

**Representative Keven J. Stratton** proposes the following substitute bill:

**CHILD WELFARE AMENDMENTS**

2021 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Wayne A. Harper**

House Sponsor: Paul Ray

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**LONG TITLE**

**General Description:**

This bill addresses provisions related to child welfare.

**Highlighted Provisions:**

This bill:

- ▶ modifies definitions and defines terms;
- ▶ repeals a requirement that the Child Welfare Training Coordinator be appointed by the director of the Division of Child and Family Services;
- ▶ modifies the training requirements for caseworkers of the Division of Child and Family Services;
- ▶ clarifies that the Division of Child and Family Services may share a record related to an investigation of a report of child abuse or neglect with certain persons;
- ▶ modifies provisions that require the Division of Child and Family Services to remove certain information from a record related to a report or an investigation of child abuse or neglect before disclosing the record to the subject of the report or a parent or guardian;
- ▶ allows certain information and records contained in the Management Information System developed by the Division of Child and Family Services to be classified as 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
- 29 authority for the purpose of providing substance abuse treatment to a parent of a
- 30 newborn child;
- 31           ▶ directs the Division of Substance Abuse and Mental Health to coordinate with the
- 32 Department of Health and other health care providers to develop a program to
- 33 reduce substance abuse by parents of a newborn child;
- 34           ▶ requires the Department of Human Services to perform a review of a child who has
- 35 suffered a near fatality and is the subject of an open case for child welfare services
- 36 within one year of the near fatality;
- 37           ▶ modifies the fatality review process of the Department of Human Services to allow
- 38 review of near fatalities of children;
- 39           ▶ modifies the requirements giving notice of a summons for a parent or guardian of a
- 40 juvenile proceeding;
- 41           ▶ modifies the requirements for returning a child to the custody of a parent or
- 42 guardian in a shelter hearing;
- 43           ▶ repeals provisions that prohibit disclosure of child abuse, neglect, or dependency
- 44 reports that are unsubstantiated, unsupported, or without merit to an individual who
- 45 is not the alleged perpetrator;
- 46           ▶ prohibits a court from receiving certain child abuse, neglect, or dependency reports
- 47 that are unsubstantiated, unsupported, or without merit into evidence without a
- 48 finding of good cause;
- 49           ▶ clarifies that an adjudication for abuse, neglect, or dependency of a child, or
- 50 termination or restoration of parental rights may not be expunged;
- 51           ▶ modifies the type of records that a court may order sealed in a juvenile
- 52 expungement proceeding; and
- 53           ▶ makes technical and conforming changes.

54 **Money Appropriated in this Bill:**

55           None

56 **Other Special Clauses:**

57 This bill provides a coordination clause.

58 **Utah Code Sections Affected:**

59 AMENDS:

60 **52-4-205**, as last amended by Laws of Utah 2020, Chapters 12 and 201

61 **62A-4a-101**, as last amended by Laws of Utah 2019, Chapters 259 and 335

62 **62A-4a-107**, as last amended by Laws of Utah 2013, Chapter 171

63 **62A-4a-402**, as last amended by Laws of Utah 2008, Chapter 299

64 **62A-4a-404**, as last amended by Laws of Utah 2020, Chapter 193

65 **62A-4a-412**, as last amended by Laws of Utah 2020, Chapters 193 and 258

66 **62A-4a-1003**, as last amended by Laws of Utah 2019, Chapter 335

67 **62A-15-103**, as last amended by Laws of Utah 2020, Chapter 193

68 **62A-16-102**, as last amended by Laws of Utah 2019, Chapter 139

69 **62A-16-201**, as last amended by Laws of Utah 2019, Chapter 139

70 **62A-16-202**, as enacted by Laws of Utah 2010, Chapter 239

71 **62A-16-203**, as enacted by Laws of Utah 2010, Chapter 239

72 **62A-16-204**, as last amended by Laws of Utah 2019, Chapter 139

73 **62A-16-301**, as last amended by Laws of Utah 2019, Chapter 139

74 **62A-16-302**, as last amended by Laws of Utah 2011, Chapter 343

75 **63G-2-202**, as last amended by Laws of Utah 2020, Chapter 255

76 **63G-2-305**, as last amended by Laws of Utah 2020, Chapters 112, 198, 339, 349, 382,

77 and 393

78 **63G-2-305.5**, as enacted by Laws of Utah 2020, Chapter 349

79 **78A-6-105**, as last amended by Laws of Utah 2020, Chapters 214, 312 and last

80 amended by Coordination Clause, Laws of Utah 2020, Chapter 214

81 **78A-6-109**, as last amended by Laws of Utah 2017, Chapter 330

82 **78A-6-306**, as last amended by Laws of Utah 2020, Chapters 158 and 214

83 **78A-6-317**, as last amended by Laws of Utah 2019, Chapters 326 and 335

84 **78A-6-1503**, as renumbered and amended by Laws of Utah 2020, Chapter 218

85 **Utah Code Sections Affected by Coordination Clause:**

86 **80-3-107**, Utah Code Annotated 1953

87 **80-3-110**, Utah Code Annotated 1953

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

90 Section 1. Section **52-4-205** is amended to read:

91 **52-4-205. Purposes of closed meetings -- Certain issues prohibited in closed**  
92 **meetings.**

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

94 (a) except as provided in Subsection (3), discussion of the character, professional  
95 competence, or physical or mental health of an individual;

96 (b) strategy sessions to discuss collective bargaining;

97 (c) strategy sessions to discuss pending or reasonably imminent litigation;

98 (d) strategy sessions to discuss the purchase, exchange, or lease of real property,  
99 including any form of a water right or water shares, if public discussion of the transaction

100 would:

101 (i) disclose the appraisal or estimated value of the property under consideration; or

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

103 (e) strategy sessions to discuss the sale of real property, including any form of a water

104 right or water shares, if:

105 (i) public discussion of the transaction would:

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

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

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

110 (iii) the terms of the sale are publicly disclosed before the public body approves the

111 sale;

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

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

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

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

118 (j) as relates to the Independent Executive Branch Ethics Commission created in

119 Section 63A-14-202, conducting business relating to an ethics complaint;

120 (k) as relates to a county legislative body, discussing commercial information as  
121 defined in Section 59-1-404;

122 (l) as relates to the Utah Higher Education Assistance Authority and its appointed  
123 board of directors, discussing fiduciary or commercial information as defined in Section  
124 53B-12-102;

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

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

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

131 (iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement  
132 Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17,  
133 Procurement Appeals Board;

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

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

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

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

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

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

149 (ii) discussion of the information is necessary for the governing board to properly

150 discharge the board's duties and conduct the board's business; or

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

152 (2) The following meetings shall be closed:

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

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

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

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

160 (c) a meeting of the Opioid and Overdose Fatality Review Committee, created in  
161 Section 26-7-13, to review and discuss an individual case, as described in Subsection  
162 26-7-13(10); [~~and~~]

163 (d) a meeting of a conservation district as defined in Section 17D-3-102 for the  
164 purpose of advising the Natural Resource Conservation Service of the United States  
165 Department of Agriculture on a farm improvement project if the discussed information is  
166 protected information under federal law; and

167 (e) a meeting of the Compassionate Use Board established in Section 26-61a-105 for  
168 the purpose of reviewing petitions for a medical cannabis card in accordance with Section  
169 26-61a-105.

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

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

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

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

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

180 **62A-4a-101. Definitions.**

181 As used in this chapter:

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

183 (2) "Adoption services" means:

184 (a) placing children for adoption;

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

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

187 (d) conducting adoption studies;

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

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

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

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

194 (a) the caseworker assigned to the case;

195 (b) the caseworker who made the decision to remove the child;

196 (c) a representative of the school or school district where the child attends school;

197 (d) the peace officer who removed the child from the home;

198 (e) a representative of the appropriate Children's Justice Center, if one is established  
199 within the county where the child resides;

200 (f) if appropriate, and known to the division, a therapist or counselor who is familiar  
201 with the child's circumstances;

202 (g) members of a child protection unit; and

203 (h) any other individuals determined appropriate and necessary by the team coordinator  
204 and chair.

205 (5) "Child protection unit" means any unit created by a chief of police or a sheriff of a  
206 city, town, metro township, or county that is composed of at least the following individuals  
207 who are trained in the prevention, identification, and treatment of abuse or neglect:

208 (a) a law enforcement officer, as defined in Section 53-13-103; and

209 (b) a child advocate selected by the chief of police or a sheriff.

210 (6) (a) "Chronic abuse" means repeated or patterned abuse.

211 (b) "Chronic abuse" does not mean an isolated incident of abuse.

- 212 (7) (a) "Chronic neglect" means repeated or patterned neglect.  
213 (b) "Chronic neglect" does not mean an isolated incident of neglect.  
214 (8) "Consult" means an interaction between two persons in which the initiating person:  
215 (a) provides information to another person;  
216 (b) provides the other person an opportunity to respond; and  
217 (c) takes the other person's response, if any, into consideration.  
218 (9) "Consumer" means a person who receives services offered by the division in  
219 accordance with this chapter.  
220 (10) "Custody," with regard to the division, means the custody of a minor in the  
221 division as of the date of disposition.  
222 (11) "Day-care services" means care of a child for a portion of the day which is less  
223 than 24 hours:  
224 (a) in the child's own home by a responsible ~~[person]~~ individual; or  
225 (b) outside of the child's home in a:  
226 (i) day-care center;  
227 (ii) family group home; or  
228 (iii) family child care home.  
229 (12) "Dependent child" or "dependency" means a child, or the condition of a child, who  
230 is ~~[homeless or]~~ without proper care through no fault of the child's parent, guardian, or  
231 custodian.  
232 (13) "Director" means the director of the Division of Child and Family Services.  
233 (14) "Division" means the Division of Child and Family Services.  
234 (15) "Domestic violence services" means:  
235 (a) temporary shelter, treatment, and related services to:  
236 (i) ~~[a person]~~ an individual who is a victim of abuse, as defined in Section 78B-7-102;  
237 and  
238 (ii) the dependent children of ~~[a person]~~ an individual who is a victim of abuse, as  
239 defined in Section 78B-7-102; and  
240 (b) treatment services for ~~[a person]~~ an individual who is alleged to have committed,  
241 has been convicted of, or has pled guilty to, an act of domestic violence as defined in Section  
242 77-36-1.



- 243 (16) "Harm" means the same as that term is defined in Section 78A-6-105.
- 244 (17) "Homemaking service" means the care of individuals in their domiciles, and help  
245 given to individual caretaker relatives to achieve improved household and family management  
246 through the services of a trained homemaker.
- 247 (18) "Incest" means the same as that term is defined in Section 78A-6-105.
- 248 (19) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.
- 249 (20) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.
- 250 (21) "Minor" means, except as provided in Part 7, Interstate Compact on Placement of  
251 Children:
  - 252 (a) a child; or
  - 253 (b) ~~a person~~ an individual:
    - 254 (i) who is at least 18 years ~~of age~~ old and younger than 21 years ~~of age~~ old; and
    - 255 (ii) for whom the division has been specifically ordered by the juvenile court to provide  
256 services.
  - 257 (22) "Molestation" means the same as that term is defined in Section 78A-6-105.
  - 258 (23) "Mutual case" means a case that has been:
    - 259 (a) opened by the division under the division's discretion and procedures;
    - 260 (b) opened by the law enforcement agency with jurisdiction over the case; and
    - 261 (c) accepted for investigation by the child protection unit established by the chief of  
262 police or sheriff, as applicable.
  - 263 (24) "Natural parent" means a minor's biological or adoptive parent, and includes a  
264 minor's noncustodial parent.
  - 265 (25) "Neglect" means the same as that term is defined in Section 78A-6-105.
  - 266 (26) "Protective custody," with regard to the division, means the shelter of a child by  
267 the division from the time the child is removed from the child's home until the earlier of:
    - 268 (a) the shelter hearing; or
    - 269 (b) the child's return home.
  - 270 (27) "Protective services" means expedited services that are provided:
    - 271 (a) in response to evidence of neglect, abuse, or dependency of a child;
    - 272 (b) to a cohabitant who is neglecting or abusing a child, in order to:
      - 273 (i) help the cohabitant develop recognition of the cohabitant's duty of care and of the

274 causes of neglect or abuse; and  
275 (ii) strengthen the cohabitant's ability to provide safe and acceptable care; and  
276 (c) in cases where the child's welfare is endangered:  
277 (i) to bring the situation to the attention of the appropriate juvenile court and law  
278 enforcement agency;  
279 (ii) to cause a protective order to be issued for the protection of the child, when  
280 appropriate; and  
281 (iii) to protect the child from the circumstances that endanger the child's welfare  
282 including, when appropriate:  
283 (A) removal from the child's home;  
284 (B) placement in substitute care; and  
285 (C) petitioning the court for termination of parental rights.  
286 (28) "Severe abuse" means the same as that term is defined in Section 78A-6-105.  
287 (29) "Severe neglect" means the same as that term is defined in Section 78A-6-105.  
288 (30) "Sexual abuse" means the same as that term is defined in Section 78A-6-105.  
289 (31) "Sexual exploitation" means the same as that term is defined in Section  
290 78A-6-105.  
291 (32) "Shelter care" means the temporary care of a minor in a nonsecure facility.  
292 (33) "Sibling" means a child who shares or has shared at least one parent in common  
293 either by blood or adoption.  
294 (34) "Sibling visitation" means services provided by the division to facilitate the  
295 interaction between a child in division custody with a sibling of that child.  
296 (35) "State" means:  
297 (a) a state of the United States;  
298 (b) the District of Columbia;  
299 (c) the Commonwealth of Puerto Rico;  
300 (d) the Virgin Islands;  
301 (e) Guam;  
302 (f) the Commonwealth of the Northern Mariana Islands; or  
303 (g) a territory or possession administered by the United States.  
304 (36) "State plan" means the written description of the programs for children, youth, and

305 family services administered by the division in accordance with federal law.

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

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

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

314 (40) "Substitute care" means:

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

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

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

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

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

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

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

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

334 (46) "Unsupported" means a finding by the division at the completion of an  
335 investigation that there is insufficient evidence to conclude that abuse, neglect, or dependency

336 occurred. However, a finding of unsupported means also that the division did not conclude  
337 that the allegation was without merit.

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

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

342 **62A-4a-107. Mandatory education and training of caseworkers -- Development of**  
343 **curriculum.**

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

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

349 (a) develop child welfare curriculum that:

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

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

353 (A) the public sector;

354 (B) the private sector; and

355 (C) inside and outside of the state;

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

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

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

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

362 (f) monitor staff compliance with division training requirements and individual training  
363 plans; and

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

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

- 371           (a) is driven by child safety and family well-being;  
372           (b) emphasizes child and family voice;  
373           (c) is trauma-informed, as defined in Section [63M-7-209](#); and  
374           (d) is consistent with national child welfare practice standards.

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

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

379           ~~[(ii) except as provided in Subsection (2)(c), on-the-job training that consists of~~  
380 ~~observing and accompanying at least two capable and experienced child welfare caseworkers~~  
381 ~~as they perform work-related functions:]~~

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

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

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

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

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

- 390           (a) the legal duties of a child welfare caseworker;  
391           (b) the responsibility of a child welfare caseworker to protect the safety and legal rights  
392 of children, parents, and families at all stages of a case, including:  
393           (i) initial contact;  
394           (ii) ~~[investigation]~~ safety and risk assessment; and  
395           (iii) ~~[treatment]~~ intervention;  
396           (c) recognizing situations involving:  
397           (i) substance abuse;

- 398 (ii) domestic violence;
- 399 (iii) abuse; and
- 400 (iv) neglect; and

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

- 403 (i) search and seizure of evidence;
- 404 (ii) the warrant requirement;
- 405 (iii) exceptions to the warrant requirement; and
- 406 (iv) removing a child from the custody of the child's parent or guardian.

407 ~~[(4)]~~ (5) The division shall train ~~[its]~~ the division's child welfare caseworkers to apply  
408 the ~~[risk assessment tools]~~ safety, risk, needs, and strength assessment tools and rules described  
409 in Subsection 62A-4a-1002(2).

410 ~~[(5)]~~ (6) The division shall use the training of child welfare caseworkers to emphasize:

- 411 (a) the importance of maintaining the parent-child relationship ~~[whenever possible]~~;
- 412 (b) the preference for providing in-home services over taking a child into protective  
413 custody, both for the emotional well-being of the child and the efficient allocation of resources;  
414 and

415 (c) the importance and priority of:

- 416 (i) kinship placement in the event a child must be taken into protective custody; and
- 417 (ii) guardianship placement, in the event the parent-child relationship is legally  
418 terminated and no appropriate adoptive placement is available.

