HB0248S01 compared with HB0248

~~{deleted text}~~ shows text that was in HB0248 but was deleted in HB0248S01.

inserted text shows text that was not in HB0248 but was inserted into HB0248S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative V. Lowry Snow proposes the following substitute bill:

JUVENILE AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: V. Lowry Snow

Senate Sponsor: _____

LONG TITLE

General Description:

This bill recodifies, reorganizes, renumbers, amends, repeals, and enacts statutes related to juveniles.

Highlighted Provisions:

This bill:

- creates, repeals, and amends definitions;
- renumbers and amends Title 62A, Chapter 4a, Child and Family Services;
- renumbers and amends Title 55, Chapter 12, Interstate Compact for Juveniles;
- enacts Title 80, Chapter 2, Child Welfare Services;
- enacts Title 80, Chapter 2a, Removal and Protective Custody of a Child;
- repeals the Serious Habitual Offender Comprehensive Action Program (SHOCAP) Act;

- amends provisions allowing a child protection team member to enter a public or private premise to investigate child abuse or neglect;
- allows the ~~{Office}~~Division of ~~{Guardian Ad Litem}~~Child and Family Services to ~~{access}~~use certain information in the Management Information System to screen an individual who has or is seeking a position with the Office of Guardian Ad Litem;
- amends the purposes for which the Division of Child and Family Services may have access to criminal background information maintained by the Bureau of Criminal Identification;
- clarifies provisions regarding adoption assistance under an interstate compact;
- requires the Administrative Office of the Courts and the Division of Child and Family Services to provide certain reports to the Child Welfare Legislative Oversight Panel;
- clarifies provisions describing certification to the federal government regarding preadoption requirements of the Division of Child and Family Services;
- amends provisions requiring the Division of Child and Family Services to create an administrative rule regarding adoptive placement of a child with a legally married couple;
- clarifies child abuse or neglect reporting requirements;
- clarifies that the Division of Child and Family Services is required to forward a written report of child abuse or neglect to the state child abuse and neglect registry;
- clarifies a law enforcement agency's duties upon a report of child abuse or neglect and the law enforcement agency's authority to access certain child abuse or neglect records;
- clarifies provisions requiring the Division of Child and Family Services to investigate a report of child abuse or neglect before and after removal of the child from the child's home;
- amends provisions that allow a peace officer to place a removed child in a shelter facility;
- clarifies child welfare interview requirements;
- amends the requirement that the Division of Child and Family Services research

successful adoptive families for purposes of providing information to a potential adoptive parent;

- clarifies provisions regarding the sharing of certain records between the Division of Child and Family Services and an Indian tribe;
- amends provisions regarding removal of a child from the child's home and warrants issued by the juvenile court for removal of the child or a runaway youth;
- clarifies the process that a physician or health care facility is required to follow upon removing a child from the custody of a parent for the child's safety; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

62A-2-101, as last amended by Laws of Utah 2021, Chapters 117 and 400

63G-2-302, as last amended by Laws of Utah 2021, Chapters 100, 143, and 367

63I-2-262, as last amended by Laws of Utah 2021, Chapters 156, 204, and 278

78A-2-801, as enacted by Laws of Utah 2021, Chapter 261

78A-2-802, as renumbered and amended by Laws of Utah 2021, Chapter 261

78A-2-803, as renumbered and amended by Laws of Utah 2021, Chapter 261

78A-6-351, as last amended by Laws of Utah 2021, Chapter 231 and renumbered and amended by Laws of Utah 2021, Chapter 261

78A-6-356, as renumbered and amended by Laws of Utah 2021, Chapter 261

78A-6-357, as enacted by Laws of Utah 2021, Chapter 261

80-1-102, as last amended by Laws of Utah 2021, First Special Session, Chapter 2

80-3-102, as renumbered and amended by Laws of Utah 2021, Chapter 261 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 261

80-3-104, as last amended by Laws of Utah 2021, Chapter 231 and renumbered and

amended by Laws of Utah 2021, Chapter 261

80-3-109, as renumbered and amended by Laws of Utah 2021, Chapter 261

80-3-201, as renumbered and amended by Laws of Utah 2021, Chapter 261

80-3-301, as last amended by Laws of Utah 2021, Chapter 231 and renumbered and amended by Laws of Utah 2021, Chapter 261

80-3-302, as renumbered and amended by Laws of Utah 2021, Chapter 261

80-3-305, as renumbered and amended by Laws of Utah 2021, Chapter 261

80-3-404, as renumbered and amended by Laws of Utah 2021, Chapter 261

80-3-406, as last amended by Laws of Utah 2021, Chapter 38 and renumbered and amended by Laws of Utah 2021, Chapter 261

80-4-105, as renumbered and amended by Laws of Utah 2021, Chapter 261

80-4-106, as enacted by Laws of Utah 2021, Chapter 261

80-4-107, as enacted by Laws of Utah 2021, Chapter 261

80-4-305, as renumbered and amended by Laws of Utah 2021, Chapter 261

80-5-601, as renumbered and amended by Laws of Utah 2021, Chapter 261

80-6-707, as renumbered and amended by Laws of Utah 2021, Chapter 261

80-6-710, as enacted by Laws of Utah 2021, Chapter 261

80-6-1002, as renumbered and amended by Laws of Utah 2021, Chapter 261

80-6-1004, as last amended by Laws of Utah 2021, Chapter 231 and renumbered and amended by Laws of Utah 2021, Chapter 261

ENACTS:

26-18-701, Utah Code Annotated 1953

26-18-702, Utah Code Annotated 1953

36-33-101, Utah Code Annotated 1953

36-33-102, Utah Code Annotated 1953

62A-4a-101.5, Utah Code Annotated 1953

62A-4a-1003.5, Utah Code Annotated 1953

80-2-503, Utah Code Annotated 1953

80-2-608, Utah Code Annotated 1953

80-2-802, Utah Code Annotated 1953

80-2-803, Utah Code Annotated 1953

80-2-901, Utah Code Annotated 1953

80-2-1006, Utah Code Annotated 1953

80-2a-101, Utah Code Annotated 1953

80-3-504, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

26-18-703, (Renumbered from 62A-4a-709, as last amended by Laws of Utah 2016, Chapter 296)

36-33-103, (Renumbered from 62A-4a-207, as last amended by Laws of Utah 2021, Chapter 262)

62A-2-108.6, (Renumbered from 62A-4a-602, as last amended by Laws of Utah 2020, Chapter 250)

62A-2-115.1, (Renumbered from 62A-4a-603, as last amended by Laws of Utah 2020, Chapter 250)

62A-2-115.2, (Renumbered from 62A-4a-605, as last amended by Laws of Utah 2017, Chapter 148)

62A-2-126, (Renumbered from 62A-4a-607, as last amended by Laws of Utah 2021, Chapter 262)

62A-2-127, (Renumbered from 62A-4a-606, as last amended by Laws of Utah 2018, Chapter 415)

76-7-205, (Renumbered from 62A-4a-711, as last amended by Laws of Utah 2021, Chapter 262)

80-2-102, (Renumbered from 62A-4a-101, as last amended by Laws of Utah 2021, Chapters 29, 231, 261 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 261)

80-2-201, (Renumbered from 62A-4a-103, as last amended by Laws of Utah 2021, Chapter 262)

80-2-202, (Renumbered from 62A-4a-104, as last amended by Laws of Utah 2009, Chapter 75)

80-2-301, (Renumbered from 62A-4a-105, as last amended by Laws of Utah 2021, Chapters 38 and 262)

80-2-302, (Renumbered from 62A-4a-102, as last amended by Laws of Utah 2021,

Chapter 262)

80-2-303, (Renumbered from 62A-4a-113, as last amended by Laws of Utah 2021, Chapter 262)

80-2-304, (Renumbered from 62A-4a-115, as last amended by Laws of Utah 2009, Chapter 75)

80-2-305, (Renumbered from 62A-4a-111, as renumbered and amended by Laws of Utah 1994, Chapter 260)

80-2-306, (Renumbered from 62A-4a-202, as last amended by Laws of Utah 2020, Chapter 250)

80-2-307, (Renumbered from 62A-4a-121, as enacted by Laws of Utah 2008, Chapter 314)

80-2-308, (Renumbered from 62A-4a-212, as enacted by Laws of Utah 2014, Chapter 67)

80-2-401, (Renumbered from 62A-4a-105.5, as last amended by Laws of Utah 2019, Chapter 335)

80-2-402, (Renumbered from 62A-4a-107, as last amended by Laws of Utah 2021, Chapter 231)

80-2-403, (Renumbered from 62A-4a-203.1, as enacted by Laws of Utah 2016, Chapter 231)

80-2-404, (Renumbered from 62A-4a-110, as last amended by Laws of Utah 2019, Chapter 335)

80-2-405, (Renumbered from 62A-4a-107.5, as last amended by Laws of Utah 2008, Chapter 299)

80-2-501, (Renumbered from 62A-4a-309, as last amended by Laws of Utah 2010, Chapter 278)

80-2-502, (Renumbered from 62A-4a-608, as enacted by Laws of Utah 2011, Chapter 438)

80-2-503.5, (Renumbered from 62A-4a-213, as last amended by Laws of Utah 2021, Chapter 263)

80-2-601, (Renumbered from 62A-4a-401, as last amended by Laws of Utah 2016, Chapter 168)

80-2-602, (Renumbered from 62A-4a-403, as last amended by Laws of Utah 2021, Chapter 419)

80-2-603, (Renumbered from 62A-4a-404, as last amended by Laws of Utah 2021, Chapters 231 and 337)

80-2-604, (Renumbered from 62A-4a-405, as last amended by Laws of Utah 2013, Chapter 237)

80-2-605, (Renumbered from 62A-4a-407, as last amended by Laws of Utah 2006, Chapter 75)

80-2-606, (Renumbered from 62A-4a-408, as last amended by Laws of Utah 2006, Chapter 207)

80-2-607, (Renumbered from 62A-4a-406, as last amended by Laws of Utah 2019, Chapter 349)

80-2-609, (Renumbered from 62A-4a-411, as last amended by Laws of Utah 2021, Chapter 419)

80-2-610, (Renumbered from 62A-4a-410, as last amended by Laws of Utah 2021, Chapter 419)

80-2-611, (Renumbered from 62A-4a-1007, as last amended by Laws of Utah 2008, Chapter 299)

80-2-701, (Renumbered from 62A-4a-409, as last amended by Laws of Utah 2021, Chapters 29, 262, and 365)

80-2-702, (Renumbered from 62A-4a-202.3, as last amended by Laws of Utah 2021, Chapters 29 and 262)

80-2-703, (Renumbered from 62A-4a-202.6, as last amended by Laws of Utah 2020, Chapter 250)

80-2-704, (Renumbered from 62A-4a-414, as last amended by Laws of Utah 2010, Chapter 239)

80-2-705, (Renumbered from 62A-4a-415, as enacted by Laws of Utah 2010, Chapter 322)

80-2-706, (Renumbered from 62A-4a-202.8, as last amended by Laws of Utah 2021, Chapters 29 and 262)

80-2-707, (Renumbered from 62A-4a-1009, as last amended by Laws of Utah 2021,

Chapter 262)

80-2-708, (Renumbered from 62A-4a-1005, as last amended by Laws of Utah 2021, Chapter 262)

80-2-709, (Renumbered from 62A-4a-202.4, as last amended by Laws of Utah 2021, Chapter 262)

80-2-801, (Renumbered from 62A-4a-902, as last amended by Laws of Utah 2019, Chapter 393)

80-2-804, (Renumbered from 62A-4a-205.6, as last amended by Laws of Utah 2021, Chapter 262)

80-2-805, (Renumbered from 62A-4a-106, as last amended by Laws of Utah 2018, Chapter 53)

80-2-806, (Renumbered from 62A-4a-903, as last amended by Laws of Utah 2016, Chapter 219)

80-2-807, (Renumbered from 62A-4a-905, as last amended by Laws of Utah 2019, Chapter 335)

80-2-808, (Renumbered from 62A-4a-906, as last amended by Laws of Utah 2008, Chapter 382)

80-2-809, (Renumbered from 62A-4a-907, as renumbered and amended by Laws of Utah 2001, Chapter 115)

80-2-902, (Renumbered from 62A-4a-703, as renumbered and amended by Laws of Utah 1994, Chapter 260)

80-2-903, (Renumbered from 62A-4a-704, as renumbered and amended by Laws of Utah 1994, Chapter 260)

80-2-904, (Renumbered from 62A-4a-707, as renumbered and amended by Laws of Utah 1994, Chapter 260)

80-2-905, (Renumbered from 62A-4a-701, as renumbered and amended by Laws of Utah 1994, Chapter 260)

80-2-906, (Renumbered from 62A-4a-702, as last amended by Laws of Utah 2008, Chapter 3)

80-2-907, (Renumbered from 62A-4a-705, as renumbered and amended by Laws of Utah 1994, Chapter 260)

80-2-908, (Renumbered from 62A-4a-706, as renumbered and amended by Laws of Utah 1994, Chapter 260)

80-2-909, (Renumbered from 62A-4a-708, as last amended by Laws of Utah 2008, Chapter 3)

80-2-910, (Renumbered from 62A-4a-710, as enacted by Laws of Utah 2007, Chapter 152)

80-2-1001, (Renumbered from 62A-4a-1003, as last amended by Laws of Utah 2021, Chapter 231)

80-2-1002, (Renumbered from 62A-4a-1006, as last amended by Laws of Utah 2021, Chapter 262)

80-2-1003, (Renumbered from 62A-4a-1008, as last amended by Laws of Utah 2018, Chapter 38)

80-2-1004, (Renumbered from 62A-4a-1010, as last amended by Laws of Utah 2021, Chapter 262)

80-2-1005, (Renumbered from 62A-4a-412, as last amended by Laws of Utah 2021, Chapters 29, 231, 262, and 419)

80-2-1007, (Renumbered from 62A-4a-112, as last amended by Laws of Utah 2019, Chapter 335)

80-2-1101, (Renumbered from 62A-4a-311, as last amended by Laws of Utah 2016, Chapter 231)

80-2-1102, (Renumbered from 62A-4a-117, as last amended by Laws of Utah 2019, Chapter 335)

80-2-1103, (Renumbered from 62A-4a-118, as last amended by Laws of Utah 2021, Chapter 262)

80-2-1104, (Renumbered from 62A-4a-208, as last amended by Laws of Utah 2017, Chapters 181, 330, and 401)

80-2a-201, (Renumbered from 62A-4a-201, as last amended by Laws of Utah 2021, Chapter 262)

80-2a-202, (Renumbered from 62A-4a-202.1, as repealed and reenacted by Laws of Utah 2021, Chapter 261)

80-2a-203, (Renumbered from 62A-4a-202.2, as last amended by Laws of Utah 2021,

Chapter 261)

80-2a-301, (Renumbered from 62A-4a-209, as last amended by Laws of Utah 2021, Chapter 262)

80-2a-302, (Renumbered from 62A-4a-203, as last amended by Laws of Utah 2021, Chapter 262)

80-2a-303, (Renumbered from 62A-4a-206.5, as last amended by Laws of Utah 2021, Chapter 262)

80-2a-304, (Renumbered from 62A-4a-206, as last amended by Laws of Utah 2021, Chapter 262)

80-3-307, (Renumbered from 62A-4a-205, as last amended by Laws of Utah 2021, Chapter 262)

80-4-501, (Renumbered from 62A-4a-801, as last amended by Laws of Utah 2020, Chapter 170)

80-4-502, (Renumbered from 62A-4a-802, as last amended by Laws of Utah 2021, Chapter 262)

80-6-1101, (Renumbered from 55-12-100, as enacted by Laws of Utah 2005, Chapter 155)

80-6-1102, (Renumbered from 55-12-101, as enacted by Laws of Utah 2005, Chapter 155)

80-6-1103, (Renumbered from 55-12-102, as enacted by Laws of Utah 2005, Chapter 155)

80-6-1104, (Renumbered from 55-12-103, as enacted by Laws of Utah 2005, Chapter 155)

80-6-1105, (Renumbered from 55-12-104, as enacted by Laws of Utah 2005, Chapter 155)

80-6-1106, (Renumbered from 55-12-105, as enacted by Laws of Utah 2005, Chapter 155)

80-6-1107, (Renumbered from 55-12-106, as enacted by Laws of Utah 2005, Chapter 155)

80-6-1108, (Renumbered from 55-12-107, as enacted by Laws of Utah 2005, Chapter 155)

80-6-1109, (Renumbered from 55-12-108, as enacted by Laws of Utah 2005, Chapter 155)

80-6-1110, (Renumbered from 55-12-109, as enacted by Laws of Utah 2005, Chapter 155)

80-6-1111, (Renumbered from 55-12-110, as enacted by Laws of Utah 2005, Chapter 155)

80-6-1112, (Renumbered from 55-12-111, as enacted by Laws of Utah 2005, Chapter 155)

80-6-1113, (Renumbered from 55-12-112, as enacted by Laws of Utah 2005, Chapter 155)

80-6-1114, (Renumbered from 55-12-113, as enacted by Laws of Utah 2005, Chapter 155)

80-6-1115, (Renumbered from 55-12-114, as renumbered and amended by Laws of Utah 2005, Chapter 155)

80-6-1116, (Renumbered from 55-12-115, as renumbered and amended by Laws of Utah 2005, Chapter 155)

80-6-1117, (Renumbered from 55-12-116, as last amended by Laws of Utah 2018, Chapter 281)

80-6-1118, (Renumbered from 55-12-117, as renumbered and amended by Laws of Utah 2005, Chapter 155)

80-6-1119, (Renumbered from 55-12-118, as renumbered and amended by Laws of Utah 2005, Chapter 155)

REPEALS:

62A-4a-109, as last amended by Laws of Utah 2009, Chapter 75

62A-4a-114, as last amended by Laws of Utah 2021, Chapter 262

62A-4a-119, as last amended by Laws of Utah 2009, Chapter 75

62A-4a-120, as last amended by Laws of Utah 2008, Chapter 382

62A-4a-205.5, as last amended by Laws of Utah 2021, Chapter 262

62A-4a-206.1, as last amended by Laws of Utah 2007, Chapter 169

62A-4a-301, as last amended by Laws of Utah 2008, Chapter 299

62A-4a-302, as last amended by Laws of Utah 2016, Chapter 231

62A-4a-303, as last amended by Laws of Utah 2009, Chapter 75

62A-4a-304, as last amended by Laws of Utah 2008, Chapters 299 and 382

62A-4a-305, as last amended by Laws of Utah 2009, Chapter 75

62A-4a-306, as last amended by Laws of Utah 2009, Chapter 75

62A-4a-307, as renumbered and amended by Laws of Utah 1994, Chapter 260

62A-4a-308, as renumbered and amended by Laws of Utah 1994, Chapter 260

62A-4a-310, as last amended by Laws of Utah 2010, Chapter 278

62A-4a-402, as last amended by Laws of Utah 2021, Chapter 231

62A-4a-601, as last amended by Laws of Utah 2017, Chapters 148 and 401

62A-4a-609, as enacted by Laws of Utah 2017, Chapter 401

62A-4a-901, as enacted by Laws of Utah 2001, Chapter 115

62A-4a-904, as enacted by Laws of Utah 2001, Chapter 115

62A-4a-1001, as enacted by Laws of Utah 2006, Chapter 77

62A-4a-1002, as last amended by Laws of Utah 2018, Chapter 415

62A-4a-1004, as enacted by Laws of Utah 2006, Chapter 77

63M-10-201, as last amended by Laws of Utah 2016, Chapter 144

80-1-101, as enacted by Laws of Utah 2021, Chapter 261

80-2-101, as enacted by Laws of Utah 2021, Chapter 261

80-3-101, as enacted by Laws of Utah 2021, Chapter 261

80-4-101, as renumbered and amended by Laws of Utah 2021, Chapter 261

80-5-101, as enacted by Laws of Utah 2021, Chapter 261

80-6-101, as enacted by Laws of Utah 2021, Chapter 261

80-7-101, as enacted by Laws of Utah 2021, Chapter 261

Utah Code Sections Affected by Coordination Clause:

62A-2-108.6, Utah Code Annotated 1953

62A-2-126, Utah Code Annotated 1953

76-7-205, Utah Code Annotated 1953

80-2-701, Utah Code Annotated 1953

80-2-702, Utah Code Annotated 1953

80-2-704, Utah Code Annotated 1953

80-2a-101, Utah Code Annotated 1953

80-2a-301, Utah Code Annotated 1953

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

Section 1. Section **26-18-701** is enacted to read:

Part 7. Medical Assistance Under Adoption Assistance Interstate Compact

26-18-701. Definitions.

