

1 **CHILD WELFARE AMENDMENTS**

2 2021 GENERAL SESSION

3 STATE OF UTAH

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

5 House Sponsor: Paul Ray

7 **LONG TITLE**

8 **General Description:**

9 This bill addresses provisions related to child welfare.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ modifies definitions and defines terms;
- 13 ▶ repeals a requirement that the Child Welfare Training Coordinator be appointed by
14 the director of the Division of Child and Family Services;
- 15 ▶ modifies the training requirements for caseworkers of the Division of Child and
16 Family Services;
- 17 ▶ clarifies that the Division of Child and Family Services may share a record related
18 to an investigation of a report of child abuse or neglect with certain persons;
- 19 ▶ modifies provisions that require the Division of Child and Family Services to
20 remove certain information from a record related to a report or an investigation of
21 child abuse or neglect before disclosing the record to the subject of the report or a
22 parent or guardian;
- 23 ▶ allows certain information and records contained in the Management Information
24 System developed by the Division of Child and Family Services to be classified as
25 private or controlled under the Government Records Access and Management Act;
- 26 ▶ allows the Division of Child and Family Services to share a record related to a
27 report or an investigation of child abuse or neglect with the Division of Substance



- 28 Abuse and Mental Health, the Department of Health, or a local substance abuse authority for
29 the purpose of providing substance abuse treatment to a parent of a newborn child;
- 30 ▶ directs the Division of Substance Abuse and Mental Health to coordinate with the
31 Department of Health and other health care providers to develop a program to
32 reduce substance abuse by parents of a newborn child;
 - 33 ▶ requires the Department of Human Services to perform a review of a child who has
34 suffered a near fatality and is the subject of an open case for child welfare services
35 within one year of the near fatality;
 - 36 ▶ modifies the fatality review process of the Department of Human Services to allow
37 review of near fatalities of children;
 - 38 ▶ modifies the requirements giving notice of a summons for a parent or guardian of a
39 juvenile proceeding;
 - 40 ▶ amends the requirements for returning a child to the custody of a parent or guardian
41 in a shelter hearing;
 - 42 ▶ clarifies that an adjudication for abuse, neglect, or dependency of a child, or
43 termination or restoration of parental rights may not be expunged;
 - 44 ▶ modifies the type of records that a court may order sealed in a juvenile
45 expungement proceeding; and
 - 46 ▶ makes technical and conforming changes.

47 **Money Appropriated in this Bill:**

48 None

49 **Other Special Clauses:**

50 None

51 **Utah Code Sections Affected:**

52 AMENDS:

53 [52-4-205](#), as last amended by Laws of Utah 2020, Chapters 12 and 201

54 [62A-4a-101](#), as last amended by Laws of Utah 2019, Chapters 259 and 335

55 [62A-4a-107](#), as last amended by Laws of Utah 2013, Chapter 171

56 [62A-4a-402](#), as last amended by Laws of Utah 2008, Chapter 299

57 [62A-4a-404](#), as last amended by Laws of Utah 2020, Chapter 193

58 [62A-4a-412](#), as last amended by Laws of Utah 2020, Chapters 193 and 258

- 59 [62A-4a-1003](#), as last amended by Laws of Utah 2019, Chapter 335
- 60 [62A-15-103](#), as last amended by Laws of Utah 2020, Chapter 193
- 61 [62A-16-102](#), as last amended by Laws of Utah 2019, Chapter 139
- 62 [62A-16-201](#), as last amended by Laws of Utah 2019, Chapter 139
- 63 [62A-16-202](#), as enacted by Laws of Utah 2010, Chapter 239
- 64 [62A-16-203](#), as enacted by Laws of Utah 2010, Chapter 239
- 65 [62A-16-204](#), as last amended by Laws of Utah 2019, Chapter 139
- 66 [62A-16-301](#), as last amended by Laws of Utah 2019, Chapter 139
- 67 [62A-16-302](#), as last amended by Laws of Utah 2011, Chapter 343
- 68 [63G-2-305](#), as last amended by Laws of Utah 2020, Chapters 112, 198, 339, 349, 382,
- 69 and 393
- 70 [63G-2-305.5](#), as enacted by Laws of Utah 2020, Chapter 349
- 71 [78A-6-105](#), as last amended by Laws of Utah 2020, Chapters 214, 312 and last
- 72 amended by Coordination Clause, Laws of Utah 2020, Chapter 214
- 73 [78A-6-109](#), as last amended by Laws of Utah 2017, Chapter 330
- 74 [78A-6-306](#), as last amended by Laws of Utah 2020, Chapters 158 and 214
- 75 [78A-6-1503](#), as renumbered and amended by Laws of Utah 2020, Chapter 218

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

78 Section 1. Section [52-4-205](#) is amended to read:

79 **52-4-205. Purposes of closed meetings -- Certain issues prohibited in closed**
 80 **meetings.**

81 (1) A closed meeting described under Section [52-4-204](#) may only be held for:

- 82 (a) except as provided in Subsection (3), discussion of the character, professional
- 83 competence, or physical or mental health of an individual;
- 84 (b) strategy sessions to discuss collective bargaining;
- 85 (c) strategy sessions to discuss pending or reasonably imminent litigation;
- 86 (d) strategy sessions to discuss the purchase, exchange, or lease of real property,
- 87 including any form of a water right or water shares, if public discussion of the transaction
- 88 would:
- 89 (i) disclose the appraisal or estimated value of the property under consideration; or

90 (ii) prevent the public body from completing the transaction on the best possible terms;

91 (e) strategy sessions to discuss the sale of real property, including any form of a water
92 right or water shares, if:

93 (i) public discussion of the transaction would:

94 (A) disclose the appraisal or estimated value of the property under consideration; or

95 (B) prevent the public body from completing the transaction on the best possible terms;

96 (ii) the public body previously gave public notice that the property would be offered for
97 sale; and

98 (iii) the terms of the sale are publicly disclosed before the public body approves the
99 sale;

100 (f) discussion regarding deployment of security personnel, devices, or systems;

101 (g) investigative proceedings regarding allegations of criminal misconduct;

102 (h) as relates to the Independent Legislative Ethics Commission, conducting business
103 relating to the receipt or review of ethics complaints;

104 (i) as relates to an ethics committee of the Legislature, a purpose permitted under
105 Subsection [52-4-204\(1\)\(a\)\(iii\)\(C\)](#);

106 (j) as relates to the Independent Executive Branch Ethics Commission created in
107 Section [63A-14-202](#), conducting business relating to an ethics complaint;

108 (k) as relates to a county legislative body, discussing commercial information as
109 defined in Section [59-1-404](#);

110 (l) as relates to the Utah Higher Education Assistance Authority and its appointed
111 board of directors, discussing fiduciary or commercial information as defined in Section
112 [53B-12-102](#);

113 (m) deliberations, not including any information gathering activities, of a public body
114 acting in the capacity of:

115 (i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code,
116 during the process of evaluating responses to a solicitation, as defined in Section [63G-6a-103](#);

117 (ii) a protest officer, defined in Section [63G-6a-103](#), during the process of making a
118 decision on a protest under Title 63G, Chapter 6a, Part 16, Protests; or

119 (iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement
120 Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17,

121 Procurement Appeals Board;

122 (n) the purpose of considering information that is designated as a trade secret, as
123 defined in Section 13-24-2, if the public body's consideration of the information is necessary in
124 order to properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement Code;

125 (o) the purpose of discussing information provided to the public body during the
126 procurement process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of
127 the meeting:

128 (i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be
129 disclosed to a member of the public or to a participant in the procurement process; and

130 (ii) the public body needs to review or discuss the information in order to properly
131 fulfill its role and responsibilities in the procurement process;

132 (p) as relates to the governing board of a governmental nonprofit corporation, as that
133 term is defined in Section 11-13a-102, the purpose of discussing information that is designated
134 as a trade secret, as that term is defined in Section 13-24-2, if:

135 (i) public knowledge of the discussion would reasonably be expected to result in injury
136 to the owner of the trade secret; and

137 (ii) discussion of the information is necessary for the governing board to properly
138 discharge the board's duties and conduct the board's business; or

139 (q) a purpose for which a meeting is required to be closed under Subsection (2).

140 (2) The following meetings shall be closed:

141 (a) a meeting of the Health and Human Services Interim Committee to review a
142 [~~fatality review~~] report described in Subsection 62A-16-301(1)(a), and the responses to the
143 report described in Subsections 62A-16-301(2) and (4);

144 (b) a meeting of the Child Welfare Legislative Oversight Panel to:

145 (i) review a [~~fatality review~~] report described in Subsection 62A-16-301(1)(a), and the
146 responses to the report described in Subsections 62A-16-301(2) and (4); or

147 (ii) review and discuss an individual case, as described in Subsection 62A-4a-207(5);

148 (c) a meeting of the Opioid and Overdose Fatality Review Committee, created in
149 Section 26-7-13, to review and discuss an individual case, as described in Subsection
150 26-7-13(10); [~~and~~]

151 (d) a meeting of a conservation district as defined in Section 17D-3-102 for the

152 purpose of advising the Natural Resource Conservation Service of the United States
153 Department of Agriculture on a farm improvement project if the discussed information is
154 protected information under federal law; and

155 (e) a meeting of the Compassionate Use Board established in Section 26-61a-105 for
156 the purpose of reviewing petitions for a medical cannabis card in accordance with Section
157 26-61a-105.

158 (3) In a closed meeting, a public body may not:

159 (a) interview a person applying to fill an elected position;

160 (b) discuss filling a midterm vacancy or temporary absence governed by Title 20A,
161 Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office;
162 or

163 (c) discuss the character, professional competence, or physical or mental health of the
164 person whose name was submitted for consideration to fill a midterm vacancy or temporary
165 absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and
166 Temporary Absence in Elected Office.

167 Section 2. Section 62A-4a-101 is amended to read:

168 **62A-4a-101. Definitions.**

169 As used in this chapter:

170 (1) "Abuse" means the same as that term is defined in Section 78A-6-105.

171 (2) "Adoption services" means:

172 (a) placing children for adoption;

173 (b) subsidizing adoptions under Section 62A-4a-105;

174 (c) supervising adoption placements until the adoption is finalized by the court;

175 (d) conducting adoption studies;

176 (e) preparing adoption reports upon request of the court; and

177 (f) providing postadoptive placement services, upon request of a family, for the
178 purpose of stabilizing a possible disruptive placement.

179 (3) "Child" means, except as provided in Part 7, Interstate Compact on Placement of
180 Children, ~~[a person]~~ an individual under 18 years ~~[of age]~~ old.

181 (4) "Child protection team" means a team consisting of:

182 (a) the caseworker assigned to the case;

- 183 (b) the caseworker who made the decision to remove the child;
- 184 (c) a representative of the school or school district where the child attends school;
- 185 (d) the peace officer who removed the child from the home;
- 186 (e) a representative of the appropriate Children's Justice Center, if one is established
- 187 within the county where the child resides;
- 188 (f) if appropriate, and known to the division, a therapist or counselor who is familiar
- 189 with the child's circumstances;
- 190 (g) members of a child protection unit; and
- 191 (h) any other individuals determined appropriate and necessary by the team coordinator
- 192 and chair.
- 193 (5) "Child protection unit" means any unit created by a chief of police or a sheriff of a
- 194 city, town, metro township, or county that is composed of at least the following individuals
- 195 who are trained in the prevention, identification, and treatment of abuse or neglect:
- 196 (a) a law enforcement officer, as defined in Section 53-13-103; and
- 197 (b) a child advocate selected by the chief of police or a sheriff.
- 198 (6) (a) "Chronic abuse" means repeated or patterned abuse.
- 199 (b) "Chronic abuse" does not mean an isolated incident of abuse.
- 200 (7) (a) "Chronic neglect" means repeated or patterned neglect.
- 201 (b) "Chronic neglect" does not mean an isolated incident of neglect.
- 202 (8) "Consult" means an interaction between two persons in which the initiating person:
- 203 (a) provides information to another person;
- 204 (b) provides the other person an opportunity to respond; and
- 205 (c) takes the other person's response, if any, into consideration.
- 206 (9) "Consumer" means a person who receives services offered by the division in
- 207 accordance with this chapter.
- 208 (10) "Custody," with regard to the division, means the custody of a minor in the
- 209 division as of the date of disposition.
- 210 (11) "Day-care services" means care of a child for a portion of the day which is less
- 211 than 24 hours:
- 212 (a) in the child's own home by a responsible ~~[person]~~ individual; or
- 213 (b) outside of the child's home in a:

- 214 (i) day-care center;
- 215 (ii) family group home; or
- 216 (iii) family child care home.
- 217 (12) "Dependent child" or "dependency" means a child, or the condition of a child, who
- 218 is [~~homeless or~~] without proper care through no fault of the child's parent, guardian, or
- 219 custodian.
- 220 (13) "Director" means the director of the Division of Child and Family Services.
- 221 (14) "Division" means the Division of Child and Family Services.
- 222 (15) "Domestic violence services" means:
- 223 (a) temporary shelter, treatment, and related services to:
- 224 (i) [~~a person~~] an individual who is a victim of abuse, as defined in Section 78B-7-102;
- 225 and
- 226 (ii) the dependent children of [~~a person~~] an individual who is a victim of abuse, as
- 227 defined in Section 78B-7-102; and
- 228 (b) treatment services for [~~a person~~] an individual who is alleged to have committed,
- 229 has been convicted of, or has pled guilty to, an act of domestic violence as defined in Section
- 230 77-36-1.
- 231 (16) "Harm" means the same as that term is defined in Section 78A-6-105.
- 232 (17) "Homemaking service" means the care of individuals in their domiciles, and help
- 233 given to individual caretaker relatives to achieve improved household and family management
- 234 through the services of a trained homemaker.
- 235 (18) "Incest" means the same as that term is defined in Section 78A-6-105.
- 236 (19) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.
- 237 (20) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.
- 238 (21) "Minor" means, except as provided in Part 7, Interstate Compact on Placement of
- 239 Children:
- 240 (a) a child; or
- 241 (b) [~~a person~~] an individual:
- 242 (i) who is at least 18 years [~~of age~~] old and younger than 21 years [~~of age~~] old; and
- 243 (ii) for whom the division has been specifically ordered by the juvenile court to provide
- 244 services.

245 (22) "Molestation" means the same as that term is defined in Section 78A-6-105.

246 (23) "Mutual case" means a case that has been:

247 (a) opened by the division under the division's discretion and procedures;

248 (b) opened by the law enforcement agency with jurisdiction over the case; and

249 (c) accepted for investigation by the child protection unit established by the chief of
250 police or sheriff, as applicable.

251 (24) "Natural parent" means a minor's biological or adoptive parent, and includes a
252 minor's noncustodial parent.

253 (25) "Neglect" means the same as that term is defined in Section 78A-6-105.

254 (26) "Protective custody," with regard to the division, means the shelter of a child by
255 the division from the time the child is removed from the child's home until the earlier of:

256 (a) the shelter hearing; or

257 (b) the child's return home.

258 (27) "Protective services" means expedited services that are provided:

259 (a) in response to evidence of neglect, abuse, or dependency of a child;

260 (b) to a cohabitant who is neglecting or abusing a child, in order to:

261 (i) help the cohabitant develop recognition of the cohabitant's duty of care and of the
262 causes of neglect or abuse; and

263 (ii) strengthen the cohabitant's ability to provide safe and acceptable care; and

264 (c) in cases where the child's welfare is endangered:

265 (i) to bring the situation to the attention of the appropriate juvenile court and law
266 enforcement agency;

267 (ii) to cause a protective order to be issued for the protection of the child, when
268 appropriate; and

269 (iii) to protect the child from the circumstances that endanger the child's welfare
270 including, when appropriate:

271 (A) removal from the child's home;

272 (B) placement in substitute care; and

273 (C) petitioning the court for termination of parental rights.

274 (28) "Severe abuse" means the same as that term is defined in Section 78A-6-105.

275 (29) "Severe neglect" means the same as that term is defined in Section 78A-6-105.

276 (30) "Sexual abuse" means the same as that term is defined in Section [78A-6-105](#).

277 (31) "Sexual exploitation" means the same as that term is defined in Section
278 [78A-6-105](#).

279 (32) "Shelter care" means the temporary care of a minor in a nonsecure facility.

280 (33) "Sibling" means a child who shares or has shared at least one parent in common
281 either by blood or adoption.

282 (34) "Sibling visitation" means services provided by the division to facilitate the
283 interaction between a child in division custody with a sibling of that child.

284 (35) "State" means:

285 (a) a state of the United States;

286 (b) the District of Columbia;

287 (c) the Commonwealth of Puerto Rico;

288 (d) the Virgin Islands;

289 (e) Guam;

290 (f) the Commonwealth of the Northern Mariana Islands; or

291 (g) a territory or possession administered by the United States.

292 (36) "State plan" means the written description of the programs for children, youth, and
293 family services administered by the division in accordance with federal law.

294 (37) "Status offense" means a violation of the law that would not be a violation but for
295 the age of the offender.

296 (38) "Substance abuse" means, except as provided in Section [62A-4a-404](#), the same as
297 that term is defined in Section [78A-6-105](#).