419 ~~[(6)]~~ (7) When a child welfare caseworker is hired, before assuming ~~[significant]~~  
420 independent casework responsibilities, ~~[the child welfare caseworker shall complete the~~  
421 ~~training described in Subsections (3) through (5).]~~ the division shall ensure that the child  
422 welfare caseworker has:

- 423 (a) completed the training described in Subsections (4), (5), and (6); and
- 424 (b) participated in sufficient skills development for a child welfare caseworker.

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

426 **62A-4a-402. Definitions.**

427 As used in this part:

- 428 (1) "A person responsible for a child's care" means the child's parent, guardian, or other

429 person responsible for the child's care, whether in the same home as the child, a relative's  
 430 home, a group, family, or center day care facility, a foster care home, or a residential  
 431 institution.

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

433 ~~[(2)]~~ (3) "Subject" or "subject of the report" means any person reported under this part,  
 434 including, but not limited to, a child, parent, guardian, or other person responsible for a child's  
 435 care.

436 Section 5. Section ~~62A-4a-404~~ is amended to read:

437 **62A-4a-404. Fetal alcohol syndrome or spectrum disorder and drug dependency**  
 438 **-- Reporting requirements.**

439 (1) As used in this section:

440 (a) "Health care provider" means:

441 (i) an individual licensed under:

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

443 (B) Title 58, Chapter 44a, Nurse Midwife Practice Act;

444 (C) Title 58, Chapter 67, Utah Medical Practice Act;

445 (D) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

446 (E) Title 58, Chapter 70a, Utah Physician Assistant Act; or

447 (F) Title 58, Chapter 77, Direct-Entry Midwife Act; or

448 (ii) an unlicensed individual who practices midwifery.

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

450 ~~[(c)]~~ (b) "Qualified medical provider" means the same as that term is defined in Section  
 451 [26-61a-102](#).

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

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

456 (A) obtained by lawful prescription and used as prescribed; or

457 (B) obtained in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act,  
 458 and used as recommended by a qualified medical provider.

459 (2) A health care provider who attends the birth of a newborn child or cares for a

460 newborn child and determines [any of] the following, shall report the determination to the  
461 division as soon as possible:

- 462 (a) the newborn child:
  - 463 (i) is adversely affected by the child's mother's substance abuse during pregnancy;
  - 464 (ii) has fetal alcohol syndrome or fetal alcohol spectrum disorder; or
  - 465 (iii) demonstrates drug or alcohol withdrawal symptoms; or
- 466 (b) the parent of the newborn child or a person responsible for the child's care  
467 demonstrates functional impairment or an inability to care for the child as a result of the  
468 parent's or person's substance abuse.

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

470 **62A-4a-412. Reports, information, and referrals confidential.**

471 (1) Except as otherwise provided in this chapter, reports made under this part, as well  
472 as any other information in the possession of the division obtained as the result of an  
473 investigation of a report under this part are private, protected, or controlled records under Title  
474 63G, Chapter 2, Government Records Access and Management Act, and may only be made  
475 available to:

- 476 (a) a police or law enforcement agency investigating a report of known or suspected  
477 abuse or neglect, including members of a child protection unit;
- 478 (b) a physician who reasonably believes that a child may be the subject of abuse or  
479 neglect;
- 480 (c) an agency that has responsibility or authority to care for, treat, or supervise a minor  
481 who is the subject of a report;
- 482 (d) a contract provider that has a written contract with the division to render services to  
483 a minor who is the subject of a report;
- 484 (e) [~~except as provided in Subsection 63G-2-202(10),~~] a subject of the report, the  
485 natural parents of the child, and the guardian ad litem;
- 486 (f) a court, upon a finding that access to the records may be necessary for the  
487 determination of an issue before the court, provided that in a divorce, custody, or related  
488 proceeding between private parties, the record alone is:
  - 489 (i) limited to objective or undisputed facts that were verified at the time of the  
490 investigation; and



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

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

495 (h) a person authorized by a Children's Justice Center, for the purposes described in  
496 Section [67-5b-102](#);

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

499 (j) the State Board of Education, acting on behalf of itself or on behalf of a local  
500 education agency, as defined in Section [63J-5-102](#), for the purpose of evaluating whether an  
501 individual should be permitted to obtain or retain a license as an educator or serve as an  
502 employee or volunteer in a school, limited to information with substantiated or supported  
503 findings involving an alleged sexual offense, an alleged felony or class A misdemeanor drug  
504 offense, or any alleged offense against the person under Title 76, Chapter 5, Offenses Against  
505 the Person, and with the understanding that the office must provide the subject of a report  
506 received under Subsection (1)(k) with an opportunity to respond to the report before making a  
507 decision concerning licensure or employment;

508 (k) any ~~[person]~~ individual identified in the report as a perpetrator or possible  
509 perpetrator of abuse or neglect, after being advised of the screening prohibition in Subsection  
510 (2);

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

513 (m) a licensed child-placing agency or person who is performing a preplacement  
514 adoptive evaluation in accordance with the requirements of Sections [78B-6-128](#) and  
515 [78B-6-130](#);

516 (n) an Indian tribe to:

517 (i) certify or license a foster home;

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

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

520 (o) the Division of Substance Abuse and Mental Health, the Department of Health, or a  
521 local substance abuse authority, described in Section [17-43-201](#), for the purpose of providing

522 substance abuse treatment to a pregnant woman or a parent of a newborn child, or the services  
523 described in Subsection 62A-15-103(2)(o).

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

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

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

534 (b) ~~[Notwithstanding any other provision of law, excluding Section 78A-6-317, but~~  
535 ~~including this chapter and Title 63G, Chapter 2, Government Records Access and Management~~  
536 ~~Act, when]~~ When the division makes a report or other information in the division's possession  
537 available under Subsection (1)(e) to a subject of the report or a parent of a child, the division  
538 shall remove from the report or other information [only] the names, addresses, and telephone  
539 numbers of individuals or specific information that could:

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

543 (4) Any person who ~~[wilfully]~~ willfully permits, or aides and abets the release of data  
544 or information obtained as a result of this part, in the possession of the division or contained on  
545 any part of the Management Information System, in violation of this part or Sections  
546 62A-4a-1003 through 62A-4a-1007, is guilty of a class C misdemeanor.

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

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

552 (a) may provide this report to the person who is the subject of the report; and

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

556 (7) (a) Except as provided in Subsection (7)(b), in a divorce, custody, or related  
557 proceeding between private parties, a court may not receive into evidence a report that:

558 (i) is provided to the court:

559 (A) under Subsection (1)(f); or

560 (B) by a parent of the child after the record is made available to the parent under

561 Subsection (1)(e);

562 (ii) describes a parent of the child as the alleged perpetrator; and

563 (iii) the division finds is unsubstantiated, unsupported, or without merit.

564 (b) (i) After a motion to admit the report described in Subsection (7)(a) is made, the  
565 court shall allow sufficient time for all subjects of the record to respond before making a  
566 finding on the motion.

567 (ii) After considering the motion described in Subsection (7)(b), the court may receive  
568 the report into evidence upon a finding on the record of good cause.

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

570 **62A-4a-1003. Management Information System -- Requirements -- Contents --**

571 **Purpose -- Access.**

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

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

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

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

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

583 (i) as provided under Subsection (6) or Section 62A-4a-1006; or

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

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

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

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

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

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

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

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

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

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

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

607 (A) latest status; or

608 (B) final outcome or determination; and

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

610 (A) supported;

611 (B) unsupported;

612 (C) substantiated;

613 (D) unsubstantiated; or

614 (E) without merit;

615 (f) the number of times the child's parent or parents failed any child and family plan;

616 and

617 (g) the number of different caseworkers who have been assigned to that child in the

618 past.

619 (3) The division's Management Information System shall:

620 (a) contain all key elements of each family's current child and family plan, including:

621 (i) the dates and number of times the plan has been administratively or judicially

622 reviewed;

623 (ii) the number of times the parent or parents have failed that child and family plan;

624 and

625 (iii) the exact length of time the child and family plan has been in effect; and

626 (b) alert caseworkers regarding deadlines for completion of and compliance with

627 policy, including child and family plans.

628 (4) With regard to all child protective services cases, the Management Information

629 System shall:

630 (a) monitor the compliance of each case with:

631 (i) division rule;

632 (ii) state law; and

633 (iii) federal law and regulation; and

634 (b) include the age and date of birth of the alleged perpetrator at the time the abuse or

635 neglect is alleged to have occurred, in order to ensure accuracy regarding the identification of

636 the alleged perpetrator.

637 (5) Except as provided in Subsection (6) regarding contract providers and Section

638 [62A-4a-1006](#) regarding limited access to the Licensing Information System, all information

639 contained in the division's Management Information System is available to the department,

640 upon the approval of the executive director, on a need-to-know basis.

641 (6) (a) Subject to this Subsection (6), the division may allow the division's contract

642 providers, court clerks designated by the Administrative Office of the Courts, the Office of

643 Guardian Ad Litem, or an Indian tribe to have limited access to the Management Information

644 System.

645 (b) A division contract provider or Indian tribe has access only to information about a

646 person who is currently receiving services from that specific contract provider or Indian tribe.

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

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

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

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

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

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

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

663 (ii) train its employees regarding:

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

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

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

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

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

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

677 **62A-15-103. Division -- Creation -- Responsibilities.**

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

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

682 (2) The division shall:

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

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

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

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

692 (v) except as provided in Section [62A-15-103.5](#), make rules in accordance with Title  
693 63G, Chapter 3, Utah Administrative Rulemaking Act, to develop, in collaboration with public  
694 and private programs, minimum standards for public and private providers of substance abuse  
695 and mental health programs licensed by the department under Title 62A, Chapter 2, Licensure  
696 of Programs and Facilities;

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

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

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

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

704 (A) emergency department utilization;

705 (B) jail and prison populations;

706 (C) the homeless population; and

707 (D) the child welfare system; and

708 (x) promote or establish programs for education and certification of instructors to  
709 educate [~~persons~~] individuals convicted of driving under the influence of alcohol or drugs or  
710 driving with any measurable controlled substance in the body;

711 (b) (i) collect and disseminate information pertaining to mental health;

712 (ii) provide direction over the state hospital including approval of the state hospital's  
713 budget, administrative policy, and coordination of services with local service plans;

714 (iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative  
715 Rulemaking Act, to educate families concerning mental illness and promote family  
716 involvement, when appropriate, and with patient consent, in the treatment program of a family  
717 member; and

718 (iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative  
719 Rulemaking Act, to direct that an individual receiving services through a local mental health  
720 authority or the Utah State Hospital be informed about and, if desired by the individual,  
721 provided assistance in the completion of a declaration for mental health treatment in  
722 accordance with Section [62A-15-1002](#);

723 (c) (i) consult and coordinate with local substance abuse authorities and local mental  
724 health authorities regarding programs and services;

725 (ii) provide consultation and other assistance to public and private agencies and groups  
726 working on substance abuse and mental health issues;

727 (iii) promote and establish cooperative relationships with courts, hospitals, clinics,  
728 medical and social agencies, public health authorities, law enforcement agencies, education and  
729 research organizations, and other related groups;

730 (iv) promote or conduct research on substance abuse and mental health issues, and  
731 submit to the governor and the Legislature recommendations for changes in policy and  
732 legislation;

733 (v) receive, distribute, and provide direction over public funds for substance abuse and  
734 mental health services;

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

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

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



- 739 (A) local substance abuse authorities;
- 740 (B) local mental health authorities; and
- 741 (C) in counties where they exist, a private contract provider that has an annual or
- 742 otherwise ongoing contract to provide comprehensive substance abuse or mental health
- 743 programs or services for the local substance abuse authority or local mental health authority;
- 744 (ix) contract with local substance abuse authorities and local mental health authorities
- 745 to provide a comprehensive continuum of services that include community-based services for
- 746 individuals involved in the criminal justice system, in accordance with division policy, contract
- 747 provisions, and the local plan;
- 748 (x) contract with private and public entities for special statewide or nonclinical
- 749 services, or services for individuals involved in the criminal justice system, according to
- 750 division rules;
- 751 (xi) review and approve each local substance abuse authority's plan and each local
- 752 mental health authority's plan in order to ensure:
  - 753 (A) a statewide comprehensive continuum of substance abuse services;
  - 754 (B) a statewide comprehensive continuum of mental health services;
  - 755 (C) services result in improved overall health and functioning;
  - 756 (D) a statewide comprehensive continuum of community-based services designed to
  - 757 reduce criminal risk factors for individuals who are determined to have substance abuse or
  - 758 mental illness conditions or both, and who are involved in the criminal justice system;
  - 759 (E) compliance, where appropriate, with the certification requirements in Subsection
  - 760 (2)(j); and
  - 761 (F) appropriate expenditure of public funds;
- 762 (xii) review and make recommendations regarding each local substance abuse
- 763 authority's contract with the local substance abuse authority's provider of substance abuse
- 764 programs and services and each local mental health authority's contract with the local mental
- 765 health authority's provider of mental health programs and services to ensure compliance with
- 766 state and federal law and policy;
- 767 (xiii) monitor and ensure compliance with division rules and contract requirements;
- 768 and
- 769 (xiv) withhold funds from local substance abuse authorities, local mental health

770 authorities, and public and private providers for contract noncompliance, failure to comply  
771 with division directives regarding the use of public funds, or for misuse of public funds or  
772 money;

773 (d) ensure that the requirements of this part are met and applied uniformly by local  
774 substance abuse authorities and local mental health authorities across the state;

775 (e) require each local substance abuse authority and each local mental health authority,  
776 in accordance with Subsections 17-43-201(5)(b) and 17-43-301(6)(a)(ii), to submit a plan to  
777 the division on or before May 15 of each year;

778 (f) conduct an annual program audit and review of each local substance abuse authority  
779 and each local substance abuse authority's contract provider, and each local mental health  
780 authority and each local mental health authority's contract provider, including:

781 (i) a review and determination regarding whether:

782 (A) public funds allocated to the local substance abuse authority or the local mental  
783 health authorities are consistent with services rendered by the authority or the authority's  
784 contract provider, and with outcomes reported by the authority's contract provider; and

785 (B) each local substance abuse authority and each local mental health authority is  
786 exercising sufficient oversight and control over public funds allocated for substance use  
787 disorder and mental health programs and services; and

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

789 (g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4,  
790 Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;

791 (h) (i) train and certify an adult as a peer support specialist, qualified to provide peer  
792 supports services to an individual with:

793 (A) a substance use disorder;

794 (B) a mental health disorder; or

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

796 (ii) certify a person to carry out, as needed, the division's duty to train and certify an  
797 adult as a peer support specialist;

798 (iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative  
799 Rulemaking Act, that:

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

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

802 (C) specify the type of supervision under which a peer support specialist is required to  
803 operate; and

804 (D) specify continuing education and other requirements for maintaining or renewing  
805 certification as a peer support specialist; and

806 (iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative  
807 Rulemaking Act, that:

808 (A) establish the requirements for a person to be certified to carry out, as needed, the  
809 division's duty to train and certify an adult as a peer support specialist; and

810 (B) specify how the division shall provide oversight of a person certified to train and  
811 certify a peer support specialist;

812 (i) except as provided in Section 62A-15-103.5, establish by rule, in accordance with  
813 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, minimum standards and  
814 requirements for the provision of substance use disorder and mental health treatment to an  
815 individual who is incarcerated or who is required to participate in treatment by a court or by the  
816 Board of Pardons and Parole, including:

817 (i) collaboration with the Department of Corrections and the Utah Substance Use and  
818 Mental Health Advisory Council to develop and coordinate the standards, including standards  
819 for county and state programs serving individuals convicted of class A and class B  
820 misdemeanors;

821 (ii) determining that the standards ensure available treatment, including the most  
822 current practices and procedures demonstrated by recognized scientific research to reduce  
823 recidivism, including focus on the individual's criminal risk factors; and

824 (iii) requiring that all public and private treatment programs meet the standards  
825 established under this Subsection (2)(i) in order to receive public funds allocated to the  
826 division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice  
827 for the costs of providing screening, assessment, prevention, treatment, and recovery support;

828 (j) except as provided in Section 62A-15-103.5, establish by rule, in accordance with  
829 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements and procedures  
830 for the certification of licensed public and private providers, including individuals licensed by  
831 the Division of Occupational and Professional Licensing, programs licensed by the department,

832 and health care facilities licensed by the Department of Health, who provide, as part of their  
833 practice, substance use disorder and mental health treatment to an individual involved in the  
834 criminal justice system, including:

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

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

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

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

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

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

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

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

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

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

862 (n) annually, on or before August 31, submit the data collected under Subsection (2)(k)

863 to the Commission on Criminal and Juvenile Justice, which shall compile a report of findings  
864 based on the data and provide the report to the Judiciary Interim Committee, the Health and  
865 Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim  
866 Committee, and the related appropriations subcommittees; and

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

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

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

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

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

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

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

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

889 (B) information about at-risk individuals and individuals who are legally prohibited  
890 from possessing firearms;

891 (C) information about suicide prevention awareness; and

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

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

- 894 (iii) produce a firearm safety packet that includes the firearm safety brochure and the  
895 cable-style gun lock described in this Subsection (3); and
- 896 (iv) create a suicide prevention education course that:
- 897 (A) provides information for distribution regarding firearm safety education;
- 898 (B) incorporates current information on how to recognize suicidal behaviors and  
899 identify individuals who may be suicidal; and
- 900 (C) provides information regarding crisis intervention resources;
- 901 (b) distributing, free of charge, the firearm safety packet to the following persons, who  
902 shall make the firearm safety packet available free of charge:
- 903 (i) health care providers, including emergency rooms;
- 904 (ii) mobile crisis outreach teams;
- 905 (iii) mental health practitioners;
- 906 (iv) other public health suicide prevention organizations;
- 907 (v) entities that teach firearm safety courses;
- 908 (vi) school districts for use in the seminar, described in Section [53G-9-702](#), for parents  
909 of students in the school district; and
- 910 (vii) firearm dealers to be distributed in accordance with Section [76-10-526](#);
- 911 (c) creating and administering a redeemable coupon program described in this  
912 Subsection (3) and Section [76-10-526](#) that includes:
- 913 (i) producing a redeemable coupon that offers between \$10 and \$200 off the purchase  
914 price of a firearm safe from a participating firearms dealer or a person engaged in the business  
915 of selling firearm safes in Utah, by a Utah resident who has filed an application for a concealed  
916 firearm permit; and
- 917 (ii) collecting the receipts described in Section [76-10-526](#) from the participating  
918 dealers and persons and reimbursing the dealers and persons;
- 919 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
920 making rules that establish procedures for:
- 921 (i) producing and distributing the suicide prevention education course and the firearm  
922 safety brochures and packets;
- 923 (ii) procuring the cable-style gun locks for distribution; and
- 924 (iii) administering the redeemable coupon program; and

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

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

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

935 (5) (a) Before reissuing or renewing a contract with any local substance abuse authority  
936 or local mental health authority, the division shall review and determine whether the local  
937 substance abuse authority or local mental health authority is complying with the oversight and  
938 management responsibilities described in Sections [17-43-201](#), [17-43-203](#), [17-43-303](#), and  
939 [17-43-309](#).