As used in this part:

(1) "Adoption assistance" means the same as that term is defined in Section 80-2-809.

(2) "Adoption assistance agreement" means the same as that term is defined in Section 80-2-809.

(3) "Adoption assistance interstate compact" means an agreement executed by the Division of Child and Family Services with any other state in accordance with Section 80-2-809.

Section 2. Section **26-18-702** is enacted to read:

26-18-702. Division and Department of Workforce {Development Division}Services compliance with adoption assistance interstate compact.

The division and the {Workforce Development Division within the }Department of Workforce Services shall:

(1) cooperate with the Division of Child and Family Services in regards to an adoption assistance interstate compact; and

(2) comply with an adoption assistance interstate compact.

Section 3. Section **26-18-703**, which is renumbered from Section 62A-4a-709 is renumbered and amended to read:

[62A-4a-709]. 26-18-703. Medical assistance from division or Workforce Development Division under adoption assistance interstate compact -- Penalty for fraudulent claim.

[(1) As used in this section:]

[(a) "Adoption assistance" means financial support to adoptive parents provided under the Adoption Assistance and Child Welfare Act of 1980, Titles IV (e) and XIX of the Social Security Act.]

[(b) "Adoption assistance agreement" means a written agreement between the division

~~and adoptive parents or between any state and adoptive parents, providing for adoption assistance.~~]

[~~(c) "Interstate compact" means an agreement executed by the division with any other state, under the authority granted in Section 62A-4a-907.~~]

[~~(2) The Workforce Development Division in the Department of Workforce Services and the Division of Health Care Financing shall cooperate with the division and comply with interstate compacts.~~]

[~~(3)~~] (1) (a) A child who is a resident of this state and is the subject of an adoption assistance interstate compact is entitled to receive medical assistance [~~identification{]} from the{ division and the} Workforce Development Division {[}in~~] ~~{within}~~from the division and the Department of Workforce Services [~~and the Division of Health Care Financing~~] by filing a certified copy of [~~his~~] the child's adoption assistance agreement with [~~that office~~] the division or the Department of Workforce ~~{Development Division}~~Services.

(b) The adoptive [~~parents~~] parent of the child described in Subsection (1)(a) shall annually provide [~~that office~~] the division ~~{with which}~~or the ~~{certified copy of the child's adoption assistance agreement is filed}~~Department of Workforce Services with evidence[~~,~~] verifying that the adoption assistance agreement is still effective.

[~~(4)~~] (2) The [~~Workforce Development Division {[}in{] within} the~~] Department of Workforce Services shall consider the [~~holder~~] recipient of medical assistance [~~identification received~~] under this section as [~~it~~] the Department of Workforce ~~{Development Division}~~Services does any other [~~holder~~] recipient of medical assistance [~~identification received~~] under an adoption assistance agreement executed by the [~~division~~] Division of Child and Family Services.

[~~(5) The submission of any claim for payment or reimbursement under this section that is known to be false, misleading, or fraudulent is punishable as a third degree felony.~~]

(3) (a) A person may not submit a claim for payment or reimbursement under this section that the person knows is false, misleading, or fraudulent.

(b) A violation of Subsection (3)(a) is a third degree felony.

Section 4. Section **36-33-101** is enacted to read:

CHAPTER 33. CHILD WELFARE LEGISLATIVE OVERSIGHT PANEL

36-33-101. Definitions.

As used in this chapter:

(1) "Department" means the Department of Human Services created in Section 62A-1-102.

(2) "Division" means the Division of Child and Family Services created in Section 80-2-201.

(3) "Panel" means the Child Welfare Legislative Oversight Panel created in Section 36-33-102.

Section 5. Section **36-33-102** is enacted to read:

36-33-102. Child Welfare Legislative Oversight Panel -- Creation -- Membership -- Interim rules -- Per diem -- Staff support.

(1) There is created the Child Welfare Legislative Oversight Panel composed of the following members:

(a) two members of the Senate, one from the majority party and one from the minority party, appointed by the president of the Senate; and

(b) three members of the House of Representatives, two from the majority party and one from the minority party, appointed by the speaker of the House of Representatives.

(2) (a) The president of the Senate shall designate one of the senators appointed to the panel under Subsection (1) as the Senate chair of the panel.

(b) The speaker of the House of Representatives shall designate one of the representatives appointed to the panel under Subsection (1) as the House chair of the panel.

(3) (a) A member of the panel shall serve for two-year terms, or until the member's successor is appointed.

(b) (i) A vacancy occurs when a member ceases to be a member of the Legislature, or when a member resigns from the panel.

(ii) If a vacancy occurs in the membership of the panel, the replacement shall be appointed for the unexpired term in the same manner as the vacated member was appointed.

(4) The panel shall follow the interim committee rules established by the Legislature.

(5) A member of the panel who is a legislator may be compensated in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(6) (a) The Office of Legislative Research and General Counsel shall provide staff support to the panel.

(b) The panel is authorized to employ additional professional assistance and other staff members as the panel considers necessary and appropriate.

Section 6. Section **36-33-103**, which is renumbered from Section 62A-4a-207 is renumbered and amended to read:

[~~62A-4a-207~~]. 36-33-103. Panel powers and duties -- Record access and confidentiality.

[~~(1) (a) There is created the Child Welfare Legislative Oversight Panel composed of the following members:~~]

[~~(i) two members of the Senate, one from the majority party and one from the minority party, appointed by the president of the Senate; and~~]

[~~(ii) three members of the House of Representatives, two from the majority party and one from the minority party, appointed by the speaker of the House of Representatives.~~]

[~~(b) Members of the panel shall serve for two-year terms, or until their successors are appointed.~~]

[~~(c) A vacancy exists whenever a member ceases to be a member of the Legislature, or when a member resigns from the panel. Vacancies shall be filled by the appointing authority, and the replacement shall fill the unexpired term.~~]

[~~(2) The president of the Senate shall designate one of the senators appointed to the panel under Subsection (1) as the Senate chair of the panel. The speaker of the House of Representatives shall designate one of the representatives appointed to the panel under Subsection (1) as the House chair of the panel.~~]

[~~(3) The panel shall follow the interim committee rules established by the Legislature.~~]

[~~(4)~~] (1) The panel shall:

(a) examine and observe the process and execution of laws governing the child welfare system by the executive branch and the judicial branch;

(b) upon request, receive testimony from the public, the juvenile court, [~~and from all state agencies~~] or a state agency involved with the child welfare system, including the division, [~~other offices and agencies~~] another office or agency within the department, the [~~attorney general's office~~] attorney general, the Office of Guardian Ad Litem, [~~and school districts~~] or a school district;

(c) before October 1 of each year, receive a report from the [~~judicial branch~~]

Administrative Office of the Courts identifying the cases not in compliance with the time limits established in the following sections, and the reasons for noncompliance:

(i) Subsection 80-3-301(1), regarding shelter hearings;

(ii) Section 80-3-401, regarding pretrial and adjudication hearings;

(iii) Section 80-3-402, regarding dispositional hearings;

[~~(iii)~~] (iv) Section 80-3-406, regarding [~~dispositional hearings and~~] reunification services; and

[~~(iv)~~] (v) Section 80-3-409, regarding permanency hearings and petitions for termination;

(d) receive recommendations from, and make recommendations to the governor, the Legislature, the attorney general, the division, the Office of Guardian Ad Litem, the juvenile court, and the public;

(e) (i) receive reports from the [~~executive branch~~] division and the [~~judicial branch~~] Administrative Office of the Courts on budgetary issues impacting the child welfare system; and

(ii) before December 1 of each year, recommend, as the panel considers advisable, budgetary proposals to the Social Services Appropriations Subcommittee and the Executive Offices and Criminal Justice Appropriations Subcommittee[~~, which recommendation should be made before December 1 of each year~~];

(f) study and recommend [~~proposed~~] changes to laws governing the child welfare system;

(g) study actions the state can take to preserve, unify, and strengthen the child's family ties whenever possible in the child's best interest, including recognizing the constitutional rights and claims of parents [~~whenever~~] if those family ties are severed or infringed;

(h) perform [~~such~~] other duties related to the oversight of the child welfare system as the panel considers appropriate; and

(i) annually report the panel's findings and recommendations to the president of the Senate, the speaker of the House of Representatives, the Health and Human Services Interim Committee, and the Judiciary Interim Committee.

[~~(5)~~] (2) (a) The panel [~~has authority to~~] may:

(i) review and discuss individual child welfare cases[~~.~~];

[~~(b) When an individual case is discussed, the panel's meeting may be closed pursuant to Title 52, Chapter 4, Open and Public Meetings Act.~~]

(ii) make recommendations to the Legislature, the governor, the Board of Juvenile Court Judges, the division, and any other statutorily created entity related to the policies and procedures of the child welfare system; and

(iii) hold public hearings, as the panel considers advisable, in various locations within the state to afford all interested persons an opportunity to appear and present the persons' views regarding the child welfare system.

(b) (i) If the panel discusses an individual child welfare case, the panel shall close the panel's meeting in accordance with Title 52, Chapter 4, Open and Public Meetings Act.

[~~(c)~~] (ii) [~~When discussing an individual~~] If the panel discusses an individual child welfare case, the panel shall make reasonable efforts to identify and consider the concerns of all parties to the case.

(iii) The panel may not make recommendations to the court, the division, or any other public or private entity regarding the disposition of an individual child welfare case.

[~~(6) (a) The panel has authority to make recommendations to the Legislature, the governor, the Board of Juvenile Court Judges, the division, and any other statutorily created entity related to the policies and procedures of the child welfare system. The panel does not have authority to make recommendations to the court, the division, or any other public or private entity regarding the disposition of any individual case.~~]

[~~(b) The panel may hold public hearings, as it considers advisable, in various locations within the state in order to afford all interested persons an opportunity to appear and present their views regarding the child welfare system in this state.~~]

[~~(7)~~] (3) (a) [~~All records of the panel regarding individual cases shall be~~] A record of the panel regarding an individual child welfare case:

(i) is classified as private[;] under Section 63G-2-302; and

(ii) may be disclosed only in accordance with federal law and [~~the provisions of~~] Title 63G, Chapter 2, Government Records Access and Management Act.

(b) (i) The panel shall have access to all of the division's records, including [~~those~~] records regarding individual child welfare cases.

(ii) In accordance with Title 63G, Chapter 2, Government Records Access and

Management Act, all documents and information received by the panel from the division shall maintain the same classification under Title 63G, Chapter 2, Government Records Access and Management Act, that was designated by the division.

[~~(8)~~] (4) In order to accomplish [~~its~~] the panel's oversight functions under this section, the panel has:

(a) all powers granted to legislative interim committees in Section 36-12-11; and

(b) legislative subpoena powers under [~~Title 36~~], Chapter 14, Legislative Subpoena Powers.

[~~(9) Compensation and expenses of a member of the panel who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.~~]

[~~(10) (a) The Office of Legislative Research and General Counsel shall provide staff support to the panel.~~]

[~~(b) The panel is authorized to employ additional professional assistance and other staff members as it considers necessary and appropriate.~~]

Section 7. Section **62A-2-101** is amended to read:

62A-2-101. Definitions.

As used in this chapter:

(1) "Adoption services" means the same as that term is defined in Section 80-2-801.

[~~(1)~~] (2) "Adult day care" means nonresidential care and supervision:

(a) for three or more adults for at least four but less than 24 hours a day; and

(b) that meets the needs of functionally impaired adults through a comprehensive program that provides a variety of health, social, recreational, and related support services in a protective setting.

[~~(2)~~] (3) "Applicant" means a person who applies for an initial license or a license renewal under this chapter.

[~~(3)~~] (4) (a) "Associated with the licensee" means that an individual is:

(i) affiliated with a licensee as an owner, director, member of the governing body, employee, agent, provider of care, department contractor, or volunteer; or

(ii) applying to become affiliated with a licensee in a capacity described in Subsection [~~(3)~~] (4)(a)(i).

(b) "Associated with the licensee" does not include:

(i) service on the following bodies, unless that service includes direct access to a child or a vulnerable adult:

(A) a local mental health authority described in Section 17-43-301;

(B) a local substance abuse authority described in Section 17-43-201; or

(C) a board of an organization operating under a contract to provide mental health or substance abuse programs, or services for the local mental health authority or substance abuse authority; or

(ii) a guest or visitor whose access to a child or a vulnerable adult is directly supervised at all times.

[~~(4)~~] (5) (a) "Boarding school" means a private school that:

(i) uses a regionally accredited education program;

(ii) provides a residence to the school's students:

(A) for the purpose of enabling the school's students to attend classes at the school; and

(B) as an ancillary service to educating the students at the school;

(iii) has the primary purpose of providing the school's students with an education, as defined in Subsection [~~(4)~~] (5)(b)(i); and

(iv) (A) does not provide the treatment or services described in Subsection [~~(37)~~] (38)(a); or

(B) provides the treatment or services described in Subsection [~~(37)~~] (38)(a) on a limited basis, as described in Subsection [~~(4)~~] (5)(b)(ii).

(b) (i) For purposes of Subsection [~~(4)~~] (5)(a)(iii), "education" means a course of study for one or more of grades kindergarten through 12th grade.

(ii) For purposes of Subsection [~~(4)~~] (5)(a)(iv)(B), a private school provides the treatment or services described in Subsection [~~(37)~~] (38)(a) on a limited basis if:

(A) the treatment or services described in Subsection [~~(37)~~] (38)(a) are provided only as an incidental service to a student; and

(B) the school does not:

(I) specifically solicit a student for the purpose of providing the treatment or services described in Subsection [~~(37)~~] (38)(a); or

(II) have a primary purpose of providing the treatment or services described in

Subsection [~~(37)~~] (38)(a).

(c) "Boarding school" does not include a therapeutic school.

[~~(5)~~] (6) "Child" means an individual under 18 years old.

[~~(6)~~] (7) "Child placing" means receiving, accepting, or providing custody or care for any child, temporarily or permanently, for the purpose of:

(a) finding a person to adopt the child;

(b) placing the child in a home for adoption; or

(c) foster home placement.

[~~(7)~~] (8) "Child-placing agency" means a person that engages in child placing.

[~~(8)~~] (9) "Client" means an individual who receives or has received services from a licensee.

[~~(9)~~] (10) "Congregate care program" means any of the following that provide services to a child:

(a) an outdoor youth program;

(b) a residential support program;

(c) a residential treatment program; or

(d) a therapeutic school.

[~~(10)~~] (11) "Day treatment" means specialized treatment that is provided to:

(a) a client less than 24 hours a day; and

(b) four or more persons who:

(i) are unrelated to the owner or provider; and

(ii) have emotional, psychological, developmental, physical, or behavioral dysfunctions, impairments, or chemical dependencies.

[~~(11)~~] (12) "Department" means the Department of Human Services.

[~~(12)~~] (13) "Department contractor" means an individual who:

(a) provides services under a contract with the department; and

(b) due to the contract with the department, has or will likely have direct access to a child or vulnerable adult.

[~~(13)~~] (14) "Direct access" means that an individual has, or likely will have:

(a) contact with or access to a child or vulnerable adult that provides the individual with an opportunity for personal communication or touch; or

(b) an opportunity to view medical, financial, or other confidential personal identifying information of the child, the child's parents or legal guardians, or the vulnerable adult.

[~~(14)~~] (15) "Directly supervised" means that an individual is being supervised under the uninterrupted visual and auditory surveillance of another individual who has a current background screening approval issued by the office.