298 (39) "Substantiated" or "substantiation" means a judicial finding based on a
299 preponderance of the evidence that abuse or neglect occurred. Each allegation made or
300 identified in a given case shall be considered separately in determining whether there should be
301 a finding of substantiated.

302 (40) "Substitute care" means:

303 (a) the placement of a minor in a family home, group care facility, or other placement
304 outside the minor's own home, either at the request of a parent or other responsible relative, or
305 upon court order, when it is determined that continuation of care in the minor's own home
306 would be contrary to the minor's welfare;

307 (b) services provided for a minor awaiting placement; and

308 (c) the licensing and supervision of a substitute care facility.

309 (41) "Supported" means a finding by the division based on the evidence available at the
310 completion of an investigation that there is a reasonable basis to conclude that abuse, neglect,
311 or dependency occurred. Each allegation made or identified during the course of the
312 investigation shall be considered separately in determining whether there should be a finding of
313 supported.

314 (42) "Temporary custody," with regard to the division, means the custody of a child in
315 the division from the date of the shelter hearing until disposition.

316 (43) "Threatened harm" means the same as that term is defined in Section 78A-6-105.

317 (44) "Transportation services" means travel assistance given to an individual with
318 escort service, if necessary, to and from community facilities and resources as part of a service
319 plan.

320 (45) "Unsubstantiated" means a judicial finding that there is insufficient evidence to
321 conclude that abuse or neglect occurred.

322 (46) "Unsupported" means a finding by the division at the completion of an
323 investigation that there is insufficient evidence to conclude that abuse, neglect, or dependency
324 occurred. However, a finding of unsupported means also that the division did not conclude
325 that the allegation was without merit.

326 (47) "Without merit" means a finding at the completion of an investigation by the
327 division, or a judicial finding, that the alleged abuse, neglect, or dependency did not occur, or
328 that the alleged perpetrator was not responsible for the abuse, neglect, or dependency.

329 Section 3. Section 62A-4a-107 is amended to read:

330 **62A-4a-107. Mandatory education and training of caseworkers -- Development of**
331 **curriculum.**

332 (1) There is created within the division a full-time position of [~~Child Welfare Training~~
333 ~~Coordinator, who shall be appointed by and serve at the pleasure of the director. The employee~~
334 ~~in that position]~~ a child welfare training coordinator.

335 (2) The child welfare training coordinator is not responsible for direct casework
336 services or the supervision of those services, but is required to:

337 (a) develop child welfare curriculum that:

338 (i) is current and effective, consistent with the division's mission and purpose for child
339 welfare; and

340 (ii) utilizes curriculum and resources from a variety of sources including those from:

341 (A) the public sector;

342 (B) the private sector; and

343 (C) inside and outside of the state;

344 (b) recruit, select, and supervise child welfare trainers;

345 (c) develop a statewide training program, including a budget and identification of
346 sources of funding to support that training;

347 (d) evaluate the efficacy of training in improving job performance;

348 (e) assist child protective services and foster care workers in developing and fulfilling
349 their individual training plans;

350 (f) monitor staff compliance with division training requirements and individual training
351 plans; and

352 (g) expand the collaboration between the division and schools of social work within
353 institutions of higher education in developing child welfare services curriculum, and in
354 providing and evaluating training.

355 ~~[(2)(a)]~~ (3) The director shall, with the assistance of the child welfare training
356 coordinator, establish and ensure caseworker competency regarding a core curriculum for child
357 welfare services that ~~[is substantially equivalent to the Child Welfare League of America's
358 Core Training for Child Welfare Caseworkers Curriculum.];~~

359 (a) is driven by child safety and family well-being;

360 (b) emphasizes child and family voice;

361 (c) is trauma-informed, as defined in Section 63M-7-209; and

362 (d) is consistent with national child welfare practice standards.

363 ~~[(b) Any child welfare caseworker who is employed by the division for the first time
364 after July 1, 1999, shall, before assuming significant independent casework responsibilities,
365 successfully complete:]~~

366 ~~[(i) the core curriculum; and]~~

367 ~~[(ii) except as provided in Subsection (2)(c), on-the-job training that consists of
368 observing and accompanying at least two capable and experienced child welfare caseworkers~~

369 as they perform work-related functions:]

370 [~~(A) for three months if the caseworker has less than six months of on-the-job~~
371 ~~experience as a child welfare caseworker; or]~~

372 [~~(B) for two months if the caseworker has six months or more but less than 24 months~~
373 ~~of on-the-job experience as a child welfare caseworker.]~~

374 [~~(c) A child welfare caseworker with at least 24 months of on-the-job experience is not~~
375 ~~required to receive on-the-job training under Subsection (2)(b)(ii).]~~

376 [~~(3) Child welfare caseworkers]~~

377 (4) A child welfare caseworker shall complete training in:

378 (a) the legal duties of a child welfare caseworker;

379 (b) the responsibility of a child welfare caseworker to protect the safety and legal rights
380 of children, parents, and families at all stages of a case, including:

381 (i) initial contact;

382 (ii) ~~[investigation]~~ safety and risk assessment; and

383 (iii) ~~[treatment]~~ intervention;

384 (c) recognizing situations involving:

385 (i) substance abuse;

386 (ii) domestic violence;

387 (iii) abuse; and

388 (iv) neglect; and

389 (d) the relationship of the Fourth and Fourteenth Amendments of the Constitution of
390 the United States to the child welfare caseworker's job, including:

391 (i) search and seizure of evidence;

392 (ii) the warrant requirement;

393 (iii) exceptions to the warrant requirement; and

394 (iv) removing a child from the custody of the child's parent or guardian.

395 [~~(4)~~] (5) The division shall train ~~[its]~~ the division's child welfare caseworkers to apply
396 the ~~[risk assessment tools]~~ safety, risk, needs, and strength assessment tools and rules described
397 in Subsection 62A-4a-1002(2).

398 [~~(5)~~] (6) The division shall use the training of child welfare caseworkers to emphasize:

399 (a) the importance of maintaining the parent-child relationship ~~[whenever possible]~~;

400 (b) the preference for providing in-home services over taking a child into protective
401 custody, both for the emotional well-being of the child and the efficient allocation of resources;
402 and

403 (c) the importance and priority of:

404 (i) kinship placement in the event a child must be taken into protective custody; and

405 (ii) guardianship placement, in the event the parent-child relationship is legally
406 terminated and no appropriate adoptive placement is available.

407 ~~[(6)]~~ (7) When a child welfare caseworker is hired, before assuming [significant]
408 independent casework responsibilities, ~~[the child welfare caseworker shall complete the~~
409 ~~training described in Subsections (3) through (5).]~~ the division shall ensure that the child
410 welfare caseworker has:

411 (a) completed the training described in Subsections (4), (5), and (6); and

412 (b) participated in sufficient skills development for a child welfare caseworker.

413 Section 4. Section **62A-4a-402** is amended to read:

414 **62A-4a-402. Definitions.**

415 As used in this part:

416 (1) "A person responsible for a child's care" means the child's parent, guardian, or other
417 person responsible for the child's care, whether in the same home as the child, a relative's
418 home, a group, family, or center day care facility, a foster care home, or a residential
419 institution.

420 (2) "Newborn child" means a child who is 30 days old or younger.

421 ~~[(2)]~~ (3) "Subject" or "subject of the report" means any person reported under this part,
422 including, but not limited to, a child, parent, guardian, or other person responsible for a child's
423 care.

424 Section 5. Section **62A-4a-404** is amended to read:

425 **62A-4a-404. Fetal alcohol syndrome or spectrum disorder and drug dependency**

426 **-- Reporting requirements.**

427 (1) As used in this section:

428 (a) "Health care provider" means:

429 (i) an individual licensed under:

430 (A) Title 58, Chapter 31b, Nurse Practice Act;

- 431 (B) Title 58, Chapter 44a, Nurse Midwife Practice Act;
- 432 (C) Title 58, Chapter 67, Utah Medical Practice Act;
- 433 (D) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;
- 434 (E) Title 58, Chapter 70a, Utah Physician Assistant Act; or
- 435 (F) Title 58, Chapter 77, Direct-Entry Midwife Act; or
- 436 (ii) an unlicensed individual who practices midwifery.

437 [~~(b)~~ "Newborn child" means a child who is 30 days of age or younger.]

438 [~~(c)~~] (b) "Qualified medical provider" means the same as that term is defined in Section
439 [26-61a-102](#).

440 [~~(d)~~] (c) (i) "Substance abuse" means [~~the misuse or excessive use of alcohol or other~~
441 ~~drugs or substances~~], except as provided in Subsection (1)(c)(ii), the same as that term is
442 defined in Section [78A-6-105](#).

443 (ii) "Substance abuse" does not include use of drugs or other substances that are:

- 444 (A) obtained by lawful prescription and used as prescribed; or
- 445 (B) obtained in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act,
- 446 and used as recommended by a qualified medical provider.

447 (2) A health care provider who attends the birth of a newborn child or cares for a
448 newborn child and determines [~~any of~~] the following, shall report the determination to the
449 division as soon as possible:

- 450 (a) the newborn child:
 - 451 (i) is adversely affected by the child's mother's substance abuse during pregnancy;
 - 452 (ii) has fetal alcohol syndrome or fetal alcohol spectrum disorder; or
 - 453 (iii) demonstrates drug or alcohol withdrawal symptoms; or
- 454 (b) the parent of the newborn child or a person responsible for the child's care
455 demonstrates functional impairment or an inability to care for the child as a result of the
456 parent's or person's substance abuse.

457 Section 6. Section ~~62A-4a-412~~ is amended to read:

458 **62A-4a-412. Reports, information, and referrals confidential.**

459 (1) Except as otherwise provided in this chapter, reports made under this part, as well
460 as any other information in the possession of the division obtained as the result of an
461 investigation of a report under this part are private, protected, or controlled records under Title

462 63G, Chapter 2, Government Records Access and Management Act, and may only be made
463 available to:

464 (a) a police or law enforcement agency investigating a report of known or suspected
465 abuse or neglect, including members of a child protection unit;

466 (b) a physician who reasonably believes that a child may be the subject of abuse or
467 neglect;

468 (c) an agency that has responsibility or authority to care for, treat, or supervise a minor
469 who is the subject of a report;

470 (d) a contract provider that has a written contract with the division to render services to
471 a minor who is the subject of a report;

472 (e) except as provided in Subsection 63G-2-202(10), a subject of the report, the natural
473 parents of the child, and the guardian ad litem;

474 (f) a court, upon a finding that access to the records may be necessary for the
475 determination of an issue before the court, provided that in a divorce, custody, or related
476 proceeding between private parties, the record alone is:

477 (i) limited to objective or undisputed facts that were verified at the time of the
478 investigation; and

479 (ii) devoid of conclusions drawn by the division or any of the division's workers on the
480 ultimate issue of whether or not ~~[a person's]~~ an individual's acts or omissions constituted any
481 level of abuse or neglect of another ~~[person]~~ individual;

482 (g) an office of the public prosecutor or its deputies in performing an official duty;

483 (h) a person authorized by a Children's Justice Center, for the purposes described in
484 Section 67-5b-102;

485 (i) a person engaged in bona fide research, when approved by the director of the
486 division, if the information does not include names and addresses;

487 (j) the State Board of Education, acting on behalf of itself or on behalf of a local
488 education agency, as defined in Section 63J-5-102, for the purpose of evaluating whether an
489 individual should be permitted to obtain or retain a license as an educator or serve as an
490 employee or volunteer in a school, limited to information with substantiated or supported
491 findings involving an alleged sexual offense, an alleged felony or class A misdemeanor drug
492 offense, or any alleged offense against the person under Title 76, Chapter 5, Offenses Against

493 the Person, and with the understanding that the office must provide the subject of a report
494 received under Subsection (1)(k) with an opportunity to respond to the report before making a
495 decision concerning licensure or employment;

496 (k) any ~~[person]~~ individual identified in the report as a perpetrator or possible
497 perpetrator of abuse or neglect, after being advised of the screening prohibition in Subsection
498 (2);

499 (l) except as provided in Subsection 63G-2-202(10), a person filing a petition for a
500 child protective order on behalf of a child who is the subject of the report;

501 (m) a licensed child-placing agency or person who is performing a preplacement
502 adoptive evaluation in accordance with the requirements of Sections 78B-6-128 and
503 78B-6-130;

504 (n) an Indian tribe to:

505 (i) certify or license a foster home;

506 (ii) render services to a subject of a report; or

507 (iii) investigate an allegation of abuse, neglect, or dependency; or

508 (o) the Division of Substance Abuse and Mental Health, the Department of Health, or a
509 local substance abuse authority, described in Section 17-43-201, for the purpose of providing
510 substance abuse treatment to a pregnant woman or a parent of a newborn child, or the services
511 described in Subsection 62A-15-103(2)(o).

512 (2) (a) A person, unless listed in Subsection (1), may not request another person to
513 obtain or release a report or any other information in the possession of the division obtained as
514 a result of the report that is available under Subsection (1)(k) to screen for potential
515 perpetrators of abuse or neglect.

516 (b) A person who requests information knowing that the request is a violation of
517 Subsection (2)(a) is subject to the criminal penalty in Subsection (4).

518 (3) (a) Except as provided in Section 62A-4a-1007 and Subsection (3)(b), the division
519 and law enforcement officials shall ensure the anonymity of the person or persons making the
520 initial report and any others involved in ~~[its]~~ the division's or law enforcement officials'
521 subsequent investigation.

522 (b) ~~[Notwithstanding any other provision of law, excluding Section 78A-6-317, but~~
523 ~~including this chapter and Title 63G, Chapter 2, Government Records Access and Management~~

524 ~~Act, when~~ When the division makes a report or other information in the division's possession
 525 available under Subsection (1)(e) to a subject of the report or a parent of a child, the division
 526 shall remove from the report or other information [~~only~~] the names, addresses, and telephone
 527 numbers of individuals or specific information that could:

- 528 (i) identify the referent;
- 529 (ii) impede a criminal investigation; or
- 530 (iii) endanger [~~a person's~~] an individual's safety.

531 (4) Any person who [~~wilfully~~] willfully permits, or aides and abets the release of data
 532 or information obtained as a result of this part, in the possession of the division or contained on
 533 any part of the Management Information System, in violation of this part or Sections
 534 62A-4a-1003 through 62A-4a-1007, is guilty of a class C misdemeanor.

535 (5) The physician-patient privilege is not a ground for excluding evidence regarding a
 536 child's injuries or the cause of those injuries, in any proceeding resulting from a report made in
 537 good faith [~~pursuant to~~] under this part.

538 (6) A child-placing agency or person who receives a report in connection with a
 539 preplacement adoptive evaluation [~~pursuant to~~] under Sections 78B-6-128 and 78B-6-130:

- 540 (a) may provide this report to the person who is the subject of the report; and
- 541 (b) may provide this report to a person who is performing a preplacement adoptive
 542 evaluation in accordance with the requirement of Sections 78B-6-128 and 78B-6-130, or to a
 543 licensed child-placing agency or to an attorney seeking to facilitate an adoption.

544 Section 7. Section 62A-4a-1003 is amended to read:

545 **62A-4a-1003. Management Information System -- Requirements -- Contents --**
 546 **Purpose -- Access.**

547 (1) (a) The division shall develop and implement a Management Information System
 548 that meets the requirements of this section and the requirements of federal law and regulation.

549 (b) The information and records contained in the Management Information System:

550 (i) are private, controlled, or protected records under Title 63G, Chapter 2, Government
 551 Records Access and Management Act; and

552 (ii) except as provided in Subsections (1)(c) and (d), are available only to a person or
 553 government entity with statutory authorization under Title 63G, Chapter 2, Government
 554 Records Access and Management Act, to review the information and records described in this

555 Subsection (1)(b).

556 (c) Notwithstanding Subsection (1)(b)(ii), the information and records described in
557 Subsection (1)(b) are available to a person:

558 (i) as provided under Subsection (6) or Section [62A-4a-1006](#); or

559 (ii) who has specific statutory authorization to access the information or records for the
560 purpose of assisting the state with state and federal requirements to maintain information solely
561 for the purpose of protecting minors and providing services to families in need.

562 (d) Notwithstanding Subsection (1)(b)(ii), the information and records described in
563 Subsection (1)(b) may, to the extent required by Title IV-B or IV-E of the Social Security Act,
564 be provided by the division:

565 (i) to comply with abuse and neglect registry checks requested by other states; and

566 (ii) to the United States Department of Health and Human Services for purposes of
567 maintaining an electronic national registry of supported or substantiated cases of abuse and
568 neglect.