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

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

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

951 (8) The division shall annually review with each local substance abuse authority and  
952 each local mental health authority the authority's statutory and contract responsibilities  
953 regarding:

954 (a) use of public funds;

955 (b) oversight of public funds; and

956 (c) governance of substance use disorder and mental health programs and services.

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

959 (10) If a local substance abuse authority contacts the division under Subsection  
960 [17-43-201](#)(10) for assistance in providing treatment services to a pregnant woman or pregnant  
961 minor, the division shall:

962 (a) refer the pregnant woman or pregnant minor to a treatment facility that has the  
963 capacity to provide the treatment services; or

964 (b) otherwise ensure that treatment services are made available to the pregnant woman  
965 or pregnant minor.

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

968 (a) provide coordination between a local education agency and local mental health  
969 authority;

970 (b) recommend evidence-based and evidence informed mental health screenings and  
971 intervention assessments for a local education agency; and

972 (c) coordinate with the local community, including local departments of health, to  
973 enhance and expand mental health related resources for a local education agency.

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

975 **62A-16-102. Definitions.**

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

977 (2) "Child" means the same as that term is defined in Section [62A-4a-101](#).

978 [~~(1)~~] (3) "Committee" means a fatality review committee[;] that is formed under  
979 Section [62A-16-202](#) or [62A-16-203](#).

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

981 (5) "Formal review" means a review of a death or a near fatality that is ordered under  
982 Subsection [62A-16-201](#)(6).

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

985 [~~(2)~~] (7) "Qualified individual" means an individual who:

986 (a) at the time that the individual dies, is a resident of a facility or program that is



987 owned or operated by the department or a division of the department;

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

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

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

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

994 (ii) foster care;

995 (iii) in-home services; or

996 (iv) substitute care;

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

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

999 (e) was the subject of an accepted referral received by Adult Protective Services within  
1000 one year [~~immediately preceding~~] before the day on which the individual dies, if:

1001 (i) the department or a division of the department is aware of the death; and

1002 (ii) the death is reported as a homicide, suicide, or an undetermined cause;

1003 (f) received services from, or under the direction of, the Division of Services for People  
1004 with Disabilities within one year [~~immediately preceding~~] before the day on which the  
1005 individual dies, unless the individual:

1006 (i) lived in the individual's home at the time of death; and

1007 (ii) the director of the Office of Quality and Design determines that the death was not  
1008 in any way related to services that were provided by, or under the direction of, the department  
1009 or a division of the department;

1010 (g) dies within 60 days after the day on which the individual is discharged from the  
1011 Utah State Hospital, if the department is aware of the death; [~~or~~]

1012 (h) is a child who:

1013 (i) suffers a near fatality; and

1014 (ii) is the subject of an open case for the receipt of child welfare services within one  
1015 year before the day on which the child suffered the near fatality, including:

1016 (A) an investigation for abuse, neglect, or dependency;

1017 (B) foster care;

1018 (C) in-home services; or

1019 (D) substitute care; or

1020 [~~(h)~~] (i) is designated as a qualified individual by the executive director.

1021 (8) "Neglect" means the same as that term is defined in Section 78A-6-105.

1022 (9) "Substitute care" means the same as that term is defined in Section 62A-4a-101.

1023 Section 10. Section **62A-16-201** is amended to read:

1024 **62A-16-201. Initial review.**

1025 (1) Within seven days after the day on which the department knows that a qualified  
1026 individual has died or is an individual described in Subsection 62A-16-102(7)(h), a person  
1027 designated by the department shall:

1028 (a) (i) for a death, complete a deceased client report form, created by the department;  
1029 [~~and~~] or

1030 (ii) for an individual described in Subsection 62A-16-102(7)(h), complete a near  
1031 fatality client report form, created by the department; and

1032 (b) forward the completed client report form to the director of the office or division  
1033 that has jurisdiction over the region or facility.

1034 (2) The director of the office or division described in Subsection (1) shall, upon receipt  
1035 of a near fatality client report form or a deceased client report form, immediately provide a  
1036 copy of the form to:

1037 (a) the executive director; and

1038 (b) the fatality review coordinator or the fatality review coordinator's designee.

1039 (3) Within 10 days after the day on which the fatality review coordinator or the fatality  
1040 review coordinator's designee receives a copy of the near fatality client report form or the  
1041 deceased client report form, the fatality review coordinator or the fatality review coordinator's  
1042 designee shall request a copy of all relevant department case records regarding the individual  
1043 who is the subject of the [~~deceased~~] client report form.

1044 (4) Each person who receives a request for a record described in Subsection (3) shall  
1045 provide a copy of the record to the fatality review coordinator or the fatality review  
1046 coordinator's designee, by a secure method, within seven days after the day on which the  
1047 request is made.

1048 (5) Within 30 days after the day on which the fatality review coordinator or the fatality

1049 review coordinator's designee receives the case records requested under Subsection (3), the  
1050 fatality review coordinator, or the fatality review coordinator's designee, shall:

1051 (a) review the [~~deceased~~] client report form, the case files, and other relevant  
1052 information received by the fatality review coordinator; and

1053 (b) make a recommendation to the director of the Office of Quality and Design  
1054 regarding whether a formal [~~fatality~~] review of the death or near fatality should be conducted.

1055 (6) (a) In accordance with Subsection (6)(b), within seven days after the day on which  
1056 the fatality review coordinator or the fatality review coordinator's designee makes the  
1057 recommendation described in Subsection (5)(b), the director of the Office of Quality and  
1058 Design or the director's designee shall determine whether to order that a [~~formal fatality~~]  
1059 review of the death or near fatality be conducted.

1060 (b) The director of the Office of Quality and Design or the director's designee shall  
1061 order that a formal [~~fatality~~] review of the death or near fatality be conducted if:

1062 (i) at the time of the near fatality or the death, the qualified individual is:

1063 (A) an individual described in Subsection ~~62A-16-102~~(~~2~~)(6)(a) or (b), unless:

1064 (I) the near fatality or the death is due to a natural cause; or

1065 (II) the director of the Office of Quality and Design or the director's designee  
1066 determines that the near fatality or the death was not in any way related to services that were  
1067 provided by, or under the direction of, the department or a division of the department; or

1068 (B) a child in foster care or substitute care, unless the near fatality or the death is due  
1069 to:

1070 (I) a natural cause; or

1071 (II) an accident;

1072 (ii) it appears, based on the information provided to the director of the Office of  
1073 Quality and Design or the director's designee, that:

1074 (A) a provision of law, rule, policy, or procedure relating to the [~~deceased~~] qualified  
1075 individual or the [~~deceased~~] individual's family may not have been complied with;

1076 (B) the near fatality or the fatality was not responded to properly;

1077 (C) a law, rule, policy, or procedure may need to be changed; or

1078 (D) additional training is needed;

1079 (iii) (A) the death is caused by suicide; or

1080 (B) the near fatality is caused by attempted suicide; or  
1081 (iv) the director of the Office of Quality and Design or the director's designee  
1082 determines that another reason exists to order that a [~~formal fatality~~] review of the near fatality  
1083 or the death be conducted.

1084 Section 11. Section **62A-16-202** is amended to read:

1085 **62A-16-202. Fatality Review Committee for a qualified individual who was not a**  
1086 **resident of the Utah State Hospital or the Utah State Developmental Center.**

1087 (1) Except for a fatality review committee described in Section **62A-16-203**, the  
1088 fatality review coordinator shall organize a fatality review committee for each formal [~~fatality~~  
1089 ~~review that is ordered to be conducted under Subsection **62A-16-201(6)**~~] review.

1090 (2) Except as provided in Subsection (5), a committee described in Subsection (1):

1091 (a) shall include the following members:

1092 (i) the department's fatality review coordinator, who shall designate a member of the  
1093 committee to serve as chair of the committee;

1094 (ii) a member of the board, if there is a board, of the relevant division or office;

1095 (iii) the attorney general or the attorney general's designee;

1096 (iv) (A) a member of the management staff of the relevant division or office; or

1097 (B) a person who is a supervisor, or a higher level position, from a region that did not  
1098 have jurisdiction over the qualified individual; and

1099 (v) a member of the department's risk management services; and

1100 (b) may include the following members:

1101 (i) a health care professional;

1102 (ii) a law enforcement officer; or

1103 (iii) a representative of the Office of Public Guardian.

1104 (3) If a death that is subject to formal review involves a qualified individual described  
1105 in Subsection **62A-16-102**[~~(2)(c) or (d)~~](7)(c), (d), or (h), the committee may also include:

1106 (a) a health care professional;

1107 (b) a law enforcement officer;

1108 (c) the director of the Office of Guardian ad Litem;

1109 (d) an employee of the division who may be able to provide information or expertise  
1110 that would be helpful to the formal review; or

1111 (e) a professional whose knowledge or expertise may significantly contribute to the  
1112 formal review.

1113 (4) A committee described in Subsection (1) may also include a person whose  
1114 knowledge or expertise may significantly contribute to the formal review.

1115 (5) A committee described in this section may not include an individual who was  
1116 involved in, or who supervises a person who was involved in, the [~~fatality.~~] near fatality or the  
1117 death.

1118 (6) Each member of a committee described in this section who is not an employee of  
1119 the department shall sign a form, created by the department, indicating that the member agrees  
1120 to:

1121 (a) keep all information relating to [~~a fatality~~] the formal review confidential; and

1122 (b) not release any information relating to a [~~fatality~~] formal review, unless required or  
1123 permitted by law to release the information.

1124 Section 12. Section **62A-16-203** is amended to read:

1125 **62A-16-203. Fatality Review Committees for a resident of the Utah State Hospital**  
1126 **or the Utah State Developmental Center.**

1127 (1) If a qualified individual who is the subject of a formal [~~fatality review that is~~  
1128 ~~ordered to be conducted under Subsection 62A-16-201(6)] review was a resident of the Utah  
1129 State Hospital or the Utah State Developmental Center, the fatality review coordinator of that  
1130 facility shall organize a fatality review committee to review the [~~fatality.~~] near fatality or the  
1131 death.~~

1132 (2) Except as provided in Subsection (4), a committee described in Subsection (1) shall  
1133 include the following members:

1134 (a) the fatality review coordinator for the facility, who shall serve as chair of the  
1135 committee;

1136 (b) a member of the management staff of the facility;

1137 (c) a supervisor of a unit other than the one in which the qualified individual resided;

1138 (d) a physician;

1139 (e) a representative from the administration of the division that oversees the facility;

1140 (f) the department's fatality review coordinator;

1141 (g) a member of the department's risk management services; and

1142 (h) a citizen who is not an employee of the department.

1143 (3) A committee described in Subsection (1) may also include a person whose  
1144 knowledge or expertise may significantly contribute to the formal review.

1145 (4) A committee described in this section may not include an individual who:

1146 (a) was involved in, or who supervises a person who was involved in, the [fatality] near  
1147 fatality or the death; or

1148 (b) has a conflict with the fatality review.

1149 Section 13. Section **62A-16-204** is amended to read:

1150 **62A-16-204. Fatality Review Committee proceedings.**

1151 (1) A majority vote of committee members present constitutes the action of the  
1152 committee.

1153 (2) The department shall give the committee access to all reports, records, and other  
1154 documents that are relevant to the [fatality] near fatality or the death under investigation,  
1155 including:

1156 (a) narrative reports;

1157 (b) case files;

1158 (c) autopsy reports; and

1159 (d) police reports, unless the report is protected from disclosure under Subsection  
1160 [63G-2-305](#)(10) or (11).

1161 (3) The Utah State Hospital and the Utah State Developmental Center shall provide  
1162 protected health information to the committee if requested by a fatality review coordinator.

1163 (4) A committee shall convene its first meeting within 14 days after the day on which a  
1164 formal [~~fatality review is ordered under Subsection [62A-16-201](#)(6)~~] review is ordered, unless  
1165 this time is extended, for good cause, by the director of the Office of Quality and Design.

1166 (5) A committee may interview a staff member, a provider, or any other person who  
1167 may have knowledge or expertise that is relevant to the [fatality] formal review.

1168 (6) A committee shall render an advisory opinion regarding:

1169 (a) whether the provisions of law, rule, policy, and procedure relating to the [~~deceased~~]  
1170 qualified individual and the [~~deceased~~] individual's family were complied with;

1171 (b) whether the [fatality] near fatality or the death was responded to properly;

1172 (c) whether to recommend that a law, rule, policy, or procedure be changed; and

1173 (d) whether additional training is needed.

1174 Section 14. Section **62A-16-301** is amended to read:

1175 **62A-16-301. Fatality review committee report -- Response to report.**

1176 (1) Within 20 days after the day on which the committee proceedings described in

1177 Section **62A-16-204** end, the committee shall submit:

1178 (a) a written report to the executive director that includes:

1179 (i) the advisory opinions made under Subsection **62A-16-204**(6); and

1180 (ii) any recommendations regarding action that should be taken in relation to an

1181 employee of the department or a person who contracts with the department;

1182 (b) a copy of the report described in Subsection (1)(a) to:

1183 (i) the director, or the director's designee, of the office or division to which the

1184 [fatality] near fatality or the death relates; and

1185 (ii) the regional director, or the regional director's designee, of the region to which the

1186 [fatality] near fatality or the death relates; and

1187 (c) a copy of the report described in Subsection (1)(a), with only identifying

1188 information redacted, to the Office of Legislative Research and General Counsel.

1189 (2) Within 20 days after the day on which the director described in Subsection (1)(b)(i)

1190 receives a copy of the report described in Subsection (1)(a), the director shall provide a written

1191 response to the director of the Office of Quality and Design and a copy of the response, with

1192 only identifying information redacted, to the Office of Legislative Research and General

1193 Counsel, if the report:

1194 (a) indicates that a law, rule, policy, or procedure was not complied with;

1195 (b) indicates that the [fatality] near fatality or the death was not responded to properly;

1196 (c) recommends that a law, rule, policy, or procedure be changed; or

1197 (d) indicates that additional training is needed.

1198 (3) The response described in Subsection (2) shall include a plan of action to

1199 implement any recommended improvements within the office or division.

1200 (4) Within 30 days after the day on which the executive director receives the response

1201 described in Subsection (2), the executive director, or the executive director's designee shall:

1202 (a) review the plan of action described in Subsection (3);

1203 (b) make any written response that the executive director or the executive director's

1204 designee determines is necessary;

1205 (c) provide a copy of the written response described in Subsection (4)(b), with only  
1206 identifying information redacted, to the Office of Legislative Research and General Counsel;  
1207 and

1208 (d) provide an unredacted copy of the response described in Subsection (4)(b) to the  
1209 director of the Office of Quality and Design.

