being neglected or abused because another child in the same
567 home is neglected or abused;

568 (v) abandonment of a child through an unregulated custody transfer; or

569 (vi) educational neglect.

570 (b) "Neglect" does not include:

571 (i) a parent or guardian legitimately practicing religious beliefs and who, for that
572 reason, does not provide specified medical treatment for a child;

573 (ii) a health care decision made for a child by the child's parent or guardian, unless the
574 state or other party to a proceeding shows, by clear and convincing evidence, that the health
575 care decision is not reasonable and informed;

576 (iii) a parent or guardian exercising the right described in Section [78A-6-301.5](#); or

577 (iv) permitting a child, whose basic needs are met and who is of sufficient age and
578 maturity to avoid harm or unreasonable risk of harm, to engage in independent activities,
579 including:

580 (A) traveling to and from school, including by walking, running, or bicycling;

581 (B) traveling to and from nearby commercial or recreational facilities;

582 (C) engaging in outdoor play;

583 (D) remaining in a vehicle unattended, except under the conditions described in

584 Subsection 76-10-2202(2);

585 (E) remaining at home unattended; or

586 (F) engaging in a similar independent activity.

587 (37) "Neglected child" means a child who has been subjected to neglect.

588 (38) "Nonjudicial adjustment" means closure of the case by the assigned probation
589 officer without judicial determination upon the consent in writing of:

590 (a) the assigned probation officer; and

591 (b) (i) the minor; or

592 (ii) the minor and the minor's parent, legal guardian, or custodian.

593 (39) "Not competent to proceed" means that a minor, due to a mental disorder,
594 intellectual disability, or related condition as defined, lacks the ability to:

595 (a) understand the nature of the proceedings against them or of the potential disposition
596 for the offense charged; or

597 (b) consult with counsel and participate in the proceedings against them with a
598 reasonable degree of rational understanding.

599 (40) "Physical abuse" means abuse that results in physical injury or damage to a child.

600 (41) "Probation" means a legal status created by court order following an adjudication
601 on the ground of a violation of law or under Section 78A-6-103, whereby the minor is
602 permitted to remain in the minor's home under prescribed conditions.

603 (42) "Protective supervision" means a legal status created by court order following an
604 adjudication on the ground of abuse, neglect, or dependency, whereby the minor is permitted to
605 remain in the minor's home, and supervision and assistance to correct the abuse, neglect, or
606 dependency is provided by the probation department or other agency designated by the court.

607 (43) "Related condition" means a condition closely related to intellectual disability in
608 accordance with 42 C.F.R. Part 435.1010 and further defined in Rule R539-1-3, Utah
609 Administrative Code.

610 (44) (a) "Residual parental rights and duties" means those rights and duties remaining
611 with the parent after legal custody or guardianship, or both, have been vested in another person
612 or agency, including:

613 (i) the responsibility for support;

614 (ii) the right to consent to adoption;

- 615 (iii) the right to determine the child's religious affiliation; and
- 616 (iv) the right to reasonable parent-time unless restricted by the court.
- 617 (b) If no guardian has been appointed, "residual parental rights and duties" also include
- 618 the right to consent to:
 - 619 [~~(i) marriage;~~]
 - 620 [~~(ii)~~] (i) enlistment; and
 - 621 [~~(iii)~~] (ii) major medical, surgical, or psychiatric treatment.
- 622 (45) "Secure facility" means any facility operated by or under contract with the
- 623 Division of Juvenile Justice Services, that provides 24-hour supervision and confinement for
- 624 youth offenders committed to the division for custody and rehabilitation pursuant to Subsection
- 625 [78A-6-117\(2\)\(d\)](#).
- 626 (46) "Severe abuse" means abuse that causes or threatens to cause serious harm to a
- 627 child.
- 628 (47) "Severe neglect" means neglect that causes or threatens to cause serious harm to a
- 629 child.
- 630 (48) "Sexual abuse" means:
 - 631 (a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an
 - 632 adult directed towards a child;
 - 633 (b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation
 - 634 committed by a child towards another child if:
 - 635 (i) there is an indication of force or coercion;
 - 636 (ii) the children are related, as described in Subsection (26), including siblings by
 - 637 marriage while the marriage exists or by adoption;
 - 638 (iii) there have been repeated incidents of sexual contact between the two children,
 - 639 unless the children are 14 years of age or older; or
 - 640 (iv) there is a disparity in chronological age of four or more years between the two
 - 641 children;
 - 642 (c) engaging in any conduct with a child that would constitute an offense under any of
 - 643 the following, regardless of whether the individual who engages in the conduct is actually
 - 644 charged with, or convicted of, the offense:
 - 645 (i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section [76-5-401](#), if the