[~~(15)~~] (16) "Director" means the director of the [~~Office of Licensing~~] office.

[~~(16)~~] (17) "Domestic violence" means the same as that term is defined in Section 77-36-1.

[~~(17)~~] (18) "Domestic violence treatment program" means a nonresidential program designed to provide psychological treatment and educational services to perpetrators and victims of domestic violence.

[~~(18)~~] (19) "Elder adult" means a person 65 years old or older.

[~~(19)~~] (20) "Executive director" means the executive director of the department.

[~~(20)~~] (21) "Foster home" means a residence that is licensed or certified by the [~~Office of Licensing~~] office for the full-time substitute care of a child.

[~~(21)~~] (22) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.

[~~(22)~~] (23) "Health care provider" means the same as that term is defined in Section 78B-3-403.

[~~(23)~~] (24) "Health insurer" means the same as that term is defined in Section 31A-22-615.5.

[~~(24)~~] (25) (a) "Human services program" means:

(i) a foster home;

(ii) a therapeutic school;

(iii) a youth program;

(iv) an outdoor youth program;

(v) a residential treatment program;

(vi) a residential support program;

(vii) a resource family home;

(viii) a recovery residence; or

(ix) a facility or program that provides:

(A) adult day care;

(B) day treatment;

(C) outpatient treatment;

(D) domestic violence treatment;

(E) child-placing services;

(F) social detoxification; or

(G) any other human services that are required by contract with the department to be licensed with the department.

(b) "Human services program" does not include:

(i) a boarding school; or

(ii) a residential, vocational and life skills program, as defined in Section 13-53-102.

[~~(25)~~] (26) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

[~~(26)~~] (27) "Indian country" means the same as that term is defined in 18 U.S.C. Sec. 1151.

[~~(27)~~] (28) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

[~~(28)~~] (29) "Intermediate secure treatment" means 24-hour specialized residential treatment or care for an individual who:

(a) cannot live independently or in a less restrictive environment; and

(b) requires, without the individual's consent or control, the use of locked doors to care for the individual.

[~~(29)~~] (30) "Licensee" means an individual or a human services program licensed by the office.

[~~(30)~~] (31) "Local government" means a city, town, metro township, or county.

[~~(31)~~] (32) "Minor" [~~has the same meaning as "child."~~] means child.

[~~(32)~~] (33) "Office" means the Office of Licensing within the Department of Human Services.

[~~(33)~~] (34) "Outdoor youth program" means a program that provides:

(a) services to a child that has:

(i) a chemical dependency; or

(ii) a dysfunction or impairment that is emotional, psychological, developmental, physical, or behavioral;

(b) a 24-hour outdoor group living environment; and

(c) (i) regular therapy, including group, individual, or supportive family therapy; or

(ii) informal therapy or similar services, including wilderness therapy, adventure therapy, or outdoor behavioral healthcare.

[~~(34)~~] (35) "Outpatient treatment" means individual, family, or group therapy or counseling designed to improve and enhance social or psychological functioning for those whose physical and emotional status allows them to continue functioning in their usual living environment.

[~~(35)~~] (36) "Practice group" or "group practice" means two or more health care providers legally organized as a partnership, professional corporation, or similar association, for which:

(a) substantially all of the services of the health care providers who are members of the group are provided through the group and are billed in the name of the group and amounts received are treated as receipts of the group; and

(b) the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group.

[~~(36)~~] (37) "Private-placement child" means a child whose parent or guardian enters into a contract with a congregate care program for the child to receive services.

[~~(37)~~] (38) (a) "Recovery residence" means a home, residence, or facility that meets at least two of the following requirements:

(i) provides a supervised living environment for individuals recovering from a substance use disorder;

(ii) provides a living environment in which more than half of the individuals in the residence are recovering from a substance use disorder;

(iii) provides or arranges for residents to receive services related to their recovery from a substance use disorder, either on or off site;

(iv) is held out as a living environment in which individuals recovering from substance abuse disorders live together to encourage continued sobriety; or

(v) (A) receives public funding; or

(B) is run as a business venture, either for-profit or not-for-profit.

(b) "Recovery residence" does not mean:

(i) a residential treatment program;

(ii) residential support program; or

(iii) a home, residence, or facility, in which:

(A) residents, by their majority vote, establish, implement, and enforce policies governing the living environment, including the manner in which applications for residence are approved and the manner in which residents are expelled;

(B) residents equitably share rent and housing-related expenses; and

(C) a landlord, owner, or operator does not receive compensation, other than fair market rental income, for establishing, implementing, or enforcing policies governing the living environment.

[~~(38)~~] (39) "Regular business hours" means:

(a) the hours during which services of any kind are provided to a client; or

(b) the hours during which a client is present at the facility of a licensee.

[~~(39)~~] (40) (a) "Residential support program" means a program that arranges for or provides the necessities of life as a protective service to individuals or families who have a disability or who are experiencing a dislocation or emergency that prevents them from providing these services for themselves or their families.

(b) "Residential support program" includes a program that provides a supervised living environment for individuals with dysfunctions or impairments that are:

(i) emotional;

(ii) psychological;

(iii) developmental; or

(iv) behavioral.

(c) Treatment is not a necessary component of a residential support program.

(d) "Residential support program" does not include:

(i) a recovery residence; or

(ii) a program that provides residential services that are performed:

(A) exclusively under contract with the department and provided to individuals through the Division of Services for People with Disabilities; or

(B) in a facility that serves fewer than four individuals.

[~~(40)~~] (41) (a) "Residential treatment" means a 24-hour group living environment for four or more individuals unrelated to the owner or provider that offers room or board and specialized treatment, behavior modification, rehabilitation, discipline, emotional growth, or habilitation services for persons with emotional, psychological, developmental, or behavioral dysfunctions, impairments, or chemical dependencies.

(b) "Residential treatment" does not include a:

(i) boarding school;

(ii) foster home; or

(iii) recovery residence.

[~~(41)~~] (42) "Residential treatment program" means a program or facility that provides:

(a) residential treatment; or

(b) intermediate secure treatment.

[~~(42)~~] (43) "Seclusion" means the involuntary confinement of an individual in a room or an area:

(a) away from the individual's peers; and

(b) in a manner that physically prevents the individual from leaving the room or area.

[~~(43)~~] (44) "Social detoxification" means short-term residential services for persons who are experiencing or have recently experienced drug or alcohol intoxication, that are provided outside of a health care facility licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, and that include:

(a) room and board for persons who are unrelated to the owner or manager of the facility;

(b) specialized rehabilitation to acquire sobriety; and

(c) aftercare services.

[~~(44)~~] (45) "Substance abuse disorder" or "substance use disorder" mean the same as "substance use disorder" is defined in Section 62A-15-1202.

[~~(45)~~] (46) "Substance abuse treatment program" or "substance use disorder treatment program" means a program:

(a) designed to provide:

(i) specialized drug or alcohol treatment;

(ii) rehabilitation; or

(iii) habilitation services; and

(b) that provides the treatment or services described in Subsection [~~(45)~~] (46)(a) to persons with:

(i) a diagnosed substance use disorder; or

(ii) chemical dependency disorder.

[~~(46)~~] (47) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals that are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to:

(I) a disability;

(II) emotional development;

(III) behavioral development;

(IV) familial development; or

(V) social development.

[~~(47)~~] (48) "Unrelated persons" means persons other than parents, legal guardians, grandparents, brothers, sisters, uncles, or aunts.

[~~(48)~~] (49) "Vulnerable adult" means an elder adult or an adult who has a temporary or permanent mental or physical impairment that substantially affects the person's ability to:

(a) provide personal protection;

(b) provide necessities such as food, shelter, clothing, or mental or other health care;

(c) obtain services necessary for health, safety, or welfare;

(d) carry out the activities of daily living;

(e) manage the adult's own resources; or

(f) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

[~~(49)~~] (50) (a) "Youth program" means a program designed to provide behavioral, substance abuse, or mental health services to minors that:

(i) serves adjudicated or nonadjudicated youth;

(ii) charges a fee for its services;

(iii) may provide host homes or other arrangements for overnight accommodation of the youth;

(iv) may provide all or part of its services in the outdoors;

(v) may limit or censor access to parents or guardians; and

(vi) prohibits or restricts a minor's ability to leave the program at any time of the minor's own free will.

(b) "Youth program" does not include recreational programs such as Boy Scouts, Girl Scouts, 4-H, and other such organizations.

Section 8. Section **62A-2-108.6**, which is renumbered from Section 62A-4a-602 is renumbered and amended to read:

[~~62A-4a-602~~]. 62A-2-108.6. Child placing licensure requirements -- Prohibited acts.

(1) As used in this section:

(a) (i) "Advertisement" means any written, oral, or graphic statement or representation made in connection with a solicitation of business.

(ii) "Advertisement" includes a statement or representation described in Subsection (1)(a)(i) by a noncable television system, radio, printed brochure, newspaper, leaflet, flyer, circular, billboard, banner, Internet website, social media, or sign.

(b) "Clearly and conspicuously disclose" means the same as that term is defined in Section 13-11a-2.

(c) (i) "Matching advertisement" means any written, oral, or graphic statement or representation made in connection with a solicitation of business to provide the assistance described in Subsection (3)(a)(i), regardless of whether there is or will be an exchange

described in Subsection (3)(a)(ii).

(ii) "Matching advertisement" includes a statement or representation described in Subsection (1)(c)(i) by a noncable television system, radio, printed brochure, newspaper, leaflet, flyer, circular, billboard, banner, Internet website, social media, or sign.

(2) (a) A person may not engage in child placing, or solicit money or other assistance for child placing, without a valid license issued by the [~~Office of Licensing,~~] office{~~,~~} in accordance with [~~Chapter 2, Licensure of Programs and Facilities~~] this chapter.

(b) [~~When~~] If a child-placing agency's license is suspended or revoked in accordance with [~~that~~] this chapter, the care, control, or custody of any child who [~~has been~~] is in the care, control, or custody of [~~that~~] the child-placing agency shall be transferred to the [~~division~~] Division of Child and Family Services.

(3) (a) (i) An attorney, physician, or other person may assist a parent in identifying or locating a person interested in adopting the parent's child, or in identifying or locating a child to be adopted.

(ii) No payment, charge, fee, reimbursement of expense, or exchange of value of any kind, or promise or agreement to make the same, may be made for the assistance described in Subsection (3)(a)(i).

(b) An attorney, physician, or other person may not:

(i) issue or cause to be issued to any person a card, sign, or device indicating that the attorney, physician, or other person is available to provide the assistance described in Subsection (3)(a)(i);

(ii) cause, permit, or allow any sign or marking indicating that the attorney, physician, or other person is available to provide the assistance described in Subsection (3)(a)(i), on or in any building or structure;

(iii) announce, cause, permit, or allow an announcement indicating that the attorney, physician, or other person is available to provide the assistance described in Subsection (3)(a)(i), to appear in any newspaper, magazine, directory, on radio or television, or an Internet website relating to a business;

(iv) announce, cause, permit, or allow a matching advertisement; or

(v) announce, cause, permit, or allow an advertisement that indicates or implies the attorney, physician, or other person is available to provide the assistance described in

Subsection (3)(a)(i) as part of, or related to, other adoption-related services by using any of the following terms:

(A) "comprehensive";

(B) "complete";

(C) "one-stop";

(D) "all-inclusive"; or

(E) any other term similar to the terms described in Subsections (3)(b)(v)(A) through (D).

(c) An attorney, physician, or other person who is not licensed by the [~~Office of Licensing within the department~~] office shall clearly and conspicuously disclose in any print media advertisement or written contract regarding adoption services or adoption-related services that the attorney, physician, or other person is not licensed to provide adoption services by the [~~Office of Licensing within the department~~] office.

[~~(4) Nothing in this part:~~]

(4) This section does not:

(a) [~~precludes~~] preclude payment of fees for medical, legal, or other lawful services rendered in connection with the care of a mother, delivery and care of a child, or lawful adoption proceedings; or

(b) [~~abrogates~~] abrogate the right of procedures for independent adoption as provided by law.

(5) In accordance with federal law, only [~~agents or employees of the division and of licensed child placing agencies~~] an agent or employee of the Division of Child and Family Services or of a licensed child-placing agency may certify to [~~the United States Immigration and Naturalization Service~~] United States Citizenship and Immigration Services that a family meets the [~~division's~~] preadoption requirements of the Division of Child and Family Services.

(6) [~~(a) Neither a licensed child-placing agency nor any attorney practicing in this state may~~] A licensed child-placing agency or an attorney practicing in this state may not place a child for adoption, either temporarily or permanently, with any individual [~~or individuals~~] that would not be qualified for adoptive placement [~~pursuant to the provisions of~~] under Sections [~~78B-6-117,~~] 78B-6-102, 78B-6-117, and 78B-6-137.

[~~(b) The division, as a licensed child-placing agency, may not place a child in foster~~

~~care with any individual or individuals that would not be qualified for adoptive placement pursuant to the provisions of Sections 78B-6-117, 78B-6-102, and 78B-6-137. However, nothing in this Subsection (6)(b) limits the placement of a child in foster care with the child's biological or adoptive parent, a relative, or in accordance with the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et seq.~~]

[~~(c) With regard to children who are in the custody of the state, the division shall establish a rule providing that priority for placement shall be provided to families in which a couple is legally married under the laws of this state. However, nothing in this Subsection (6)(c) limits the placement of a child with the child's biological or adoptive parent, a relative, or in accordance with the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et seq.~~]

Section 9. Section **62A-2-115.1**, which is renumbered from Section 62A-4a-603 is renumbered and amended to read:

[~~62A-4a-603~~]. 62A-2-115.1. Injunctive relief for unlawful child placing -- Enforcement by county attorney or attorney general.

(1) The [~~Office of Licensing within the department or any~~] office or another interested person may commence an action in district court to enjoin any person, agency, firm, corporation, or association from violating Section [~~62A-4a-602~~] 62A-2-108.6.

(2) The [~~Office of Licensing~~] office shall:

(a) solicit information from the public relating to violations of Section [~~62A-4a-602~~] 62A-2-108.6; and

(b) upon identifying a violation of Section [~~62A-4a-602~~] 62A-2-108.6:

(i) send a written notice to the person who violated Section [~~62A-4a-602~~] 62A-2-108.6 that describes the alleged violation; and

(ii) notify the following persons of the alleged violation:

(A) the local county attorney; and

(B) the Division of Occupational and Professional Licensing.

(3) (a) A county attorney or the attorney general shall institute legal action as necessary to enforce the provisions of Section [~~62A-4a-602~~] 62A-2-108.6 after being informed of an alleged violation.

(b) If a county attorney does not take action within 30 days after the day on which the county attorney is informed of an alleged violation of Section [~~62A-4a-602~~] 62A-2-108.6, the

attorney general may be requested to take action, and shall then institute legal proceedings in place of the county attorney.

(4) (a) In addition to the remedies provided in Subsections (1) and (3), any person, agency, firm, corporation, or association found to be in violation of Section [~~62A-4a-602~~] 62A-2-108.6 shall forfeit all proceeds identified as resulting from the transaction, and may also be assessed a civil penalty of not more than $10,000 for each violation.

(b) Each act in violation of Section [~~62A-4a-602~~] 62A-2-108.6, including each placement or attempted placement of a child, is a separate violation.

(5) (a) [~~All amounts~~] The amount recovered as [~~penalties~~] a penalty under Subsection (4) shall be placed in the General Fund of the prosecuting county, or in the state General Fund if the attorney general prosecutes.

(b) If two or more governmental entities are involved in the prosecution, the court shall apportion the penalty [~~amounts recovered shall be apportioned by the court~~] among the entities, according to [~~their~~] the entities' involvement.

(6) A judgment ordering the payment of any penalty or forfeiture under Subsection (4) is a lien when recorded in the judgment docket, and has the same effect and is subject to the same rules as a judgment for money in a civil action.

Section 10. Section **62A-2-115.2**, which is renumbered from Section 62A-4a-605 is renumbered and amended to read:

[~~62A-4a-605~~]. 62A-2-115.2. Child-placing agency proof of authority in a proceeding.

A child-placing agency is not required to present [~~its license, issued under Chapter 2, Licensure of Programs and Facilities, or its~~] the child-placing agency's license issued under this chapter, the child placing agency's certificate of incorporation, or proof of [~~its~~] the child-placing agency's authority to consent to adoption, as proof of [~~its~~] the child-placing agency's authority in any proceeding in which [~~it~~] the child-placing agency is an interested party, unless the court or a party to the proceeding requests that the child-placing agency or [~~its~~] the child-placing agency's representative establish proof of authority.

Section 11. Section **62A-2-126**, which is renumbered from Section 62A-4a-607 is renumbered and amended to read:

[~~62A-4a-607~~]. 62A-2-126. Child-placing agency regulation -- Notice to

potential adoptive parents.

[~~(1) (a) The division and all child-placing agencies licensed under this part shall~~]

(1) As used in this section, "high needs child" means a child who:

(a) has an attachment or trauma-related disorder;

(b) suffered from prenatal exposure to alcohol or drugs;

(c) is the subject of an intercountry adoption;

(d) was previously adopted; or

(e) is in foster care.