1210 (5) A report described in Subsection (1) and each response described in this section is a  
1211 protected record.

1212 (6) (a) As used in this Subsection (6), "fatality review document" means any document  
1213 created in connection with, or as a result of, a [fatality] formal review of a near fatality or a  
1214 death, or a decision whether to conduct a [fatality] formal review of a near fatality or a death,  
1215 including:

1216 (i) a report described in Subsection (1);

1217 (ii) a response described in this section;

1218 (iii) a recommendation regarding whether a [fatality] formal review should be  
1219 conducted;

1220 (iv) a decision to conduct a [fatality] formal review;

1221 (v) notes of a person who participates in a [fatality] formal review;

1222 (vi) notes of a person who reviews a [fatality] formal review report;

1223 (vii) minutes of a [fatality] formal review;

1224 (viii) minutes of a meeting where a [fatality] formal review report is reviewed; and

1225 (ix) minutes of, documents received in relation to, and documents generated in relation  
1226 to, the portion of a meeting of the Health and Human Services Interim Committee or the Child  
1227 Welfare Legislative Oversight Panel that a [fatality] formal review report or a document  
1228 described in this Subsection (6)(a) is reviewed or discussed.

1229 (b) A fatality review document is not subject to discovery, subpoena, or similar  
1230 compulsory process in any civil, judicial, or administrative proceeding, nor shall any individual  
1231 or organization with lawful access to the data be compelled to testify with regard to a report  
1232 described in Subsection (1) or a response described in this section.

1233 (c) The following are not admissible as evidence in a civil, judicial, or administrative  
1234 proceeding:



1235 (i) a fatality review document; and

1236 (ii) an executive summary described in Subsection 62A-16-302(4).

1237 Section 15. Section 62A-16-302 is amended to read:

1238 **62A-16-302. Reporting to, and review by, legislative committees.**

1239 (1) The Office of Legislative Research and General Counsel shall provide a copy of the  
1240 report described in Subsection 62A-16-301(1)(b), and the responses described in Subsections  
1241 62A-16-301(2) and (4)(c) to the chairs of:

1242 (a) the Health and Human Services Interim Committee; or

1243 (b) if the qualified individual who is the subject of the report [~~was, at the time of death,~~  
1244 ~~a person~~] is an individual described in Subsection 62A-16-102[~~(2)(c) or (d)~~](7)(c), (d), or (h),  
1245 the Child Welfare Legislative Oversight Panel.

1246 (2) (a) The Health and Human Services Interim Committee may, in a closed meeting,  
1247 review a report described in Subsection 62A-16-301(1)(b).

1248 (b) The Child Welfare Legislative Oversight Panel shall, in a closed meeting, review a  
1249 report described in Subsection (1)(b).

1250 (3) (a) [~~Neither the~~] The Health and Human Services Interim Committee [~~nor~~] and the  
1251 Child Welfare Legislative Oversight Panel may not interfere with, or make recommendations  
1252 regarding, the resolution of a particular case.

1253 (b) The purpose of a review described in Subsection (2) is to assist a committee or  
1254 panel described in Subsection (2) in determining whether to recommend a change in the law.

1255 (c) Any recommendation, described in Subsection (3)(b), by a committee or panel for a  
1256 change in the law shall be made in an open meeting.

1257 (4) (a) On or before September 1 of each year, the department shall provide an  
1258 executive summary of all [~~fatality~~] formal review reports for the preceding state fiscal year to  
1259 the Office of Legislative Research and General Counsel.

1260 (b) The Office of Legislative Research and General Counsel shall forward a copy of the  
1261 executive summary described in Subsection (4)(a) to:

1262 (i) the Health and Human Services Interim Committee; and

1263 (ii) the Child Welfare Legislative Oversight Panel.

1264 (5) The executive summary described in Subsection (4):

1265 (a) may not include any names or identifying information;

- 1266 (b) shall include:
- 1267 (i) all recommendations regarding changes to the law that were made during the
- 1268 preceding fiscal year under Subsection [62A-16-204\(6\)](#);
- 1269 (ii) all changes made, or in the process of being made, to a law, rule, policy, or
- 1270 procedure in response to a [~~fatality~~] formal review that occurred during the preceding fiscal
- 1271 year;
- 1272 (iii) a description of the training that has been completed in response to a [~~fatality~~]
- 1273 formal review that occurred during the preceding fiscal year;
- 1274 (iv) statistics for the preceding fiscal year regarding:
- 1275 (A) the number of qualified individuals and the type of [~~fatalities of qualified~~
- 1276 ~~individuals~~] deaths and near fatalities that are known to the department;
- 1277 (B) the number of formal [~~fatality~~] reviews conducted;
- 1278 (C) the categories[;] described in Subsection [62A-16-102\(2\)](#) of qualified individuals
- 1279 [~~who died~~];
- 1280 (D) the gender, age, race, and other significant categories of qualified individuals [~~who~~
- 1281 ~~died~~]; and
- 1282 (E) the number of fatalities of qualified individuals known to the department that are
- 1283 identified as suicides; and
- 1284 (v) action taken by the Office of Licensing and the Bureau of Internal Review and
- 1285 Audits in response to the [~~fatality~~] near fatality or the death of a qualified individual; and
- 1286 (c) is a public document.
- 1287 (6) The Division of Child and Family Services shall, to the extent required by the
- 1288 federal Child Abuse Prevention and Treatment Act, as amended, allow public disclosure of the
- 1289 findings or information relating to a case of child abuse or neglect that results in a child fatality
- 1290 or a near fatality.
- 1291 Section 16. Section [63G-2-202](#) is amended to read:
- 1292 **63G-2-202. Access to private, controlled, and protected documents.**
- 1293 (1) Except as provided in Subsection (11)(a), a governmental entity:
- 1294 (a) shall, upon request, disclose a private record to:
- 1295 (i) the subject of the record;
- 1296 (ii) the parent or legal guardian of an unemancipated minor who is the subject of the

1297 record;

1298 (iii) the legal guardian of a legally incapacitated individual who is the subject of the

1299 record;

1300 (iv) any other individual who:

1301 (A) has a power of attorney from the subject of the record;

1302 (B) submits a notarized release from the subject of the record or the individual's legal

1303 representative dated no more than 90 days before the date the request is made; or

1304 (C) if the record is a medical record described in Subsection 63G-2-302(1)(b), is a

1305 health care provider, as defined in Section 26-33a-102, if releasing the record or information in

1306 the record is consistent with normal professional practice and medical ethics; or

1307 (v) any person to whom the record must be provided pursuant to:

1308 (A) court order as provided in Subsection (7); or

1309 (B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena

1310 Powers; and

1311 (b) may disclose a private record described in Subsections 63G-2-302(1)(j) through

1312 (m), without complying with Section 63G-2-206, to another governmental entity for a purpose

1313 related to:

1314 (i) voter registration; or

1315 (ii) the administration of an election.

1316 (2) (a) Upon request, a governmental entity shall disclose a controlled record to:

1317 (i) a physician, physician assistant, psychologist, certified social worker, insurance

1318 provider or producer, or a government public health agency upon submission of:

1319 (A) a release from the subject of the record that is dated no more than 90 days prior to

1320 the date the request is made; and

1321 (B) a signed acknowledgment of the terms of disclosure of controlled information as

1322 provided by Subsection (2)(b); and

1323 (ii) any person to whom the record must be disclosed pursuant to:

1324 (A) a court order as provided in Subsection (7); or

1325 (B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena

1326 Powers.

1327 (b) A person who receives a record from a governmental entity in accordance with

1328 Subsection (2)(a)(i) may not disclose controlled information from that record to any person,  
1329 including the subject of the record.

1330 (3) If there is more than one subject of a private or controlled record, the portion of the  
1331 record that pertains to another subject shall be segregated from the portion that the requester is  
1332 entitled to inspect.

1333 (4) Upon request, and except as provided in Subsection [~~(10)~~ or] (11)(b), a  
1334 governmental entity shall disclose a protected record to:

1335 (a) the person that submitted the record;

1336 (b) any other individual who:

1337 (i) has a power of attorney from all persons, governmental entities, or political  
1338 subdivisions whose interests were sought to be protected by the protected classification; or

1339 (ii) submits a notarized release from all persons, governmental entities, or political  
1340 subdivisions whose interests were sought to be protected by the protected classification or from  
1341 their legal representatives dated no more than 90 days prior to the date the request is made;

1342 (c) any person to whom the record must be provided pursuant to:

1343 (i) a court order as provided in Subsection (7); or

1344 (ii) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena  
1345 Powers; or

1346 (d) the owner of a mobile home park, subject to the conditions of Subsection  
1347 [41-1a-116\(5\)](#).

1348 (5) Except as provided in Subsection (1)(b), a governmental entity may disclose a  
1349 private, controlled, or protected record to another governmental entity, political subdivision,  
1350 state, the United States, or a foreign government only as provided by Section [63G-2-206](#).

1351 (6) Before releasing a private, controlled, or protected record, the governmental entity  
1352 shall obtain evidence of the requester's identity.

1353 (7) A governmental entity shall disclose a record pursuant to the terms of a court order  
1354 signed by a judge from a court of competent jurisdiction, provided that:

1355 (a) the record deals with a matter in controversy over which the court has jurisdiction;

1356 (b) the court has considered the merits of the request for access to the record;

1357 (c) the court has considered and, where appropriate, limited the requester's use and  
1358 further disclosure of the record in order to protect:

- 1359 (i) privacy interests in the case of private or controlled records;
- 1360 (ii) business confidentiality interests in the case of records protected under Subsection
- 1361 63G-2-305(1), (2), (40)(a)(ii), or (40)(a)(vi); and
- 1362 (iii) privacy interests or the public interest in the case of other protected records;
- 1363 (d) to the extent the record is properly classified private, controlled, or protected, the
- 1364 interests favoring access, considering limitations thereon, are greater than or equal to the
- 1365 interests favoring restriction of access; and
- 1366 (e) where access is restricted by a rule, statute, or regulation referred to in Subsection
- 1367 63G-2-201(3)(b), the court has authority independent of this chapter to order disclosure.
- 1368 (8) (a) Except as provided in Subsection (8)(d), a governmental entity may disclose or
- 1369 authorize disclosure of private or controlled records for research purposes if the governmental
- 1370 entity:
- 1371 (i) determines that the research purpose cannot reasonably be accomplished without
- 1372 use or disclosure of the information to the researcher in individually identifiable form;
- 1373 (ii) determines that:
- 1374 (A) the proposed research is bona fide; and
- 1375 (B) the value of the research is greater than or equal to the infringement upon personal
- 1376 privacy;
- 1377 (iii) (A) requires the researcher to assure the integrity, confidentiality, and security of
- 1378 the records; and
- 1379 (B) requires the removal or destruction of the individual identifiers associated with the
- 1380 records as soon as the purpose of the research project has been accomplished;
- 1381 (iv) prohibits the researcher from:
- 1382 (A) disclosing the record in individually identifiable form, except as provided in
- 1383 Subsection (8)(b); or
- 1384 (B) using the record for purposes other than the research approved by the governmental
- 1385 entity; and
- 1386 (v) secures from the researcher a written statement of the researcher's understanding of
- 1387 and agreement to the conditions of this Subsection (8) and the researcher's understanding that
- 1388 violation of the terms of this Subsection (8) may subject the researcher to criminal prosecution
- 1389 under Section 63G-2-801.

1390 (b) A researcher may disclose a record in individually identifiable form if the record is  
1391 disclosed for the purpose of auditing or evaluating the research program and no subsequent use  
1392 or disclosure of the record in individually identifiable form will be made by the auditor or  
1393 evaluator except as provided by this section.

1394 (c) A governmental entity may require indemnification as a condition of permitting  
1395 research under this Subsection (8).

1396 (d) A governmental entity may not disclose or authorize disclosure of a private record  
1397 for research purposes as described in this Subsection (8) if the private record is a record  
1398 described in Subsection 63G-2-302(1)(w).

1399 (9) (a) Under Subsections 63G-2-201(5)(b) and 63G-2-401(6), a governmental entity  
1400 may disclose to persons other than those specified in this section records that are:

1401 (i) private under Section 63G-2-302; or

1402 (ii) protected under Section 63G-2-305, subject to Section 63G-2-309 if a claim for  
1403 business confidentiality has been made under Section 63G-2-309.

1404 (b) Under Subsection 63G-2-403(11)(b), the State Records Committee may require the  
1405 disclosure to persons other than those specified in this section of records that are:

1406 (i) private under Section 63G-2-302;

1407 (ii) controlled under Section 63G-2-304; or

1408 (iii) protected under Section 63G-2-305, subject to Section 63G-2-309 if a claim for  
1409 business confidentiality has been made under Section 63G-2-309.

1410 (c) Under Subsection 63G-2-404(7), the court may require the disclosure of records  
1411 that are private under Section 63G-2-302, controlled under Section 63G-2-304, or protected  
1412 under Section 63G-2-305 to persons other than those specified in this section.

1413 ~~[(10) A record contained in the Management Information System, created in Section~~  
1414 ~~62A-4a-1003, that is found to be unsubstantiated, unsupported, or without merit may not be~~  
1415 ~~disclosed to any person except the person who is alleged in the report to be a perpetrator of~~  
1416 ~~abuse, neglect, or dependency.]~~

1417 [(H)] (10) (a) A private record described in Subsection 63G-2-302(2)(f) may only be  
1418 disclosed as provided in Subsection (1)(a)(v).

1419 (b) A protected record described in Subsection 63G-2-305(43) may only be disclosed  
1420 as provided in Subsection (4)(c) or Section 62A-3-312.

1421            [~~12~~] (11) (a) A private, protected, or controlled record described in Section  
1422 62A-16-301 shall be disclosed as required under:  
1423            (i) Subsections 62A-16-301(1)(b), (2), and (4)(c); and  
1424            (ii) Subsections 62A-16-302(1) and (6).  
1425            (b) A record disclosed under Subsection (12)(a) shall retain its character as private,  
1426 protected, or controlled.

1427            Section 17. Section 63G-2-305 is amended to read:

1428            **63G-2-305. Protected records.**

1429            The following records are protected if properly classified by a governmental entity:

1430            (1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret  
1431 has provided the governmental entity with the information specified in Section 63G-2-309;

1432            (2) commercial information or nonindividual financial information obtained from a  
1433 person if:

1434            (a) disclosure of the information could reasonably be expected to result in unfair  
1435 competitive injury to the person submitting the information or would impair the ability of the  
1436 governmental entity to obtain necessary information in the future;

1437            (b) the person submitting the information has a greater interest in prohibiting access  
1438 than the public in obtaining access; and

1439            (c) the person submitting the information has provided the governmental entity with  
1440 the information specified in Section 63G-2-309;

1441            (3) commercial or financial information acquired or prepared by a governmental entity  
1442 to the extent that disclosure would lead to financial speculations in currencies, securities, or  
1443 commodities that will interfere with a planned transaction by the governmental entity or cause  
1444 substantial financial injury to the governmental entity or state economy;

1445            (4) records, the disclosure of which could cause commercial injury to, or confer a  
1446 competitive advantage upon a potential or actual competitor of, a commercial project entity as  
1447 defined in Subsection 11-13-103(4);

1448            (5) test questions and answers to be used in future license, certification, registration,  
1449 employment, or academic examinations;

1450            (6) records, the disclosure of which would impair governmental procurement  
1451 proceedings or give an unfair advantage to any person proposing to enter into a contract or

1452 agreement with a governmental entity, except, subject to Subsections (1) and (2), that this  
1453 Subsection (6) does not restrict the right of a person to have access to, after the contract or  
1454 grant has been awarded and signed by all parties:

1455 (a) a bid, proposal, application, or other information submitted to or by a governmental  
1456 entity in response to:

1457 (i) an invitation for bids;

1458 (ii) a request for proposals;

1459 (iii) a request for quotes;

1460 (iv) a grant; or

1461 (v) other similar document; or

1462 (b) an unsolicited proposal, as defined in Section [63G-6a-712](#);

1463 (7) information submitted to or by a governmental entity in response to a request for  
1464 information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict  
1465 the right of a person to have access to the information, after:

1466 (a) a contract directly relating to the subject of the request for information has been  
1467 awarded and signed by all parties; or

1468 (b) (i) a final determination is made not to enter into a contract that relates to the  
1469 subject of the request for information; and

1470 (ii) at least two years have passed after the day on which the request for information is  
1471 issued;

1472 (8) records that would identify real property or the appraisal or estimated value of real  
1473 or personal property, including intellectual property, under consideration for public acquisition  
1474 before any rights to the property are acquired unless:

1475 (a) public interest in obtaining access to the information is greater than or equal to the  
1476 governmental entity's need to acquire the property on the best terms possible;

1477 (b) the information has already been disclosed to persons not employed by or under a  
1478 duty of confidentiality to the entity;

1479 (c) in the case of records that would identify property, potential sellers of the described  
1480 property have already learned of the governmental entity's plans to acquire the property;

1481 (d) in the case of records that would identify the appraisal or estimated value of  
1482 property, the potential sellers have already learned of the governmental entity's estimated value



1483 of the property; or

1484 (e) the property under consideration for public acquisition is a single family residence  
1485 and the governmental entity seeking to acquire the property has initiated negotiations to acquire  
1486 the property as required under Section 78B-6-505;

1487 (9) records prepared in contemplation of sale, exchange, lease, rental, or other  
1488 compensated transaction of real or personal property including intellectual property, which, if  
1489 disclosed prior to completion of the transaction, would reveal the appraisal or estimated value  
1490 of the subject property, unless:

1491 (a) the public interest in access is greater than or equal to the interests in restricting  
1492 access, including the governmental entity's interest in maximizing the financial benefit of the  
1493 transaction; or

1494 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of  
1495 the value of the subject property have already been disclosed to persons not employed by or  
1496 under a duty of confidentiality to the entity;

1497 (10) records created or maintained for civil, criminal, or administrative enforcement  
1498 purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if  
1499 release of the records:

1500 (a) reasonably could be expected to interfere with investigations undertaken for  
1501 enforcement, discipline, licensing, certification, or registration purposes;

1502 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement  
1503 proceedings;

1504 (c) would create a danger of depriving a person of a right to a fair trial or impartial  
1505 hearing;

1506 (d) reasonably could be expected to disclose the identity of a source who is not  
1507 generally known outside of government and, in the case of a record compiled in the course of  
1508 an investigation, disclose information furnished by a source not generally known outside of  
1509 government if disclosure would compromise the source; or

1510 (e) reasonably could be expected to disclose investigative or audit techniques,  
1511 procedures, policies, or orders not generally known outside of government if disclosure would  
1512 interfere with enforcement or audit efforts;

1513 (11) records the disclosure of which would jeopardize the life or safety of an

1514 individual;

1515 (12) records the disclosure of which would jeopardize the security of governmental  
1516 property, governmental programs, or governmental recordkeeping systems from damage, theft,  
1517 or other appropriation or use contrary to law or public policy;

1518 (13) records that, if disclosed, would jeopardize the security or safety of a correctional  
1519 facility, or records relating to incarceration, treatment, probation, or parole, that would interfere  
1520 with the control and supervision of an offender's incarceration, treatment, probation, or parole;

1521 (14) records that, if disclosed, would reveal recommendations made to the Board of  
1522 Pardons and Parole by an employee of or contractor for the Department of Corrections, the  
1523 Board of Pardons and Parole, or the Department of Human Services that are based on the  
1524 employee's or contractor's supervision, diagnosis, or treatment of any person within the board's  
1525 jurisdiction;

1526 (15) records and audit workpapers that identify audit, collection, and operational  
1527 procedures and methods used by the State Tax Commission, if disclosure would interfere with  
1528 audits or collections;

1529 (16) records of a governmental audit agency relating to an ongoing or planned audit  
1530 until the final audit is released;

1531 (17) records that are subject to the attorney client privilege;

1532 (18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer,  
1533 employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial,  
1534 quasi-judicial, or administrative proceeding;

1535 (19) (a) (i) personal files of a state legislator, including personal correspondence to or  
1536 from a member of the Legislature; and

1537 (ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of  
1538 legislative action or policy may not be classified as protected under this section; and

1539 (b) (i) an internal communication that is part of the deliberative process in connection  
1540 with the preparation of legislation between:

1541 (A) members of a legislative body;

1542 (B) a member of a legislative body and a member of the legislative body's staff; or

1543 (C) members of a legislative body's staff; and

1544 (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of

1545 legislative action or policy may not be classified as protected under this section;

1546 (20) (a) records in the custody or control of the Office of Legislative Research and  
1547 General Counsel, that, if disclosed, would reveal a particular legislator's contemplated  
1548 legislation or contemplated course of action before the legislator has elected to support the  
1549 legislation or course of action, or made the legislation or course of action public; and

1550 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the  
1551 Office of Legislative Research and General Counsel is a public document unless a legislator  
1552 asks that the records requesting the legislation be maintained as protected records until such  
1553 time as the legislator elects to make the legislation or course of action public;

1554 (21) research requests from legislators to the Office of Legislative Research and  
1555 General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared  
1556 in response to these requests;

1557 (22) drafts, unless otherwise classified as public;

1558 (23) records concerning a governmental entity's strategy about:

1559 (a) collective bargaining; or

1560 (b) imminent or pending litigation;

1561 (24) records of investigations of loss occurrences and analyses of loss occurrences that  
1562 may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the  
1563 Uninsured Employers' Fund, or similar divisions in other governmental entities;

1564 (25) records, other than personnel evaluations, that contain a personal recommendation  
1565 concerning an individual if disclosure would constitute a clearly unwarranted invasion of  
1566 personal privacy, or disclosure is not in the public interest;

1567 (26) records that reveal the location of historic, prehistoric, paleontological, or  
1568 biological resources that if known would jeopardize the security of those resources or of  
1569 valuable historic, scientific, educational, or cultural information;

1570 (27) records of independent state agencies if the disclosure of the records would  
1571 conflict with the fiduciary obligations of the agency;

1572 (28) records of an institution within the state system of higher education defined in  
1573 Section [53B-1-102](#) regarding tenure evaluations, appointments, applications for admissions,  
1574 retention decisions, and promotions, which could be properly discussed in a meeting closed in  
1575 accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of

1576 the final decisions about tenure, appointments, retention, promotions, or those students  
1577 admitted, may not be classified as protected under this section;

1578 (29) records of the governor's office, including budget recommendations, legislative  
1579 proposals, and policy statements, that if disclosed would reveal the governor's contemplated  
1580 policies or contemplated courses of action before the governor has implemented or rejected  
1581 those policies or courses of action or made them public;

1582 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,  
1583 revenue estimates, and fiscal notes of proposed legislation before issuance of the final  
1584 recommendations in these areas;

1585 (31) records provided by the United States or by a government entity outside the state  
1586 that are given to the governmental entity with a requirement that they be managed as protected  
1587 records if the providing entity certifies that the record would not be subject to public disclosure  
1588 if retained by it;

1589 (32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a  
1590 public body except as provided in Section [52-4-206](#);

1591 (33) records that would reveal the contents of settlement negotiations but not including  
1592 final settlements or empirical data to the extent that they are not otherwise exempt from  
1593 disclosure;

1594 (34) memoranda prepared by staff and used in the decision-making process by an  
1595 administrative law judge, a member of the Board of Pardons and Parole, or a member of any  
1596 other body charged by law with performing a quasi-judicial function;

1597 (35) records that would reveal negotiations regarding assistance or incentives offered  
1598 by or requested from a governmental entity for the purpose of encouraging a person to expand  
1599 or locate a business in Utah, but only if disclosure would result in actual economic harm to the  
1600 person or place the governmental entity at a competitive disadvantage, but this section may not  
1601 be used to restrict access to a record evidencing a final contract;

1602 (36) materials to which access must be limited for purposes of securing or maintaining  
1603 the governmental entity's proprietary protection of intellectual property rights including patents,  
1604 copyrights, and trade secrets;

1605 (37) the name of a donor or a prospective donor to a governmental entity, including an  
1606 institution within the state system of higher education defined in Section [53B-1-102](#), and other

1607 information concerning the donation that could reasonably be expected to reveal the identity of  
1608 the donor, provided that:

1609 (a) the donor requests anonymity in writing;

1610 (b) any terms, conditions, restrictions, or privileges relating to the donation may not be  
1611 classified protected by the governmental entity under this Subsection (37); and

1612 (c) except for an institution within the state system of higher education defined in  
1613 Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged  
1614 in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority  
1615 over the donor, a member of the donor's immediate family, or any entity owned or controlled  
1616 by the donor or the donor's immediate family;

1617 (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and  
1618 73-18-13;

1619 (39) a notification of workers' compensation insurance coverage described in Section  
1620 34A-2-205;

1621 (40) (a) the following records of an institution within the state system of higher  
1622 education defined in Section 53B-1-102, which have been developed, discovered, disclosed to,  
1623 or received by or on behalf of faculty, staff, employees, or students of the institution:

1624 (i) unpublished lecture notes;

1625 (ii) unpublished notes, data, and information:

1626 (A) relating to research; and

1627 (B) of:

1628 (I) the institution within the state system of higher education defined in Section  
1629 53B-1-102; or

1630 (II) a sponsor of sponsored research;

1631 (iii) unpublished manuscripts;

1632 (iv) creative works in process;

1633 (v) scholarly correspondence; and

1634 (vi) confidential information contained in research proposals;

1635 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public  
1636 information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

1637 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;

1638 (41) (a) records in the custody or control of the Office of Legislative Auditor General  
1639 that would reveal the name of a particular legislator who requests a legislative audit prior to the  
1640 date that audit is completed and made public; and

1641 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the  
1642 Office of the Legislative Auditor General is a public document unless the legislator asks that  
1643 the records in the custody or control of the Office of Legislative Auditor General that would  
1644 reveal the name of a particular legislator who requests a legislative audit be maintained as  
1645 protected records until the audit is completed and made public;

1646 (42) records that provide detail as to the location of an explosive, including a map or  
1647 other document that indicates the location of:

1648 (a) a production facility; or

1649 (b) a magazine;

1650 (43) information:

1651 (a) contained in the statewide database of the Division of Aging and Adult Services  
1652 created by Section [62A-3-311.1](#); or

1653 (b) received or maintained in relation to the Identity Theft Reporting Information  
1654 System (IRIS) established under Section [67-5-22](#);

1655 (44) information contained in the [~~Management Information System and~~] Licensing  
1656 Information System described in Title 62A, Chapter 4a, Child and Family Services;

1657 (45) information regarding National Guard operations or activities in support of the  
1658 National Guard's federal mission;

1659 (46) records provided by any pawn or secondhand business to a law enforcement  
1660 agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and  
1661 Secondhand Merchandise Transaction Information Act;

1662 (47) information regarding food security, risk, and vulnerability assessments performed  
1663 by the Department of Agriculture and Food;

1664 (48) except to the extent that the record is exempt from this chapter pursuant to Section  
1665 [63G-2-106](#), records related to an emergency plan or program, a copy of which is provided to or  
1666 prepared or maintained by the Division of Emergency Management, and the disclosure of  
1667 which would jeopardize:

1668 (a) the safety of the general public; or

- 1669 (b) the security of:
- 1670 (i) governmental property;
- 1671 (ii) governmental programs; or
- 1672 (iii) the property of a private person who provides the Division of Emergency
- 1673 Management information;
- 1674 (49) records of the Department of Agriculture and Food that provides for the
- 1675 identification, tracing, or control of livestock diseases, including any program established under
- 1676 Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control
- 1677 of Animal Disease;
- 1678 (50) as provided in Section [26-39-501](#):
- 1679 (a) information or records held by the Department of Health related to a complaint
- 1680 regarding a child care program or residential child care which the department is unable to
- 1681 substantiate; and
- 1682 (b) information or records related to a complaint received by the Department of Health
- 1683 from an anonymous complainant regarding a child care program or residential child care;
- 1684 (51) unless otherwise classified as public under Section [63G-2-301](#) and except as
- 1685 provided under Section [41-1a-116](#), an individual's home address, home telephone number, or
- 1686 personal mobile phone number, if:
- 1687 (a) the individual is required to provide the information in order to comply with a law,
- 1688 ordinance, rule, or order of a government entity; and
- 1689 (b) the subject of the record has a reasonable expectation that this information will be
- 1690 kept confidential due to:
- 1691 (i) the nature of the law, ordinance, rule, or order; and
- 1692 (ii) the individual complying with the law, ordinance, rule, or order;
- 1693 (52) the portion of the following documents that contains a candidate's residential or
- 1694 mailing address, if the candidate provides to the filing officer another address or phone number
- 1695 where the candidate may be contacted:
- 1696 (a) a declaration of candidacy, a nomination petition, or a certificate of nomination,
- 1697 described in Section [20A-9-201](#), [20A-9-202](#), [20A-9-203](#), [20A-9-404](#), [20A-9-405](#), [20A-9-408](#),
- 1698 [20A-9-408.5](#), [20A-9-502](#), or [20A-9-601](#);
- 1699 (b) an affidavit of impecuniosity, described in Section [20A-9-201](#); or

1700 (c) a notice of intent to gather signatures for candidacy, described in Section  
1701 [20A-9-408](#);

1702 (53) the name, home address, work addresses, and telephone numbers of an individual  
1703 that is engaged in, or that provides goods or services for, medical or scientific research that is:  
1704 (a) conducted within the state system of higher education, as defined in Section  
1705 [53B-1-102](#); and  
1706 (b) conducted using animals;

1707 (54) in accordance with Section [78A-12-203](#), any record of the Judicial Performance  
1708 Evaluation Commission concerning an individual commissioner's vote on whether or not to  
1709 recommend that the voters retain a judge including information disclosed under Subsection  
1710 [78A-12-203\(5\)\(e\)](#);

1711 (55) information collected and a report prepared by the Judicial Performance  
1712 Evaluation Commission concerning a judge, unless Section [20A-7-702](#) or Title 78A, Chapter  
1713 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public,  
1714 the information or report;

1715 [~~(56) records contained in the Management Information System created in Section~~  
1716 ~~[62A-4a-1003](#);~~]

1717 [(57)] (56) records provided or received by the Public Lands Policy Coordinating  
1718 Office in furtherance of any contract or other agreement made in accordance with Section  
1719 [63J-4-603](#);

1720 [(58)] (57) information requested by and provided to the 911 Division under Section  
1721 [63H-7a-302](#);

1722 [(59)] (58) in accordance with Section [73-10-33](#):

1723 (a) a management plan for a water conveyance facility in the possession of the Division  
1724 of Water Resources or the Board of Water Resources; or  
1725 (b) an outline of an emergency response plan in possession of the state or a county or  
1726 municipality;

1727 [(60)] (59) the following records in the custody or control of the Office of Inspector  
1728 General of Medicaid Services, created in Section [63A-13-201](#):

1729 (a) records that would disclose information relating to allegations of personal  
1730 misconduct, gross mismanagement, or illegal activity of a person if the information or



1731 allegation cannot be corroborated by the Office of Inspector General of Medicaid Services  
1732 through other documents or evidence, and the records relating to the allegation are not relied  
1733 upon by the Office of Inspector General of Medicaid Services in preparing a final investigation  
1734 report or final audit report;

1735 (b) records and audit workpapers to the extent they would disclose the identity of a  
1736 person who, during the course of an investigation or audit, communicated the existence of any  
1737 Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or  
1738 regulation adopted under the laws of this state, a political subdivision of the state, or any  
1739 recognized entity of the United States, if the information was disclosed on the condition that  
1740 the identity of the person be protected;

1741 (c) before the time that an investigation or audit is completed and the final  
1742 investigation or final audit report is released, records or drafts circulated to a person who is not  
1743 an employee or head of a governmental entity for the person's response or information;

1744 (d) records that would disclose an outline or part of any investigation, audit survey  
1745 plan, or audit program; or

1746 (e) requests for an investigation or audit, if disclosure would risk circumvention of an  
1747 investigation or audit;

1748 ~~[(61)]~~ (60) records that reveal methods used by the Office of Inspector General of  
1749 Medicaid Services, the fraud unit, or the Department of Health, to discover Medicaid fraud,  
1750 waste, or abuse;

1751 ~~[(62)]~~ (61) information provided to the Department of Health or the Division of  
1752 Occupational and Professional Licensing under Subsections 58-67-304(3) and (4) and  
1753 Subsections 58-68-304(3) and (4);

1754 ~~[(63)]~~ (62) a record described in Section 63G-12-210;

1755 ~~[(64)]~~ (63) captured plate data that is obtained through an automatic license plate  
1756 reader system used by a governmental entity as authorized in Section 41-6a-2003;

1757 ~~[(65)]~~ (64) any record in the custody of the Utah Office for Victims of Crime relating  
1758 to a victim, including:

1759 (a) a victim's application or request for benefits;

1760 (b) a victim's receipt or denial of benefits; and

1761 (c) any administrative notes or records made or created for the purpose of, or used to,

1762 evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim  
1763 Reparations Fund;