569 (2) With regard to all child welfare cases, the Management Information System shall
570 provide each caseworker and the department's office of licensing, exclusively for the purposes
571 of foster parent licensure and monitoring, with a complete history of each child in that worker's
572 caseload, including:

573 (a) a record of all past action taken by the division with regard to that child and the
574 child's siblings;

575 (b) the complete case history and all reports and information in the control or keeping
576 of the division regarding that child and the child's siblings;

577 (c) the number of times the child has been in the custody of the division;

578 (d) the cumulative period of time the child has been in the custody of the division;

579 (e) a record of all reports of abuse or neglect received by the division with regard to
580 that child's parent, parents, or guardian including:

581 (i) for each report, documentation of the:

582 (A) latest status; or

583 (B) final outcome or determination; and

584 (ii) information that indicates whether each report was found to be:

585 (A) supported;

- 586 (B) unsupported;
- 587 (C) substantiated;
- 588 (D) unsubstantiated; or
- 589 (E) without merit;
- 590 (f) the number of times the child's parent or parents failed any child and family plan;
- 591 and
- 592 (g) the number of different caseworkers who have been assigned to that child in the
- 593 past.
- 594 (3) The division's Management Information System shall:
- 595 (a) contain all key elements of each family's current child and family plan, including:
- 596 (i) the dates and number of times the plan has been administratively or judicially
- 597 reviewed;
- 598 (ii) the number of times the parent or parents have failed that child and family plan;
- 599 and
- 600 (iii) the exact length of time the child and family plan has been in effect; and
- 601 (b) alert caseworkers regarding deadlines for completion of and compliance with
- 602 policy, including child and family plans.
- 603 (4) With regard to all child protective services cases, the Management Information
- 604 System shall:
- 605 (a) monitor the compliance of each case with:
- 606 (i) division rule;
- 607 (ii) state law; and
- 608 (iii) federal law and regulation; and
- 609 (b) include the age and date of birth of the alleged perpetrator at the time the abuse or
- 610 neglect is alleged to have occurred, in order to ensure accuracy regarding the identification of
- 611 the alleged perpetrator.
- 612 (5) Except as provided in Subsection (6) regarding contract providers and Section
- 613 [62A-4a-1006](#) regarding limited access to the Licensing Information System, all information
- 614 contained in the division's Management Information System is available to the department,
- 615 upon the approval of the executive director, on a need-to-know basis.
- 616 (6) (a) Subject to this Subsection (6), the division may allow the division's contract

617 providers, court clerks designated by the Administrative Office of the Courts, the Office of
618 Guardian Ad Litem, or an Indian tribe to have limited access to the Management Information
619 System.

620 (b) A division contract provider or Indian tribe has access only to information about a
621 person who is currently receiving services from that specific contract provider or Indian tribe.

622 (c) (i) Designated court clerks may only have access to information necessary to
623 comply with Subsection 78B-7-202(2).

624 (ii) The Office of Guardian Ad Litem may access only the information that:

625 (A) relates to children and families where the Office of Guardian Ad Litem is
626 appointed by a court to represent the interests of the children; and

627 (B) except as provided in Subsection (6)(d), is entered into the Management
628 Information System on or after July 1, 2004.

629 (d) Notwithstanding Subsection (6)(c)(ii)(B), the Office of Guardian Ad Litem shall
630 have access to all abuse and neglect referrals about children and families where the office has
631 been appointed by a court to represent the interests of the children, regardless of the date that
632 the information is entered into the Management Information System.

633 (e) Each contract provider, designated representative of the Office of Guardian Ad
634 Litem, and Indian tribe who requests access to information contained in the Management
635 Information System shall:

636 (i) take all necessary precautions to safeguard the security of the information contained
637 in the Management Information System;

638 (ii) train its employees regarding:

639 (A) requirements for protecting the information contained in the Management
640 Information System as required by this chapter and under Title 63G, Chapter 2, Government
641 Records Access and Management Act; and

642 (B) the criminal penalties under Sections 62A-4a-412 and 63G-2-801 for improper
643 release of information; and

644 (iii) monitor its employees to ensure that they protect the information contained in the
645 Management Information System as required by law.

646 (f) The division shall take reasonable precautions to ensure that its contract providers
647 comply with the requirements of this Subsection (6).

648 (7) The division shall take all necessary precautions, including password protection and
649 other appropriate and available technological techniques, to prevent unauthorized access to or
650 release of information contained in the Management Information System.

651 Section 8. Section **62A-15-103** is amended to read:

652 **62A-15-103. Division -- Creation -- Responsibilities.**

653 (1) (a) There is created the Division of Substance Abuse and Mental Health within the
654 department, under the administration and general supervision of the executive director.

655 (b) The division is the substance abuse authority and the mental health authority for
656 this state.

657 (2) The division shall:

658 (a) (i) educate the general public regarding the nature and consequences of substance
659 abuse by promoting school and community-based prevention programs;

660 (ii) render support and assistance to public schools through approved school-based
661 substance abuse education programs aimed at prevention of substance abuse;

662 (iii) promote or establish programs for the prevention of substance abuse within the
663 community setting through community-based prevention programs;

664 (iv) cooperate with and assist treatment centers, recovery residences, and other
665 organizations that provide services to individuals recovering from a substance abuse disorder,
666 by identifying and disseminating information about effective practices and programs;

667 (v) except as provided in Section [62A-15-103.5](#), make rules in accordance with Title
668 63G, Chapter 3, Utah Administrative Rulemaking Act, to develop, in collaboration with public
669 and private programs, minimum standards for public and private providers of substance abuse
670 and mental health programs licensed by the department under Title 62A, Chapter 2, Licensure
671 of Programs and Facilities;

672 (vi) promote integrated programs that address an individual's substance abuse, mental
673 health, physical health, and criminal risk factors;

674 (vii) establish and promote an evidence-based continuum of screening, assessment,
675 prevention, treatment, and recovery support services in the community for individuals with
676 substance use disorder and mental illness that addresses criminal risk factors;

677 (viii) evaluate the effectiveness of programs described in this Subsection (2);

678 (ix) consider the impact of the programs described in this Subsection (2) on:

- 679 (A) emergency department utilization;
- 680 (B) jail and prison populations;
- 681 (C) the homeless population; and
- 682 (D) the child welfare system; and
- 683 (x) promote or establish programs for education and certification of instructors to
- 684 educate ~~[persons]~~ individuals convicted of driving under the influence of alcohol or drugs or
- 685 driving with any measurable controlled substance in the body;
- 686 (b) (i) collect and disseminate information pertaining to mental health;
- 687 (ii) provide direction over the state hospital including approval of the state hospital's
- 688 budget, administrative policy, and coordination of services with local service plans;
- 689 (iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
- 690 Rulemaking Act, to educate families concerning mental illness and promote family
- 691 involvement, when appropriate, and with patient consent, in the treatment program of a family
- 692 member; and
- 693 (iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
- 694 Rulemaking Act, to direct that an individual receiving services through a local mental health
- 695 authority or the Utah State Hospital be informed about and, if desired by the individual,
- 696 provided assistance in the completion of a declaration for mental health treatment in
- 697 accordance with Section [62A-15-1002](#);
- 698 (c) (i) consult and coordinate with local substance abuse authorities and local mental
- 699 health authorities regarding programs and services;
- 700 (ii) provide consultation and other assistance to public and private agencies and groups
- 701 working on substance abuse and mental health issues;
- 702 (iii) promote and establish cooperative relationships with courts, hospitals, clinics,
- 703 medical and social agencies, public health authorities, law enforcement agencies, education and
- 704 research organizations, and other related groups;
- 705 (iv) promote or conduct research on substance abuse and mental health issues, and
- 706 submit to the governor and the Legislature recommendations for changes in policy and
- 707 legislation;
- 708 (v) receive, distribute, and provide direction over public funds for substance abuse and
- 709 mental health services;

710 (vi) monitor and evaluate programs provided by local substance abuse authorities and
711 local mental health authorities;

712 (vii) examine expenditures of local, state, and federal funds;

713 (viii) monitor the expenditure of public funds by:

714 (A) local substance abuse authorities;

715 (B) local mental health authorities; and

716 (C) in counties where they exist, a private contract provider that has an annual or

717 otherwise ongoing contract to provide comprehensive substance abuse or mental health

718 programs or services for the local substance abuse authority or local mental health authority;

719 (ix) contract with local substance abuse authorities and local mental health authorities

720 to provide a comprehensive continuum of services that include community-based services for

721 individuals involved in the criminal justice system, in accordance with division policy, contract

722 provisions, and the local plan;

723 (x) contract with private and public entities for special statewide or nonclinical

724 services, or services for individuals involved in the criminal justice system, according to

725 division rules;

726 (xi) review and approve each local substance abuse authority's plan and each local
727 mental health authority's plan in order to ensure:

728 (A) a statewide comprehensive continuum of substance abuse services;

729 (B) a statewide comprehensive continuum of mental health services;

730 (C) services result in improved overall health and functioning;

731 (D) a statewide comprehensive continuum of community-based services designed to

732 reduce criminal risk factors for individuals who are determined to have substance abuse or

733 mental illness conditions or both, and who are involved in the criminal justice system;

734 (E) compliance, where appropriate, with the certification requirements in Subsection
735 (2)(j); and

736 (F) appropriate expenditure of public funds;

737 (xii) review and make recommendations regarding each local substance abuse

738 authority's contract with the local substance abuse authority's provider of substance abuse

739 programs and services and each local mental health authority's contract with the local mental

740 health authority's provider of mental health programs and services to ensure compliance with

741 state and federal law and policy;

742 (xiii) monitor and ensure compliance with division rules and contract requirements;

743 and

744 (xiv) withhold funds from local substance abuse authorities, local mental health

745 authorities, and public and private providers for contract noncompliance, failure to comply

746 with division directives regarding the use of public funds, or for misuse of public funds or

747 money;

748 (d) ensure that the requirements of this part are met and applied uniformly by local

749 substance abuse authorities and local mental health authorities across the state;

750 (e) require each local substance abuse authority and each local mental health authority,

751 in accordance with Subsections 17-43-201(5)(b) and 17-43-301(6)(a)(ii), to submit a plan to

752 the division on or before May 15 of each year;

753 (f) conduct an annual program audit and review of each local substance abuse authority

754 and each local substance abuse authority's contract provider, and each local mental health

755 authority and each local mental health authority's contract provider, including:

756 (i) a review and determination regarding whether:

757 (A) public funds allocated to the local substance abuse authority or the local mental

758 health authorities are consistent with services rendered by the authority or the authority's

759 contract provider, and with outcomes reported by the authority's contract provider; and

760 (B) each local substance abuse authority and each local mental health authority is

761 exercising sufficient oversight and control over public funds allocated for substance use

762 disorder and mental health programs and services; and

763 (ii) items determined by the division to be necessary and appropriate; and

764 (g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4,

765 Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;

766 (h) (i) train and certify an adult as a peer support specialist, qualified to provide peer

767 supports services to an individual with:

768 (A) a substance use disorder;

769 (B) a mental health disorder; or

770 (C) a substance use disorder and a mental health disorder;

771 (ii) certify a person to carry out, as needed, the division's duty to train and certify an

772 adult as a peer support specialist;

773 (iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative

774 Rulemaking Act, that:

775 (A) establish training and certification requirements for a peer support specialist;

776 (B) specify the types of services a peer support specialist is qualified to provide;

777 (C) specify the type of supervision under which a peer support specialist is required to

778 operate; and

779 (D) specify continuing education and other requirements for maintaining or renewing

780 certification as a peer support specialist; and

781 (iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative

782 Rulemaking Act, that:

783 (A) establish the requirements for a person to be certified to carry out, as needed, the

784 division's duty to train and certify an adult as a peer support specialist; and

785 (B) specify how the division shall provide oversight of a person certified to train and

786 certify a peer support specialist;

787 (i) except as provided in Section [62A-15-103.5](#), establish by rule, in accordance with

788 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, minimum standards and

789 requirements for the provision of substance use disorder and mental health treatment to an

790 individual who is incarcerated or who is required to participate in treatment by a court or by the

791 Board of Pardons and Parole, including:

792 (i) collaboration with the Department of Corrections and the Utah Substance Use and

793 Mental Health Advisory Council to develop and coordinate the standards, including standards

794 for county and state programs serving individuals convicted of class A and class B

795 misdemeanors;

796 (ii) determining that the standards ensure available treatment, including the most

797 current practices and procedures demonstrated by recognized scientific research to reduce

798 recidivism, including focus on the individual's criminal risk factors; and

799 (iii) requiring that all public and private treatment programs meet the standards

800 established under this Subsection (2)(i) in order to receive public funds allocated to the

801 division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice

802 for the costs of providing screening, assessment, prevention, treatment, and recovery support;

803 (j) except as provided in Section 62A-15-103.5, establish by rule, in accordance with
804 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements and procedures
805 for the certification of licensed public and private providers, including individuals licensed by
806 the Division of Occupational and Professional Licensing, programs licensed by the department,
807 and health care facilities licensed by the Department of Health, who provide, as part of their
808 practice, substance use disorder and mental health treatment to an individual involved in the
809 criminal justice system, including:

810 (i) collaboration with the Department of Corrections, the Utah Substance Use and
811 Mental Health Advisory Council, and the Utah Association of Counties to develop, coordinate,
812 and implement the certification process;

813 (ii) basing the certification process on the standards developed under Subsection (2)(i)
814 for the treatment of an individual involved in the criminal justice system; and

815 (iii) the requirement that a public or private provider of treatment to an individual
816 involved in the criminal justice system shall obtain certification on or before July 1, 2016, and
817 shall renew the certification every two years, in order to qualify for funds allocated to the
818 division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice
819 on or after July 1, 2016;

820 (k) collaborate with the Commission on Criminal and Juvenile Justice to analyze and
821 provide recommendations to the Legislature regarding:

822 (i) pretrial services and the resources needed to reduce recidivism;

823 (ii) county jail and county behavioral health early-assessment resources needed for an
824 offender convicted of a class A or class B misdemeanor; and

825 (iii) the replacement of federal dollars associated with drug interdiction law
826 enforcement task forces that are reduced;

827 (l) (i) establish performance goals and outcome measurements for all treatment
828 programs for which minimum standards are established under Subsection (2)(i), including
829 recidivism data and data regarding cost savings associated with recidivism reduction and the
830 reduction in the number of inmates, that are obtained in collaboration with the Administrative
831 Office of the Courts and the Department of Corrections; and

832 (ii) collect data to track and determine whether the goals and measurements are being
833 attained and make this information available to the public;

834 (m) in the division's discretion, use the data to make decisions regarding the use of
835 funds allocated to the division, the Administrative Office of the Courts, and the Department of
836 Corrections to provide treatment for which standards are established under Subsection (2)(i);

837 (n) annually, on or before August 31, submit the data collected under Subsection (2)(k)
838 to the Commission on Criminal and Juvenile Justice, which shall compile a report of findings
839 based on the data and provide the report to the Judiciary Interim Committee, the Health and
840 Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim
841 Committee, and the related appropriations subcommittees; and

842 (o) consult and coordinate with the Department of Health and the Division of Child
843 and Family Services to develop and manage the operation of a program designed to reduce
844 substance abuse during pregnancy and by parents of a newborn child that includes:

845 (i) providing education and resources to health care providers and individuals in the
846 state regarding prevention of substance abuse during pregnancy;

847 (ii) providing training to health care providers in the state regarding screening of a
848 pregnant woman or pregnant minor to identify a substance abuse disorder; and

849 (iii) providing referrals to pregnant women [~~or~~], pregnant minors, or parents of a
850 newborn child in need of substance [~~use~~] abuse treatment services to a facility that has the
851 capacity to provide the treatment services.

852 (3) In addition to the responsibilities described in Subsection (2), the division shall,
853 within funds appropriated by the Legislature for this purpose, implement and manage the
854 operation of a firearm safety and suicide prevention program, in consultation with the Bureau
855 of Criminal Identification created in Section [53-10-201](#), including:

856 (a) coordinating with the Department of Health, local mental health and substance
857 abuse authorities, a nonprofit behavioral health advocacy group, and a representative from a
858 Utah-based nonprofit organization with expertise in the field of firearm use and safety that
859 represents firearm owners, to:

860 (i) produce and periodically review and update a firearm safety brochure and other
861 educational materials with information about the safe handling and use of firearms that
862 includes:

863 (A) information on safe handling, storage, and use of firearms in a home environment;

864 (B) information about at-risk individuals and individuals who are legally prohibited

865 from possessing firearms;

866 (C) information about suicide prevention awareness; and

867 (D) information about the availability of firearm safety packets;

868 (ii) procure cable-style gun locks for distribution [~~pursuant to~~] under this section;

869 (iii) produce a firearm safety packet that includes the firearm safety brochure and the

870 cable-style gun lock described in this Subsection (3); and

871 (iv) create a suicide prevention education course that:

872 (A) provides information for distribution regarding firearm safety education;

873 (B) incorporates current information on how to recognize suicidal behaviors and

874 identify individuals who may be suicidal; and

875 (C) provides information regarding crisis intervention resources;

876 (b) distributing, free of charge, the firearm safety packet to the following persons, who

877 shall make the firearm safety packet available free of charge:

878 (i) health care providers, including emergency rooms;

879 (ii) mobile crisis outreach teams;

880 (iii) mental health practitioners;

881 (iv) other public health suicide prevention organizations;

882 (v) entities that teach firearm safety courses;

883 (vi) school districts for use in the seminar, described in Section 53G-9-702, for parents

884 of students in the school district; and

885 (vii) firearm dealers to be distributed in accordance with Section 76-10-526;

886 (c) creating and administering a redeemable coupon program described in this

887 Subsection (3) and Section 76-10-526 that includes:

888 (i) producing a redeemable coupon that offers between \$10 and \$200 off the purchase

889 price of a firearm safe from a participating firearms dealer or a person engaged in the business

890 of selling firearm safes in Utah, by a Utah resident who has filed an application for a concealed

891 firearm permit; and

892 (ii) collecting the receipts described in Section 76-10-526 from the participating

893 dealers and persons and reimbursing the dealers and persons;

894 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,

895 making rules that establish procedures for:

896 (i) producing and distributing the suicide prevention education course and the firearm
897 safety brochures and packets;

898 (ii) procuring the cable-style gun locks for distribution; and

899 (iii) administering the redeemable coupon program; and

900 (e) reporting to the Health and Human Services Interim Committee regarding
901 implementation and success of the firearm safety program and suicide prevention education
902 course at or before the November meeting each year.