(2) A child-placing agency licensed under this chapter shall:

(a) promote adoption [~~when that~~] if adoption is a possible and appropriate alternative for a child[~~. Specifically, in accordance with Section 62A-4a-205.6, the division shall actively promote the adoption of all children in its custody who have a final plan for termination of parental rights pursuant to Section 80-3-409 or a primary permanency plan of adoption.~~];

[~~(b) Beginning May 1, 2000, the division may not place a child for adoption, either temporarily or permanently, with any individual or individuals who do not qualify for adoptive placement pursuant to the requirements of Sections 78B-6-117, 78B-6-102, and 78B-6-137.~~]

[~~(2) The division shall obtain or conduct research of prior adoptive families to determine what families may do to be successful with their adoptive children and shall make this research available to potential adoptive parents.~~]

[~~(3) (a) A child-placing agency licensed under this part shall~~]

(b) inform each potential adoptive parent with whom [~~it~~] the child-placing agency is working [~~that~~] at the earliest possible opportunity:

(i) that children in the custody of the state are available for adoption;

(ii) that Medicaid coverage for medical, dental, and mental health services may be available for [~~these children~~] a child in the custody of the state who is adopted;

(iii) that tax benefits, including the tax credit provided for in Section 59-10-1104, and financial assistance may be available to defray the costs of adopting [~~these children~~] a child in the custody of the state;

(iv) that training and ongoing support may be available to the [~~adoptive parents of these children; and~~] adoptive parent of a child in the custody of the state;

(v) that information about [~~individual children~~] a child in the custody of the state who

is available for adoption may be obtained by contacting the [~~division's offices or its Internet site as explained by the child-placing agency.~~] Division of Child and Family Services or accessing the Division of Child and Family Services's website; and

(vi) how to contact the Division of Child and Family Services and access the Division of Child and Family Services's website; and

[~~(b) A child-placing agency shall:~~]

[~~(i) provide the notice required by Subsection (3)(a) at the earliest possible opportunity; and~~]

[~~(ii)~~] (c) [~~simultaneously~~] at the time the child-placing agency provides the information described in Subsection (2)(b) to a potential adoptive parent, distribute a copy of the pamphlet prepared by the [~~division in accordance with Subsection (3)(d)~~] Division of Child and Family Services under Section 80-2-803 to the potential adoptive parent.

(3) Before the day on which a child-placing agency refers a high needs child for adoption or enters into a contract to provide adoption services to a potential adoptive parent of a high needs child, the child-placing agency shall ensure that the potential adoptive parent receives, at a minimum:

(a) to the extent available, the following information:

(i) a social history of the high needs child to be adopted, including:

(A) a history of the high needs child's cultural, racial, religious, ethnic, linguistic, and educational background; and

(B) any conditions in the high needs child's country of origin, if applicable, to which the child may have been exposed and that may have an impact on the child's physical or mental health; and

(ii) a record of the high needs child's:

(A) physical health, mental health, behavioral issues, or exposure to trauma, including whether the child-placing agency knows or suspects that the high needs child has been exposed to alcohol or drugs in utero; and

(B) history of institutionalization or previous adoptive or foster placements and, if applicable, the reason a previous placement was terminated; and

(b) training on the following issues:

(i) the impact leaving familiar ties and surroundings may have on a high needs child,

and the grief, loss, and identity issues that a high needs child may experience in adoption;

(ii) the potential impact of an institutional setting on a high needs child;

(iii) attachment disorders, trauma-related disorders, fetal alcohol spectrum disorders, and other emotional problems that a high needs child may suffer, particularly when the high needs child has been institutionalized, traumatized, or cared for by multiple caregivers;

(iv) the general characteristics of a successful adoption placement, including information on the financial resources, time, and insurance coverage necessary for handling the adoptive family's and the high needs child's adjustment following placement;

(v) the medical, therapeutic, and educational needs a high needs child may require, including language acquisition training;

(vi) how to access post-placement and post-adoption services that may assist the family to respond effectively to adjustment, behavioral, and other difficulties that may arise after the high needs child is placed or adopted;

(vii) issues that may lead to the disruption of an adoptive placement or the dissolution of an adoption, including how an adoptive parent may access resources to avoid disruption or dissolution;

(viii) the long-term implications for a family that becomes multicultural through adoption;

(ix) for a potential adoptive parent who is seeking to adopt two or more unrelated children, the differing needs of children based on the children's respective ages, backgrounds, length of time outside of family care, and the time management requirements and other challenges that may be presented in a multi-child adoption; and

(x) the prohibition against an unregulated custody transfer of a child under Section 76-7-205.

[~~(c)~~] (4) As a condition of licensure, [~~the~~] a child-placing agency shall certify to the [~~Office of Licensing~~] office at the time of license renewal that [~~it~~] the child-placing agency has complied with [~~the provisions of~~] this section.

[~~(d) Before July 1, 2000, the division shall:~~]

[~~(i) prepare a pamphlet that explains the information that is required by Subsection (3)(a); and~~]

[~~(ii) regularly distribute copies of the pamphlet described in Subsection (3)(d)(i) to~~

~~child-placing agencies.~~]

[~~(c) The division shall respond to any inquiry made as a result of the notice provided in Subsection (3)(a).~~]

Section 12. Section **62A-2-127**, which is renumbered from Section 62A-4a-606 is renumbered and amended to read:

[~~62A-4a-606~~]. 62A-2-127. Child-placing agency responsibility for educational services -- Payment of costs.

(1) A child-placing agency shall ensure that the requirements of Subsections 53G-6-202(2) and 53G-6-203(1) are met through the provision of appropriate educational services for all children served in the state by the child-placing agency.

[~~(2) If the educational services are to be provided through a public school, and:~~]

(2) (a) If the educational services described in Subsection (1) are provided through a public school and the custodial parent or legal guardian resides outside the state, [~~then the child placing~~] the child-placing agency shall pay all educational costs required under Sections 53G-6-306 and 53G-7-503[~~; or~~].

(b) If the educational services described in Subsection (1) are provided through a public school and the custodial parent or legal guardian resides within the state, then the [~~child placing~~] child-placing agency shall pay all educational costs required under Section 53G-7-503.

(3) [~~Children~~] A child in the custody or under the care of a Utah state agency [~~are~~] is exempt from the payment of fees required under Subsection (2).

(4) A public school shall admit any child living within [~~its school~~] the public school's boundaries who is under the supervision of a [~~child placing~~] child-placing agency upon payment by the child-placing agency of the tuition and fees required under Subsection (2).

Section 13. Section **62A-4a-101.5** is enacted to read:

CHAPTER 4a. JUVENILE SERVICES

62A-4a-101.5. Juvenile services.

Title 80, Utah Juvenile Code, governs the services provided by the Division of Juvenile Justice Services and the Division of Child and Family Services within the department.

Section 14. Section **62A-4a-1003.5** is enacted to read:

62A-4a-1003.5. Office of Guardian Ad Litem access to Management Information System information.

Notwithstanding ~~{Subsection}~~Section 62A-4a-1003(6)(c), the ~~{Office of Guardian Ad Litem}~~division may ~~{access the}~~use information in the Management Information System ~~{that is necessary }~~to screen an individual ~~{at the time the individual seeks a paid or voluntary position with the Office of Guardian Ad Litem and annually throughout the time the individual remains with}~~as described in Subsection 62A-4a-1006(4)(c)(ii)(A) at the request of the Office of Guardian Ad Litem.

Section 15. Section **63G-2-302** is amended to read:

63G-2-302. Private records.

(1) The following records are private:

(a) records concerning an individual's eligibility for unemployment insurance benefits, social services, welfare benefits, or the determination of benefit levels;

(b) records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation, or similar medical data;

(c) records of publicly funded libraries that when examined alone or with other records identify a patron;

(d) records received by or generated by or for:

(i) the Independent Legislative Ethics Commission, except for:

(A) the commission's summary data report that is required under legislative rule; and

(B) any other document that is classified as public under legislative rule; or

(ii) a Senate or House Ethics Committee in relation to the review of ethics complaints, unless the record is classified as public under legislative rule;

(e) records received by, or generated by or for, the Independent Executive Branch Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review of Executive Branch Ethics Complaints;

(f) records received or generated for a Senate confirmation committee concerning character, professional competence, or physical or mental health of an individual:

(i) if, prior to the meeting, the chair of the committee determines release of the records:

(A) reasonably could be expected to interfere with the investigation undertaken by the committee; or

(B) would create a danger of depriving a person of a right to a fair proceeding or impartial hearing; and

(ii) after the meeting, if the meeting was closed to the public;

(g) employment records concerning a current or former employee of, or applicant for employment with, a governmental entity that would disclose that individual's home address, home telephone number, social security number, insurance coverage, marital status, or payroll deductions;

(h) records or parts of records under Section 63G-2-303 that a current or former employee identifies as private according to the requirements of that section;

(i) that part of a record indicating a person's social security number or federal employer identification number if provided under Section 31A-23a-104, 31A-25-202, 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;

(j) that part of a voter registration record identifying a voter's:

(i) driver license or identification card number;

(ii) social security number, or last four digits of the social security number;

(iii) email address;

(iv) date of birth; or

(v) phone number;

(k) a voter registration record that is classified as a private record by the lieutenant governor or a county clerk under Subsection 20A-2-101.1(5)(a), 20A-2-104(4)(h), or 20A-2-204(4)(b);

(l) a voter registration record that is withheld under Subsection 20A-2-104(7);

(m) a withholding request form described in Subsections 20A-2-104(7) and (8) and any verification submitted in support of the form;

(n) a record that:

(i) contains information about an individual;

(ii) is voluntarily provided by the individual; and

(iii) goes into an electronic database that:

(A) is designated by and administered under the authority of the Chief Information Officer; and

(B) acts as a repository of information about the individual that can be electronically retrieved and used to facilitate the individual's online interaction with a state agency;

(o) information provided to the Commissioner of Insurance under:

(i) Subsection 31A-23a-115(3)(a);

(ii) Subsection 31A-23a-302(4); or

(iii) Subsection 31A-26-210(4);

(p) information obtained through a criminal background check under Title 11, Chapter 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;

(q) information provided by an offender that is:

(i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap Offender Registry or Title 77, Chapter 43, Child Abuse Offender Registry; and

(ii) not required to be made available to the public under Subsection 77-41-110(4) or 77-43-108(4);

(r) a statement and any supporting documentation filed with the attorney general in accordance with Section 34-45-107, if the federal law or action supporting the filing involves homeland security;

(s) electronic toll collection customer account information received or collected under Section 72-6-118 and customer information described in Section 17B-2a-815 received or collected by a public transit district, including contact and payment information and customer travel data;

(t) an email address provided by a military or overseas voter under Section 20A-16-501;

(u) a completed military-overseas ballot that is electronically transmitted under Title 20A, Chapter 16, Uniform Military and Overseas Voters Act;

(v) records received by or generated by or for the Political Subdivisions Ethics Review Commission established in Section 63A-15-201, except for:

(i) the commission's summary data report that is required in Section 63A-15-202; and

(ii) any other document that is classified as public in accordance with Title 63A, Chapter 15, Political Subdivisions Ethics Review Commission;

(w) a record described in Section 53G-9-604 that verifies that a parent was notified of an incident or threat;

(x) a criminal background check or credit history report conducted in accordance with Section 63A-3-201;

(y) a record described in Subsection 53-5a-104(7);

(z) on a record maintained by a county for the purpose of administering property taxes, an individual's:

(i) email address;

(ii) phone number; or

(iii) personal financial information related to a person's payment method;

(aa) a record submitted by a taxpayer to establish the taxpayer's eligibility for an exemption, deferral, abatement, or relief under:

(i) Title 59, Chapter 2, Part 11, Exemptions, Deferrals, and Abatements;

(ii) Title 59, Chapter 2, Part 12, Property Tax Relief;

(iii) Title 59, Chapter 2, Part 18, Tax Deferral and Tax Abatement; or

(iv) Title 59, Chapter 2, Part 19, Armed Forces Exemptions; [~~and~~]

(bb) a record provided by the State Tax Commission in response to a request under Subsection 59-1-403(4)(y)(iii)[~~.~~]; and

(cc) a record of the Child Welfare Legislative Oversight Panel regarding an individual child welfare case, as described in Subsection 36-33-103(3).

(2) The following records are private if properly classified by a governmental entity:

(a) records concerning a current or former employee of, or applicant for employment with a governmental entity, including performance evaluations and personal status information such as race, religion, or disabilities, but not including records that are public under Subsection 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);

(b) records describing an individual's finances, except that the following are public:

(i) records described in Subsection 63G-2-301(2);

(ii) information provided to the governmental entity for the purpose of complying with a financial assurance requirement; or

(iii) records that must be disclosed in accordance with another statute;

(c) records of independent state agencies if the disclosure of those records would conflict with the fiduciary obligations of the agency;

(d) other records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy;

(e) records provided by the United States or by a government entity outside the state that are given with the requirement that the records be managed as private records, if the

providing entity states in writing that the record would not be subject to public disclosure if retained by it;

(f) any portion of a record in the custody of the Division of Aging and Adult Services, created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult; and

(g) audio and video recordings created by a body-worn camera, as defined in Section 77-7a-103, that record sound or images inside a home or residence except for recordings that:

(i) depict the commission of an alleged crime;

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

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

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

(v) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording.

(3) (a) As used in this Subsection (3), "medical records" means medical reports, records, statements, history, diagnosis, condition, treatment, and evaluation.

(b) Medical records in the possession of the University of Utah Hospital, its clinics, doctors, or affiliated entities are not private records or controlled records under Section 63G-2-304 when the records are sought:

(i) in connection with any legal or administrative proceeding in which the patient's physical, mental, or emotional condition is an element of any claim or defense; or

(ii) after a patient's death, in any legal or administrative proceeding in which any party relies upon the condition as an element of the claim or defense.

(c) Medical records are subject to production in a legal or administrative proceeding according to state or federal statutes or rules of procedure and evidence as if the medical records were in the possession of a nongovernmental medical care provider.

Section 16. Section **63I-2-262** is amended to read:

63I-2-262. Repeal dates -- Title 62A.

(1) Section 62A-4a-1003.5, relating to the Management Information System, is

repealed ~~{May 4}~~September 1, 2022.

[~~(1)~~] (2) Subsection 62A-5-103.1(6) is repealed January 1, 2023.

[~~(2)~~] (3) Section 62A-15-120 is repealed January 1, 2025.

[~~(3)~~] (4) Section 62A-15-122 is repealed January 2, 2025

[~~(4)~~] (5) Title 62A, Chapter 15, Part 19, Mental Health Crisis Intervention Council, is repealed January 1, 2023.

Section 17. Section **76-7-205**, which is renumbered from Section 62A-4a-711 is renumbered and amended to read:

Part 2. Nonsupport and Custody of Children

[~~62A-4a-711~~]. 76-7-205. Unregulated custody transfer prohibition -- Penalty.

(1) An individual or entity [~~that~~] may not knowingly [~~engages~~] engage in an unregulated custody transfer, as defined in Section 80-1-102[~~, is guilty of~~].

(2) A violation of Subsection (1) is a class B misdemeanor.

Section 18. Section **78A-2-801** is amended to read:

78A-2-801. Definitions.

As used in this [~~chapter~~] part:

(1) "Abuse, neglect, or dependency petition" means the same as that term is defined in Section 80-3-102.

(2) "Attorney guardian ad litem" means an attorney employed by the office.

(3) "Director" means the director of the office.

(4) "Division" means the Division of Child and Family Services created in Section [~~62A-4a-103~~] 80-2-201.

(5) "Guardian ad litem" means an attorney guardian ad litem or a private attorney guardian ad litem.

(6) "Indigent individual" means the same as that term is defined in Section 78B-22-102.

(7) "Minor" means the same as that term is defined in Section 80-1-102.

(8) "Office" means the Office of Guardian ad Litem created in Section 78A-2-802.

(9) "Private attorney guardian ad litem" means an attorney designated by the office in accordance with Section 78A-2-705 who is not an employee of the office.

Section 19. Section **78A-2-802** is amended to read:

78A-2-802. Office of Guardian ad Litem -- Appointment of director -- Duties of director -- Contracts in second, third, and fourth districts.

(1) There is created the Office of Guardian ad Litem under the direct supervision of the Guardian ad Litem Oversight Committee described in Subsection 78A-2-104(13).

(2) (a) The Guardian ad Litem Oversight Committee shall appoint one individual to serve full time as the guardian ad litem director for the state.

(b) The guardian ad litem director shall:

(i) serve at the pleasure of the Guardian ad Litem Oversight Committee, in consultation with the state court administrator;

(ii) be an attorney licensed to practice law in this state and selected on the basis of:

(A) professional ability;

(B) experience in abuse, neglect, and dependency proceedings;

(C) familiarity with the role, purpose, and function of guardians ad litem in both juvenile and district courts; and

(D) ability to develop training curricula and reliable methods for data collection and evaluation; and

(iii) before or immediately after the director's appointment, be trained in nationally recognized standards for an attorney guardian ad litem.

(3) The guardian ad litem director shall:

(a) establish policy and procedure for the management of a statewide guardian ad litem program;

(b) manage the guardian ad litem program to assure that a minor receives qualified guardian ad litem services in an abuse, neglect, [~~and~~] <u>or</u> dependency proceeding under Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, in accordance with state and federal law and policy;

(c) develop standards for contracts of employment and contracts with independent contractors, and employ or contract with attorneys licensed to practice law in this state, to act as attorney guardians ad litem in accordance with Section 78A-2-803;

(d) develop and provide training programs for volunteers in accordance with the United States Department of Justice National Court Appointed Special Advocates Association

standards;

(e) develop and update a guardian ad litem manual that includes:

(i) best practices for an attorney guardian ad litem; and

(ii) statutory and case law relating to an attorney guardian ad litem;

(f) develop and provide a library of materials for the continuing education of attorney guardians ad litem and volunteers;

(g) educate court personnel regarding the role and function of guardians ad litem;

(h) develop needs assessment strategies, perform needs assessment surveys, and ensure that guardian ad litem training programs correspond with actual and perceived needs for training;

(i) design and implement evaluation tools based on specific objectives targeted in the needs assessments described in Subsection (3)(h);

(j) prepare and submit an annual report to the Guardian ad Litem Oversight Committee and the Child Welfare Legislative Oversight Panel created in Section [~~62A-4a-207~~] 36-33-102 regarding:

(i) the development, policy, and management of the statewide guardian ad litem program;

(ii) the training and evaluation of attorney guardians ad litem and volunteers; and

(iii) the number of minors served by the office;

(k) hire, train, and supervise investigators; and

(l) administer the program of private attorney guardians ad litem established [~~by~~] under Section 78A-2-705.

(4) A contract of employment or independent contract described [~~under~~] in Subsection (3)(c) shall provide that an attorney guardian ad litem in the second, third, and fourth judicial districts devote the attorney guardian's ad litem full time and attention to the role of attorney guardian ad litem, having no clients other than the minors whose interest the attorney guardian ad litem represents within the guardian ad litem program.