1764 ~~[(66)]~~ (65) an audio or video recording created by a body-worn camera, as that term is  
1765 defined in Section 77-7a-103, that records sound or images inside a hospital or health care  
1766 facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care  
1767 provider, as that term is defined in Section 78B-3-403, or inside a human service program as  
1768 that term is defined in Section 62A-2-101, except for recordings that:

1769 (a) depict the commission of an alleged crime;

1770 (b) record any encounter between a law enforcement officer and a person that results in  
1771 death or bodily injury, or includes an instance when an officer fires a weapon;

1772 (c) record any encounter that is the subject of a complaint or a legal proceeding against  
1773 a law enforcement officer or law enforcement agency;

1774 (d) contain an officer involved critical incident as defined in Subsection  
1775 76-2-408(1)(f); or

1776 (e) have been requested for reclassification as a public record by a subject or  
1777 authorized agent of a subject featured in the recording;

1778 ~~[(67)]~~ (66) a record pertaining to the search process for a president of an institution of  
1779 higher education described in Section 53B-2-102, except for application materials for a  
1780 publicly announced finalist;

1781 ~~[(68)]~~ (67) an audio recording that is:

1782 (a) produced by an audio recording device that is used in conjunction with a device or  
1783 piece of equipment designed or intended for resuscitating an individual or for treating an  
1784 individual with a life-threatening condition;

1785 (b) produced during an emergency event when an individual employed to provide law  
1786 enforcement, fire protection, paramedic, emergency medical, or other first responder service:

1787 (i) is responding to an individual needing resuscitation or with a life-threatening  
1788 condition; and

1789 (ii) uses a device or piece of equipment designed or intended for resuscitating an  
1790 individual or for treating an individual with a life-threatening condition; and

1791 (c) intended and used for purposes of training emergency responders how to improve  
1792 their response to an emergency situation;

1793            [~~(69)~~] (68) records submitted by or prepared in relation to an applicant seeking a  
1794 recommendation by the Research and General Counsel Subcommittee, the Budget  
1795 Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an  
1796 employment position with the Legislature;

1797            [~~(70)~~] (69) work papers as defined in Section 31A-2-204;

1798            [~~(71)~~] (70) a record made available to Adult Protective Services or a law enforcement  
1799 agency under Section 61-1-206;

1800            [~~(72)~~] (71) a record submitted to the Insurance Department in accordance with Section  
1801 31A-37-201 or 31A-22-653;

1802            [~~(73)~~] (72) a record described in Section 31A-37-503[.];

1803            [~~(74)~~] (73) any record created by the Division of Occupational and Professional  
1804 Licensing as a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii);

1805            [~~(75)~~] (74) a record described in Section 72-16-306 that relates to the reporting of an  
1806 injury involving an amusement ride;

1807            [~~(76)~~] (75) except as provided in Subsection 63G-2-305.5(1), the signature of an  
1808 individual on a political petition, or on a request to withdraw a signature from a political  
1809 petition, including a petition or request described in the following titles:

1810            (a) Title 10, Utah Municipal Code;

1811            (b) Title 17, Counties;

1812            (c) Title 17B, Limited Purpose Local Government Entities - Local Districts;

1813            (d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and

1814            (e) Title 20A, Election Code;

1815            [~~(77)~~] (76) except as provided in Subsection 63G-2-305.5(2), the signature of an  
1816 individual in a voter registration record;

1817            [~~(78)~~] (77) except as provided in Subsection 63G-2-305.5(3), any signature, other than  
1818 a signature described in Subsection [~~(76)~~] (75) or [~~(77)~~] (76), in the custody of the lieutenant  
1819 governor or a local political subdivision collected or held under, or in relation to, Title 20A,  
1820 Election Code;

1821            [~~(79)~~] (78) a Form I-918 Supplement B certification as described in Title 77, Chapter  
1822 38, Part 5, Victims Guidelines for Prosecutors Act;

1823            [~~(80)~~] (79) a record submitted to the Insurance Department under Subsection

1824 [~~31A-47-103~~] 31A-48-103(1)(b); and  
1825 [~~(81)~~] (80) personal information, as defined in Section 63G-26-102, to the extent  
1826 disclosure is prohibited under Section 63G-26-103.

1827 Section 18. Section **63G-2-305.5** is amended to read:

1828 **63G-2-305.5. Viewing or obtaining lists of signatures.**

1829 (1) The records custodian of a signature described in Subsection 63G-2-305~~[(76)]~~(75)  
1830 shall, upon request, except for a name or signature classified as private under Title 20A,  
1831 Chapter 2, Voter Registration:

1832 (a) provide a list of the names of the individuals who signed the petition or request; and

1833 (b) permit an individual to view, but not take a copy or other image of, the signatures  
1834 on a political petition described in Subsection 63G-2-305~~[(76)]~~(75).

1835 (2) The records custodian of a signature described in Subsection 63G-2-305~~[(77)]~~(76)  
1836 shall, upon request, except for a name or signature classified as private under Title 20A,  
1837 Chapter 2, Voter Registration:

1838 (a) provide a list of the names of registered voters, excluding the names that are  
1839 classified as private under Title 20A, Chapter 2, Voter Registration; and

1840 (b) except for a signature classified as private under Title 20A, Chapter 2, Voter  
1841 Registration, permit an individual to view, but not take a copy or other image of, the signature  
1842 on a voter registration record.

1843 (3) Except for a signature classified as private under Title 20A, Chapter 2, Voter  
1844 Registration, the records custodian of a signature described in Subsection 63G-2-305~~[(78)]~~(77)  
1845 shall, upon request, permit an individual to view, but not take a copy or other image of, a  
1846 signature.

1847 Section 19. Section **78A-6-105** is amended to read:

1848 **78A-6-105. Definitions.**

1849 As used in this chapter:

1850 (1) (a) "Abuse" means:

1851 (i) (A) nonaccidental harm of a child;

1852 (B) threatened harm of a child;

1853 (C) sexual exploitation;

1854 (D) sexual abuse; or

- 1855 (E) human trafficking of a child in violation of Section [76-5-308.5](#); or
- 1856 (ii) that a child's natural parent:
- 1857 (A) intentionally, knowingly, or recklessly causes the death of another parent of the
- 1858 child;
- 1859 (B) is identified by a law enforcement agency as the primary suspect in an investigation
- 1860 for intentionally, knowingly, or recklessly causing the death of another parent of the child; or
- 1861 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or
- 1862 recklessly causing the death of another parent of the child.
- 1863 (b) "Abuse" does not include:
- 1864 (i) reasonable discipline or management of a child, including withholding privileges;
- 1865 (ii) conduct described in Section [76-2-401](#); or
- 1866 (iii) the use of reasonable and necessary physical restraint or force on a child:
- 1867 (A) in self-defense;
- 1868 (B) in defense of others;
- 1869 (C) to protect the child; or
- 1870 (D) to remove a weapon in the possession of a child for any of the reasons described in
- 1871 Subsections (1)(b)(iii)(A) through (C).
- 1872 (2) "Abused child" means a child who has been subjected to abuse.
- 1873 (3) (a) "Adjudication" means a finding by the court, incorporated in a decree, that the
- 1874 facts alleged in the petition have been proved.
- 1875 (b) "Adjudication" does not mean a finding of not competent to proceed in accordance
- 1876 with Section [78A-6-1302](#).
- 1877 (4) (a) "Adult" means an individual who is 18 years old or older.
- 1878 (b) "Adult" does not include an individual:
- 1879 (i) who is 18 years old or older; and
- 1880 (ii) whose case is under the continuing jurisdiction of the juvenile court in accordance
- 1881 with Section [78A-6-120](#).
- 1882 (5) "Board" means the Board of Juvenile Court Judges.
- 1883 (6) "Child" means an individual who is under 18 years old.
- 1884 (7) "Child placement agency" means:
- 1885 (a) a private agency licensed to receive a child for placement or adoption under this

1886 code; or

1887 (b) a private agency that receives a child for placement or adoption in another state,  
1888 which agency is licensed or approved where such license or approval is required by law.

1889 (8) "Clandestine laboratory operation" means the same as that term is defined in  
1890 Section [58-37d-3](#).

1891 (9) "Commit" means, unless specified otherwise:

1892 (a) with respect to a child, to transfer legal custody; and

1893 (b) with respect to a minor who is at least 18 years old, to transfer custody.

1894 (10) "Court" means the juvenile court.

1895 (11) "Criminogenic risk factors" means evidence-based factors that are associated with  
1896 a minor's likelihood of reoffending.

1897 (12) "Delinquent act" means an act that would constitute a felony or misdemeanor if  
1898 committed by an adult.

1899 (13) "Department" means the Department of Human Services created in Section  
1900 [62A-1-102](#).

1901 (14) "Dependent child" includes a child who is [~~homeless or~~] without proper care  
1902 through no fault of the child's parent, guardian, or custodian.

1903 (15) "Deprivation of custody" means transfer of legal custody by the court from a  
1904 parent or the parents or a previous legal custodian to another person, agency, or institution.

1905 (16) "Detention" means home detention and secure detention as defined in Section  
1906 [62A-7-101](#) for the temporary care of a minor who requires secure custody in a physically  
1907 restricting facility:

1908 (a) pending court disposition or transfer to another jurisdiction; or

1909 (b) while the minor's case is under the continuing jurisdiction of the court.

1910 (17) "Detention risk assessment tool" means an evidence-based tool established under  
1911 Section [78A-6-124](#), on and after July 1, 2018, that assesses a minor's risk of failing to appear in  
1912 court or reoffending pre-adjudication and designed to assist in making detention  
1913 determinations.

1914 (18) "Developmental immaturity" means incomplete development in one or more  
1915 domains which manifests as a functional limitation in the minor's present ability to consult with  
1916 counsel with a reasonable degree of rational understanding and have a rational as well as

1917 factual understanding of the proceedings.

1918 (19) "Division" means the Division of Child and Family Services.

1919 (20) "Educational neglect" means that, after receiving a notice of compulsory education  
1920 violation under Section 53G-6-202, the parent or guardian fails to make a good faith effort to  
1921 ensure that the child receives an appropriate education.

1922 (21) "Educational series" means an evidence-based instructional series:

1923 (a) obtained at a substance abuse program that is approved by the Division of  
1924 Substance Abuse and Mental Health in accordance with Section 62A-15-105; and

1925 (b) designed to prevent substance use or the onset of a mental health disorder.

1926 (22) "Evidence-based" means a program or practice that has had multiple randomized  
1927 control studies or a meta-analysis demonstrating that the program or practice is effective for a  
1928 specific population or has been rated as effective by a standardized program evaluation tool.

1929 (23) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.

1930 (24) "Formal probation" means a minor is under field supervision by the probation  
1931 department or other agency designated by the court and subject to return to the court in  
1932 accordance with Section 78A-6-123 on and after July 1, 2018.

1933 (25) "Formal referral" means a written report from a peace officer or other person  
1934 informing the court that a minor is, or appears to be, within the court's jurisdiction and that the  
1935 minor's case must be reviewed by the court's probation department or a prosecuting attorney.

1936 (26) "Group rehabilitation therapy" means psychological and social counseling of one  
1937 or more individuals in the group, depending upon the recommendation of the therapist.

1938 (27) "Guardianship of the person" includes the authority to consent to:

1939 (a) marriage;

1940 (b) enlistment in the armed forces;

1941 (c) major medical, surgical, or psychiatric treatment; or

1942 (d) legal custody, if legal custody is not vested in another individual, agency, or  
1943 institution.

1944 (28) "Habitual truant" means the same as that term is defined in Section 53G-6-201.

1945 (29) "Harm" means:

1946 (a) physical or developmental injury or damage;

1947 (b) emotional damage that results in a serious impairment in the child's growth,

1948 development, behavior, or psychological functioning;

1949 (c) sexual abuse; or

1950 (d) sexual exploitation.

1951 (30) (a) "Incest" means engaging in sexual intercourse with an individual whom the  
1952 perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt,  
1953 nephew, niece, or first cousin.

1954 (b) The relationships described in Subsection (30)(a) include:

1955 (i) blood relationships of the whole or half blood, without regard to legitimacy;

1956 (ii) relationships of parent and child by adoption; and

1957 (iii) relationships of stepparent and stepchild while the marriage creating the  
1958 relationship of a stepparent and stepchild exists.

1959 (31) "Intake probation" means a period of court monitoring that does not include field  
1960 supervision, but is overseen by a juvenile probation officer, during which a minor is subject to  
1961 return to the court in accordance with Section [78A-6-123](#) on and after July 1, 2018.

1962 (32) "Intellectual disability" means a significant subaverage general intellectual  
1963 functioning existing concurrently with deficits in adaptive behavior that constitutes a  
1964 substantial limitation to the individual's ability to function in society.

1965 (33) "Legal custody" means a relationship embodying the following rights and duties:

1966 (a) the right to physical custody of the minor;

1967 (b) the right and duty to protect, train, and discipline the minor;

1968 (c) the duty to provide the minor with food, clothing, shelter, education, and ordinary  
1969 medical care;

1970 (d) the right to determine where and with whom the minor shall live; and

1971 (e) the right, in an emergency, to authorize surgery or other extraordinary care.

1972 (34) "Material loss" means an uninsured:

1973 (a) property loss;

1974 (b) out-of-pocket monetary loss for property that is stolen, damaged, or destroyed;

1975 (c) lost wages because of an injury, time spent as a witness, or time spent assisting the  
1976 police or prosecution; or

1977 (d) medical expense.

1978 (35) "Mental illness" means:



1979 (a) a psychiatric disorder that substantially impairs an individual's mental, emotional,  
1980 behavioral, or related functioning; or

1981 (b) the same as that term is defined in:

1982 (i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders  
1983 published by the American Psychiatric Association; or

1984 (ii) the current edition of the International Statistical Classification of Diseases and  
1985 Related Health Problems.

1986 (36) "Minor" means:

1987 (a) for the purpose of juvenile delinquency:

1988 (i) a child; or

1989 (ii) an individual:

1990 (A) who is at least 18 years old and younger than 25 years old; and

1991 (B) whose case is under the jurisdiction of the juvenile court; and

1992 (b) for all other purposes in this chapter:

1993 (i) a child; or

1994 (ii) an individual:

1995 (A) who is at least 18 years old and younger than 21 years old; and

1996 (B) whose case is under the jurisdiction of the juvenile court.

1997 (37) "Mobile crisis outreach team" means a crisis intervention service for a minor or  
1998 the family of a minor experiencing a behavioral health or psychiatric emergency.

1999 (38) "Molestation" means that an individual, with the intent to arouse or gratify the  
2000 sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child,  
2001 or the breast of a female child, or takes indecent liberties with a child as defined in Section  
2002 [76-5-416](#).

2003 (39) (a) "Natural parent" means a minor's biological or adoptive parent.

2004 (b) "Natural parent" includes the minor's noncustodial parent.

2005 (40) (a) "Neglect" means action or inaction causing:

2006 (i) abandonment of a child, except as provided in Title 62A, Chapter 4a, Part 8, Safe  
2007 Relinquishment of a Newborn Child;

2008 (ii) lack of proper parental care of a child by reason of the fault or habits of the parent,  
2009 guardian, or custodian;

2010 (iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary  
2011 subsistence or medical care, or any other care necessary for the child's health, safety, morals, or  
2012 well-being;

2013 (iv) a child to be at risk of being neglected or abused because another child in the same  
2014 home is neglected or abused;

2015 (v) abandonment of a child through an unregulated custody transfer; or

2016 (vi) educational neglect.

2017 (b) "Neglect" does not include:

2018 (i) a parent or guardian legitimately practicing religious beliefs and who, for that  
2019 reason, does not provide specified medical treatment for a child;

2020 (ii) a health care decision made for a child by the child's parent or guardian, unless the  
2021 state or other party to a proceeding shows, by clear and convincing evidence, that the health  
2022 care decision is not reasonable and informed;

2023 (iii) a parent or guardian exercising the right described in Section [78A-6-301.5](#); or

2024 (iv) permitting a child, whose basic needs are met and who is of sufficient age and  
2025 maturity to avoid harm or unreasonable risk of harm, to engage in independent activities,  
2026 including:

2027 (A) traveling to and from school, including by walking, running, or bicycling;

2028 (B) traveling to and from nearby commercial or recreational facilities;

2029 (C) engaging in outdoor play;

2030 (D) remaining in a vehicle unattended, except under the conditions described in

2031 Subsection [76-10-2202\(2\)](#);

2032 (E) remaining at home unattended; or

2033 (F) engaging in a similar independent activity.

2034 (41) "Neglected child" means a child who has been subjected to neglect.

2035 (42) "Nonjudicial adjustment" means closure of the case by the assigned probation  
2036 officer without judicial determination upon the consent in writing of:

2037 (a) the assigned probation officer; and

2038 (b) (i) the minor; or

2039 (ii) the minor and the minor's parent, legal guardian, or custodian.