903 (4) (a) The division may refuse to contract with and may pursue legal remedies against
904 any local substance abuse authority or local mental health authority that fails, or has failed, to
905 expend public funds in accordance with state law, division policy, contract provisions, or
906 directives issued in accordance with state law.

907 (b) The division may withhold funds from a local substance abuse authority or local
908 mental health authority if the authority's contract provider of substance abuse or mental health
909 programs or services fails to comply with state and federal law or policy.

910 (5) (a) Before reissuing or renewing a contract with any local substance abuse authority
911 or local mental health authority, the division shall review and determine whether the local
912 substance abuse authority or local mental health authority is complying with the oversight and
913 management responsibilities described in Sections [17-43-201](#), [17-43-203](#), [17-43-303](#), and
914 [17-43-309](#).

915 (b) Nothing in this Subsection (5) may be used as a defense to the responsibility and
916 liability described in Section [17-43-303](#) and to the responsibility and liability described in
917 Section [17-43-203](#).

918 (6) In carrying out the division's duties and responsibilities, the division may not
919 duplicate treatment or educational facilities that exist in other divisions or departments of the
920 state, but shall work in conjunction with those divisions and departments in rendering the
921 treatment or educational services that those divisions and departments are competent and able
922 to provide.

923 (7) The division may accept in the name of and on behalf of the state donations, gifts,
924 devises, or bequests of real or personal property or services to be used as specified by the
925 donor.

926 (8) The division shall annually review with each local substance abuse authority and

927 each local mental health authority the authority's statutory and contract responsibilities
 928 regarding:

929 (a) use of public funds;
 930 (b) oversight of public funds; and
 931 (c) governance of substance use disorder and mental health programs and services.

932 (9) The Legislature may refuse to appropriate funds to the division upon the division's
 933 failure to comply with the provisions of this part.

934 (10) If a local substance abuse authority contacts the division under Subsection
 935 [17-43-201](#)(10) for assistance in providing treatment services to a pregnant woman or pregnant
 936 minor, the division shall:

937 (a) refer the pregnant woman or pregnant minor to a treatment facility that has the
 938 capacity to provide the treatment services; or
 939 (b) otherwise ensure that treatment services are made available to the pregnant woman
 940 or pregnant minor.

941 (11) The division shall employ a school-based mental health specialist to be housed at
 942 the State Board of Education who shall work with the State Board of Education to:

943 (a) provide coordination between a local education agency and local mental health
 944 authority;
 945 (b) recommend evidence-based and evidence informed mental health screenings and
 946 intervention assessments for a local education agency; and
 947 (c) coordinate with the local community, including local departments of health, to
 948 enhance and expand mental health related resources for a local education agency.

949 Section 9. Section **62A-16-102** is amended to read:

950 **62A-16-102. Definitions.**

951 (1) "Abuse" means the same as that term is defined in Section [78A-6-105](#).
 952 (2) "Child" means the same as that term is defined in Section [62A-4a-101](#).
 953 ~~[(1)]~~ (3) "Committee" means a fatality review committee[;] that is formed under
 954 Section [62A-16-202](#) or [62A-16-203](#).
 955 (4) "Dependency" means the same as that term is defined in Section [62A-4a-101](#).
 956 (5) "Formal review" means a review of a death or a near fatality that is ordered under
 957 Subsection 62A-16-201(6).

958 (6) "Near fatality" means alleged abuse or neglect that, as certified by a physician,
959 places a child in serious or critical condition.

960 ~~[(2)]~~ (7) "Qualified individual" means an individual who:

961 (a) at the time that the individual dies, is a resident of a facility or program that is
962 owned or operated by the department or a division of the department;

963 (b) (i) is in the custody of the department or a division of the department; and

964 (ii) is placed in a residential placement by the department or a division of the
965 department;

966 (c) at the time that the individual dies, has an open case for the receipt of child welfare
967 services, including:

968 (i) an investigation for abuse, neglect, or dependency;

969 (ii) foster care;

970 (iii) in-home services; or

971 (iv) substitute care;

972 (d) had an open case for the receipt of child welfare services within one year

973 ~~[immediately preceding]~~ before the day on which the individual dies;

974 (e) was the subject of an accepted referral received by Adult Protective Services within
975 one year ~~[immediately preceding]~~ before the day on which the individual dies, if:

976 (i) the department or a division of the department is aware of the death; and

977 (ii) the death is reported as a homicide, suicide, or an undetermined cause;

978 (f) received services from, or under the direction of, the Division of Services for People
979 with Disabilities within one year ~~[immediately preceding]~~ before the day on which the
980 individual dies, unless the individual:

981 (i) lived in the individual's home at the time of death; and

982 (ii) the director of the Office of Quality and Design determines that the death was not
983 in any way related to services that were provided by, or under the direction of, the department
984 or a division of the department;

985 (g) dies within 60 days after the day on which the individual is discharged from the
986 Utah State Hospital, if the department is aware of the death; ~~[or]~~

987 (h) is a child who:

988 (i) suffers a near fatality; and

989 (ii) is the subject of an open case for the receipt of child welfare services within one
990 year before the day on which the child suffered the near fatality, including:

991 (A) an investigation for abuse, neglect, or dependency;

992 (B) foster care;

993 (C) in-home services; or

994 (D) substitute care; or

995 ~~(h)~~ (i) is designated as a qualified individual by the executive director.

996 (8) "Neglect" means the same as that term is defined in Section [78A-6-105](#).

997 (9) "Substitute care" means the same as that term is defined in Section [62A-4a-101](#).

998 Section 10. Section **62A-16-201** is amended to read:

999 **62A-16-201. Initial review.**

1000 (1) Within seven days after the day on which the department knows that a qualified
1001 individual has died or is an individual described in Subsection [62A-16-102\(7\)\(h\)](#), a person
1002 designated by the department shall:

1003 (a) (i) for a death, complete a deceased client report form, created by the department;
1004 ~~and~~ or

1005 (ii) for an individual described in Subsection [62A-16-102\(7\)\(h\)](#), complete a near
1006 fatality client report form, created by the department; and

1007 (b) forward the completed client report form to the director of the office or division
1008 that has jurisdiction over the region or facility.

1009 (2) The director of the office or division described in Subsection (1) shall, upon receipt
1010 of a near fatality client report form or a deceased client report form, immediately provide a
1011 copy of the form to:

1012 (a) the executive director; and

1013 (b) the fatality review coordinator or the fatality review coordinator's designee.

1014 (3) Within 10 days after the day on which the fatality review coordinator or the fatality
1015 review coordinator's designee receives a copy of the near fatality client report form or the
1016 deceased client report form, the fatality review coordinator or the fatality review coordinator's
1017 designee shall request a copy of all relevant department case records regarding the individual
1018 who is the subject of the ~~deceased~~ client report form.

1019 (4) Each person who receives a request for a record described in Subsection (3) shall

1020 provide a copy of the record to the fatality review coordinator or the fatality review
1021 coordinator's designee, by a secure method, within seven days after the day on which the
1022 request is made.

1023 (5) Within 30 days after the day on which the fatality review coordinator or the fatality
1024 review coordinator's designee receives the case records requested under Subsection (3), the
1025 fatality review coordinator, or the fatality review coordinator's designee, shall:

1026 (a) review the [~~deceased~~] client report form, the case files, and other relevant
1027 information received by the fatality review coordinator; and

1028 (b) make a recommendation to the director of the Office of Quality and Design
1029 regarding whether a formal [~~fatality~~] review of the death or near fatality should be conducted.

1030 (6) (a) In accordance with Subsection (6)(b), within seven days after the day on which
1031 the fatality review coordinator or the fatality review coordinator's designee makes the
1032 recommendation described in Subsection (5)(b), the director of the Office of Quality and
1033 Design or the director's designee shall determine whether to order that a [~~formal fatality~~]
1034 review of the death or near fatality be conducted.

1035 (b) The director of the Office of Quality and Design or the director's designee shall
1036 order that a formal [~~fatality~~] review of the death or near fatality be conducted if:

1037 (i) at the time of the near fatality or the death, the qualified individual is:

1038 (A) an individual described in Subsection 62A-16-102[~~(2)~~](6)(a) or (b), unless:

1039 (I) the near fatality or the death is due to a natural cause; or

1040 (II) the director of the Office of Quality and Design or the director's designee
1041 determines that the near fatality or the death was not in any way related to services that were
1042 provided by, or under the direction of, the department or a division of the department; or

1043 (B) a child in foster care or substitute care, unless the near fatality or the death is due
1044 to:

1045 (I) a natural cause; or

1046 (II) an accident;

1047 (ii) it appears, based on the information provided to the director of the Office of
1048 Quality and Design or the director's designee, that:

1049 (A) a provision of law, rule, policy, or procedure relating to the [~~deceased~~] qualified
1050 individual or the [~~deceased~~] individual's family may not have been complied with;

- 1051 (B) the near fatality or the fatality was not responded to properly;
- 1052 (C) a law, rule, policy, or procedure may need to be changed; or
- 1053 (D) additional training is needed;
- 1054 (iii) (A) the death is caused by suicide; or
- 1055 (B) the near fatality is caused by attempted suicide; or
- 1056 (iv) the director of the Office of Quality and Design or the director's designee
- 1057 determines that another reason exists to order that a [~~formal fatality~~] review of the near fatality
- 1058 or the death be conducted.

1059 Section 11. Section **62A-16-202** is amended to read:

1060 **62A-16-202. Fatality Review Committee for a qualified individual who was not a**

1061 **resident of the Utah State Hospital or the Utah State Developmental Center.**

1062 (1) Except for a fatality review committee described in Section **62A-16-203**, the

1063 fatality review coordinator shall organize a fatality review committee for each formal [~~fatality~~

1064 ~~review that is ordered to be conducted under Subsection **62A-16-201(6)**~~] review.

1065 (2) Except as provided in Subsection (5), a committee described in Subsection (1):

1066 (a) shall include the following members:

1067 (i) the department's fatality review coordinator, who shall designate a member of the

1068 committee to serve as chair of the committee;

1069 (ii) a member of the board, if there is a board, of the relevant division or office;

1070 (iii) the attorney general or the attorney general's designee;

1071 (iv) (A) a member of the management staff of the relevant division or office; or

1072 (B) a person who is a supervisor, or a higher level position, from a region that did not

1073 have jurisdiction over the qualified individual; and

1074 (v) a member of the department's risk management services; and

1075 (b) may include the following members:

1076 (i) a health care professional;

1077 (ii) a law enforcement officer; or

1078 (iii) a representative of the Office of Public Guardian.

1079 (3) If a death that is subject to formal review involves a qualified individual described

1080 in Subsection **62A-16-102**[~~(2)(c) or (d)~~](7)(c), (d), or (h), the committee may also include:

1081 (a) a health care professional;

1082 (b) a law enforcement officer;
 1083 (c) the director of the Office of Guardian ad Litem;
 1084 (d) an employee of the division who may be able to provide information or expertise
 1085 that would be helpful to the formal review; or

1086 (e) a professional whose knowledge or expertise may significantly contribute to the
 1087 formal review.

1088 (4) A committee described in Subsection (1) may also include a person whose
 1089 knowledge or expertise may significantly contribute to the formal review.

1090 (5) A committee described in this section may not include an individual who was
 1091 involved in, or who supervises a person who was involved in, the ~~[fatality.]~~ near fatality or the
 1092 death.

1093 (6) Each member of a committee described in this section who is not an employee of
 1094 the department shall sign a form, created by the department, indicating that the member agrees
 1095 to:

1096 (a) keep all information relating to ~~a fatality~~ the formal review confidential; and

1097 (b) not release any information relating to a ~~[fatality]~~ formal review, unless required or
 1098 permitted by law to release the information.

1099 Section 12. Section **62A-16-203** is amended to read:

1100 **62A-16-203. Fatality Review Committees for a resident of the Utah State Hospital**
 1101 **or the Utah State Developmental Center.**

1102 (1) If a qualified individual who is the subject of a formal ~~[fatality review that is~~
 1103 ~~ordered to be conducted under Subsection 62A-16-201(6)]~~ review was a resident of the Utah
 1104 State Hospital or the Utah State Developmental Center, the fatality review coordinator of that
 1105 facility shall organize a fatality review committee to review the ~~[fatality.]~~ near fatality or the
 1106 death.

1107 (2) Except as provided in Subsection (4), a committee described in Subsection (1) shall
 1108 include the following members:

1109 (a) the fatality review coordinator for the facility, who shall serve as chair of the
 1110 committee;

1111 (b) a member of the management staff of the facility;

1112 (c) a supervisor of a unit other than the one in which the qualified individual resided;

- 1113 (d) a physician;
- 1114 (e) a representative from the administration of the division that oversees the facility;
- 1115 (f) the department's fatality review coordinator;
- 1116 (g) a member of the department's risk management services; and
- 1117 (h) a citizen who is not an employee of the department.

1118 (3) A committee described in Subsection (1) may also include a person whose
1119 knowledge or expertise may significantly contribute to the formal review.

1120 (4) A committee described in this section may not include an individual who:

1121 (a) was involved in, or who supervises a person who was involved in, the [fatality] near
1122 fatality or the death; or

1123 (b) has a conflict with the fatality review.

1124 Section 13. Section **62A-16-204** is amended to read:

1125 **62A-16-204. Fatality Review Committee proceedings.**

1126 (1) A majority vote of committee members present constitutes the action of the
1127 committee.

1128 (2) The department shall give the committee access to all reports, records, and other
1129 documents that are relevant to the [fatality] near fatality or the death under investigation,
1130 including:

- 1131 (a) narrative reports;
- 1132 (b) case files;
- 1133 (c) autopsy reports; and
- 1134 (d) police reports, unless the report is protected from disclosure under Subsection
1135 63G-2-305(10) or (11).

1136 (3) The Utah State Hospital and the Utah State Developmental Center shall provide
1137 protected health information to the committee if requested by a fatality review coordinator.

1138 (4) A committee shall convene its first meeting within 14 days after the day on which a
1139 formal ~~[fatality review is ordered under Subsection 62A-16-201(6)]~~ review is ordered, unless
1140 this time is extended, for good cause, by the director of the Office of Quality and Design.

1141 (5) A committee may interview a staff member, a provider, or any other person who
1142 may have knowledge or expertise that is relevant to the [fatality] formal review.

1143 (6) A committee shall render an advisory opinion regarding:

1144 (a) whether the provisions of law, rule, policy, and procedure relating to the [deceased]
1145 qualified individual and the [deceased] individual's family were complied with;

1146 (b) whether the [fatality] near fatality or the death was responded to properly;

1147 (c) whether to recommend that a law, rule, policy, or procedure be changed; and

1148 (d) whether additional training is needed.

1149 Section 14. Section **62A-16-301** is amended to read:

1150 **62A-16-301. Fatality review committee report -- Response to report.**

1151 (1) Within 20 days after the day on which the committee proceedings described in
1152 Section **62A-16-204** end, the committee shall submit:

1153 (a) a written report to the executive director that includes:

1154 (i) the advisory opinions made under Subsection **62A-16-204**(6); and

1155 (ii) any recommendations regarding action that should be taken in relation to an
1156 employee of the department or a person who contracts with the department;

1157 (b) a copy of the report described in Subsection (1)(a) to:

1158 (i) the director, or the director's designee, of the office or division to which the
1159 [fatality] near fatality or the death relates; and

1160 (ii) the regional director, or the regional director's designee, of the region to which the
1161 [fatality] near fatality or the death relates; and

1162 (c) a copy of the report described in Subsection (1)(a), with only identifying
1163 information redacted, to the Office of Legislative Research and General Counsel.

1164 (2) Within 20 days after the day on which the director described in Subsection (1)(b)(i)
1165 receives a copy of the report described in Subsection (1)(a), the director shall provide a written
1166 response to the director of the Office of Quality and Design and a copy of the response, with
1167 only identifying information redacted, to the Office of Legislative Research and General
1168 Counsel, if the report:

1169 (a) indicates that a law, rule, policy, or procedure was not complied with;

1170 (b) indicates that the [fatality] near fatality or the death was not responded to properly;

1171 (c) recommends that a law, rule, policy, or procedure be changed; or

1172 (d) indicates that additional training is needed.

1173 (3) The response described in Subsection (2) shall include a plan of action to
1174 implement any recommended improvements within the office or division.

1175 (4) Within 30 days after the day on which the executive director receives the response
1176 described in Subsection (2), the executive director, or the executive director's designee shall:

1177 (a) review the plan of action described in Subsection (3);

1178 (b) make any written response that the executive director or the executive director's
1179 designee determines is necessary;

1180 (c) provide a copy of the written response described in Subsection (4)(b), with only
1181 identifying information redacted, to the Office of Legislative Research and General Counsel;
1182 and

1183 (d) provide an unredacted copy of the response described in Subsection (4)(b) to the
1184 director of the Office of Quality and Design.