Section 20. Section **78A-2-803** is amended to read:

78A-2-803. Appointment of attorney guardian ad litem -- Duties and responsibilities -- Training -- Trained staff and court-appointed special advocate volunteers -- Costs -- Immunity -- Annual report.

(1) (a) The court:

(i) may appoint an attorney guardian ad litem to represent the best interest of a minor involved in any case before the court; and

(ii) shall consider the best interest of a minor, consistent with the provisions of Section [~~62A-4a-201~~] 80-2a-201, in determining whether to appoint a guardian ad litem.

(b) In all cases where an attorney guardian ad litem is appointed, the court shall make a finding that establishes the necessity of the appointment.

(2) An attorney guardian ad litem shall represent the best interest of each minor who may become the subject of an abuse, neglect, or dependency petition from the earlier of:

(a) the day on which the minor is removed from the minor's home by the division; or

(b) the day on which the abuse, neglect, or dependency petition is filed.

(3) The director shall ensure that each attorney guardian ad litem employed by the office:

(a) represents the best interest of each client of the office in all venues, including:

(i) court proceedings; and

(ii) meetings to develop, review, or modify the child and family plan with the division in accordance with Section [~~62A-4a-205~~] 80-3-307;

(b) before representing any minor before the court, be trained in:

(i) applicable statutory, regulatory, and case law; and

(ii) nationally recognized standards for an attorney guardian ad litem;

(c) conducts or supervises an ongoing, independent investigation in order to obtain, first-hand, a clear understanding of the situation and needs of the minor;

(d) (i) personally meets with the minor, unless:

(A) the minor is outside of the state; or

(B) meeting with the minor would be detrimental to the minor;

(ii) personally interviews the minor, unless:

(A) the minor is not old enough to communicate;

(B) the minor lacks the capacity to participate in a meaningful interview; or

(C) the interview would be detrimental to the minor; and

(iii) if the minor is placed in an out-of-home placement, or is being considered for placement in an out-of-home placement, unless it would be detrimental to the minor:

(A) to the extent possible, determines the minor's goals and concerns regarding placement; and

(B) personally assesses or supervises an assessment of the appropriateness and safety of the minor's environment in each placement;

(e) personally attends all review hearings pertaining to the minor's case;

(f) participates in all appeals, unless excused by order of the court;

(g) is familiar with local experts who can provide consultation and testimony regarding the reasonableness and appropriateness of efforts made by the division to:

(i) maintain a minor in the minor's home; or

(ii) reunify a minor with a minor's parent;

(h) to the extent possible, and unless it would be detrimental to the minor, personally or through a trained volunteer, paralegal, or other trained staff, keeps the minor advised of:

(i) the status of the minor's case;

(ii) all court and administrative proceedings;

(iii) discussions with, and proposals made by, other parties;

(iv) court action; and

(v) the psychiatric, medical, or other treatment or diagnostic services that are to be provided to the minor;

(i) in cases where a child and family plan is required, personally or through a trained volunteer, paralegal, or other trained staff, monitors implementation of a minor's child and family plan and any dispositional orders to:

(i) determine whether services ordered by the court:

(A) are actually provided; and

(B) are provided in a timely manner; and

(ii) attempt to assess whether services ordered by the court are accomplishing the intended goal of the services; and

(j) makes all necessary court filings to advance the guardian's ad litem position regarding the best interest of the minor.

(4) (a) Consistent with this Subsection (4), an attorney guardian ad litem may use trained volunteers, in accordance with Title 67, Chapter 20, Volunteer Government Workers Act, trained paralegals, and other trained staff to assist in investigation and preparation of

information regarding the cases of individual minors before the court.

(b) A volunteer, paralegal, or other staff utilized under this section shall be trained in and follow, at a minimum, the guidelines established by the United States Department of Justice Court Appointed Special Advocate Association.

(5) The attorney guardian ad litem shall continue to represent the best interest of the minor until released from that duty by the court.

(6) (a) Consistent with Subsection (6)(b), the juvenile court is responsible for:

(i) all costs resulting from the appointment of an attorney guardian ad litem; and

(ii) the costs of volunteer, paralegal, and other staff appointment and training.

(b) The court shall use funds appropriated by the Legislature for the guardian ad litem program to cover the costs described in Subsection (6)(a).

(c) (i) When the court appoints an attorney guardian ad litem under this section, the court may assess all or part of the attorney fees, court costs, and paralegal, staff, and volunteer expenses against the minor's parents, parent, or legal guardian in a proportion that the court determines to be just and appropriate, taking into consideration costs already borne by the parents, parent, or legal guardian, including:

(A) private attorney fees;

(B) counseling for the minor;

(C) counseling for the parent, if mandated by the court or recommended by the division; and

(D) any other cost the court determines to be relevant.

(ii) The court may not assess the fees or costs described in Subsection (6)(c)(i) against:

(A) a legal guardian, when that guardian is the state; or

(B) consistent with Subsection (6)(d), a parent who is found to be an indigent individual.

(d) For purposes of Subsection (6)(c)(ii)(B), if an individual claims to be an indigent individual, the court shall:

(i) require the individual to submit an affidavit of indigence as provided in Section 78A-2-302; and

(ii) follow the procedures and make the determinations as provided in Section 78A-2-304.

(e) The minor's parents, parent, or legal guardian may appeal the court's determination, under Subsection (6)(c), of fees, costs, and expenses.

(7) An attorney guardian ad litem appointed under this section, when serving in the scope of the attorney guardian's ad litem duties as guardian ad litem is considered an employee of the state for purposes of indemnification under Title 63G, Chapter 7, Governmental Immunity Act of Utah.

(8) (a) An attorney guardian ad litem shall represent the best interest of a minor.

(b) If the minor's wishes differ from the attorney's determination of the minor's best interest, the attorney guardian ad litem shall communicate the minor's wishes to the court in addition to presenting the attorney's determination of the minor's best interest.

(c) A difference between the minor's wishes and the attorney's determination of best interest may not be considered a conflict of interest for the attorney.

(d) The guardian ad litem shall disclose the wishes of the minor unless the minor:

(i) instructs the guardian ad litem to not disclose the minor's wishes; or

(ii) has not expressed any wishes.

(e) The court may appoint one attorney guardian ad litem to represent the best interests of more than one minor of a marriage.

(9) The division shall provide an attorney guardian ad litem access to all division records regarding the minor at issue and the minor's family.

(10) (a) An attorney guardian ad litem shall conduct an independent investigation regarding the minor at issue, the minor's family, and what is in the best interest of the minor.

(b) An attorney guardian ad litem may interview the minor's child welfare [~~worker~~] caseworker, but may not:

(i) rely exclusively on the conclusions and findings of the division; or

(ii) except as provided in Subsection (10)(c), conduct a visit with the client in conjunction with the visit of a child welfare [~~worker~~] caseworker.

(c) (i) An attorney guardian ad litem may meet with a client during a team meeting, court hearing, or similar venue when a child welfare [~~worker~~] caseworker is present for a purpose other than the attorney guardian ad litem's meeting with the client.

(ii) A party and the party's counsel may attend a team meeting in accordance with the Utah Rules of Professional Conduct.

(11) (a) An attorney guardian ad litem shall maintain current and accurate records regarding:

(i) the number of times the attorney has had contact with each minor; and

(ii) the actions the attorney has taken in representation of the minor's best interest.

(b) In every hearing where the attorney guardian ad litem makes a recommendation regarding the best interest of the minor, the court shall require the attorney guardian ad litem to disclose the factors that form the basis of the recommendation.

(12) (a) Except as provided in Subsection (12)(b), and notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, all records of an attorney guardian ad litem are confidential and may not be released or made public upon subpoena, search warrant, discovery proceedings, or otherwise.

(b) Consistent with Subsection (12)(d), all records of an attorney guardian ad litem:

(i) are subject to legislative subpoena, under Title 36, Chapter 14, Legislative Subpoena Powers; and

(ii) shall be released to the Legislature.

(c) (i) Except as provided in Subsection (12)(c)(ii), the Legislature shall maintain records released in accordance with Subsection (12)(b) as confidential.

(ii) Notwithstanding Subsection (12)(c)(i), the Office of the Legislative Auditor General may include summary data and nonidentifying information in the office's audits and reports to the Legislature.

(d) (i) Subsection (12)(b) is an exception to Rules of Professional Conduct, Rule 1.6, as provided by Rule 1.6(b)(4), because of:

(A) the unique role of an attorney guardian ad litem described in Subsection (8); and

(B) the state's role and responsibility to provide a guardian ad litem program, and as parens patriae, to protect minors.

(ii) A claim of attorney-client privilege does not bar access to the records of an attorney guardian ad litem by the Legislature, through legislative subpoena.

Section 21. Section **78A-6-351** is amended to read:

78A-6-351. Summons -- Service and process -- Issuance and contents -- Notice to absent parent or guardian -- Emergency medical or surgical treatment -- Compulsory process for attendance of witnesses when authorized.

(1) (a) After a petition is filed in the juvenile court, the juvenile court shall promptly issue a summons, unless the juvenile court directs that a further investigation is needed.

(b) A summons is not required for a person who:

(i) appears voluntarily; or

(ii) files a written waiver of service with the clerk of the court at or before the hearing.

(2) A summons under Subsection (1)(a) shall contain:

(a) the name of the court;

(b) the title of the proceedings; and

(c) except for a published summons, a brief statement of the substance of the allegations in the petition.

(3) A published summons shall state:

(a) that a proceeding concerning the minor is pending in the court; and

(b) an adjudication will be made.

(4) (a) [~~The summons~~] A summons under Subsection (1)(a) shall require:

(i) a minor to appear personally in the juvenile court at a time and place stated; or

(ii) if a person who has physical custody of the minor, for the person to:

(A) appear personally; and

(B) bring the minor before the court at a time and place stated.

(b) If the minor is a child and a person summoned is not the parent or guardian of the minor, the juvenile court shall issue the summons to the minor's parent or guardian, as the case may be, notifying the parent or guardian of the pendency of the case and of the time and place set for the hearing.

(5) A summons may be issued requiring the appearance of any other person whose presence the juvenile court finds necessary.

(6) If it appears to the juvenile court that the welfare of the minor or of the public requires that the minor be taken into temporary custody under Section 80-6-201 or protective custody under Section [~~62A-4a-202.1~~] 80-2a-202, and it does not conflict with Section 80-6-202, the court may by endorsement upon the summons direct that the person serving the summons take the minor into custody at once.

(7) (a) Upon the sworn testimony of one or more reputable physicians, the juvenile court may order emergency medical or surgical treatment that is immediately necessary for a

minor for whom a petition has been filed pending the service of summons upon the minor's parent, guardian, or custodian.

(b) If the juvenile court orders emergency medical or surgical treatment:

(i) if a petition for delinquency has been filed under Section 80-6-305, Subsection 80-6-706(4) shall apply to the juvenile court's decision to order treatment;

(ii) if a petition has been filed under Section 80-3-201, Subsection 80-3-109(3) shall apply to the juvenile court's decision to order treatment; or

(iii) if a petition has been filed under Section 80-4-201, Subsection 80-4-108(4) shall apply to the juvenile court's decision to order treatment.

(8) (a) A minor is entitled to the issuance of compulsory process for the attendance of witnesses on the minor's own behalf.

(b) A minor's parent or guardian is entitled to the issuance of compulsory process for the attendance of witnesses on the parent's or guardian's own behalf or on behalf of the minor.

(c) A guardian ad litem or a juvenile probation officer is entitled to compulsory process for the attendance of witnesses on behalf of the minor.

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

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

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

(11) Service of summons in the state shall be made personally, by delivering a copy to the person summoned, except that the parents of a child living together at the parents' usual place of abode may both be served by personal delivery with one copy of the summons for each parent.

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

(b) Service is complete upon return to the juvenile court of the signed receipt.

(13) (a) If the child's parent or guardian required to be summoned under Subsection (4) cannot be found within the state, the fact of the child's presence within the state shall confer jurisdiction on the juvenile court in proceedings in a child's case [~~under this title~~] as to any absent parent or guardian when:

(i) [~~if~~] the address of the parent or guardian is known, due notice is given by sending the parent or guardian a copy of the summons by registered mail with a return receipt to be signed by the addressee only, or by personal service outside the state, as provided in the Utah Rules of Juvenile Procedure; or

(ii) [~~if~~] the address or whereabouts of the parent or guardian outside the state cannot after diligent inquiry be ascertained, due notice is given by publishing a summons:

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

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

(b) (i) If service is by registered mail under Subsection (13)(a)(i), service is complete upon return to the juvenile court of the signed receipt.

(ii) If service is by publication under Subsection (13)(a)(ii), service is complete on the day of the last publication.

(c) Service of summons as provided in this Subsection (13) shall vest the court with jurisdiction over the parent or guardian served in the same manner and to the same extent as if the person served was served personally within the state.

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

(b) In the case of service outside the state, service completed not less than five days before the time set in the summons for appearance of the person served, shall be sufficient to confer jurisdiction.

(15) Computation of periods of time under this chapter and Title 80, Utah Juvenile Code, shall be made in accordance with Utah Rules of Juvenile Procedure, Rule 4.

Section 22. Section **78A-6-356** is amended to read:

78A-6-356. Child support obligation when custody of a child is vested in an individual or institution.

(1) As used in this section:

(a) "Office" means the Office of Recovery Services.

(b) "State custody" means that a child is in the custody of a state department, division, or agency, including secure care.

(2) Under this section, a juvenile court may not issue a child support order against an individual unless:

(a) the individual is served with notice that specifies the date and time of a hearing to determine the financial support of a specified child;

(b) the individual makes a voluntary appearance; or

(c) the individual submits a waiver of service.

(3) Except as provided in Subsection (11), when a juvenile court places a child in state custody or if the guardianship of the child has been granted to another party and an agreement for a guardianship subsidy has been signed by the guardian, the juvenile court:

(a) shall order the child's parent, guardian, or other obligated individual to pay child support for each month the child is in state custody or cared for under a grant of guardianship;

(b) shall inform the child's parent, guardian, or other obligated individual, verbally and in writing, of the requirement to pay child support in accordance with Title 78B, Chapter 12, Utah Child Support Act; and

(c) may refer the establishment of a child support order to the office.

(4) When a juvenile court chooses to refer a case to the office to determine support obligation amounts in accordance with Title 78B, Chapter 12, Utah Child Support Act, the juvenile court shall:

(a) make the referral within three working days after the day on which the juvenile court holds the hearing described in Subsection (2)(a); and

(b) inform the child's parent, guardian, or other obligated individual of:

(i) the requirement to contact the office within 30 days after the day on which the juvenile court holds the hearing described in Subsection (2)(a); and

(ii) the penalty described in Subsection (6) for failure to contact the office.

(5) Liability for child support ordered under Subsection (3) shall accrue:

(a) except as provided in Subsection (5)(b), beginning on day 61 after the day on which the juvenile court holds the hearing described in Subsection (2)(a) if there is no existing child

support order for the child; or

(b) beginning on the day the child is removed from the child's home, including time spent in detention or sheltered care, if the child is removed after having been returned to the child's home from state custody.

(6) (a) If the child's parent, guardian, or other obligated individual contacts the office within 30 days after the day on which the court holds the hearing described in Subsection (2)(a), the child support order may not include a judgment for past due support for more than two months.

(b) Notwithstanding Subsections (5) and (6)(a), the juvenile court may order the liability of support to begin to accrue from the date of the proceeding referenced in Subsection (3) if:

(i) the court informs the child's parent, guardian, or other obligated individual, as described in Subsection (4)(b), and the parent, guardian, or other obligated individual fails to contact the office within 30 days after the day on which the court holds the hearing described in Subsection (2)(a); and

(ii) the office took reasonable steps under the circumstances to contact the child's parent, guardian, or other obligated individual within 30 days after the last day on which the parent, guardian, or other obligated individual was required to contact the office to facilitate the establishment of a child support order.

(c) For purposes of Subsection (6)(b)(ii), the office is presumed to have taken reasonable steps if the office:

(i) has a signed, returned receipt for a certified letter mailed to the address of the child's parent, guardian, or other obligated individual regarding the requirement that a child support order be established; or

(ii) has had a documented conversation, whether by telephone or in person, with the child's parent, guardian, or other obligated individual regarding the requirement that a child support order be established.

(7) In collecting arrears, the office shall comply with Section 62A-11-320 in setting a payment schedule or demanding payment in full.

(8) (a) Unless a court orders otherwise, the child's parent, guardian, or other obligated individual shall pay the child support to the office.

(b) The clerk of the juvenile court, the office, or the [~~Department of Human Services~~] department and the department's divisions shall have authority to receive periodic payments for the care and maintenance of the child, such as social security payments or railroad retirement payments made in the name of or for the benefit of the child.

(9) An existing child support order payable to a parent or other individual shall be assigned to the [~~Department of Human Services~~] department as provided in Section 62A-1-117.

(10) (a) Subsections (4) through (9) do not apply if legal custody of a child is vested by the juvenile court in an individual.

(b) (i) If legal custody of a child is vested by the juvenile court in an individual, the court may order the child's parent, guardian, or other obligated individual to pay child support to the individual in whom custody is vested.

(ii) In the same proceeding, the juvenile court shall inform the child's parent, guardian, or other obligated individual, verbally and in writing, of the requirement to pay child support in accordance with Title 78B, Chapter 12, Utah Child Support Act.

(11) The juvenile court may not order an individual to pay child support for a child in state custody if:

(a) the individual's only form of income is a government-issued disability benefit;

(b) the benefit described in Subsection (11)(a) is issued because of the individual's disability, and not the child's disability; and

(c) the individual provides the juvenile court and the office evidence that the individual meets the requirements of Subsections (11)(a) and (b).

(12) (a) The child's parent or another obligated individual is not responsible for child support for the period of time that the child is removed from the child's home by the Division of Child and Family Services if:

(i) the juvenile court finds that there were insufficient grounds for the removal of the child; and

(ii) the child is returned to the home of the child's parent or guardian based on the finding described in Subsection (12)(a)(i).