2040 (43) "Not competent to proceed" means that a minor, due to a mental illness,

2041 intellectual disability or related condition, or developmental immaturity, lacks the ability to:

2042 (a) understand the nature of the proceedings against the minor or of the potential  
2043 disposition for the offense charged; or

2044 (b) consult with counsel and participate in the proceedings against the minor with a  
2045 reasonable degree of rational understanding.

2046 (44) "Physical abuse" means abuse that results in physical injury or damage to a child.

2047 (45) "Probation" means a legal status created by court order following an adjudication  
2048 on the ground of a violation of law or under Section 78A-6-103, whereby the minor is  
2049 permitted to remain in the minor's home under prescribed conditions.

2050 (46) "Prosecuting attorney" means:

2051 (a) the attorney general and any assistant attorney general;

2052 (b) any district attorney or deputy district attorney;

2053 (c) any county attorney or assistant county attorney; and

2054 (d) any other attorney authorized to commence an action on behalf of the state.

2055 (47) "Protective supervision" means a legal status created by court order following an  
2056 adjudication on the ground of abuse, neglect, or dependency, whereby the minor is permitted to  
2057 remain in the minor's home, and supervision and assistance to correct the abuse, neglect, or  
2058 dependency is provided by the probation department or other agency designated by the court.

2059 (48) (a) "Related condition" means a condition that:

2060 (i) is found to be closely related to intellectual disability;

2061 (ii) results in impairment of general intellectual functioning or adaptive behavior  
2062 similar to that of an intellectually disabled individual;

2063 (iii) is likely to continue indefinitely; and

2064 (iv) constitutes a substantial limitation to the individual's ability to function in society.

2065 (b) "Related condition" does not include mental illness, psychiatric impairment, or  
2066 serious emotional or behavioral disturbance.

2067 (49) (a) "Residual parental rights and duties" means those rights and duties remaining  
2068 with the parent after legal custody or guardianship, or both, have been vested in another person  
2069 or agency, including:

2070 (i) the responsibility for support;

2071 (ii) the right to consent to adoption;

- 2072 (iii) the right to determine the child's religious affiliation; and  
2073 (iv) the right to reasonable parent-time unless restricted by the court.  
2074 (b) If no guardian has been appointed, "residual parental rights and duties" includes the  
2075 right to consent to:  
2076 (i) marriage;  
2077 (ii) enlistment; and  
2078 (iii) major medical, surgical, or psychiatric treatment.  
2079 (50) "Secure facility" means any facility operated by or under contract with the  
2080 Division of Juvenile Justice Services, that provides 24-hour supervision and confinement for  
2081 youth offenders committed to the division for custody and rehabilitation in accordance with  
2082 Subsection 78A-6-117(2)(d).  
2083 (51) "Severe abuse" means abuse that causes or threatens to cause serious harm to a  
2084 child.  
2085 (52) "Severe neglect" means neglect that causes or threatens to cause serious harm to a  
2086 child.  
2087 (53) "Sexual abuse" means:  
2088 (a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an  
2089 adult directed towards a child;  
2090 (b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation  
2091 committed by a child towards another child if:  
2092 (i) there is an indication of force or coercion;  
2093 (ii) the children are related, as described in Subsection (30), including siblings by  
2094 marriage while the marriage exists or by adoption;  
2095 (iii) there have been repeated incidents of sexual contact between the two children,  
2096 unless the children are 14 years old or older; or  
2097 (iv) there is a disparity in chronological age of four or more years between the two  
2098 children;  
2099 (c) engaging in any conduct with a child that would constitute an offense under any of  
2100 the following, regardless of whether the individual who engages in the conduct is actually  
2101 charged with, or convicted of, the offense:  
2102 (i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the

2103 alleged perpetrator of an offense described in Section 76-5-401 is a minor;

2104 (ii) child bigamy, Section 76-7-101.5;

2105 (iii) incest, Section 76-7-102;

2106 (iv) lewdness, Section 76-9-702;

2107 (v) sexual battery, Section 76-9-702.1;

2108 (vi) lewdness involving a child, Section 76-9-702.5; or

2109 (vii) voyeurism, Section 76-9-702.7; or

2110 (d) subjecting a child to participate in or threatening to subject a child to participate in  
2111 a sexual relationship, regardless of whether that sexual relationship is part of a legal or cultural  
2112 marriage.

2113 (54) "Sexual exploitation" means knowingly:

2114 (a) employing, using, persuading, inducing, enticing, or coercing any child to:

2115 (i) pose in the nude for the purpose of sexual arousal of any individual; or

2116 (ii) engage in any sexual or simulated sexual conduct for the purpose of photographing,  
2117 filming, recording, or displaying in any way the sexual or simulated sexual conduct;

2118 (b) displaying, distributing, possessing for the purpose of distribution, or selling  
2119 material depicting a child:

2120 (i) in the nude, for the purpose of sexual arousal of any individual; or

2121 (ii) engaging in sexual or simulated sexual conduct; or

2122 (c) engaging in any conduct that would constitute an offense under Section 76-5b-201,  
2123 sexual exploitation of a minor, regardless of whether the individual who engages in the conduct  
2124 is actually charged with, or convicted of, the offense.

2125 (55) "Shelter" means the temporary care of a child in a physically unrestricted facility  
2126 pending court disposition or transfer to another jurisdiction.

2127 (56) "Single criminal episode" means the same as that term is defined in Section  
2128 76-1-401.

2129 (57) "Status offense" means a violation of the law that would not be a violation but for  
2130 the age of the offender.

2131 (58) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or  
2132 substances.

2133 (59) "Substantiated" means the same as that term is defined in Section 62A-4a-101.

2134 (60) "Supported" means the same as that term is defined in Section [62A-4a-101](#).

2135 (61) "Termination of parental rights" means the permanent elimination of all parental  
2136 rights and duties, including residual parental rights and duties, by court order.

2137 (62) "Therapist" means:

2138 (a) an individual employed by a state division or agency for the purpose of conducting  
2139 psychological treatment and counseling of a minor in its custody; or

2140 (b) any other individual licensed or approved by the state for the purpose of conducting  
2141 psychological treatment and counseling.

2142 (63) "Threatened harm" means actions, inactions, or credible verbal threats, indicating  
2143 that the child is at an unreasonable risk of harm or neglect.

2144 (64) "Unregulated custody transfer" means the placement of a child:

2145 (a) with an individual who is not the child's parent, step-parent, grandparent, adult  
2146 sibling, adult uncle or aunt, or legal guardian, or a friend of the family who is an adult and with  
2147 whom the child is familiar, or a member of the child's federally recognized tribe;

2148 (b) with the intent of severing the child's existing parent-child or guardian-child  
2149 relationship; and

2150 (c) without taking:

2151 (i) reasonable steps to ensure the safety of the child and permanency of the placement;

2152 and

2153 (ii) the necessary steps to transfer the legal rights and responsibilities of parenthood or  
2154 guardianship to the individual taking custody of the child.

2155 (65) "Unsupported" means the same as that term is defined in Section [62A-4a-101](#).

2156 (66) "Unsubstantiated" means the same as that term is defined in Section [62A-4a-101](#).

2157 (67) "Validated risk and needs assessment" means an evidence-based tool that assesses  
2158 a minor's risk of reoffending and a minor's criminogenic needs.

2159 (68) (a) "Victim" means a person that the court determines has suffered a material loss  
2160 as a result of a minor's wrongful act or conduct.

2161 (b) "Victim" includes the Utah Office for Victims of Crime.

2162 (69) "Without merit" means the same as that term is defined in Section [62A-4a-101](#).

2163 Section 20. Section **78A-6-109** is amended to read:

2164 **78A-6-109. Summons -- Service and process -- Issuance and contents -- Notice to**

2165 **absent parent or guardian -- Emergency medical or surgical treatment -- Compulsory**  
2166 **process for attendance of witnesses when authorized.**

2167 (1) After a petition is filed the court shall promptly issue a summons, unless the judge  
2168 directs that a further investigation is needed. No summons is required as to any person who  
2169 appears voluntarily or who files a written waiver of service with the clerk of the court at or  
2170 before the hearing.

2171 (2) The summons shall contain:

2172 (a) the name of the court;

2173 (b) the title of the proceedings; and

2174 (c) except for a published summons, a brief statement of the substance of the  
2175 allegations in the petition.

2176 (3) A published summons shall state:

2177 (a) that a proceeding concerning the minor is pending in the court; and

2178 (b) an adjudication will be made.

2179 (4) The summons shall require the person or persons who have physical custody of the  
2180 minor to appear personally and bring the minor before the court at a time and place stated. If  
2181 the person or persons summoned are not the parent, parents, or guardian of the minor, the  
2182 summons shall also be issued to the parent, parents, or guardian, as the case may be, notifying  
2183 them of the pendency of the case and of the time and place set for the hearing.

2184 (5) Summons may be issued requiring the appearance of any other person whose  
2185 presence the court finds necessary.

2186 (6) If it appears to the court that the welfare of the minor or of the public requires that  
2187 the minor be taken into custody, and it does not conflict with Section 78A-6-106.5, the court  
2188 may by endorsement upon the summons direct that the person serving the summons take the  
2189 minor into custody at once.

2190 (7) Subject to Subsection 78A-6-117(2), upon the sworn testimony of one or more  
2191 reputable physicians, the court may order emergency medical or surgical treatment that is  
2192 immediately necessary for a minor concerning whom a petition has been filed pending the  
2193 service of summons upon the minor's parents, guardian, or custodian.

2194 (8) A parent or guardian is entitled to the issuance of compulsory process for the  
2195 attendance of witnesses on the parent's or guardian's own behalf or on behalf of the minor. A

2196 guardian ad litem or a probation officer is entitled to compulsory process for the attendance of  
2197 witnesses on behalf of the minor.

2198 (9) Service of summons and process and proof of service shall be made in the manner  
2199 provided in the Utah Rules of Civil Procedure.

2200 (10) (a) Service of summons or process shall be made by the sheriff of the county  
2201 where the service is to be made, or by the sheriff's deputy.

2202 (b) Notwithstanding Subsection (10)(a), upon request of the court, service shall be  
2203 made by any other peace officer, or by another suitable person selected by the court.

2204 (11) Service of summons in the state shall be made personally, by delivering a copy to  
2205 the person summoned; provided, however, that parents of a minor living together at their usual  
2206 place of abode may both be served by personal delivery to either parent of copies of the  
2207 summons, one copy for each parent.

2208 (12) If the judge makes a written finding that the judge has reason to believe that  
2209 personal service of the summons will be unsuccessful, or will not accomplish notification  
2210 within a reasonable time after issuance of the summons, the judge may order service by  
2211 registered mail, with a return receipt to be signed by the addressee only, to be addressed to the  
2212 last-known address of the person to be served in the state. Service shall be complete upon  
2213 return to the court of the signed receipt.

2214 (13) If the parents, parent, or guardian required to be summoned under Subsection (4)  
2215 cannot be found within the state, the fact of their minor's presence within the state shall confer  
2216 jurisdiction on the court in proceedings in a minor's case under this chapter as to any absent  
2217 parent or guardian, provided that due notice has been given in the following manner:

2218 (a) If the address of the parent or guardian is known, due notice is given by sending the  
2219 parent or guardian a copy of the summons by registered mail with a return receipt to be signed  
2220 by the addressee only, or by personal service outside the state, as provided in the Utah Rules of  
2221 Civil Procedure. Service by registered mail shall be complete upon return to the court of the  
2222 signed receipt.

2223 (b) (i) If the address or whereabouts of the parent or guardian outside the state cannot  
2224 after diligent inquiry be ascertained, due notice is given by publishing a summons:

2225 (A) in a newspaper having general circulation in the county in which the proceeding is  
2226 pending once a week for four successive weeks; ~~and~~ or



2227 (B) in accordance with Section 45-1-101 for four weeks.

2228 (ii) Service shall be complete on the day of the last publication.

2229 (c) Service of summons as provided in this subsection shall vest the court with  
2230 jurisdiction over the parent or guardian served in the same manner and to the same extent as if  
2231 the person served was served personally within the state.

2232 (14) In the case of service in the state, service completed not less than 48 hours before  
2233 the time set in the summons for the appearance of the person served, shall be sufficient to  
2234 confer jurisdiction. In the case of service outside the state, service completed not less than five  
2235 days before the time set in the summons for appearance of the person served, shall be sufficient  
2236 to confer jurisdiction.

2237 (15) Computation of periods of time under this chapter shall be made in accordance  
2238 with the Utah Rules of Civil Procedure.

2239 Section 21. Section 78A-6-306 is amended to read:

2240 **78A-6-306. Shelter hearing.**

2241 (1) A shelter hearing shall be held within 72 hours excluding weekends and holidays  
2242 after any one or all of the following occur:

2243 (a) removal of the child from the child's home by the division;

2244 (b) placement of the child in the protective custody of the division;

2245 (c) emergency placement under Subsection 62A-4a-202.1(4);

2246 (d) as an alternative to removal of the child, a parent enters a domestic violence shelter  
2247 at the request of the division; or

2248 (e) a "Motion for Expedited Placement in Temporary Custody" is filed under  
2249 Subsection 78A-6-106(4).

2250 (2) If one of the circumstances described in Subsections (1)(a) through (e) occurs, the  
2251 division shall issue a notice that contains all of the following:

2252 (a) the name and address of the person to whom the notice is directed;

2253 (b) the date, time, and place of the shelter hearing;

2254 (c) the name of the child on whose behalf a petition is being brought;

2255 (d) a concise statement regarding:

2256 (i) the reasons for removal or other action of the division under Subsection (1); and

2257 (ii) the allegations and code sections under which the proceeding has been instituted;

2258 (e) a statement that the parent or guardian to whom notice is given, and the child, are  
2259 entitled to have an attorney present at the shelter hearing, and that if the parent or guardian is  
2260 indigent and cannot afford an attorney, and desires to be represented by an attorney, one will be  
2261 provided in accordance with Title 78B, Chapter 22, Indigent Defense Act; and

2262 (f) a statement that the parent or guardian is liable for the cost of support of the child in  
2263 the protective custody, temporary custody, and custody of the division, and the cost for legal  
2264 counsel appointed for the parent or guardian under Subsection (2)(e), according to the financial  
2265 ability of the parent or guardian.

2266 (3) The notice described in Subsection (2) shall be personally served as soon as  
2267 possible, but no later than one business day after removal of the child from the child's home, or  
2268 the filing of a "Motion for Expedited Placement in Temporary Custody" under Subsection  
2269 [78A-6-106\(4\)](#), on:

2270 (a) the appropriate guardian ad litem; and

2271 (b) both parents and any guardian of the child, unless the parents or guardians cannot  
2272 be located.

2273 (4) The following persons shall be present at the shelter hearing:

2274 (a) the child, unless it would be detrimental for the child;

2275 (b) the child's parents or guardian, unless the parents or guardian cannot be located, or  
2276 fail to appear in response to the notice;

2277 (c) counsel for the parents, if one is requested;

2278 (d) the child's guardian ad litem;

2279 (e) the caseworker from the division who is assigned to the case; and

2280 (f) the attorney from the attorney general's office who is representing the division.

2281 (5) (a) At the shelter hearing, the court shall:

2282 (i) provide an opportunity to provide relevant testimony to:

2283 (A) the child's parent or guardian, if present; and

2284 (B) any other person having relevant knowledge;

2285 (ii) subject to Section [78A-6-305](#), provide an opportunity for the child to testify; and

2286 (iii) in accordance with Subsections [78A-6-307\(18\)\(c\)](#) through (e), grant preferential  
2287 consideration to a relative or friend for the temporary placement of the child.

2288 (b) The court:

2289 (i) may consider all relevant evidence, in accordance with the Utah Rules of Juvenile  
2290 Procedure;

2291 (ii) shall hear relevant evidence presented by the child, the child's parent or guardian,  
2292 the requesting party, or their counsel; and

2293 (iii) may in its discretion limit testimony and evidence to only that which goes to the  
2294 issues of removal and the child's need for continued protection.

2295 (6) If the child is in the protective custody of the division, the division shall report to  
2296 the court:

2297 (a) the reason why the child was removed from the parent's or guardian's custody;

2298 (b) any services provided to the child and the child's family in an effort to prevent  
2299 removal;

2300 (c) the need, if any, for continued shelter;

2301 (d) the available services that could facilitate the return of the child to the custody of  
2302 the child's parent or guardian; and

2303 (e) subject to Subsections 78A-6-307(18)(c) through (e), whether any relatives of the  
2304 child or friends of the child's parents may be able and willing to accept temporary placement of  
2305 the child.

2306 (7) The court shall consider all relevant evidence provided by persons or entities  
2307 authorized to present relevant evidence pursuant to this section.