1185 (5) A report described in Subsection (1) and each response described in this section is a
1186 protected record.

1187 (6) (a) As used in this Subsection (6), "fatality review document" means any document
1188 created in connection with, or as a result of, a [fatality] formal review of a near fatality or a
1189 death, or a decision whether to conduct a [fatality] formal review of a near fatality or a death,
1190 including:

1191 (i) a report described in Subsection (1);

1192 (ii) a response described in this section;

1193 (iii) a recommendation regarding whether a [fatality] formal review should be
1194 conducted;

1195 (iv) a decision to conduct a [fatality] formal review;

1196 (v) notes of a person who participates in a [fatality] formal review;

1197 (vi) notes of a person who reviews a [fatality] formal review report;

1198 (vii) minutes of a [fatality] formal review;

1199 (viii) minutes of a meeting where a [fatality] formal review report is reviewed; and

1200 (ix) minutes of, documents received in relation to, and documents generated in relation
1201 to, the portion of a meeting of the Health and Human Services Interim Committee or the Child
1202 Welfare Legislative Oversight Panel that a [fatality] formal review report or a document
1203 described in this Subsection (6)(a) is reviewed or discussed.

1204 (b) A fatality review document is not subject to discovery, subpoena, or similar
1205 compulsory process in any civil, judicial, or administrative proceeding, nor shall any individual

1206 or organization with lawful access to the data be compelled to testify with regard to a report
1207 described in Subsection (1) or a response described in this section.

1208 (c) The following are not admissible as evidence in a civil, judicial, or administrative
1209 proceeding:

1210 (i) a fatality review document; and

1211 (ii) an executive summary described in Subsection 62A-16-302(4).

1212 Section 15. Section 62A-16-302 is amended to read:

1213 **62A-16-302. Reporting to, and review by, legislative committees.**

1214 (1) The Office of Legislative Research and General Counsel shall provide a copy of the
1215 report described in Subsection 62A-16-301(1)(b), and the responses described in Subsections
1216 62A-16-301(2) and (4)(c) to the chairs of:

1217 (a) the Health and Human Services Interim Committee; or

1218 (b) if the qualified individual who is the subject of the report [~~was, at the time of death,~~
1219 ~~a person~~] is an individual described in Subsection 62A-16-102[(2)(c) or (d)](7)(c), (d), or (h),
1220 the Child Welfare Legislative Oversight Panel.

1221 (2) (a) The Health and Human Services Interim Committee may, in a closed meeting,
1222 review a report described in Subsection 62A-16-301(1)(b).

1223 (b) The Child Welfare Legislative Oversight Panel shall, in a closed meeting, review a
1224 report described in Subsection (1)(b).

1225 (3) (a) [~~Neither the~~] The Health and Human Services Interim Committee [~~nor~~] and the
1226 Child Welfare Legislative Oversight Panel may not interfere with, or make recommendations
1227 regarding, the resolution of a particular case.

1228 (b) The purpose of a review described in Subsection (2) is to assist a committee or
1229 panel described in Subsection (2) in determining whether to recommend a change in the law.

1230 (c) Any recommendation, described in Subsection (3)(b), by a committee or panel for a
1231 change in the law shall be made in an open meeting.

1232 (4) (a) On or before September 1 of each year, the department shall provide an
1233 executive summary of all [~~fatality~~] formal review reports for the preceding state fiscal year to
1234 the Office of Legislative Research and General Counsel.

1235 (b) The Office of Legislative Research and General Counsel shall forward a copy of the
1236 executive summary described in Subsection (4)(a) to:

- 1237 (i) the Health and Human Services Interim Committee; and
 1238 (ii) the Child Welfare Legislative Oversight Panel.
 1239 (5) The executive summary described in Subsection (4):
 1240 (a) may not include any names or identifying information;
 1241 (b) shall include:
 1242 (i) all recommendations regarding changes to the law that were made during the
 1243 preceding fiscal year under Subsection [62A-16-204](#)(6);
 1244 (ii) all changes made, or in the process of being made, to a law, rule, policy, or
 1245 procedure in response to a [~~fatality~~] formal review that occurred during the preceding fiscal
 1246 year;
 1247 (iii) a description of the training that has been completed in response to a [~~fatality~~]
 1248 formal review that occurred during the preceding fiscal year;
 1249 (iv) statistics for the preceding fiscal year regarding:
 1250 (A) the number of qualified individuals and the type of [~~fatalities of qualified~~
 1251 ~~individuals~~] deaths and near fatalities that are known to the department;
 1252 (B) the number of formal [~~fatality~~] reviews conducted;
 1253 (C) the categories[;] described in Subsection [62A-16-102](#)(2) of qualified individuals
 1254 [~~who died~~];
 1255 (D) the gender, age, race, and other significant categories of qualified individuals [~~who~~
 1256 ~~died~~]; and
 1257 (E) the number of fatalities of qualified individuals known to the department that are
 1258 identified as suicides; and
 1259 (v) action taken by the Office of Licensing and the Bureau of Internal Review and
 1260 Audits in response to the [~~fatality~~] near fatality or the death of a qualified individual; and
 1261 (c) is a public document.
 1262 (6) The Division of Child and Family Services shall, to the extent required by the
 1263 federal Child Abuse Prevention and Treatment Act, as amended, allow public disclosure of the
 1264 findings or information relating to a case of child abuse or neglect that results in a child fatality
 1265 or a near fatality.

1266 Section 16. Section **63G-2-305** is amended to read:

1267 **63G-2-305. Protected records.**

- 1268 The following records are protected if properly classified by a governmental entity:
- 1269 (1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret
- 1270 has provided the governmental entity with the information specified in Section 63G-2-309;
- 1271 (2) commercial information or nonindividual financial information obtained from a
- 1272 person if:
- 1273 (a) disclosure of the information could reasonably be expected to result in unfair
- 1274 competitive injury to the person submitting the information or would impair the ability of the
- 1275 governmental entity to obtain necessary information in the future;
- 1276 (b) the person submitting the information has a greater interest in prohibiting access
- 1277 than the public in obtaining access; and
- 1278 (c) the person submitting the information has provided the governmental entity with
- 1279 the information specified in Section 63G-2-309;
- 1280 (3) commercial or financial information acquired or prepared by a governmental entity
- 1281 to the extent that disclosure would lead to financial speculations in currencies, securities, or
- 1282 commodities that will interfere with a planned transaction by the governmental entity or cause
- 1283 substantial financial injury to the governmental entity or state economy;
- 1284 (4) records, the disclosure of which could cause commercial injury to, or confer a
- 1285 competitive advantage upon a potential or actual competitor of, a commercial project entity as
- 1286 defined in Subsection 11-13-103(4);
- 1287 (5) test questions and answers to be used in future license, certification, registration,
- 1288 employment, or academic examinations;
- 1289 (6) records, the disclosure of which would impair governmental procurement
- 1290 proceedings or give an unfair advantage to any person proposing to enter into a contract or
- 1291 agreement with a governmental entity, except, subject to Subsections (1) and (2), that this
- 1292 Subsection (6) does not restrict the right of a person to have access to, after the contract or
- 1293 grant has been awarded and signed by all parties:
- 1294 (a) a bid, proposal, application, or other information submitted to or by a governmental
- 1295 entity in response to:
- 1296 (i) an invitation for bids;
- 1297 (ii) a request for proposals;
- 1298 (iii) a request for quotes;

- 1299 (iv) a grant; or
- 1300 (v) other similar document; or
- 1301 (b) an unsolicited proposal, as defined in Section 63G-6a-712;
- 1302 (7) information submitted to or by a governmental entity in response to a request for
- 1303 information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict
- 1304 the right of a person to have access to the information, after:
 - 1305 (a) a contract directly relating to the subject of the request for information has been
 - 1306 awarded and signed by all parties; or
 - 1307 (b) (i) a final determination is made not to enter into a contract that relates to the
 - 1308 subject of the request for information; and
 - 1309 (ii) at least two years have passed after the day on which the request for information is
 - 1310 issued;
 - 1311 (8) records that would identify real property or the appraisal or estimated value of real
 - 1312 or personal property, including intellectual property, under consideration for public acquisition
 - 1313 before any rights to the property are acquired unless:
 - 1314 (a) public interest in obtaining access to the information is greater than or equal to the
 - 1315 governmental entity's need to acquire the property on the best terms possible;
 - 1316 (b) the information has already been disclosed to persons not employed by or under a
 - 1317 duty of confidentiality to the entity;
 - 1318 (c) in the case of records that would identify property, potential sellers of the described
 - 1319 property have already learned of the governmental entity's plans to acquire the property;
 - 1320 (d) in the case of records that would identify the appraisal or estimated value of
 - 1321 property, the potential sellers have already learned of the governmental entity's estimated value
 - 1322 of the property; or
 - 1323 (e) the property under consideration for public acquisition is a single family residence
 - 1324 and the governmental entity seeking to acquire the property has initiated negotiations to acquire
 - 1325 the property as required under Section 78B-6-505;
 - 1326 (9) records prepared in contemplation of sale, exchange, lease, rental, or other
 - 1327 compensated transaction of real or personal property including intellectual property, which, if
 - 1328 disclosed prior to completion of the transaction, would reveal the appraisal or estimated value
 - 1329 of the subject property, unless:

1330 (a) the public interest in access is greater than or equal to the interests in restricting
1331 access, including the governmental entity's interest in maximizing the financial benefit of the
1332 transaction; or

1333 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of
1334 the value of the subject property have already been disclosed to persons not employed by or
1335 under a duty of confidentiality to the entity;

1336 (10) records created or maintained for civil, criminal, or administrative enforcement
1337 purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if
1338 release of the records:

1339 (a) reasonably could be expected to interfere with investigations undertaken for
1340 enforcement, discipline, licensing, certification, or registration purposes;

1341 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement
1342 proceedings;

1343 (c) would create a danger of depriving a person of a right to a fair trial or impartial
1344 hearing;

1345 (d) reasonably could be expected to disclose the identity of a source who is not
1346 generally known outside of government and, in the case of a record compiled in the course of
1347 an investigation, disclose information furnished by a source not generally known outside of
1348 government if disclosure would compromise the source; or

1349 (e) reasonably could be expected to disclose investigative or audit techniques,
1350 procedures, policies, or orders not generally known outside of government if disclosure would
1351 interfere with enforcement or audit efforts;

1352 (11) records the disclosure of which would jeopardize the life or safety of an
1353 individual;

1354 (12) records the disclosure of which would jeopardize the security of governmental
1355 property, governmental programs, or governmental recordkeeping systems from damage, theft,
1356 or other appropriation or use contrary to law or public policy;

1357 (13) records that, if disclosed, would jeopardize the security or safety of a correctional
1358 facility, or records relating to incarceration, treatment, probation, or parole, that would interfere
1359 with the control and supervision of an offender's incarceration, treatment, probation, or parole;

1360 (14) records that, if disclosed, would reveal recommendations made to the Board of

1361 Pardons and Parole by an employee of or contractor for the Department of Corrections, the
1362 Board of Pardons and Parole, or the Department of Human Services that are based on the
1363 employee's or contractor's supervision, diagnosis, or treatment of any person within the board's
1364 jurisdiction;

1365 (15) records and audit workpapers that identify audit, collection, and operational
1366 procedures and methods used by the State Tax Commission, if disclosure would interfere with
1367 audits or collections;

1368 (16) records of a governmental audit agency relating to an ongoing or planned audit
1369 until the final audit is released;

1370 (17) records that are subject to the attorney client privilege;

1371 (18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer,
1372 employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial,
1373 quasi-judicial, or administrative proceeding;

1374 (19) (a) (i) personal files of a state legislator, including personal correspondence to or
1375 from a member of the Legislature; and

1376 (ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of
1377 legislative action or policy may not be classified as protected under this section; and

1378 (b) (i) an internal communication that is part of the deliberative process in connection
1379 with the preparation of legislation between:

1380 (A) members of a legislative body;

1381 (B) a member of a legislative body and a member of the legislative body's staff; or

1382 (C) members of a legislative body's staff; and

1383 (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of
1384 legislative action or policy may not be classified as protected under this section;

1385 (20) (a) records in the custody or control of the Office of Legislative Research and
1386 General Counsel, that, if disclosed, would reveal a particular legislator's contemplated
1387 legislation or contemplated course of action before the legislator has elected to support the
1388 legislation or course of action, or made the legislation or course of action public; and

1389 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the
1390 Office of Legislative Research and General Counsel is a public document unless a legislator
1391 asks that the records requesting the legislation be maintained as protected records until such

- 1392 time as the legislator elects to make the legislation or course of action public;
- 1393 (21) research requests from legislators to the Office of Legislative Research and
1394 General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared
1395 in response to these requests;
- 1396 (22) drafts, unless otherwise classified as public;
- 1397 (23) records concerning a governmental entity's strategy about:
- 1398 (a) collective bargaining; or
- 1399 (b) imminent or pending litigation;
- 1400 (24) records of investigations of loss occurrences and analyses of loss occurrences that
1401 may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the
1402 Uninsured Employers' Fund, or similar divisions in other governmental entities;
- 1403 (25) records, other than personnel evaluations, that contain a personal recommendation
1404 concerning an individual if disclosure would constitute a clearly unwarranted invasion of
1405 personal privacy, or disclosure is not in the public interest;
- 1406 (26) records that reveal the location of historic, prehistoric, paleontological, or
1407 biological resources that if known would jeopardize the security of those resources or of
1408 valuable historic, scientific, educational, or cultural information;
- 1409 (27) records of independent state agencies if the disclosure of the records would
1410 conflict with the fiduciary obligations of the agency;
- 1411 (28) records of an institution within the state system of higher education defined in
1412 Section [53B-1-102](#) regarding tenure evaluations, appointments, applications for admissions,
1413 retention decisions, and promotions, which could be properly discussed in a meeting closed in
1414 accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of
1415 the final decisions about tenure, appointments, retention, promotions, or those students
1416 admitted, may not be classified as protected under this section;
- 1417 (29) records of the governor's office, including budget recommendations, legislative
1418 proposals, and policy statements, that if disclosed would reveal the governor's contemplated
1419 policies or contemplated courses of action before the governor has implemented or rejected
1420 those policies or courses of action or made them public;
- 1421 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,
1422 revenue estimates, and fiscal notes of proposed legislation before issuance of the final

1423 recommendations in these areas;

1424 (31) records provided by the United States or by a government entity outside the state
1425 that are given to the governmental entity with a requirement that they be managed as protected
1426 records if the providing entity certifies that the record would not be subject to public disclosure
1427 if retained by it;

1428 (32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a
1429 public body except as provided in Section 52-4-206;

1430 (33) records that would reveal the contents of settlement negotiations but not including
1431 final settlements or empirical data to the extent that they are not otherwise exempt from
1432 disclosure;

1433 (34) memoranda prepared by staff and used in the decision-making process by an
1434 administrative law judge, a member of the Board of Pardons and Parole, or a member of any
1435 other body charged by law with performing a quasi-judicial function;

1436 (35) records that would reveal negotiations regarding assistance or incentives offered
1437 by or requested from a governmental entity for the purpose of encouraging a person to expand
1438 or locate a business in Utah, but only if disclosure would result in actual economic harm to the
1439 person or place the governmental entity at a competitive disadvantage, but this section may not
1440 be used to restrict access to a record evidencing a final contract;

1441 (36) materials to which access must be limited for purposes of securing or maintaining
1442 the governmental entity's proprietary protection of intellectual property rights including patents,
1443 copyrights, and trade secrets;

1444 (37) the name of a donor or a prospective donor to a governmental entity, including an
1445 institution within the state system of higher education defined in Section 53B-1-102, and other
1446 information concerning the donation that could reasonably be expected to reveal the identity of
1447 the donor, provided that:

1448 (a) the donor requests anonymity in writing;

1449 (b) any terms, conditions, restrictions, or privileges relating to the donation may not be
1450 classified protected by the governmental entity under this Subsection (37); and

1451 (c) except for an institution within the state system of higher education defined in
1452 Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged
1453 in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority

1454 over the donor, a member of the donor's immediate family, or any entity owned or controlled
1455 by the donor or the donor's immediate family;

1456 (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and
1457 73-18-13;

1458 (39) a notification of workers' compensation insurance coverage described in Section
1459 34A-2-205;

1460 (40) (a) the following records of an institution within the state system of higher
1461 education defined in Section 53B-1-102, which have been developed, discovered, disclosed to,
1462 or received by or on behalf of faculty, staff, employees, or students of the institution:

1463 (i) unpublished lecture notes;

1464 (ii) unpublished notes, data, and information:

1465 (A) relating to research; and

1466 (B) of:

1467 (I) the institution within the state system of higher education defined in Section
1468 53B-1-102; or

1469 (II) a sponsor of sponsored research;

1470 (iii) unpublished manuscripts;

1471 (iv) creative works in process;

1472 (v) scholarly correspondence; and

1473 (vi) confidential information contained in research proposals;

1474 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public
1475 information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

1476 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;

1477 (41) (a) records in the custody or control of the Office of Legislative Auditor General
1478 that would reveal the name of a particular legislator who requests a legislative audit prior to the
1479 date that audit is completed and made public; and