(b) If the juvenile court finds insufficient grounds for the removal of the child under Subsection (12)(a), but that the child is to remain in state custody, the juvenile court shall order

that the child's parent or another obligated individual is responsible for child support beginning on the day on which it became improper to return the child to the home of the child's parent or guardian.

[~~(12)~~] (13) After the juvenile court or the office establishes an individual's child support obligation ordered under Subsection (3), the office shall waive the obligation without further order of the juvenile court if:

(a) the individual's child support obligation is established under Subsection 78B-12-205(6) or Section 78B-12-302; or

(b) the individual's only source of income is a means-tested, income replacement payment of aid, including:

(i) cash assistance provided under Title 35A, Chapter 3, Part 3, Family Employment Program; or

(ii) cash benefits received under General Assistance, social security income, or social security disability income.

Section 23. Section **78A-6-357** is amended to read:

78A-6-357. New hearings -- Modification of order or decree -- Requirements for changing or terminating custody, probation, or protective supervision.

(1) If a party seeks a new hearing after an adjudication under Title 80, Utah Juvenile Code, [~~Utah Rules of Juvenile Procedure, Rule 48,~~] Rule 48 of the Utah Rules of Juvenile Procedure shall govern the matter of granting a new hearing.

(2) (a) Except as provided in Subsection (3), a juvenile court may modify or set aside any order or decree made by the juvenile court.

(b) A modification of an order placing a minor on probation may not:

(i) include an order under Section 80-3-405, 80-6-703, 80-6-704, or 80-6-705; or

(ii) extend supervision over a minor, except in accordance with Section 80-6-712.

(3) (a) A parent or guardian of a child whose legal custody has been transferred by the juvenile court to an individual, agency, or institution may petition the juvenile court for restoration of custody or other modification or revocation of the juvenile court's order or decree, except as provided in Subsections (3)(b), (c), and (d) and for a transfer of legal custody for secure care.

(b) A parent or guardian may only petition the juvenile court under Subsection (3)(a)

on the ground that a change of circumstances has occurred that requires modification or revocation in the best interest of the child or the public.

(c) A parent may not file a petition after the parent's parental rights have been terminated in accordance with Title 80, Chapter 4, Termination and Restoration of Parental Rights.

(d) A parent may not file a petition for restoration of custody under this section during the existence of a permanent guardianship established for the child under Subsection 80-3-405(2)(d).

(4) (a) An individual, agency, or institution vested with legal custody of a child may petition the juvenile court for a modification of the custody order on the ground that the change is necessary for the welfare of the child or in the public interest.

(b) The juvenile court shall proceed upon the petition in accordance with this section.

(5) Notice of hearing is required in any case in which the effect of modifying or setting aside an order or decree may be to make any change in the minor's legal custody under Section 80-3-405 or 80-6-703.

(6) (a) Upon the filing of a petition under Subsection (3)(a), the juvenile court shall make a preliminary investigation.

(b) After the preliminary investigation described in Subsection (6)(a), the juvenile court:

(i) may dismiss the petition if the juvenile court finds the alleged change of circumstances, if proved, would not affect the decree; or

(ii) shall conduct a hearing, if the juvenile court finds that further examination of the facts is needed, or if the juvenile court on the juvenile court's own motion determines that the juvenile court's order or decree should be reviewed.

(c) Notice of the hearing described in Subsection (6)(b)(ii) shall be given to all interested persons.

(d) At a hearing under Subsection (6)(b)(ii), the juvenile court may enter an order continuing, modifying, or terminating the juvenile court's order or decree.

(7) Notice of an order terminating probation or protective supervision of a child shall be given to [~~the child's~~]:

(a) the child's parent;

(b) the child's guardian;

(c) the child's custodian; and

(d) [~~where~~] if appropriate, to the child.

(8) Notice of an order terminating probation or protective supervision of a minor who is at least 18 years old shall be given to the minor.

Section 24. Section **80-1-102** is amended to read:

80-1-102. Juvenile code definitions.

[~~As~~] Except as provided in Section 80-6-1103, as used in this title:

(1) (a) "Abuse" means:

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

(B) threatened harm of a child;

(C) sexual exploitation;

(D) sexual abuse; or

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

(ii) that a child's natural parent:

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

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

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

(b) "Abuse" does not include:

(i) reasonable discipline or management of a child, including withholding privileges;

(ii) conduct described in Section 76-2-401; or

(iii) the use of reasonable and necessary physical restraint or force on a child:

(A) in self-defense;

(B) in defense of others;

(C) to protect the child; or

(D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (1)(b)(iii)(A) through (C).

(2) "Abused child" means a child who has been subjected to abuse.

(3) (a) "Adjudication" means a finding by the court, incorporated in a decree, that the facts alleged in the petition have been proved.

(b) "Adjudication" does not mean a finding of not competent to proceed in accordance with Section 80-6-402.

(4) (a) "Adult" means an individual who is 18 years old or older.

(b) "Adult" does not include an individual:

(i) who is 18 years old or older; and

(ii) who is a minor.

(5) "Attorney guardian ad litem" means the same as that term is defined in Section 78A-2-801.

(6) "Board" means the Board of Juvenile Court Judges.

(7) "Child" means, except as provided in Section 80-2-905, an individual who is under 18 years old.

(8) "Child and family plan" means a written agreement between a child's parents or guardian and the Division of Child and Family Services as described in Section [~~62A-4a-205~~] 80-3-307.

[~~(9) "Child placement agency" means:~~]

[~~(a) a private agency licensed to receive a child for placement or adoption under this code; or~~]

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

(9) "Child placing" means the same as that term is defined in Section 62A-2-101.

(10) "Child-placing agency" means the same as that term is defined in Section 62A-2-101.

(11) "Child protection team" means a team consisting of:

(a) the child welfare caseworker assigned to the case;

(b) if applicable, the child welfare caseworker who made the decision to remove the child;

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

(d) if applicable, the law enforcement officer who removed the child from the home;

(e) a representative of the appropriate Children's Justice Center, if one is established

within the county where the child resides;

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

(g) if appropriate, a representative of law enforcement selected by the chief of police or sheriff in the city or county where the child resides; and

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

(12) (a) "Chronic abuse" means repeated or patterned abuse.

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

(13) (a) "Chronic neglect" means repeated or patterned neglect.

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

[~~(10)~~] (14) "Clandestine laboratory operation" means the same as that term is defined in Section 58-37d-3.

[~~(11)~~] (15) "Commit" or "committed" means, unless specified otherwise:

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

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

[~~(12)~~] (16) "Community-based program" means a nonsecure residential or nonresidential program, designated to supervise and rehabilitate juvenile offenders, that prioritizes the least restrictive setting, consistent with public safety, and operated by or under contract with the Division of Juvenile Justice Services.

[~~(13)~~] (17) "Community placement" means placement of a minor in a community-based program described in Section 80-5-402.

[~~(14)~~] (18) "Correctional facility" means:

(a) a county jail; or

(b) a secure correctional facility as defined in Section 64-13-1.

[~~(15)~~] (19) "Criminogenic risk factors" means evidence-based factors that are associated with a minor's likelihood of reoffending.

[~~(16)~~] (20) "Department" means the Department of Human Services created in Section 62A-1-102.

[~~(17)~~] (21) "Dependent child" or "dependency" means a child who is without proper care through no fault of the child's parent, guardian, or custodian.

[~~(18)~~] (22) "Deprivation of custody" means transfer of legal custody by the juvenile court from a parent or a previous custodian to another person, agency, or institution.

[~~(19)~~] (23) "Detention" means home detention or secure detention.

(24) "Detention facility" means a facility, established by the Division of Juvenile Justice Services in accordance with Section 80-6-501, for minors held in detention.

[~~(20)~~] (25) "Detention risk assessment tool" means an evidence-based tool established under Section 80-5-203 that:

(a) assesses a minor's risk of failing to appear in court or reoffending before adjudication; and

(b) is designed to assist in making a determination of whether a minor shall be held in detention.

[~~(21)~~] (26) "Developmental immaturity" means incomplete development in one or more domains that manifests as a functional limitation in the minor's present ability to:

(a) consult with counsel with a reasonable degree of rational understanding; and

(b) have a rational as well as factual understanding of the proceedings.

[~~(22)~~] (27) "Disposition" means an order by a juvenile court, after the adjudication of a minor, under Section 80-3-405 or 80-4-305 or Chapter 6, Part 7, Adjudication and Disposition.

[~~(23)~~] (28) "Educational neglect" means that, after receiving a notice of compulsory education violation under Section 53G-6-202, the parent or guardian fails to make a good faith effort to ensure that the child receives an appropriate education.

[~~(24)~~] (29) "Educational series" means an evidence-based instructional series:

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

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

[~~(25)~~] (30) "Emancipated" means the same as that term is defined in Section 80-7-102.

[~~(26)~~] (31) "Evidence-based" means a program or practice that has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population or has been rated as effective by a standardized program evaluation tool.

[~~(27)~~] (32) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.

[~~(28)~~] (33) "Formal probation" means a minor is:

(a) supervised in the community by, and reports to, a juvenile probation officer or an agency designated by the juvenile court; and

(b) subject to return to the juvenile court in accordance with Section 80-6-607.

[~~(29)~~] (34) "Group rehabilitation therapy" means psychological and social counseling of one or more individuals in the group, depending upon the recommendation of the therapist.

[~~(30)~~] (35) "Guardian" means a person appointed by a court to make decisions regarding a minor, including the authority to consent to:

(a) marriage;

(b) enlistment in the armed forces;

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

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

[~~(31)~~] (36) "Guardian ad litem" means the same as that term is defined in Section 78A-2-801.

[~~(32)~~] (37) "Harm" means:

(a) physical or developmental injury or damage;

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

(c) sexual abuse; or

(d) sexual exploitation.

[~~(33)~~] (38) "Home detention" means placement of a minor:

(a) if prior to a disposition, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice Services or the juvenile court; or

(b) if after a disposition, and in accordance with Section 78A-6-353 or 80-6-704, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice Services or the juvenile court.

[~~(34)~~] (39) (a) "Incest" means engaging in sexual intercourse with an individual whom the perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt,

nephew, niece, or first cousin.

(b) "Incest" includes:

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

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

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

[~~(35)~~] (40) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

[~~(36)~~] (41) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

[~~(37)~~] (42) "Indigent defense service provider" means the same as that term is defined in Section 78B-22-102.

[~~(38)~~] (43) "Indigent defense services" means the same as that term is defined in Section 78B-22-102.

[~~(39)~~] (44) "Indigent individual" means the same as that term is defined in Section 78B-22-102.

[~~(40)~~] (45) (a) "Intake probation" means a minor is:

(i) monitored by a juvenile probation officer; and

(ii) subject to return to the juvenile court in accordance with Section 80-6-607.

(b) "Intake probation" does not include formal probation.

[~~(41)~~] (46) "Intellectual disability" means a significant subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior that constitutes a substantial limitation to the individual's ability to function in society.

[~~(42)~~] (47) "Juvenile offender" means:

(a) a serious youth offender; or

(b) a youth offender.

[~~(43)~~] (48) "Juvenile probation officer" means a probation officer appointed under Section 78A-6-205.

[~~(44)~~] (49) "Juvenile receiving center" means a nonsecure, nonresidential program established by the Division of Juvenile Justice Services, or under contract with the Division of Juvenile Justice Services, that is responsible for minors taken into temporary custody under

Section 80-6-201.

[~~(45)~~] (50) "Legal custody" means a relationship embodying:

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

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

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

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

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

(51) "Licensing Information System" means the Licensing Information System maintained by the Division of Child and Family Services under Section 80-2-1002.

(52) "Management Information System" means the Management Information System developed by the Division of Child and Family Services under Section 80-2-1001.

[~~(46)~~] (53) "Mental illness" means:

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

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

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

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

[~~(47)~~] (54) "Minor" means, except as provided in Sections 80-6-501, 80-6-901, and 80-7-102:

(a) a child; or

(b) an individual:

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

(B) for whom the Division of Child and Family Services has been specifically ordered by the juvenile court to provide services because the individual was an abused, neglected, or dependent child or because the individual was adjudicated for an offense; or

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

(B) whose case is under the continuing jurisdiction of the juvenile court under Chapter 6, Juvenile Justice.

[~~(48)~~] (55) "Mobile crisis outreach team" means the same as that term is defined in Section 62A-15-102.

[~~(49)~~] (56) "Molestation" means that an individual, with the intent to arouse or gratify the sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child, or the breast of a female child, or takes indecent liberties with a child as defined in Section 76-5-416.

[~~(50)~~] (57) (a) "Natural parent" means, except as provided in Section 80-3-302, a minor's biological or adoptive parent.

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

[~~(51)~~] (58) (a) "Neglect" means action or inaction causing:

(i) abandonment of a child, except as provided in [~~Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a Newborn Child~~] Chapter 4, Part 5, Safe Relinquishment of a Newborn Child;

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

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

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

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

(vi) educational neglect.

(b) "Neglect" does not include:

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

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

(iii) a parent or guardian exercising the right described in Section 80-3-304; or

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

including:

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

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

(C) engaging in outdoor play;

(D) remaining in a vehicle unattended, except under the conditions described in Subsection 76-10-2202(2);

(E) remaining at home unattended; or

(F) engaging in a similar independent activity.

[~~(52)~~] (59) "Neglected child" means a child who has been subjected to neglect.

[~~(53)~~] (60) "Nonjudicial adjustment" means closure of the case by the assigned juvenile probation officer, without an adjudication of the minor's case under Section 80-6-701, upon the consent in writing of:

(a) the assigned juvenile probation officer; and

(b) (i) the minor; or

(ii) the minor and the minor's parent, [~~legal~~] guardian, or custodian.

[~~(54)~~] (61) "Not competent to proceed" means that a minor, due to a mental illness, intellectual disability or related condition, or developmental immaturity, lacks the ability to:

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

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

[~~(55)~~] (62) "Parole" means a conditional release of a juvenile offender from residency in secure care to live outside of secure care under the supervision of the Division of Juvenile Justice Services, or another person designated by the Division of Juvenile Justice Services.

[~~(56)~~] (63) "Physical abuse" means abuse that results in physical injury or damage to a child.

[~~(57)~~] (64) (a) "Probation" means a legal status created by court order, following an adjudication under Section 80-6-701, whereby the minor is permitted to remain in the minor's home under prescribed conditions.

(b) "Probation" includes intake probation or formal probation.

[~~(58)~~] (65) "Prosecuting attorney" means:

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

(b) any district attorney or deputy district attorney;

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

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

[~~(59)~~] (66) "Protective custody" means the shelter of a child by the Division of Child and Family Services from the time the child is removed from the home until the earlier of:

(a) the day on which the shelter hearing is held under Section 80-3-301; or

(b) the day on which the child is returned home.

(67) "Protective services" means expedited services that are provided:

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

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

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

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

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

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

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

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

(A) removal from the child's home;

(B) placement in substitute care; and

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

[~~(60)~~] (68) "Protective supervision" means a legal status created by court order, following an adjudication on the ground of abuse, neglect, or dependency, whereby:

(a) the minor is permitted to remain in the minor's home; and

(b) supervision and assistance to correct the abuse, neglect, or dependency is provided by an agency designated by the juvenile court.

[~~(61)~~] (69) (a) "Related condition" means a condition that:

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

(ii) results in impairment of general intellectual functioning or adaptive behavior similar to that of an intellectually disabled individual;

(iii) is likely to continue indefinitely; and

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

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

[~~(62)~~] (70) (a) "Residual parental rights and duties" means the rights and duties remaining with a parent after legal custody or guardianship, or both, have been vested in another person or agency, including:

(i) the responsibility for support;

(ii) the right to consent to adoption;

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

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

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

(i) marriage;

(ii) enlistment; and

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

[~~(63)~~] (71) "Runaway" means a child, other than an emancipated child, who willfully leaves the home of the child's parent or guardian, or the lawfully prescribed residence of the child, without permission.

[~~(64)~~] (72) "Secure care" means placement of a minor, who is committed to the Division of Juvenile Justice Services for rehabilitation, in a facility operated by, or under contract with, the Division of Juvenile Justice Services, that provides 24-hour supervision and confinement of the minor.

[~~(65)~~] (73) "Secure care facility" means a facility, established in accordance with Section 80-5-503, for juvenile offenders in secure care.

[~~(66)~~] (74) "Secure detention" means temporary care of a minor who requires secure custody in a physically restricting facility operated by, or under contract with, the Division of Juvenile Justice Services:

(a) before disposition of an offense that is alleged to have been committed by the

minor; or

(b) under Section 80-6-704.

[~~(67)~~] (75) "Serious youth offender" means an individual who:

(a) is at least 14 years old, but under 25 years old;

(b) committed a felony listed in Subsection 80-6-503(1) and the continuing jurisdiction of the juvenile court was extended over the individual's case until the individual was 25 years old in accordance with Section 80-6-605; and

(c) is committed by the juvenile court to the Division of Juvenile Justice Services for secure care under Sections 80-6-703 and 80-6-705.

[~~(68)~~] (76) "Severe abuse" means abuse that causes or threatens to cause serious harm to a child.

[~~(69)~~] (77) "Severe neglect" means neglect that causes or threatens to cause serious harm to a child.

(78) (a) "Severe type of child abuse or neglect" means, except as provided in Subsection (78)(b):

(i) if committed by an individual who is 18 years old or older:

(A) chronic abuse;

(B) severe abuse;

(C) sexual abuse;

(D) sexual exploitation;

(E) abandonment;

(F) chronic neglect; or

(G) severe neglect; or

(ii) if committed by an individual who is under 18 years old:

(A) causing serious physical injury, as defined in Subsection 76-5-109(1), to another child that indicates a significant risk to other children; or

(B) sexual behavior with or upon another child that indicates a significant risk to other children.