2308 (8) (a) If necessary to protect the child, preserve the rights of a party, or for other good  
2309 cause shown, the court may grant no more than one continuance, not to exceed five judicial  
2310 days.

2311 (b) A court shall honor, as nearly as practicable, the request by a parent or guardian for  
2312 a continuance under Subsection (8)(a).

2313 (c) Notwithstanding Subsection (8)(a), if the division fails to provide the notice  
2314 described in Subsection (2) within the time described in Subsection (3), the court may grant the  
2315 request of a parent or guardian for a continuance, not to exceed five judicial days.

2316 (9) (a) If the child is in the protective custody of the division, the court shall order that  
2317 the child be returned to the custody of the parent or guardian unless it finds, by a  
2318 preponderance of the evidence, consistent with the protections and requirements provided in  
2319 Subsection 62A-4a-201(1), that any one of the following exists:

- 2320 (i) subject to Subsection (9)(b)(i), there is a serious danger to the physical health or  
2321 safety of the child and the child's physical health or safety may not be protected without  
2322 removing the child from the custody of the child's parent;
- 2323 (ii) (A) the child is suffering emotional damage that results in a serious impairment in  
2324 the child's growth, development, behavior, or psychological functioning;
- 2325 (B) the parent or guardian is unwilling or unable to make reasonable changes that  
2326 would sufficiently prevent future damage; and
- 2327 (C) there are no reasonable means available by which the child's emotional health may  
2328 be protected without removing the child from the custody of the child's parent or guardian;
- 2329 (iii) there is a substantial risk that the child will suffer abuse or neglect if the child is  
2330 not removed from the custody of the child's parent or guardian;
- 2331 (iv) subject to Subsection (9)(b)(ii), the child or a minor residing in the same  
2332 household has been, or is considered to be at substantial risk of being, physically abused,  
2333 sexually abused, or sexually exploited by a:
- 2334 (A) parent or guardian;
- 2335 (B) member of the parent's household or the guardian's household; or
- 2336 (C) person known to the parent or guardian;
- 2337 (v) the parent or guardian is unwilling to have physical custody of the child;
- 2338 (vi) the parent or guardian is unable to have physical custody of the child;
- 2339 [~~(vi)~~] (vii) the child is without any provision for the child's support;
- 2340 [~~(vii)~~] (viii) a parent who is incarcerated or institutionalized has not or cannot arrange  
2341 for safe and appropriate care for the child;
- 2342 [~~(viii)~~] (ix) (A) a relative or other adult custodian with whom the child is left by the  
2343 parent or guardian is unwilling or unable to provide care or support for the child;
- 2344 (B) the whereabouts of the parent or guardian are unknown; and
- 2345 (C) reasonable efforts to locate the parent or guardian are unsuccessful;
- 2346 [~~(ix)~~] (x) subject to Subsections 78A-6-105(40)(b) and 78A-6-117(2) and Section  
2347 78A-6-301.5, the child is in immediate need of medical care;
- 2348 [~~(x)~~] (xi) (A) the physical environment or the fact that the child is left unattended  
2349 beyond a reasonable period of time poses a threat to the child's health or safety; and
- 2350 (B) the parent or guardian is unwilling or unable to make reasonable changes that

2351 would remove the threat;

2352           ~~[(xi)]~~ (xii) (A) the child or a minor residing in the same household has been neglected;

2353 and

2354           (B) the parent or guardian is unwilling or unable to make reasonable changes that

2355 would prevent the neglect;

2356           ~~[(xii)]~~ (xiii) the parent, guardian, or an adult residing in the same household as the

2357 parent or guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug

2358 Lab Act, and any clandestine laboratory operation was located in the residence or on the

2359 property where the child resided;

2360           ~~[(xiii)]~~ (xiv) (A) the child's welfare is substantially endangered; and

2361           (B) the parent or guardian is unwilling or unable to make reasonable changes that

2362 would remove the danger; or

2363           ~~[(xiv)]~~ (xv) the child's natural parent:

2364           (A) intentionally, knowingly, or recklessly causes the death of another parent of the

2365 child;

2366           (B) is identified by a law enforcement agency as the primary suspect in an investigation

2367 for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

2368           (C) is being prosecuted for or has been convicted of intentionally, knowingly, or

2369 recklessly causing the death of another parent of the child.

2370           (b) (i) Prima facie evidence of the finding described in Subsection (9)(a)(i) is

2371 established if:

2372           (A) a court previously adjudicated that the child suffered abuse, neglect, or dependency

2373 involving the parent; and

2374           (B) a subsequent incident of abuse, neglect, or dependency involving the parent occurs.

2375           (ii) For purposes of Subsection (9)(a)(iv), if the court finds that the parent knowingly

2376 allowed the child to be in the physical care of a person after the parent received actual notice

2377 that the person physically abused, sexually abused, or sexually exploited the child, that fact

2378 constitutes prima facie evidence that there is a substantial risk that the child will be physically

2379 abused, sexually abused, or sexually exploited.

2380           (10) (a) (i) The court shall also make a determination on the record as to whether

2381 reasonable efforts were made to prevent or eliminate the need for removal of the child from the

2382 child's home and whether there are available services that would prevent the need for continued  
2383 removal.

2384 (ii) If the court finds that the child can be safely returned to the custody of the child's  
2385 parent or guardian through the provision of those services, the court shall place the child with  
2386 the child's parent or guardian and order that those services be provided by the division.

2387 (b) In making the determination described in Subsection (10)(a), and in ordering and  
2388 providing services, the child's health, safety, and welfare shall be the paramount concern, in  
2389 accordance with federal law.

2390 (11) Where the division's first contact with the family occurred during an emergency  
2391 situation in which the child could not safely remain at home, the court shall make a finding that  
2392 any lack of preplacement preventive efforts was appropriate.

2393 (12) In cases where actual sexual abuse, sexual exploitation, abandonment, severe  
2394 abuse, or severe neglect are involved, neither the division nor the court has any duty to make  
2395 "reasonable efforts" or to, in any other way, attempt to maintain a child in the child's home,  
2396 return a child to the child's home, provide reunification services, or attempt to rehabilitate the  
2397 offending parent or parents.

2398 (13) The court may not order continued removal of a child solely on the basis of  
2399 educational neglect as defined in Section [78A-6-105](#), truancy, or failure to comply with a court  
2400 order to attend school.

2401 (14) (a) Whenever a court orders continued removal of a child under this section, the  
2402 court shall state the facts on which that decision is based.

2403 (b) If no continued removal is ordered and the child is returned home, the court shall  
2404 state the facts on which that decision is based.

2405 (15) If the court finds that continued removal and temporary custody are necessary for  
2406 the protection of a child pursuant to Subsection (9)(a), the court shall order continued removal  
2407 regardless of:

2408 (a) any error in the initial removal of the child;

2409 (b) the failure of a party to comply with notice provisions; or

2410 (c) any other procedural requirement of this chapter or Title 62A, Chapter 4a, Child  
2411 and Family Services.

2412 Section 22. Section [78A-6-317](#) is amended to read:

2413           **78A-6-317. All proceedings -- Persons entitled to be present -- Legal**  
2414 **representation -- Records sharing -- Admissibility of evidence.**

2415           (1) A child who is the subject of a juvenile court hearing, any person entitled to notice  
2416 pursuant to Section 78A-6-306 or 78A-6-310, preadoptive parents, foster parents, and any  
2417 relative providing care for the child, are:

2418           (a) entitled to notice of, and to be present at, each hearing and proceeding held under  
2419 this part, including administrative reviews; and

2420           (b) have a right to be heard at each hearing and proceeding described in Subsection  
2421 (1)(a).

2422           (2) A child shall be represented at each hearing by the guardian ad litem appointed to  
2423 the child's case by the court. The child has a right to be present at each hearing, subject to the  
2424 discretion of the guardian ad litem or the court regarding any possible detriment to the child.

2425           (3) (a) The parent or guardian of a child who is the subject of a petition under this part  
2426 has the right to be represented by counsel, and to present evidence, at each hearing.

2427           (b) A court may appoint an indigent defense service provider as provided in Title 78B,  
2428 Chapter 22, Indigent Defense Act.

2429           (4) In every abuse, neglect, or dependency proceeding under this chapter, the court  
2430 shall order that the child be represented by a guardian ad litem, in accordance with Section  
2431 78A-6-902. The guardian ad litem shall represent the best interest of the child, in accordance  
2432 with the requirements of that section, at the shelter hearing and at all subsequent court and  
2433 administrative proceedings, including any proceeding for termination of parental rights in  
2434 accordance with Part 5, Termination of Parental Rights Act.

2435           (5) (a) Except as provided in Subsection (5)(b), and notwithstanding any other  
2436 provision of law:

2437           (i) counsel for all parties to the action shall be given access to all records, maintained  
2438 by the division or any other state or local public agency, that are relevant to the abuse, neglect,  
2439 or dependency proceeding under this chapter; and

2440           (ii) if the natural parent of a child is not represented by counsel, the natural parent shall  
2441 have access to the records described in Subsection (5)(a)(i).

2442           (b) The disclosures described in Subsection (5)(a) are not required in the following  
2443 circumstances:

2444 (i) subject to Subsection (5)(c), the division or other state or local public agency did not  
2445 originally create the record being requested;

2446 (ii) disclosure of the record would jeopardize the life or physical safety of a child who  
2447 has been a victim of abuse or neglect, or any person who provided substitute care for the child;

2448 (iii) disclosure of the record would jeopardize the anonymity of the person or persons  
2449 making the initial report of abuse or neglect or any others involved in the subsequent  
2450 investigation;

2451 (iv) disclosure of the record would jeopardize the life or physical safety of an  
2452 individual who has been a victim of domestic violence; or

2453 [~~(v) the record is a report maintained in the Management Information System, for~~  
2454 ~~which a finding of unsubstantiated, unsupported, or without merit has been made, unless the~~  
2455 ~~person requesting the information is the alleged perpetrator in the report or counsel for the~~  
2456 ~~alleged perpetrator in the report; or]~~

2457 [(~~vi~~)] (v) the record is a Children's Justice Center interview, including a video or audio  
2458 recording, and a transcript of the recording, the release of which is governed by Section  
2459 [77-37-4](#).

2460 (c) If a disclosure is denied under Subsection (5)(b)(i), the division shall inform the  
2461 person making the request of the following:

2462 (i) the existence of all records in the possession of the division or any other state or  
2463 local public agency;

2464 (ii) the name and address of the person or agency that originally created the record; and

2465 (iii) that the requesting person must seek access to the record from the person or  
2466 agency that originally created the record.

2467 Section 23. Section **78A-6-1503** is amended to read:

2468 **78A-6-1503. Requirements to apply to expunge an adjudication.**

2469 (1) (a) [~~An~~] Except as provided in Subsection (4), an individual who has been  
2470 adjudicated by a juvenile court may petition the court for an order to expunge the individual's  
2471 juvenile court record and any related records in the custody of an agency if:

2472 (i) the individual has reached 18 years old; and

2473 (ii) at least one year has passed from the date of:

2474 (A) termination of the continuing jurisdiction of the juvenile court; or



2475 (B) the individual's unconditional release from the custody of the Division of Juvenile  
2476 Justice Services if the individual was committed to a secure youth corrections facility.

2477 (b) The court may waive the requirements in Subsection (1)(a) if the court finds, and  
2478 states on the record, the reason why the waiver is appropriate.

2479 (c) The petitioner shall include in the petition described in Subsection (1)(a):

2480 (i) any agency known or alleged to have any records related to the offense for which  
2481 expungement is being sought; and

2482 (ii) the original criminal history report obtained from the Bureau of Criminal  
2483 Identification in accordance with Section [53-10-108](#).

2484 (d) The petitioner shall send a copy of the petition described in Subsection (1)(a) to the  
2485 county attorney or, if within a prosecution district, the district attorney.

2486 (e) (i) Upon the filing of a petition described in Subsection (1)(a), the court shall:

2487 (A) set a date for a hearing;

2488 (B) notify the county attorney or district attorney and the agency with custody of the  
2489 records at least 30 days before the day on which the hearing of the pendency of the petition is  
2490 scheduled; and

2491 (C) notify the county attorney or district attorney and the agency with records that the  
2492 petitioner is asking the court to expunge of the date of the hearing.

2493 (ii) (A) The court shall provide a victim with the opportunity to request notice of a  
2494 petition described in Subsection (1)(a).

2495 (B) Upon the victim's request under Subsection (1)(e)(ii)(A), the victim shall receive  
2496 notice of the petition at least 30 days before the day on which the hearing is scheduled if,  
2497 before the day on which an expungement order is made, the victim or, in the case of a child or  
2498 an individual who is incapacitated or deceased, the victim's next of kin or authorized  
2499 representative submits a written and signed request for notice to the court in the judicial district  
2500 in which the offense occurred or judgment is entered.

2501 (C) The notice described in Subsection (1)(e)(ii)(B) shall include a copy of the petition  
2502 described in Subsection (1)(a) and any statutes and rules applicable to the petition.

2503 (2) (a) At the hearing described in Subsection (1)(e)(i), the county attorney or district  
2504 attorney, a victim, and any other individual who may have relevant information about the  
2505 petitioner may testify.

2506 (b) In deciding whether to grant a petition described in Subsection (1)(a) for  
2507 expungement, the court shall consider whether the rehabilitation of the petitioner has been  
2508 attained to the satisfaction of the court, including the petitioner's response to programs and  
2509 treatment, the petitioner's behavior subsequent to the adjudication, and the nature and  
2510 seriousness of the conduct.

2511 (c) ~~[The]~~ (i) Except as provided in Subsection (2)(c)(ii), a court may order sealed all of  
2512 the petitioner's records under the control of the juvenile court and an agency or an official[-  
2513 including any record contained in the Management Information System created in Section  
2514 62A-4a-1003 and the Licensing Information System created in Section 62A-4a-1005;] if the  
2515 court finds that:

2516 ~~[(i)]~~ (A) the petitioner has not, in the five years preceding the day on which the petition  
2517 described in Subsection (1)(a) is filed, been convicted of a violent felony, as defined in Section  
2518 76-3-203.5;

2519 ~~[(ii)]~~ (B) there are no delinquency or criminal proceedings pending against the  
2520 petitioner; and

2521 ~~[(iii)]~~ (C) a judgment for restitution entered by the court on the conviction for which  
2522 the expungement is sought has been satisfied.

2523 (ii) A court may not order the Division of Child and Family Services to seal a  
2524 petitioner's record that is contained in the Management Information System created in Section  
2525 62A-4a-1003 or the Licensing Information System created in Section 62A-4a-1005 unless:

2526 (A) the record is unsupported; or

2527 (B) after notice and an opportunity to be heard, the Division of Child and Family  
2528 Services stipulates in writing to sealing the record.

2529 (3) (a) The petitioner is responsible for service of the expungement order issued under  
2530 Subsection (2) to any affected agency or official.

2531 (b) To avoid destruction or sealing of the records in whole or in part, the agency or the  
2532 official receiving the expungement order described in Subsection (3)(a) shall only expunge all  
2533 references to the petitioner's name in the records pertaining to the petitioner's juvenile court  
2534 record.

2535 (4) (a) The court may not expunge a record if the record contains an adjudication of:

2536 ~~[(a)]~~ (i) Section 76-5-202, aggravated murder; or

2537 [(b)] (ii) Section 76-5-203, murder.

2538 (b) This section does not apply to an adjudication under Part 3, Abuse, Neglect, or  
2539 Dependency Proceedings, Part 5, Termination of Parental Rights Act, or Part 14, Restoration of  
2540 Parental Rights Act.

2541 Section 24. **Coordinating S.B. 99 with H.B. 285 -- Technical and substantive**  
2542 **amendments.**

2543 If this S.B. 99 and H.B. 285, Juvenile Recodification, both pass and become law, the  
2544 Legislature intends that, on September 1, 2021, the Office of Legislative Research and General  
2545 Counsel shall prepare the Utah Code database for publication by amending Subsection  
2546 80-3-107(2)(b) to read:

2547 "(b) The disclosures described in Subsection (2)(a) are not required if:

2548 (i) subject to Subsection (2)(c), the division or other state or local public agency did not  
2549 originally create the record being requested;

2550 (ii) disclosure of the record would jeopardize the life or physical safety of a child who  
2551 has been a victim of abuse or neglect, or any individual who provided substitute care for the  
2552 child;

2553 (iii) disclosure of the record would jeopardize the anonymity of the individual making  
2554 the initial report of abuse or neglect or any others involved in the subsequent investigation;

2555 (iv) disclosure of the record would jeopardize the life or physical safety of an  
2556 individual who has been a victim of domestic violence; or

2557 (v) the record is a Children's Justice Center interview, including a video or audio  
2558 recording, and a transcript of the recording, the release of which is governed by Section  
2559 77-37-4."