1480 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the
1481 Office of the Legislative Auditor General is a public document unless the legislator asks that
1482 the records in the custody or control of the Office of Legislative Auditor General that would
1483 reveal the name of a particular legislator who requests a legislative audit be maintained as
1484 protected records until the audit is completed and made public;

- 1485 (42) records that provide detail as to the location of an explosive, including a map or
1486 other document that indicates the location of:
- 1487 (a) a production facility; or
 - 1488 (b) a magazine;
- 1489 (43) information:
- 1490 (a) contained in the statewide database of the Division of Aging and Adult Services
1491 created by Section [62A-3-311.1](#); or
 - 1492 (b) received or maintained in relation to the Identity Theft Reporting Information
1493 System (IRIS) established under Section [67-5-22](#);
- 1494 (44) information contained in the [~~Management Information System and~~] Licensing
1495 Information System described in Title 62A, Chapter 4a, Child and Family Services;
- 1496 (45) information regarding National Guard operations or activities in support of the
1497 National Guard's federal mission;
- 1498 (46) records provided by any pawn or secondhand business to a law enforcement
1499 agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and
1500 Secondhand Merchandise Transaction Information Act;
- 1501 (47) information regarding food security, risk, and vulnerability assessments performed
1502 by the Department of Agriculture and Food;
- 1503 (48) except to the extent that the record is exempt from this chapter pursuant to Section
1504 [63G-2-106](#), records related to an emergency plan or program, a copy of which is provided to or
1505 prepared or maintained by the Division of Emergency Management, and the disclosure of
1506 which would jeopardize:
- 1507 (a) the safety of the general public; or
 - 1508 (b) the security of:
 - 1509 (i) governmental property;
 - 1510 (ii) governmental programs; or
 - 1511 (iii) the property of a private person who provides the Division of Emergency
1512 Management information;
- 1513 (49) records of the Department of Agriculture and Food that provides for the
1514 identification, tracing, or control of livestock diseases, including any program established under
1515 Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control

1516 of Animal Disease;

1517 (50) as provided in Section 26-39-501:

1518 (a) information or records held by the Department of Health related to a complaint
1519 regarding a child care program or residential child care which the department is unable to
1520 substantiate; and

1521 (b) information or records related to a complaint received by the Department of Health
1522 from an anonymous complainant regarding a child care program or residential child care;

1523 (51) unless otherwise classified as public under Section 63G-2-301 and except as
1524 provided under Section 41-1a-116, an individual's home address, home telephone number, or
1525 personal mobile phone number, if:

1526 (a) the individual is required to provide the information in order to comply with a law,
1527 ordinance, rule, or order of a government entity; and

1528 (b) the subject of the record has a reasonable expectation that this information will be
1529 kept confidential due to:

1530 (i) the nature of the law, ordinance, rule, or order; and

1531 (ii) the individual complying with the law, ordinance, rule, or order;

1532 (52) the portion of the following documents that contains a candidate's residential or
1533 mailing address, if the candidate provides to the filing officer another address or phone number
1534 where the candidate may be contacted:

1535 (a) a declaration of candidacy, a nomination petition, or a certificate of nomination,
1536 described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408,
1537 20A-9-408.5, 20A-9-502, or 20A-9-601;

1538 (b) an affidavit of impecuniosity, described in Section 20A-9-201; or

1539 (c) a notice of intent to gather signatures for candidacy, described in Section
1540 20A-9-408;

1541 (53) the name, home address, work addresses, and telephone numbers of an individual
1542 that is engaged in, or that provides goods or services for, medical or scientific research that is:

1543 (a) conducted within the state system of higher education, as defined in Section
1544 53B-1-102; and

1545 (b) conducted using animals;

1546 (54) in accordance with Section 78A-12-203, any record of the Judicial Performance

1547 Evaluation Commission concerning an individual commissioner's vote on whether or not to
1548 recommend that the voters retain a judge including information disclosed under Subsection
1549 [78A-12-203\(5\)\(e\)](#);

1550 (55) information collected and a report prepared by the Judicial Performance
1551 Evaluation Commission concerning a judge, unless Section [20A-7-702](#) or Title 78A, Chapter
1552 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public,
1553 the information or report;

1554 [~~(56)~~ records contained in the Management Information System created in Section
1555 [62A-4a-1003](#)];

1556 [~~(57)~~ (56) records provided or received by the Public Lands Policy Coordinating
1557 Office in furtherance of any contract or other agreement made in accordance with Section
1558 [63J-4-603](#);

1559 [~~(58)~~ (57) information requested by and provided to the 911 Division under Section
1560 [63H-7a-302](#);

1561 [~~(59)~~ (58) in accordance with Section [73-10-33](#):

1562 (a) a management plan for a water conveyance facility in the possession of the Division
1563 of Water Resources or the Board of Water Resources; or

1564 (b) an outline of an emergency response plan in possession of the state or a county or
1565 municipality;

1566 [~~(60)~~ (59) the following records in the custody or control of the Office of Inspector
1567 General of Medicaid Services, created in Section [63A-13-201](#):

1568 (a) records that would disclose information relating to allegations of personal
1569 misconduct, gross mismanagement, or illegal activity of a person if the information or
1570 allegation cannot be corroborated by the Office of Inspector General of Medicaid Services
1571 through other documents or evidence, and the records relating to the allegation are not relied
1572 upon by the Office of Inspector General of Medicaid Services in preparing a final investigation
1573 report or final audit report;

1574 (b) records and audit workpapers to the extent they would disclose the identity of a
1575 person who, during the course of an investigation or audit, communicated the existence of any
1576 Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or
1577 regulation adopted under the laws of this state, a political subdivision of the state, or any

1578 recognized entity of the United States, if the information was disclosed on the condition that
1579 the identity of the person be protected;

1580 (c) before the time that an investigation or audit is completed and the final
1581 investigation or final audit report is released, records or drafts circulated to a person who is not
1582 an employee or head of a governmental entity for the person's response or information;

1583 (d) records that would disclose an outline or part of any investigation, audit survey
1584 plan, or audit program; or

1585 (e) requests for an investigation or audit, if disclosure would risk circumvention of an
1586 investigation or audit;

1587 ~~[(61)]~~ (60) records that reveal methods used by the Office of Inspector General of
1588 Medicaid Services, the fraud unit, or the Department of Health, to discover Medicaid fraud,
1589 waste, or abuse;

1590 ~~[(62)]~~ (61) information provided to the Department of Health or the Division of
1591 Occupational and Professional Licensing under Subsections 58-67-304(3) and (4) and
1592 Subsections 58-68-304(3) and (4);

1593 ~~[(63)]~~ (62) a record described in Section 63G-12-210;

1594 ~~[(64)]~~ (63) captured plate data that is obtained through an automatic license plate
1595 reader system used by a governmental entity as authorized in Section 41-6a-2003;

1596 ~~[(65)]~~ (64) any record in the custody of the Utah Office for Victims of Crime relating
1597 to a victim, including:

1598 (a) a victim's application or request for benefits;

1599 (b) a victim's receipt or denial of benefits; and

1600 (c) any administrative notes or records made or created for the purpose of, or used to,
1601 evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim
1602 Reparations Fund;

1603 ~~[(66)]~~ (65) an audio or video recording created by a body-worn camera, as that term is
1604 defined in Section 77-7a-103, that records sound or images inside a hospital or health care
1605 facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care
1606 provider, as that term is defined in Section 78B-3-403, or inside a human service program as
1607 that term is defined in Section 62A-2-101, except for recordings that:

1608 (a) depict the commission of an alleged crime;

1609 (b) record any encounter between a law enforcement officer and a person that results in
1610 death or bodily injury, or includes an instance when an officer fires a weapon;

1611 (c) record any encounter that is the subject of a complaint or a legal proceeding against
1612 a law enforcement officer or law enforcement agency;

1613 (d) contain an officer involved critical incident as defined in Subsection
1614 76-2-408(1)(f); or

1615 (e) have been requested for reclassification as a public record by a subject or
1616 authorized agent of a subject featured in the recording;

1617 [(67)] (66) a record pertaining to the search process for a president of an institution of
1618 higher education described in Section 53B-2-102, except for application materials for a
1619 publicly announced finalist;

1620 [(68)] (67) an audio recording that is:

1621 (a) produced by an audio recording device that is used in conjunction with a device or
1622 piece of equipment designed or intended for resuscitating an individual or for treating an
1623 individual with a life-threatening condition;

1624 (b) produced during an emergency event when an individual employed to provide law
1625 enforcement, fire protection, paramedic, emergency medical, or other first responder service:

1626 (i) is responding to an individual needing resuscitation or with a life-threatening
1627 condition; and

1628 (ii) uses a device or piece of equipment designed or intended for resuscitating an
1629 individual or for treating an individual with a life-threatening condition; and

1630 (c) intended and used for purposes of training emergency responders how to improve
1631 their response to an emergency situation;

1632 [(69)] (68) records submitted by or prepared in relation to an applicant seeking a
1633 recommendation by the Research and General Counsel Subcommittee, the Budget
1634 Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an
1635 employment position with the Legislature;

1636 [(70)] (69) work papers as defined in Section 31A-2-204;

1637 [(71)] (70) a record made available to Adult Protective Services or a law enforcement
1638 agency under Section 61-1-206;

1639 [(72)] (71) a record submitted to the Insurance Department in accordance with Section

1640 31A-37-201 or 31A-22-653;

1641 [~~(73)~~] (72) a record described in Section 31A-37-503[-];

1642 [~~(74)~~] (73) any record created by the Division of Occupational and Professional

1643 Licensing as a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii);

1644 [~~(75)~~] (74) a record described in Section 72-16-306 that relates to the reporting of an

1645 injury involving an amusement ride;

1646 [~~(76)~~] (75) except as provided in Subsection 63G-2-305.5(1), the signature of an

1647 individual on a political petition, or on a request to withdraw a signature from a political

1648 petition, including a petition or request described in the following titles:

1649 (a) Title 10, Utah Municipal Code;

1650 (b) Title 17, Counties;

1651 (c) Title 17B, Limited Purpose Local Government Entities - Local Districts;

1652 (d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and

1653 (e) Title 20A, Election Code;

1654 [~~(77)~~] (76) except as provided in Subsection 63G-2-305.5(2), the signature of an

1655 individual in a voter registration record;

1656 [~~(78)~~] (77) except as provided in Subsection 63G-2-305.5(3), any signature, other than

1657 a signature described in Subsection [~~(76)~~] (75) or [~~(77)~~] (76), in the custody of the lieutenant

1658 governor or a local political subdivision collected or held under, or in relation to, Title 20A,

1659 Election Code;

1660 [~~(79)~~] (78) a Form I-918 Supplement B certification as described in Title 77, Chapter

1661 38, Part 5, Victims Guidelines for Prosecutors Act;

1662 [~~(80)~~] (79) a record submitted to the Insurance Department under Subsection

1663 31A-47-103(1)(b); and

1664 [~~(81)~~] (80) personal information, as defined in Section 63G-26-102, to the extent

1665 disclosure is prohibited under Section 63G-26-103.

1666 Section 17. Section 63G-2-305.5 is amended to read:

1667 **63G-2-305.5. Viewing or obtaining lists of signatures.**

1668 (1) The records custodian of a signature described in Subsection 63G-2-305[~~(76)~~](75)

1669 shall, upon request, except for a name or signature classified as private under Title 20A,

1670 Chapter 2, Voter Registration:

1671 (a) provide a list of the names of the individuals who signed the petition or request; and
1672 (b) permit an individual to view, but not take a copy or other image of, the signatures
1673 on a political petition described in Subsection ~~63G-2-305[(76)]~~(75).

1674 (2) The records custodian of a signature described in Subsection ~~63G-2-305[(77)]~~(76)
1675 shall, upon request, except for a name or signature classified as private under Title 20A,
1676 Chapter 2, Voter Registration:

1677 (a) provide a list of the names of registered voters, excluding the names that are
1678 classified as private under Title 20A, Chapter 2, Voter Registration; and

1679 (b) except for a signature classified as private under Title 20A, Chapter 2, Voter
1680 Registration, permit an individual to view, but not take a copy or other image of, the signature
1681 on a voter registration record.

1682 (3) Except for a signature classified as private under Title 20A, Chapter 2, Voter
1683 Registration, the records custodian of a signature described in Subsection ~~63G-2-305[(78)]~~(77)
1684 shall, upon request, permit an individual to view, but not take a copy or other image of, a
1685 signature.

1686 Section 18. Section **78A-6-105** is amended to read:

1687 **78A-6-105. Definitions.**

1688 As used in this chapter:

1689 (1) (a) "Abuse" means:

1690 (i) (A) nonaccidental harm of a child;

1691 (B) threatened harm of a child;

1692 (C) sexual exploitation;

1693 (D) sexual abuse; or

1694 (E) human trafficking of a child in violation of Section ~~76-5-308.5~~; or

1695 (ii) that a child's natural parent:

1696 (A) intentionally, knowingly, or recklessly causes the death of another parent of the
1697 child;

1698 (B) is identified by a law enforcement agency as the primary suspect in an investigation
1699 for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

1700 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or
1701 recklessly causing the death of another parent of the child.

- 1702 (b) "Abuse" does not include:
- 1703 (i) reasonable discipline or management of a child, including withholding privileges;
- 1704 (ii) conduct described in Section 76-2-401; or
- 1705 (iii) the use of reasonable and necessary physical restraint or force on a child:
- 1706 (A) in self-defense;
- 1707 (B) in defense of others;
- 1708 (C) to protect the child; or
- 1709 (D) to remove a weapon in the possession of a child for any of the reasons described in
- 1710 Subsections (1)(b)(iii)(A) through (C).
- 1711 (2) "Abused child" means a child who has been subjected to abuse.
- 1712 (3) (a) "Adjudication" means a finding by the court, incorporated in a decree, that the
- 1713 facts alleged in the petition have been proved.
- 1714 (b) "Adjudication" does not mean a finding of not competent to proceed in accordance
- 1715 with Section 78A-6-1302.
- 1716 (4) (a) "Adult" means an individual who is 18 years old or older.
- 1717 (b) "Adult" does not include an individual:
- 1718 (i) who is 18 years old or older; and
- 1719 (ii) whose case is under the continuing jurisdiction of the juvenile court in accordance
- 1720 with Section 78A-6-120.
- 1721 (5) "Board" means the Board of Juvenile Court Judges.
- 1722 (6) "Child" means an individual who is under 18 years old.
- 1723 (7) "Child placement agency" means:
- 1724 (a) a private agency licensed to receive a child for placement or adoption under this
- 1725 code; or
- 1726 (b) a private agency that receives a child for placement or adoption in another state,
- 1727 which agency is licensed or approved where such license or approval is required by law.
- 1728 (8) "Clandestine laboratory operation" means the same as that term is defined in
- 1729 Section 58-37d-3.
- 1730 (9) "Commit" means, unless specified otherwise:
- 1731 (a) with respect to a child, to transfer legal custody; and
- 1732 (b) with respect to a minor who is at least 18 years old, to transfer custody.

1733 (10) "Court" means the juvenile court.

1734 (11) "Criminogenic risk factors" means evidence-based factors that are associated with
1735 a minor's likelihood of reoffending.

1736 (12) "Delinquent act" means an act that would constitute a felony or misdemeanor if
1737 committed by an adult.

1738 (13) "Department" means the Department of Human Services created in Section
1739 [62A-1-102](#).

1740 (14) "Dependent child" includes a child who is [~~homeless or~~] without proper care
1741 through no fault of the child's parent, guardian, or custodian.

1742 (15) "Deprivation of custody" means transfer of legal custody by the court from a
1743 parent or the parents or a previous legal custodian to another person, agency, or institution.

1744 (16) "Detention" means home detention and secure detention as defined in Section
1745 [62A-7-101](#) for the temporary care of a minor who requires secure custody in a physically
1746 restricting facility:

1747 (a) pending court disposition or transfer to another jurisdiction; or

1748 (b) while the minor's case is under the continuing jurisdiction of the court.

1749 (17) "Detention risk assessment tool" means an evidence-based tool established under
1750 Section [78A-6-124](#), on and after July 1, 2018, that assesses a minor's risk of failing to appear in
1751 court or reoffending pre-adjudication and designed to assist in making detention
1752 determinations.

1753 (18) "Developmental immaturity" means incomplete development in one or more
1754 domains which manifests as a functional limitation in the minor's present ability to consult with
1755 counsel with a reasonable degree of rational understanding and have a rational as well as
1756 factual understanding of the proceedings.

1757 (19) "Division" means the Division of Child and Family Services.

1758 (20) "Educational neglect" means that, after receiving a notice of compulsory education
1759 violation under Section [53G-6-202](#), the parent or guardian fails to make a good faith effort to
1760 ensure that the child receives an appropriate education.