646 alleged perpetrator of an offense described in Section 76-5-401 is a minor;

647 (ii) child bigamy, Section 76-7-101.5;

648 (iii) incest, Section 76-7-102;

649 (iv) lewdness, Section 76-9-702;

650 (v) sexual battery, Section 76-9-702.1;

651 (vi) lewdness involving a child, Section 76-9-702.5; or

652 (vii) voyeurism, Section 76-9-702.7; or

653 (d) subjecting a child to participate in or threatening to subject a child to participate in
654 a sexual relationship, regardless of whether that sexual relationship is part of a legal or cultural
655 marriage.

656 (49) "Sexual exploitation" means knowingly:

657 (a) employing, using, persuading, inducing, enticing, or coercing any child to:

658 (i) pose in the nude for the purpose of sexual arousal of any individual; or

659 (ii) engage in any sexual or simulated sexual conduct for the purpose of photographing,
660 filming, recording, or displaying in any way the sexual or simulated sexual conduct;

661 (b) displaying, distributing, possessing for the purpose of distribution, or selling
662 material depicting a child:

663 (i) in the nude, for the purpose of sexual arousal of any individual; or

664 (ii) engaging in sexual or simulated sexual conduct; or

665 (c) engaging in any conduct that would constitute an offense under Section 76-5b-201,
666 sexual exploitation of a minor, regardless of whether the individual who engages in the conduct
667 is actually charged with, or convicted of, the offense.

668 (50) "Shelter" means the temporary care of a child in a physically unrestricted facility
669 pending court disposition or transfer to another jurisdiction.

670 (51) "Status offense" means a violation of the law that would not be a violation but for
671 the age of the offender.

672 (52) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or
673 substances.

674 (53) "Substantiated" means the same as that term is defined in Section 62A-4a-101.

675 (54) "Supported" means the same as that term is defined in Section 62A-4a-101.

676 (55) "Termination of parental rights" means the permanent elimination of all parental

677 rights and duties, including residual parental rights and duties, by court order.

678 (56) "Therapist" means:

679 (a) an individual employed by a state division or agency for the purpose of conducting
680 psychological treatment and counseling of a minor in its custody; or

681 (b) any other individual licensed or approved by the state for the purpose of conducting
682 psychological treatment and counseling.

683 (57) "Unregulated custody transfer" means the placement of a child:

684 (a) with an individual who is not the child's parent, step-parent, grandparent, adult
685 sibling, adult uncle or aunt, or legal guardian, or a friend of the family who is an adult and with
686 whom the child is familiar, or a member of the child's federally recognized tribe;

687 (b) with the intent of severing the child's existing parent-child or guardian-child
688 relationship; and

689 (c) without taking:

690 (i) reasonable steps to ensure the safety of the child and permanency of the placement;

691 and

692 (ii) the necessary steps to transfer the legal rights and responsibilities of parenthood or
693 guardianship to the individual taking custody of the child.

694 (58) "Unsubstantiated" means the same as that term is defined in Section [62A-4a-101](#).

695 (59) "Validated risk and needs assessment" means an evidence-based tool that assesses
696 a minor's risk of reoffending and a minor's criminogenic needs.

697 (60) "Without merit" means the same as that term is defined in Section [62A-4a-101](#).