(b) "Severe type of child abuse or neglect" does not include:

(i) the use of reasonable and necessary physical restraint by an educator in accordance with Subsection 53G-8-302(2) or Section 76-2-401;

(ii) an individual's conduct that is justified under Section 76-2-401 or constitutes the use of reasonable and necessary physical restraint or force in self-defense or otherwise appropriate to the circumstances to obtain possession of a weapon or other dangerous object in the possession or under the control of a child or to protect the child or another individual from physical injury; or

(iii) a health care decision made for a child by a child's parent or guardian, unless, subject to Subsection (78)(c), the state or other party to the proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed.

(c) Subsection (78)(b)(iii) does not prohibit a parent or guardian from exercising the right to obtain a second health care opinion.

[~~(70)~~] (79) "Sexual abuse" means:

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

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

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

(ii) the children are related, as described in Subsection [~~(34)~~] (39), including siblings by marriage while the marriage exists or by adoption;

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

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

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

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

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

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

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

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

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

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

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

[~~(71)~~] (80) "Sexual exploitation" means knowingly:

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

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

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

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

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

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

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

[~~(72)~~] (81) "Shelter" means the temporary care of a child in a physically unrestricted facility pending a disposition or transfer to another jurisdiction.

[~~(73)~~] (82) "Shelter facility" means [~~the same as that term is defined in Section 62A-4a-101~~] a nonsecure facility that provides shelter for a minor.

(83) "Significant risk" means a risk of harm that is determined to be significant in accordance with risk assessment tools and rules established by the Division of Child and Family Services in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that focus on:

(a) age;

(b) social factors;

(c) emotional factors;

(d) sexual factors;

(e) intellectual factors;

(f) family risk factors; and

(g) other related considerations.

[~~(74)~~] (84) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

[~~(75)~~] (85) "Status offense" means an offense that would not be an offense but for the age of the offender.

[~~(76)~~] (86) "Substance abuse" means, except as provided in Section 80-2-603, the misuse or excessive use of alcohol or other drugs or substances.

[~~(77) "Substantiated" means the same as that term is defined in Section 62A-4a-101.~~]

[~~(78) "Supported" means the same as that term is defined in Section 62A-4a-101.~~]

(87) "Substantiated" or "substantiation" means a judicial finding based on a preponderance of the evidence, and separate consideration of each allegation made or identified in the case, that abuse, neglect, or dependency occurred.

(88) "Substitute care" means:

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

(b) services provided for a minor in the protective custody of the Division of Child and Family Services, or a minor in the temporary custody or custody of the Division of Child and Family Services, as those terms are defined in Section 80-3-102; or

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

(89) "Supported" means a finding by the Division of Child and Family Services based on the evidence available at the completion of an investigation, and separate consideration of each allegation made or identified during the investigation, that there is a reasonable basis to conclude that abuse, neglect, or dependency occurred.

[~~(79)~~] (90) "Termination of parental rights" means the permanent elimination of all parental rights and duties, including residual parental rights and duties, by court order.

[~~(80)~~] (91) "Therapist" means:

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

(b) any other individual licensed or approved by the state for the purpose of conducting

psychological treatment and counseling.

[~~(81)~~] (92) "Threatened harm" means actions, inactions, or credible verbal threats, indicating that the child is at an unreasonable risk of harm or neglect.

[~~(82)~~] (93) "Ungovernable" means a child in conflict with a parent or guardian, and the conflict:

(a) results in behavior that is beyond the control or ability of the child, or the parent or guardian, to manage effectively;

(b) poses a threat to the safety or well-being of the child, the child's family, or others; or

(c) results in the situations described in Subsections [~~(82)~~] (93)(a) and (b).

[~~(83)~~] (94) "Unregulated custody transfer" means the placement of a child:

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

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

(c) without taking:

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

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

[~~(84) "Unsupported" means the same as that term is defined in Section 62A-4a-101.~~]

[~~(85) "Unsubstantiated" means the same as that term is defined in Section 62A-4a-101.~~]

(95) "Unsupported" means a finding by the Division of Child and Family Services at the completion of an investigation, after the day on which the Division of Child and Family Services concludes the alleged abuse, neglect, or dependency is not without merit, that there is insufficient evidence to conclude that abuse, neglect, or dependency occurred.

(96) "Unsubstantiated" means a judicial finding that there is insufficient evidence to conclude that abuse, neglect, or dependency occurred.

[~~(86)~~] (97) "Validated risk and needs assessment" means an evidence-based tool that

assesses a minor's risk of reoffending and a minor's criminogenic needs.

[~~(87)~~] (98) "Without merit" means [~~the same as that term is defined in Section 62A-4a-101~~] a finding at the completion of an investigation by the Division of Child and Family Services, or a judicial finding, that the alleged abuse, neglect, or dependency did not occur, or that the alleged perpetrator was not responsible for the abuse, neglect, or dependency.

[~~(88)~~] (99) "Youth offender" means an individual who is:

(a) at least 12 years old, but under 21 years old; and

(b) committed by the juvenile court to the Division of Juvenile Justice Services for secure care under Sections 80-6-703 and 80-6-705.

Section 25. Section **80-2-102**, which is renumbered from Section 62A-4a-101 is renumbered and amended to read:

CHAPTER 2. CHILD WELFARE SERVICES

Part 1. General Provisions

[~~62A-4a-101~~]. 80-2-102. Definitions.

As used in this chapter:

[~~(1) "Abuse" means the same as that term is defined in Section 80-1-102.~~]

[~~(2) "Adoption services" means:~~]

[~~(a) placing children for adoption;~~]

[~~(b) subsidizing adoptions under Section 62A-4a-105;~~]

[~~(c) supervising adoption placements until the adoption is finalized by the court;~~]

[~~(d) conducting adoption studies;~~]

[~~(e) preparing adoption reports upon request of the court; and~~]

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

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

[~~(4) "Child protection team" means a team consisting of:~~]

[~~(a) the caseworker assigned to the case;~~]

[~~(b) if applicable, the caseworker who made the decision to remove the child;~~]

[~~(c) a representative of the school or school district where the child attends school;~~]

[~~(d) if applicable, the law enforcement officer who removed the child from the home;~~]

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

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

[~~(g) if appropriate, a representative of law enforcement selected by the chief of police or sheriff in the city or county where the child resides; and~~]

[~~(h) any other individuals determined appropriate and necessary by the team coordinator and chair.~~]

[~~(5) (a) "Chronic abuse" means repeated or patterned abuse.~~]

[~~(b) "Chronic abuse" does not mean an isolated incident of abuse.~~]

[~~(6) (a) "Chronic neglect" means repeated or patterned neglect.~~]

[~~(b) "Chronic neglect" does not mean an isolated incident of neglect.~~]

[~~(7)~~] (1) "Consult" means an interaction between two persons in which the initiating person:

(a) provides information to another person;

(b) provides the other person an opportunity to respond; and

(c) takes the other person's response, if any, into consideration.

[~~(8)~~] (2) "Consumer" means a person who receives services offered by the division in accordance with this chapter.

(3) "Council" means the Child Welfare Improvement Council created in Section 80-2-1101.

[~~(9)~~] (4) "Custody," with regard to the division, means the custody of a minor in the division as of the date of disposition.

[~~(10)~~] (5) "Day-care services" means care of a child for a portion of the day which is less than 24 hours:

(a) in the child's own home by a responsible individual; or

(b) outside of the child's home in a:

(i) day-care center;

(ii) family group home; or

(iii) family child care home.

[~~(11) "Dependent child" or "dependency" means a child, or the condition of a child,~~

~~who is without proper care through no fault of the child's parent, guardian, or custodian.~~]

[~~(12)~~] (6) "Director" means the director of the [~~Division of Child and Family Services created in Section 62A-4a-103~~] division appointed under Section 80-2-202.

[~~(13)~~] (7) "Division" means the Division of Child and Family Services created in Section 80-2-201.

(8) "Domestic violence" means the same as that term is defined in Section 77-36-1.

[~~(14)~~] (9) "Domestic violence services" means:

(a) temporary shelter, treatment, and related services provided to:

(i) an individual who is a victim of abuse, as defined in Section 78B-7-102; and

(ii) the dependent children of an individual who is a victim of abuse, as defined in Section 78B-7-102; and

(b) treatment services for an individual who is alleged to have committed, has been convicted of, or has pled guilty to[~~, an act of~~] domestic violence [~~as defined in Section 77-36-1~~].

[~~(15) "Educational neglect" means the same as that term is defined in Section 80-1-102.~~]

[~~(16) "Harm" means the same as that term is defined in Section 80-1-102.~~]

[~~(17)~~] (10) "Homemaking [~~service~~] services" means the care of [~~individuals in their domiciles~~] an individual in the individual's domicile, and help given to an individual caretaker [~~relatives~~] relative to achieve improved household and family management through the services of a trained homemaker.

[~~(18) "Incest" means the same as that term is defined in Section 80-1-102.~~]

[~~(19) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.~~]

[~~(20) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.~~]

[~~(21) "Minor" means, except as provided in Part 7, Interstate Compact on Placement of Children, the same as that term is defined in Section 80-1-102.~~]

[~~(22) "Molestation" means the same as that term is defined in Section 80-1-102.~~]

[~~(23)~~] (11) "Mutual case" means a case that [~~has been~~] is:

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

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

(c) accepted for investigation by a child protection team, as applicable.

[~~(24) "Natural parent" means the same as that term is defined in Section 80-1-102.~~]

[~~(25) "Neglect" means the same as that term is defined in Section 80-1-102.~~]

[~~(26) "Protective custody" means the same as that term is defined in Section 80-1-102.~~]

[~~(27) "Protective services" means expedited services that are provided:~~]

[~~(a) in response to evidence of neglect, abuse, or dependency of a child;~~]

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

[~~(i) help the cohabitant develop recognition of the cohabitant's duty of care and of the causes of neglect or abuse; and~~]

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

[~~(c) in cases where the child's welfare is endangered:~~]

[~~(i) to bring the situation to the attention of the appropriate juvenile court and law enforcement agency;~~]

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

[~~(iii) to protect the child from the circumstances that endanger the child's welfare including, when appropriate:~~]

[~~(A) removal from the child's home;~~]

[~~(B) placement in substitute care; and~~]

[~~(C) petitioning the court for termination of parental rights.~~]

[~~(28) "Severe abuse" means the same as that term is defined in Section 80-1-102.~~]

[~~(29) "Severe neglect" means the same as that term is defined in Section 80-1-102.~~]

[~~(30) "Sexual abuse" means the same as that term is defined in Section 80-1-102.~~]

[~~(31) "Sexual exploitation" means the same as that term is defined in Section 80-1-102.~~]

(12) (a) "Person responsible for the child's care" means the child's parent, guardian, or other person responsible for the child's care.

(b) "Person responsible for the child's care" includes a person responsible for the child's care in the same home as the child, a relative's home, a group, family, or day care facility, a foster care home, or a residential institution.

[~~(32)~~] (13) "Shelter care" means the temporary care of a minor in a nonsecure facility.

[~~(33) "Shelter facility" means a nonsecure facility that provides shelter care for a~~

~~minor.~~]

[~~(34)~~] (14) "Sibling" means a child who shares or has shared at least one parent in common either by blood or adoption.

[~~(35)~~] (15) "Sibling visitation" means services provided by the division to facilitate the interaction between a child in division custody with [~~a sibling of that child~~] the child's sibling.

[~~(36) "State" means:~~]

[~~(a) a state of the United States;~~]

[~~(b) the District of Columbia;~~]

[~~(c) the Commonwealth of Puerto Rico;~~]

[~~(d) the Virgin Islands;~~]

[~~(e) Guam;~~]

[~~(f) the Commonwealth of the Northern Mariana Islands; or~~]

[~~(g) a territory or possession administered by the United States.~~]

[~~(37) "State plan" means the written description of the programs for children, youth, and family services administered by the division in accordance with federal law.~~]

[~~(38) "Status offense" means the same as that term is defined in Section 80-1-102.~~]

[~~(39) "Substance abuse" means, except as provided in Section 62A-4a-404, the same as that term is defined in Section 80-1-102.~~]

[~~(40) "Substantiated" or "substantiation" means a judicial finding based on a preponderance of the evidence that abuse or neglect occurred. Each allegation made or identified in a given case shall be considered separately in determining whether there should be a finding of substantiated.~~]

[~~(41) "Substitute care" means:~~]

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

[~~(b) services provided for a minor awaiting placement; and~~]

[~~(c) the licensing and supervision of a substitute care facility.~~]

[~~(42) "Supported" means a finding by the division based on the evidence available at the completion of an investigation that there is a reasonable basis to conclude that abuse,~~

~~neglect, or dependency occurred. Each allegation made or identified during the course of the investigation shall be considered separately in determining whether there should be a finding of supported.~~]

(16) (a) "Subject of the report" means a person reported under Part 6, Child Abuse and Neglect Reports.

(b) "Subject of the report" includes the child who is the alleged victim of the report and the person responsible for the child's care.

[~~(43)~~] (17) "Temporary custody" means, with regard to the division, the custody of a child from the day on which the shelter hearing described in Section 80-3-301 is held until the day on which the juvenile court enters a disposition under Section 80-3-405.

[~~(44) "Threatened harm" means the same as that term is defined in Section 80-1-102.~~]

[~~(45)~~] (18) "Transportation services" means travel assistance given to an individual with escort service, if necessary, to and from community facilities and resources as part of a service plan.

[~~(46) "Unsubstantiated" means a judicial finding that there is insufficient evidence to conclude that abuse or neglect occurred.~~]

[~~(47) "Unsupported" means a finding by the division at the completion of an investigation that there is insufficient evidence to conclude that abuse, neglect, or dependency occurred. However, a finding of unsupported means also that the division did not conclude that the allegation was without merit.~~]

[~~(48) "Without merit" means a finding at the completion of an investigation by the division, or a judicial finding, that the alleged abuse, neglect, or dependency did not occur, or that the alleged perpetrator was not responsible for the abuse, neglect, or dependency.~~]

Section 26. Section **80-2-201**, which is renumbered from Section 62A-4a-103 is renumbered and amended to read:

Part 2. Division of Child and Family Services

[~~62A-4a-103~~]. 80-2-201. Creation of the division.

(1) [~~(a)~~] There is created the Division of Child and Family Services within the department[~~;~~].

(2) The division is under the administration and general supervision of the executive director of the department.

[~~(b)~~] (3) The division [~~is the child, youth, and family services authority of the state and~~] has all functions, powers, duties, rights, and responsibilities [~~created in accordance with~~] described in this chapter and Chapter 2a, Removal and Protective Custody of a Child, except those assumed by the department.

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

[~~(b) The division shall, when possible and appropriate, provide in-home services for the preservation of families in an effort to protect the child from the trauma of separation from the child's family, protect the integrity of the family, and the constitutional rights of parents. In keeping with its ultimate goal and purpose of protecting children, however, when a child's welfare is endangered or reasonable efforts to maintain or reunify a child with the child's family have failed, the division shall act in a timely fashion in accordance with the requirements of this chapter and Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, to provide the child with a stable, permanent environment.~~]

[~~(3) The division shall also provide domestic violence services in accordance with federal law.~~]

Section 27. Section **80-2-202**, which is renumbered from Section 62A-4a-104 is renumbered and amended to read:

[~~62A-4a-104~~]. 80-2-202. Division director -- Qualifications -- Responsibilities.

[~~(1) The director of the division shall be appointed by the executive director.~~]

(1) The executive director of the department shall appoint the director of the division.

(2) The director shall have a bachelor's degree from an accredited university or college, be experienced in administration, and be knowledgeable in the areas of child and family services, including child protective services, family preservation, and foster care.

(3) The director is the administrative head of the division.

Section 28. Section **80-2-301**, which is renumbered from Section 62A-4a-105 is renumbered and amended to read:

Part 3. Division Responsibilities

[~~62A-4a-105~~]. 80-2-301. Division responsibilities.

(1) The division is the child, youth, and family services authority of the state.