1761 (21) "Educational series" means an evidence-based instructional series:

1762 (a) obtained at a substance abuse program that is approved by the Division of
1763 Substance Abuse and Mental Health in accordance with Section [62A-15-105](#); and

- 1764 (b) designed to prevent substance use or the onset of a mental health disorder.
- 1765 (22) "Evidence-based" means a program or practice that has had multiple randomized
- 1766 control studies or a meta-analysis demonstrating that the program or practice is effective for a
- 1767 specific population or has been rated as effective by a standardized program evaluation tool.
- 1768 (23) "Forensic evaluator" means the same as that term is defined in Section [77-15-2](#).
- 1769 (24) "Formal probation" means a minor is under field supervision by the probation
- 1770 department or other agency designated by the court and subject to return to the court in
- 1771 accordance with Section [78A-6-123](#) on and after July 1, 2018.
- 1772 (25) "Formal referral" means a written report from a peace officer or other person
- 1773 informing the court that a minor is, or appears to be, within the court's jurisdiction and that the
- 1774 minor's case must be reviewed by the court's probation department or a prosecuting attorney.
- 1775 (26) "Group rehabilitation therapy" means psychological and social counseling of one
- 1776 or more individuals in the group, depending upon the recommendation of the therapist.
- 1777 (27) "Guardianship of the person" includes the authority to consent to:
- 1778 (a) marriage;
- 1779 (b) enlistment in the armed forces;
- 1780 (c) major medical, surgical, or psychiatric treatment; or
- 1781 (d) legal custody, if legal custody is not vested in another individual, agency, or
- 1782 institution.
- 1783 (28) "Habitual truant" means the same as that term is defined in Section [53G-6-201](#).
- 1784 (29) "Harm" means:
- 1785 (a) physical or developmental injury or damage;
- 1786 (b) emotional damage that results in a serious impairment in the child's growth,
- 1787 development, behavior, or psychological functioning;
- 1788 (c) sexual abuse; or
- 1789 (d) sexual exploitation.
- 1790 (30) (a) "Incest" means engaging in sexual intercourse with an individual whom the
- 1791 perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt,
- 1792 nephew, niece, or first cousin.
- 1793 (b) The relationships described in Subsection (30)(a) include:
- 1794 (i) blood relationships of the whole or half blood, without regard to legitimacy;

- 1795 (ii) relationships of parent and child by adoption; and
1796 (iii) relationships of stepparent and stepchild while the marriage creating the
1797 relationship of a stepparent and stepchild exists.
- 1798 (31) "Intake probation" means a period of court monitoring that does not include field
1799 supervision, but is overseen by a juvenile probation officer, during which a minor is subject to
1800 return to the court in accordance with Section [78A-6-123](#) on and after July 1, 2018.
- 1801 (32) "Intellectual disability" means a significant subaverage general intellectual
1802 functioning existing concurrently with deficits in adaptive behavior that constitutes a
1803 substantial limitation to the individual's ability to function in society.
- 1804 (33) "Legal custody" means a relationship embodying the following rights and duties:
1805 (a) the right to physical custody of the minor;
1806 (b) the right and duty to protect, train, and discipline the minor;
1807 (c) the duty to provide the minor with food, clothing, shelter, education, and ordinary
1808 medical care;
1809 (d) the right to determine where and with whom the minor shall live; and
1810 (e) the right, in an emergency, to authorize surgery or other extraordinary care.
- 1811 (34) "Material loss" means an uninsured:
1812 (a) property loss;
1813 (b) out-of-pocket monetary loss for property that is stolen, damaged, or destroyed;
1814 (c) lost wages because of an injury, time spent as a witness, or time spent assisting the
1815 police or prosecution; or
1816 (d) medical expense.
- 1817 (35) "Mental illness" means:
1818 (a) a psychiatric disorder that substantially impairs an individual's mental, emotional,
1819 behavioral, or related functioning; or
1820 (b) the same as that term is defined in:
1821 (i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders
1822 published by the American Psychiatric Association; or
1823 (ii) the current edition of the International Statistical Classification of Diseases and
1824 Related Health Problems.
- 1825 (36) "Minor" means:

- 1826 (a) for the purpose of juvenile delinquency:
- 1827 (i) a child; or
- 1828 (ii) an individual:
- 1829 (A) who is at least 18 years old and younger than 25 years old; and
- 1830 (B) whose case is under the jurisdiction of the juvenile court; and
- 1831 (b) for all other purposes in this chapter:
- 1832 (i) a child; or
- 1833 (ii) an individual:
- 1834 (A) who is at least 18 years old and younger than 21 years old; and
- 1835 (B) whose case is under the jurisdiction of the juvenile court.
- 1836 (37) "Mobile crisis outreach team" means a crisis intervention service for a minor or
- 1837 the family of a minor experiencing a behavioral health or psychiatric emergency.
- 1838 (38) "Molestation" means that an individual, with the intent to arouse or gratify the
- 1839 sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child,
- 1840 or the breast of a female child, or takes indecent liberties with a child as defined in Section
- 1841 [76-5-416](#).
- 1842 (39) (a) "Natural parent" means a minor's biological or adoptive parent.
- 1843 (b) "Natural parent" includes the minor's noncustodial parent.
- 1844 (40) (a) "Neglect" means action or inaction causing:
- 1845 (i) abandonment of a child, except as provided in Title 62A, Chapter 4a, Part 8, Safe
- 1846 Relinquishment of a Newborn Child;
- 1847 (ii) lack of proper parental care of a child by reason of the fault or habits of the parent,
- 1848 guardian, or custodian;
- 1849 (iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary
- 1850 subsistence or medical care, or any other care necessary for the child's health, safety, morals, or
- 1851 well-being;
- 1852 (iv) a child to be at risk of being neglected or abused because another child in the same
- 1853 home is neglected or abused;
- 1854 (v) abandonment of a child through an unregulated custody transfer; or
- 1855 (vi) educational neglect.
- 1856 (b) "Neglect" does not include:

- 1857 (i) a parent or guardian legitimately practicing religious beliefs and who, for that
1858 reason, does not provide specified medical treatment for a child;
- 1859 (ii) a health care decision made for a child by the child's parent or guardian, unless the
1860 state or other party to a proceeding shows, by clear and convincing evidence, that the health
1861 care decision is not reasonable and informed;
- 1862 (iii) a parent or guardian exercising the right described in Section 78A-6-301.5; or
- 1863 (iv) permitting a child, whose basic needs are met and who is of sufficient age and
1864 maturity to avoid harm or unreasonable risk of harm, to engage in independent activities,
1865 including:
- 1866 (A) traveling to and from school, including by walking, running, or bicycling;
- 1867 (B) traveling to and from nearby commercial or recreational facilities;
- 1868 (C) engaging in outdoor play;
- 1869 (D) remaining in a vehicle unattended, except under the conditions described in
1870 Subsection 76-10-2202(2);
- 1871 (E) remaining at home unattended; or
- 1872 (F) engaging in a similar independent activity.
- 1873 (41) "Neglected child" means a child who has been subjected to neglect.
- 1874 (42) "Nonjudicial adjustment" means closure of the case by the assigned probation
1875 officer without judicial determination upon the consent in writing of:
- 1876 (a) the assigned probation officer; and
- 1877 (b) (i) the minor; or
- 1878 (ii) the minor and the minor's parent, legal guardian, or custodian.
- 1879 (43) "Not competent to proceed" means that a minor, due to a mental illness,
1880 intellectual disability or related condition, or developmental immaturity, lacks the ability to:
- 1881 (a) understand the nature of the proceedings against the minor or of the potential
1882 disposition for the offense charged; or
- 1883 (b) consult with counsel and participate in the proceedings against the minor with a
1884 reasonable degree of rational understanding.
- 1885 (44) "Physical abuse" means abuse that results in physical injury or damage to a child.
- 1886 (45) "Probation" means a legal status created by court order following an adjudication
1887 on the ground of a violation of law or under Section 78A-6-103, whereby the minor is

1888 permitted to remain in the minor's home under prescribed conditions.

1889 (46) "Prosecuting attorney" means:

1890 (a) the attorney general and any assistant attorney general;

1891 (b) any district attorney or deputy district attorney;

1892 (c) any county attorney or assistant county attorney; and

1893 (d) any other attorney authorized to commence an action on behalf of the state.

1894 (47) "Protective supervision" means a legal status created by court order following an

1895 adjudication on the ground of abuse, neglect, or dependency, whereby the minor is permitted to

1896 remain in the minor's home, and supervision and assistance to correct the abuse, neglect, or

1897 dependency is provided by the probation department or other agency designated by the court.

1898 (48) (a) "Related condition" means a condition that:

1899 (i) is found to be closely related to intellectual disability;

1900 (ii) results in impairment of general intellectual functioning or adaptive behavior

1901 similar to that of an intellectually disabled individual;

1902 (iii) is likely to continue indefinitely; and

1903 (iv) constitutes a substantial limitation to the individual's ability to function in society.

1904 (b) "Related condition" does not include mental illness, psychiatric impairment, or
1905 serious emotional or behavioral disturbance.

1906 (49) (a) "Residual parental rights and duties" means those rights and duties remaining
1907 with the parent after legal custody or guardianship, or both, have been vested in another person
1908 or agency, including:

1909 (i) the responsibility for support;

1910 (ii) the right to consent to adoption;

1911 (iii) the right to determine the child's religious affiliation; and

1912 (iv) the right to reasonable parent-time unless restricted by the court.

1913 (b) If no guardian has been appointed, "residual parental rights and duties" includes the
1914 right to consent to:

1915 (i) marriage;

1916 (ii) enlistment; and

1917 (iii) major medical, surgical, or psychiatric treatment.

1918 (50) "Secure facility" means any facility operated by or under contract with the

1919 Division of Juvenile Justice Services, that provides 24-hour supervision and confinement for
1920 youth offenders committed to the division for custody and rehabilitation in accordance with
1921 Subsection 78A-6-117(2)(d).

1922 (51) "Severe abuse" means abuse that causes or threatens to cause serious harm to a
1923 child.

1924 (52) "Severe neglect" means neglect that causes or threatens to cause serious harm to a
1925 child.

1926 (53) "Sexual abuse" means:

1927 (a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an
1928 adult directed towards a child;

1929 (b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation
1930 committed by a child towards another child if:

1931 (i) there is an indication of force or coercion;

1932 (ii) the children are related, as described in Subsection (30), including siblings by
1933 marriage while the marriage exists or by adoption;

1934 (iii) there have been repeated incidents of sexual contact between the two children,
1935 unless the children are 14 years old or older; or

1936 (iv) there is a disparity in chronological age of four or more years between the two
1937 children;

1938 (c) engaging in any conduct with a child that would constitute an offense under any of
1939 the following, regardless of whether the individual who engages in the conduct is actually
1940 charged with, or convicted of, the offense:

1941 (i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the
1942 alleged perpetrator of an offense described in Section 76-5-401 is a minor;

1943 (ii) child bigamy, Section 76-7-101.5;

1944 (iii) incest, Section 76-7-102;

1945 (iv) lewdness, Section 76-9-702;

1946 (v) sexual battery, Section 76-9-702.1;

1947 (vi) lewdness involving a child, Section 76-9-702.5; or

1948 (vii) voyeurism, Section 76-9-702.7; or

1949 (d) subjecting a child to participate in or threatening to subject a child to participate in

1950 a sexual relationship, regardless of whether that sexual relationship is part of a legal or cultural
1951 marriage.

1952 (54) "Sexual exploitation" means knowingly:

1953 (a) employing, using, persuading, inducing, enticing, or coercing any child to:

1954 (i) pose in the nude for the purpose of sexual arousal of any individual; or

1955 (ii) engage in any sexual or simulated sexual conduct for the purpose of photographing,
1956 filming, recording, or displaying in any way the sexual or simulated sexual conduct;

1957 (b) displaying, distributing, possessing for the purpose of distribution, or selling
1958 material depicting a child:

1959 (i) in the nude, for the purpose of sexual arousal of any individual; or

1960 (ii) engaging in sexual or simulated sexual conduct; or

1961 (c) engaging in any conduct that would constitute an offense under Section [76-5b-201](#),
1962 sexual exploitation of a minor, regardless of whether the individual who engages in the conduct
1963 is actually charged with, or convicted of, the offense.

1964 (55) "Shelter" means the temporary care of a child in a physically unrestricted facility
1965 pending court disposition or transfer to another jurisdiction.

1966 (56) "Single criminal episode" means the same as that term is defined in Section
1967 [76-1-401](#).

1968 (57) "Status offense" means a violation of the law that would not be a violation but for
1969 the age of the offender.

1970 (58) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or
1971 substances.

1972 (59) "Substantiated" means the same as that term is defined in Section [62A-4a-101](#).

1973 (60) "Supported" means the same as that term is defined in Section [62A-4a-101](#).

1974 (61) "Termination of parental rights" means the permanent elimination of all parental
1975 rights and duties, including residual parental rights and duties, by court order.

1976 (62) "Therapist" means:

1977 (a) an individual employed by a state division or agency for the purpose of conducting
1978 psychological treatment and counseling of a minor in its custody; or

1979 (b) any other individual licensed or approved by the state for the purpose of conducting
1980 psychological treatment and counseling.

1981 (63) "Threatened harm" means actions, inactions, or credible verbal threats, indicating
1982 that the child is at an unreasonable risk of harm or neglect.

1983 (64) "Unregulated custody transfer" means the placement of a child:

1984 (a) with an individual who is not the child's parent, step-parent, grandparent, adult
1985 sibling, adult uncle or aunt, or legal guardian, or a friend of the family who is an adult and with
1986 whom the child is familiar, or a member of the child's federally recognized tribe;

1987 (b) with the intent of severing the child's existing parent-child or guardian-child
1988 relationship; and

1989 (c) without taking:

1990 (i) reasonable steps to ensure the safety of the child and permanency of the placement;

1991 and

1992 (ii) the necessary steps to transfer the legal rights and responsibilities of parenthood or
1993 guardianship to the individual taking custody of the child.

1994 (65) "Unsupported" means the same as that term is defined in Section [62A-4a-101](#).

1995 (66) "Unsubstantiated" means the same as that term is defined in Section [62A-4a-101](#).

1996 (67) "Validated risk and needs assessment" means an evidence-based tool that assesses
1997 a minor's risk of reoffending and a minor's criminogenic needs.

1998 (68) (a) "Victim" means a person that the court determines has suffered a material loss
1999 as a result of a minor's wrongful act or conduct.

2000 (b) "Victim" includes the Utah Office for Victims of Crime.

2001 (69) "Without merit" means the same as that term is defined in Section [62A-4a-101](#).

2002 Section 19. Section **78A-6-109** is amended to read:

2003 **78A-6-109. Summons -- Service and process -- Issuance and contents -- Notice to**
2004 **absent parent or guardian -- Emergency medical or surgical treatment -- Compulsory**
2005 **process for attendance of witnesses when authorized.**

2006 (1) After a petition is filed the court shall promptly issue a summons, unless the judge
2007 directs that a further investigation is needed. No summons is required as to any person who
2008 appears voluntarily or who files a written waiver of service with the clerk of the court at or
2009 before the hearing.

2010 (2) The summons shall contain:

2011 (a) the name of the court;

2012 (b) the title of the proceedings; and
2013 (c) except for a published summons, a brief statement of the substance of the
2014 allegations in the petition.

2015 (3) A published summons shall state:
2016 (a) that a proceeding concerning the minor is pending in the court; and
2017 (b) an adjudication will be made.

2018 (4) The summons shall require the person or persons who have physical custody of the
2019 minor to appear personally and bring the minor before the court at a time and place stated. If
2020 the person or persons summoned are not the parent, parents, or guardian of the minor, the
2021 summons shall also be issued to the parent, parents, or guardian, as the case may be, notifying
2022 them of the pendency of the case and of the time and place set for the hearing.

2023 (5) Summons may be issued requiring the appearance of any other person whose
2024 presence the court finds necessary.

2025 (6) If it appears to the court that the welfare of the minor or of the public requires that
2026 the minor be taken into custody, and it does not conflict with Section [78A-6-106.5](#), the court
2027 may by endorsement upon the summons direct that the person serving the summons take the
2028 minor into custody at once.

2029 (7) Subject to Subsection [78A-6-117\(2\)](#), upon the sworn testimony of one or more
2030 reputable physicians, the court may order emergency medical or surgical treatment that is
2031 immediately necessary for a minor concerning whom a petition has been filed pending the
2032 service of summons upon the minor's parents, guardian, or custodian.

2033 (8) A parent or guardian is entitled to the issuance of compulsory process for the
2034 attendance of witnesses on the parent's or guardian's own behalf or on behalf of the minor. A
2035 guardian ad litem or a probation officer is entitled to compulsory process for the attendance of
2036 witnesses on behalf of the minor.

2037 (9) Service of summons and process and proof of service shall be made in the manner
2038 provided in the Utah Rules of Civil Procedure.

2039 (10) (a) Service of summons or process shall be made by the sheriff of the county
2040 where the service is to be made, or by the sheriff's deputy.

2041 (b) Notwithstanding Subsection (10)(a), upon request of the court, service shall be
2042 made by any other peace officer, or by another suitable person selected by the court.

2043 (11) Service of summons in the state shall be made personally, by delivering a copy to
2044 the person summoned; provided, however, that parents of a minor living together at their usual
2045 place of abode may both be served by personal delivery to either parent of copies of the
2046 summons, one copy for each parent.

2047 (12) If the judge makes a written finding that the judge has reason to believe that
2048 personal service of the summons will be unsuccessful, or will not accomplish notification
2049 within a reasonable time after issuance of the summons, the judge may order service by
2050 registered mail, with a return receipt to be signed by the addressee only, to be addressed to the
2051 last-known address of the person to be served in the state. Service shall be complete upon
2052 return to the court of the signed receipt.

2053 (13) If the parents, parent, or guardian required to be summoned under Subsection (4)
2054 cannot be found within the state, the fact of their minor's presence within the state shall confer
2055 jurisdiction on the court in proceedings in a minor's case under this chapter as to any absent
2056 parent or guardian, provided that due notice has been given in the following manner:

2057 (a) If the address of the parent or guardian is known, due notice is given by sending the
2058 parent or guardian a copy of the summons by registered mail with a return receipt to be signed
2059 by the addressee only, or by personal service outside the state, as provided in the Utah Rules of
2060 Civil Procedure. Service by registered mail shall be complete upon return to the court of the
2061 signed receipt.

2062 (b) (i) If the address or whereabouts of the parent or guardian outside the state cannot
2063 after diligent inquiry be ascertained, due notice is given by publishing a summons:

2064 (A) in a newspaper having general circulation in the county in which the proceeding is
2065 pending once a week for four successive weeks; ~~and~~ or

2066 (B) in accordance with Section 45-1-101 for four weeks.

2067 (ii) Service shall be complete on the day of the last publication.

2068 (c) Service of summons as provided in this subsection shall vest the court with
2069 jurisdiction over the parent or guardian served in the same manner and to the same extent as if
2070 the person served was served personally within the state.

2071 (14) In the case of service in the state, service completed not less than 48 hours before
2072 the time set in the summons for the appearance of the person served, shall be sufficient to
2073 confer jurisdiction. In the case of service outside the state, service completed not less than five

2074 days before the time set in the summons for appearance of the person served, shall be sufficient
2075 to confer jurisdiction.

2076 (15) Computation of periods of time under this chapter shall be made in accordance
2077 with the Utah Rules of Civil Procedure.

2078 Section 20. Section **78A-6-306** is amended to read:

2079 **78A-6-306. Shelter hearing.**

2080 (1) A shelter hearing shall be held within 72 hours excluding weekends and holidays
2081 after any one or all of the following occur:

2082 (a) removal of the child from the child's home by the division;

2083 (b) placement of the child in the protective custody of the division;

2084 (c) emergency placement under Subsection [62A-4a-202.1\(4\)](#);

2085 (d) as an alternative to removal of the child, a parent enters a domestic violence shelter
2086 at the request of the division; or

2087 (e) a "Motion for Expedited Placement in Temporary Custody" is filed under
2088 Subsection [78A-6-106\(4\)](#).

2089 (2) If one of the circumstances described in Subsections (1)(a) through (e) occurs, the
2090 division shall issue a notice that contains all of the following:

2091 (a) the name and address of the person to whom the notice is directed;

2092 (b) the date, time, and place of the shelter hearing;

2093 (c) the name of the child on whose behalf a petition is being brought;

2094 (d) a concise statement regarding:

2095 (i) the reasons for removal or other action of the division under Subsection (1); and

2096 (ii) the allegations and code sections under which the proceeding has been instituted;

2097 (e) a statement that the parent or guardian to whom notice is given, and the child, are
2098 entitled to have an attorney present at the shelter hearing, and that if the parent or guardian is
2099 indigent and cannot afford an attorney, and desires to be represented by an attorney, one will be
2100 provided in accordance with Title 78B, Chapter 22, Indigent Defense Act; and

2101 (f) a statement that the parent or guardian is liable for the cost of support of the child in
2102 the protective custody, temporary custody, and custody of the division, and the cost for legal
2103 counsel appointed for the parent or guardian under Subsection (2)(e), according to the financial
2104 ability of the parent or guardian.

2105 (3) The notice described in Subsection (2) shall be personally served as soon as
2106 possible, but no later than one business day after removal of the child from the child's home, or
2107 the filing of a "Motion for Expedited Placement in Temporary Custody" under Subsection
2108 [78A-6-106](#)(4), on:

2109 (a) the appropriate guardian ad litem; and

2110 (b) both parents and any guardian of the child, unless the parents or guardians cannot
2111 be located.

2112 (4) The following persons shall be present at the shelter hearing:

2113 (a) the child, unless it would be detrimental for the child;

2114 (b) the child's parents or guardian, unless the parents or guardian cannot be located, or
2115 fail to appear in response to the notice;

2116 (c) counsel for the parents, if one is requested;

2117 (d) the child's guardian ad litem;

2118 (e) the caseworker from the division who is assigned to the case; and

2119 (f) the attorney from the attorney general's office who is representing the division.

2120 (5) (a) At the shelter hearing, the court shall:

2121 (i) provide an opportunity to provide relevant testimony to:

2122 (A) the child's parent or guardian, if present; and

2123 (B) any other person having relevant knowledge;

2124 (ii) subject to Section [78A-6-305](#), provide an opportunity for the child to testify; and

2125 (iii) in accordance with Subsections [78A-6-307](#)(18)(c) through (e), grant preferential
2126 consideration to a relative or friend for the temporary placement of the child.

2127 (b) The court:

2128 (i) may consider all relevant evidence, in accordance with the Utah Rules of Juvenile
2129 Procedure;

2130 (ii) shall hear relevant evidence presented by the child, the child's parent or guardian,
2131 the requesting party, or their counsel; and

2132 (iii) may in its discretion limit testimony and evidence to only that which goes to the
2133 issues of removal and the child's need for continued protection.

2134 (6) If the child is in the protective custody of the division, the division shall report to
2135 the court:

2136 (a) the reason why the child was removed from the parent's or guardian's custody;

2137 (b) any services provided to the child and the child's family in an effort to prevent

2138 removal;

2139 (c) the need, if any, for continued shelter;

2140 (d) the available services that could facilitate the return of the child to the custody of

2141 the child's parent or guardian; and

2142 (e) subject to Subsections 78A-6-307(18)(c) through (e), whether any relatives of the

2143 child or friends of the child's parents may be able and willing to accept temporary placement of

2144 the child.

2145 (7) The court shall consider all relevant evidence provided by persons or entities

2146 authorized to present relevant evidence pursuant to this section.

2147 (8) (a) If necessary to protect the child, preserve the rights of a party, or for other good

2148 cause shown, the court may grant no more than one continuance, not to exceed five judicial

2149 days.

2150 (b) A court shall honor, as nearly as practicable, the request by a parent or guardian for

2151 a continuance under Subsection (8)(a).

2152 (c) Notwithstanding Subsection (8)(a), if the division fails to provide the notice

2153 described in Subsection (2) within the time described in Subsection (3), the court may grant the

2154 request of a parent or guardian for a continuance, not to exceed five judicial days.

2155 (9) (a) If the child is in the protective custody of the division, the court shall order that

2156 the child be returned to the custody of the parent or guardian unless it finds, by a

2157 preponderance of the evidence, consistent with the protections and requirements provided in

2158 Subsection 62A-4a-201(1), that any one of the following exists:

2159 (i) subject to Subsection (9)(b)(i), there is a serious danger to the physical health or

2160 safety of the child and the child's physical health or safety may not be protected without

2161 removing the child from the custody of the child's parent;

2162 (ii) (A) the child is suffering emotional damage that results in a serious impairment in

2163 the child's growth, development, behavior, or psychological functioning;

2164 (B) the parent or guardian is unwilling or unable to make reasonable changes that

2165 would sufficiently prevent future damage; and

2166 (C) there are no reasonable means available by which the child's emotional health may

2167 be protected without removing the child from the custody of the child's parent or guardian;
2168 (iii) there is a substantial risk that the child will suffer abuse or neglect if the child is
2169 not removed from the custody of the child's parent or guardian;
2170 (iv) subject to Subsection (9)(b)(ii), the child or a minor residing in the same
2171 household has been, or is considered to be at substantial risk of being, physically abused,
2172 sexually abused, or sexually exploited by a:
2173 (A) parent or guardian;
2174 (B) member of the parent's household or the guardian's household; or
2175 (C) person known to the parent or guardian;
2176 (v) the parent or guardian is unwilling to have physical custody of the child;
2177 (vi) the parent or guardian is unable to have physical custody of the child;
2178 [~~(vi)~~] (vii) the child is without any provision for the child's support;
2179 [~~(vii)~~] (viii) a parent who is incarcerated or institutionalized has not or cannot arrange
2180 for safe and appropriate care for the child;
2181 [~~(viii)~~] (ix) (A) a relative or other adult custodian with whom the child is left by the
2182 parent or guardian is unwilling or unable to provide care or support for the child;
2183 (B) the whereabouts of the parent or guardian are unknown; and
2184 (C) reasonable efforts to locate the parent or guardian are unsuccessful;
2185 [~~(ix)~~] (x) subject to Subsections 78A-6-105(40)(b) and 78A-6-117(2) and Section
2186 78A-6-301.5, the child is in immediate need of medical care;
2187 [~~(x)~~] (xi) (A) the physical environment or the fact that the child is left unattended
2188 beyond a reasonable period of time poses a threat to the child's health or safety; and
2189 (B) the parent or guardian is unwilling or unable to make reasonable changes that
2190 would remove the threat;
2191 [~~(xi)~~] (xii) (A) the child or a minor residing in the same household has been neglected;
2192 and
2193 (B) the parent or guardian is unwilling or unable to make reasonable changes that
2194 would prevent the neglect;
2195 [~~(xii)~~] (xiii) the parent, guardian, or an adult residing in the same household as the
2196 parent or guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug
2197 Lab Act, and any clandestine laboratory operation was located in the residence or on the

2198 property where the child resided;

2199 [~~(xiii)~~] (xiv) (A) the child's welfare is substantially endangered; and

2200 (B) the parent or guardian is unwilling or unable to make reasonable changes that
2201 would remove the danger; or

2202 [~~(xiv)~~] (xv) the child's natural parent:

2203 (A) intentionally, knowingly, or recklessly causes the death of another parent of the
2204 child;

2205 (B) is identified by a law enforcement agency as the primary suspect in an investigation
2206 for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

2207 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or
2208 recklessly causing the death of another parent of the child.

2209 (b) (i) Prima facie evidence of the finding described in Subsection (9)(a)(i) is
2210 established if:

2211 (A) a court previously adjudicated that the child suffered abuse, neglect, or dependency
2212 involving the parent; and

2213 (B) a subsequent incident of abuse, neglect, or dependency involving the parent occurs.

2214 (ii) For purposes of Subsection (9)(a)(iv), if the court finds that the parent knowingly
2215 allowed the child to be in the physical care of a person after the parent received actual notice
2216 that the person physically abused, sexually abused, or sexually exploited the child, that fact
2217 constitutes prima facie evidence that there is a substantial risk that the child will be physically
2218 abused, sexually abused, or sexually exploited.

2219 (10) (a) (i) The court shall also make a determination on the record as to whether
2220 reasonable efforts were made to prevent or eliminate the need for removal of the child from the
2221 child's home and whether there are available services that would prevent the need for continued
2222 removal.

2223 (ii) If the court finds that the child can be safely returned to the custody of the child's
2224 parent or guardian through the provision of those services, the court shall place the child with
2225 the child's parent or guardian and order that those services be provided by the division.

2226 (b) In making the determination described in Subsection (10)(a), and in ordering and
2227 providing services, the child's health, safety, and welfare shall be the paramount concern, in
2228 accordance with federal law.

2229 (11) Where the division's first contact with the family occurred during an emergency
2230 situation in which the child could not safely remain at home, the court shall make a finding that
2231 any lack of preplacement preventive efforts was appropriate.

2232 (12) In cases where actual sexual abuse, sexual exploitation, abandonment, severe
2233 abuse, or severe neglect are involved, neither the division nor the court has any duty to make
2234 "reasonable efforts" or to, in any other way, attempt to maintain a child in the child's home,
2235 return a child to the child's home, provide reunification services, or attempt to rehabilitate the
2236 offending parent or parents.

2237 (13) The court may not order continued removal of a child solely on the basis of
2238 educational neglect as defined in Section 78A-6-105, truancy, or failure to comply with a court
2239 order to attend school.

2240 (14) (a) Whenever a court orders continued removal of a child under this section, the
2241 court shall state the facts on which that decision is based.

2242 (b) If no continued removal is ordered and the child is returned home, the court shall
2243 state the facts on which that decision is based.

2244 (15) If the court finds that continued removal and temporary custody are necessary for
2245 the protection of a child pursuant to Subsection (9)(a), the court shall order continued removal
2246 regardless of:

2247 (a) any error in the initial removal of the child;

2248 (b) the failure of a party to comply with notice provisions; or

2249 (c) any other procedural requirement of this chapter or Title 62A, Chapter 4a, Child
2250 and Family Services.

2251 Section 21. Section **78A-6-1503** is amended to read:

2252 **78A-6-1503. Requirements to apply to expunge an adjudication.**

2253 (1) (a) ~~An~~ Except as provided in Subsection (4), an individual who has been
2254 adjudicated by a juvenile court may petition the court for an order to expunge the individual's
2255 juvenile court record and any related records in the custody of an agency if:

2256 (i) the individual has reached 18 years old; and

2257 (ii) at least one year has passed from the date of:

2258 (A) termination of the continuing jurisdiction of the juvenile court; or

2259 (B) the individual's unconditional release from the custody of the Division of Juvenile

2260 Justice Services if the individual was committed to a secure youth corrections facility.

2261 (b) The court may waive the requirements in Subsection (1)(a) if the court finds, and
2262 states on the record, the reason why the waiver is appropriate.

2263 (c) The petitioner shall include in the petition described in Subsection (1)(a):

2264 (i) any agency known or alleged to have any records related to the offense for which
2265 expungement is being sought; and

2266 (ii) the original criminal history report obtained from the Bureau of Criminal
2267 Identification in accordance with Section [53-10-108](#).

2268 (d) The petitioner shall send a copy of the petition described in Subsection (1)(a) to the
2269 county attorney or, if within a prosecution district, the district attorney.

2270 (e) (i) Upon the filing of a petition described in Subsection (1)(a), the court shall:

2271 (A) set a date for a hearing;

2272 (B) notify the county attorney or district attorney and the agency with custody of the
2273 records at least 30 days before the day on which the hearing of the pendency of the petition is
2274 scheduled; and

2275 (C) notify the county attorney or district attorney and the agency with records that the
2276 petitioner is asking the court to expunge of the date of the hearing.

2277 (ii) (A) The court shall provide a victim with the opportunity to request notice of a
2278 petition described in Subsection (1)(a).

2279 (B) Upon the victim's request under Subsection (1)(e)(ii)(A), the victim shall receive
2280 notice of the petition at least 30 days before the day on which the hearing is scheduled if,
2281 before the day on which an expungement order is made, the victim or, in the case of a child or
2282 an individual who is incapacitated or deceased, the victim's next of kin or authorized
2283 representative submits a written and signed request for notice to the court in the judicial district
2284 in which the offense occurred or judgment is entered.

2285 (C) The notice described in Subsection (1)(e)(ii)(B) shall include a copy of the petition
2286 described in Subsection (1)(a) and any statutes and rules applicable to the petition.

2287 (2) (a) At the hearing described in Subsection (1)(e)(i), the county attorney or district
2288 attorney, a victim, and any other individual who may have relevant information about the
2289 petitioner may testify.

2290 (b) In deciding whether to grant a petition described in Subsection (1)(a) for

2291 expungement, the court shall consider whether the rehabilitation of the petitioner has been
2292 attained to the satisfaction of the court, including the petitioner's response to programs and
2293 treatment, the petitioner's behavior subsequent to the adjudication, and the nature and
2294 seriousness of the conduct.

2295 (c) ~~[The]~~ (i) Except as provided in Subsection (2)(c)(ii), a court may order sealed all of
2296 the petitioner's records under the control of the juvenile court and an agency or an official[;
2297 including any record contained in the Management Information System created in Section
2298 62A-4a-1003 and the Licensing Information System created in Section 62A-4a-1005;] if the
2299 court finds that:

2300 [(i)] (A) the petitioner has not, in the five years preceding the day on which the petition
2301 described in Subsection (1)(a) is filed, been convicted of a violent felony, as defined in Section
2302 76-3-203.5;

2303 [(ii)] (B) there are no delinquency or criminal proceedings pending against the
2304 petitioner; and

2305 [(iii)] (C) a judgment for restitution entered by the court on the conviction for which
2306 the expungement is sought has been satisfied.

2307 (ii) A court may not order a petitioner's record that is contained in the Management
2308 Information System created in Section 62A-4a-1003 or the Licensing Information System
2309 created in Section 62A-4a-1005 be sealed unless the record is unsupported.

2310 (3) (a) The petitioner is responsible for service of the expungement order issued under
2311 Subsection (2) to any affected agency or official.

2312 (b) To avoid destruction or sealing of the records in whole or in part, the agency or the
2313 official receiving the expungement order described in Subsection (3)(a) shall only expunge all
2314 references to the petitioner's name in the records pertaining to the petitioner's juvenile court
2315 record.

2316 (4) (a) The court may not expunge a record if the record contains an adjudication of:

2317 [(a)] (i) Section 76-5-202, aggravated murder; or

2318 [(b)] (ii) Section 76-5-203, murder.

2319 (b) This section does not apply to an adjudication under Part 3, Abuse, Neglect, or
2320 Dependency Proceedings, Part 5, Termination of Parental Rights Act, or Part 14, Restoration of
2321 Parental Rights Act.