[~~(1)~~] (2) The division shall:

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

(i) child welfare services;

(ii) domestic violence services; and

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

(b) provide the following services:

(i) financial and other assistance to an individual adopting a child with special needs under [~~Part 9, Adoption Assistance~~] Sections 80-2-806 through 80-2-809, not to exceed the amount the division would provide for the child as a legal ward of the state;

(ii) non-custodial and in-home services in accordance with Section 80-2-306, including:

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

(B) family preservation services;

(iii) reunification services to families whose children are in substitute care in accordance with [~~the requirements of~~] this chapter, Chapter 2a, Removal and Protective Custody of a Child, and [~~Title 80,~~] Chapter 3, Abuse, Neglect, and Dependency [~~Proceedings~~];

(iv) protective supervision of a family, upon court order, in an effort to eliminate abuse or neglect of a child in that family;

(v) shelter care in accordance with [~~the requirements of~~] this chapter, Chapter 2a, Removal and Protective Custody of a Child, and [~~Title 80~~], Chapter 3, Abuse, Neglect, and Dependency Proceedings;

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

(vii) protective services to victims of domestic violence[~~, as defined in Section 77-36-1, and their~~] and the victims' children, in accordance with [~~the provisions of~~] this chapter, Chapter 2a, Removal and Protective Custody of a Child, and [~~Title 80,~~] Chapter 3, Abuse, Neglect, and Dependency Proceedings;

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

(ix) services for minors who are victims of human trafficking or human smuggling, as described in Sections 76-5-308 through 76-5-310, or who have engaged in prostitution or sexual solicitation, as defined in Sections 76-10-1302 and 76-10-1313; and

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

services offered by the division in accordance with this chapter and Chapter 2a, Removal and Protective Custody of a Child;

(c) establish standards for all:

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

(ii) facilities that provide substitute care for dependent, abused, [~~and~~] or neglected children placed in the custody of the division; and

(iii) direct or contract providers of domestic violence services described in Subsection [~~(1)~~] (2)(b)(vi);

(d) have authority to:

(i) contract with a private, nonprofit organization to recruit and train foster care families and child welfare volunteers in accordance with Section [~~62A-4a-107.5~~] 80-2-405; and

(ii) approve facilities that meet the standards established under Subsection [~~(1)~~] (2)(c) to provide substitute care for dependent, abused, [~~and~~] or neglected children placed in the custody of the division;

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

[~~(f) if there is a privacy agreement with an Indian tribe to protect the confidentiality of division records to the same extent that the division is required to protect division records, cooperate with and share all appropriate information in the division's possession regarding an Indian child, the Indian child's parent or guardian, or a proposed placement for the Indian child with the Indian tribe that is affiliated with the Indian child;~~]

[~~(g)~~] (f) in accordance with Subsection [~~(2)~~] (5)(a), promote and enforce state and federal laws enacted for the protection of abused, neglected, [~~and~~] or dependent children, in accordance with [~~the requirements of~~] this chapter and Chapter 2a, Removal and Protective Custody of a Child, unless administration is expressly vested in another division or department of the state;

[~~(h)~~] (g) cooperate with the Workforce Development Division within the Department of Workforce Services in meeting the social and economic needs of an individual who is eligible for public assistance;

[~~(i)~~] (h) compile relevant information, statistics, and reports on child and family service matters in the state;

[~~(j)~~] (i) prepare and submit to the department, the governor, and the Legislature reports of the operation and administration of the division in accordance with the requirements of Sections [~~62A-4a-117 and 62A-4a-118~~] 80-2-1102 and 80-2-1103;

[~~(k)~~] (j) within appropriations from the Legislature, provide or contract for a variety of domestic violence services and treatment methods;

(k) enter into contracts for programs designed to reduce the occurrence or recurrence of abuse and neglect in accordance with Section 80-2-503;

(l) seek reimbursement of funds the division expends on behalf of a child in the protective custody, temporary custody, or custody of the division, from the child's parent or guardian in accordance with an order for child support under Section 78A-6-356;

[~~(l)~~] (m) ensure regular, periodic publication, including electronic publication, regarding the number of children in the custody of the division who:

(i) have a permanency goal of adoption; or

(ii) have a final plan of termination of parental rights, [~~pursuant to~~] under Section 80-3-409, and promote adoption of [~~those~~] the children;

[~~(m)~~] (n) subject to Subsections [~~(2)(b) and~~] (5) and (7), refer an individual receiving services from the division to the local substance abuse authority or other private or public resource for a court-ordered drug screening test;

[~~(n)~~] (o) report before November 30, 2020, and every third year thereafter, to the Social Services Appropriations Subcommittee regarding:

(i) the daily reimbursement rate that is provided to licensed foster parents based on level of care;

(ii) the amount of money spent on daily reimbursements for licensed foster parents [~~in the state~~] during the previous fiscal year; and

(iii) any recommended changes to the division's budget to support the daily reimbursement rates described in Subsection [~~(1)(n)(i)~~] (2)(o)(i); and

[~~(o)~~] (p) perform other duties and functions required by law.

(3) (a) The division may provide, directly or through contract, services that include the following:

(i) adoptions;

(ii) day-care services;

(iii) out-of-home placements for minors;

(iv) health-related services;

(v) homemaking services;

(vi) home management services;

(vii) protective services for minors;

(viii) transportation services; or

(ix) domestic violence services.

(b) The division shall monitor services provided directly by the division or through contract to ensure compliance with applicable law and rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) (i) Except as provided in Subsection (3)(c)(ii), if the division provides a service through a private contract, the division shall post the name of the service provider on the division's website.

(ii) Subsection (3)(c)(i) does not apply to a foster parent placement.

(4) (a) The division may:

(i) receive gifts, grants, devises, and donations;

(ii) encourage merchants and service providers to:

(A) donate goods or services; or

(B) provide goods or services at a nominal price or below cost;

(iii) distribute goods to applicants or consumers of division services free or for a nominal charge and tax free; and

(iv) appeal to the public for funds to meet needs of applicants or consumers of division services that are not otherwise provided by law, including Sub-for-Santa programs, recreational programs for minors, and requests for household appliances and home repairs.

(b) If requested by the donor and subject to state and federal law, the division shall use a gift, grant, devise, donation, or proceeds from the gift, grant, devise, or donation for the purpose requested by the donor.

[~~(2)~~] (5) (a) In carrying out the requirements of Subsection [~~(1)(g)~~] (2)(f), the division shall:

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

administer a broad range of services and support;

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

(iii) make expenditures necessary for the care and protection of the children described in [~~this~~] Subsection [~~(2)~~] (5)(a)(ii), within the division's budget.

(b) [~~When~~] If an individual is referred to a local substance abuse authority or other private or public resource for court-ordered drug screening under Subsection [~~(1)(m)~~] (2)(n), the court shall order the individual to pay all costs of the tests unless:

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

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

(iii) the court finds that the individual is [~~impecunious~~] an indigent individual.

[~~(3) Except to the extent provided by rule, the division is not responsible for investigating~~]

(6) Except to the extent provided by rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division is not required to investigate domestic violence in the presence of a child, as described in Section 76-5-109.1.

[~~(4)~~] (7) The division may not:

(a) require a parent who has a child in the custody of the division to pay for some or all of the cost of any drug testing the parent is required to undergo[~~.~~]; or

[~~(5)~~] (b) [~~The division may not~~] refer an individual who is receiving services from the division for drug testing by means of a hair or fingernail test that is administered to detect the presence of drugs.

Section 29. Section **80-2-302**, which is renumbered from Section 62A-4a-102 is renumbered and amended to read:

[~~62A-4a-102~~]. 80-2-302. Division rulemaking authority -- Family impact statement.

[~~(1) The Division of Child and Family Services, created in Section 62A-4a-103, is responsible for establishing division rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in accordance with the requirements of this chapter and Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, regarding abuse, neglect, and dependency~~

~~proceedings, and domestic violence services. The division is responsible to see that the legislative purposes for the division are carried out.~~]

[~~(2) The division shall:~~]

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules:

(a) that establish the process for:

(i) determination of eligibility for services offered by the division in accordance with this chapter and Chapter 2a, Removal and Protective Custody of a Child; and

[~~(a)~~] (ii) [~~approve~~] approval of fee schedules for programs within the division;

(b) [~~in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish rules~~] to ensure that private citizens, consumers, foster parents, private contract providers, allied state and local agencies, and others are provided with an opportunity to comment and provide input regarding any new rule or proposed revision of an existing rule; [~~and~~]

(c) that provide a mechanism for:

(i) systematic and regular review of existing rules, including an annual review of all division rules to ensure that the rules comply with [~~the Utah Code~~] applicable statutory provisions; and

(ii) consideration of rule changes proposed by the persons [~~and agencies~~] described in Subsection [~~(2)(b).~~] (1)(b);

[~~(3) (a) The division shall establish rules for the determination of eligibility for services offered by the division in accordance with this chapter.~~]

[~~(b) The division may, by rule, establish eligibility standards for consumers.~~]

[~~(4) The division shall adopt and maintain rules~~]

(d) regarding:

(i) placement for adoption or foster care that are consistent with, and no more restrictive than, applicable statutory provisions[~~.~~];

(ii) abuse, neglect, and dependency proceedings; and

(iii) domestic violence services provided by the division; and

(e) that establish procedures to accommodate the moral and religious beliefs, and culture, of the minors and families that the division serves, including:

(i) the immediate family and other relatives of a minor who is in protective custody, temporary custody, or custody of the division, or otherwise under the jurisdiction of the juvenile court;

(ii) a foster and other out-of-home placement family; and

(iii) an adoptive family.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules that establish:

(a) eligibility standards for consumers of division services; or

(b) requirements for a program described in Subsection 80-2-301(4)(a)(iv).

(3) (a) If the division establishes a rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall include an assessment of the impact of the rule on families, including the impact on the authority of a parent to oversee the care, supervision, upbringing, or education of a child in the parent's custody.

(b) The division shall publish a family impact statement describing the assessment described in Subsection (3)(a) in the Utah State Bulletin within 90 days after the day on which the rule described in Subsection (3)(a) is established.

Section 30. Section **80-2-303**, which is renumbered from Section 62A-4a-113 is renumbered and amended to read:

[~~62A-4a-113~~]. 80-2-303. Division enforcement authority -- Attorney general responsibilities.

(1) The division shall take legal action that is necessary to enforce [~~the provisions of~~] this chapter and Chapter 2a, Removal and Protective Custody of a Child.

(2) (a) Subject to Section 67-5-17 and the attorney general's prosecutorial discretion in civil enforcement actions, the attorney general shall enforce [~~all provisions of~~] this chapter, [~~in addition to the requirements of Title 80,~~] Chapter 2a, Removal and Protective Custody of a Child, Chapter 3, Abuse, Neglect, and Dependency Proceedings, and Chapter 4, Termination and Restoration of Parental Rights, relating to [~~protection, custody, and parental rights termination for abused, neglected, or dependent minors~~] protection or custody of an abused, neglected, or dependent minor and the termination of parental rights.

(b) The attorney general may contract with the local county attorney to enforce [~~the provisions of~~] this chapter [~~and Title 80~~], Chapter 2a, Removal and Protective Custody of a

Child, Chapter 3, Abuse, Neglect, and Dependency Proceedings, and Chapter 4, Termination and Restoration of Parental Rights.

(c) It is the responsibility of the attorney general's office to:

(i) advise the division regarding decisions to remove a minor from the minor's home;

(ii) represent the division in all court and administrative proceedings related to abuse, neglect, [~~and~~] or dependency including, but not limited to, shelter hearings, dispositional hearings, dispositional review hearings, periodic review hearings, and petitions for termination of parental rights; and

(iii) be available to and advise child welfare caseworkers on an ongoing basis.

(d) (i) The attorney general shall designate no less than 16 full-time attorneys to advise and represent the division in abuse, neglect, and dependency proceedings, including petitions for termination of parental rights.

(ii) The attorneys described in Subsection (2)(d)(i) shall devote [~~their~~] full time and attention to the representation described in Subsection (2)(d)(i) and, insofar as it is practicable, [~~shall~~] be housed in or near various offices of the division statewide.

(3) [~~(a)~~] The attorney general's office shall represent the division [~~with regard to actions involving minors who have not been~~] in an action:

(a) involving a minor who has not been adjudicated as abused or neglected, but who [~~are otherwise committed to~~] is placed in the custody of the division by the juvenile court[~~, and who are placed in custody of the division~~] primarily on the basis of delinquent behavior or a status offense[~~.~~]; or

(b) for reimbursement of funds from a parent or guardian under Subsection 80-2-301(2)(l).

[~~(b) Nothing in this section may be construed to~~] (c) This section does not affect the responsibility of the county attorney or district attorney to represent the state in the matters described in Subsection (3)(a) [~~in accordance with Sections 80-3-104 and 80-4-106~~].

Section 31. Section **80-2-304**, which is renumbered from Section 62A-4a-115 is renumbered and amended to read:

[~~62A-4a-115~~]. 80-2-304. Administrative proceedings.

The department and division shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in [~~their~~] the department's or division's

adjudicative proceedings.

Section 32. Section **80-2-305**, which is renumbered from Section 62A-4a-111 is renumbered and amended to read:

[~~62A-4a-111~~]. 80-2-305. Fraudulently obtained services -- Division recovery -- Agreement with Office of Recovery Services.

(1) If it is discovered that a person is fraudulently obtaining, or has fraudulently obtained, services offered by the division in accordance with this chapter or Chapter 2a, Removal and Protective Custody of a Child, the division shall take all necessary steps, including legal action through the attorney general, to recover all money or the value of services fraudulently obtained.

(2) The division may establish an agreement with the Office of Recovery Services to fulfill the requirements of this section.

Section 33. Section **80-2-306**, which is renumbered from Section 62A-4a-202 is renumbered and amended to read:

[~~62A-4a-202~~]. 80-2-306. Division in-home services for the preservation of families.

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

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

(B) the family is in crisis; and

(ii) the division determines that in-home services are reasonable and appropriate.

(b) In determining whether in-home services are reasonable and appropriate, and in keeping with Subsection [~~62A-4a-201(1)~~] 80-2a-201(1), the child's health, safety, and welfare shall be the paramount concern.

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

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

(ii) are likely to prevent continued abuse or neglect of the child.

(2) (a) The division shall maintain a statewide inventory of in-home services available through public and private agencies or individuals for use by child welfare caseworkers.

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

(i) the method of accessing each service;

(ii) eligibility requirements for each service;

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

(iv) information regarding waiting lists for each service.

(3) (a) As part of the division's in-home services for the preservation of families, the division shall provide in-home services in varying degrees of intensity and contact that are specific to the needs of each individual family.

(b) As part of the division's in-home services, the division shall:

(i) provide customized assistance;

(ii) provide support or interventions that are tailored to the needs of the family;

(iii) discuss the family's needs with the parent;

(iv) discuss an assistance plan for the family with the parent; and

(v) address:

(A) the safety of children;

(B) the needs of the family; and

(C) services necessary to aid in the preservation of the family and a child's ability to remain in the home.

(c) [~~In-home services shall be, as practicable, provided~~] The division shall, as practicable, provide in-home services within the region that the family resides, using existing division staff.

(4) (a) The division may use specially trained child welfare caseworkers, private providers, or other persons to provide the in-home services described in Subsection (3).

(b) The division shall allow a child welfare caseworker to be flexible in responding to the needs of each individual family, including:

(i) limiting the number of families assigned; and

(ii) being available to respond to assigned families within 24 hours.

(5) To provide, expand, and improve the delivery of in-home services to prevent the removal of children from [~~their~~] the children's homes and promote the preservation of families, the division shall make substantial effort to obtain funding, including:

(a) federal grants;

(b) federal waivers; and

(c) private money.

Section 34. Section **80-2-307**, which is renumbered from Section 62A-4a-121 is renumbered and amended to read:

[~~62A-4a-121~~]. 80-2-307. Division reimbursement of motor vehicle insurance coverage for a foster child.

(1) Within the amounts appropriated to the division for the purposes described in this section, the division may reimburse a foster parent for providing owner's or operator's security covering a foster child's operation of a motor vehicle in amounts required under Section 31A-22-304 if the foster child is in the [~~legal~~] protective custody, temporary custody, or custody of the division.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing:

(a) a procedure for providing the reimbursement to a foster parent described in Subsection (1);

(b) eligibility requirements for a foster parent to qualify for a reimbursement under this section; and

(c) a method for determining the amount of reimbursement that a foster parent is eligible to receive under this section.

[~~(3) The division shall report to the Transportation Interim Committee no later than November 30, 2009:~~]

[~~(a) the number of foster children in the legal custody of the Division of Child and Family Services who have been issued a driver license;~~]

[~~(b) the results and impacts on the division and on foster parents signing for a foster child to receive a driver license; and~~]

[~~(c) the division's cost of reimbursing foster parents for providing owner's or operator's security in accordance with Subsection (1).~~]

Section 35. Section **80-2-308**, which is renumbered from Section 62A-4a-212 is renumbered and amended to read:

[~~62A-4a-212~~]. 80-2-308. Division responsibility for normalizing lives of

children -- Requirements for caregiver decision making.

(1) As used in this section:

(a) "Activity" means an extracurricular, enrichment, or social activity.

(b) "Age-appropriate" means a type of activity that is generally accepted as suitable for a child of the same age or level of maturity, based on the development of cognitive, emotional, physical, and behavioral capacity that is typical for the child's age or age group.

(c) "Caregiver" means a person with whom a child is placed in an out-of-home placement.

(d) "Out-of-home placement" means the placement of a child in the division's custody outside of the child's home, including placement in a foster home, a residential treatment program, proctor care, or with kin.

(e) "Reasonable and prudent parent standard" means the standard characterized by careful and sensible parental decisions to maintain a child's health, safety, and best interest while at the same time encouraging the child's emotional and developmental growth.

(2) A child who comes into protective custody or the division's temporary custody or custody under this chapter, Chapter 2a, Removal and Protective Custody of a Child, or Chapter 3, Abuse, Neglect, and Dependency Proceedings, is entitled to participate in age-appropriate activities for the child's emotional well-being and development of valuable life-coping skills.

(3) The division shall:

(a) make efforts to normalize the life of a child in protective custody or the division's temporary custody or custody and to empower a caregiver to approve or disapprove a child's participation in activities based on the caregiver's own assessment using a reasonable and prudent parent standard, without prior approval of the division; and

(b) allow a caregiver to make important decisions, similar to the decisions that a parent is entitled to make, regarding the child's participation in activities.

[~~(1)~~] (4) (a) A caregiver shall use a reasonable and prudent parent standard in determining whether to permit a child to participate in an activity.

(b) A caregiver shall consider:

(i) the child's age, maturity, and developmental level to maintain the overall health and safety of the child;

(ii) potential risk factors and the appropriateness of the activity;

(iii) the best interest of the child based on the caregiver's knowledge of the child;

(iv) the importance of encouraging the child's emotional and developmental growth;

(v) the importance of providing the child with the most family-like living experience possible; and

(vi) the behavioral history of the child and the child's ability to safely participate in the proposed activity.

(c) The division shall verify that [~~private agencies~~] a private agency providing out-of-home placement under contract with the division:

(i) [~~promote and protect~~] promotes and protects the ability of a child to participate in age-appropriate activities; and

(ii) [~~implement~~] implements policies consistent with this section.

(d) (i) A caregiver is not liable for harm caused to a child in an out-of-home placement if the child participates in an activity approved by the caregiver[~~, when the caregiver has~~] and the caregiver acted in accordance with a reasonable and prudent parent standard.

(ii) This section does not remove or limit any existing liability protection afforded by statute.

[~~(2)~~] (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall adopt rules establishing the procedures for verifying that [~~private agencies~~] a private agency providing out-of-home placement under contract with the division [~~comply with and promote this part~~] complies with and promotes this section.

Section 36. Section **80-2-401**, which is renumbered from Section 62A-4a-105.5 is renumbered and amended to read:

Part 4. Division Employees and Volunteers

[~~62A-4a-105.5~~]. 80-2-401. Employees -- Failure to comply with law or division rule or policy -- Termination.

(1) The director shall ensure that [~~all employees are~~] an employee is fully trained to comply with state [~~law,~~] and federal law, administrative rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and division policy in order to effectively carry out [~~their~~] the employee's assigned duties and functions.

(2) If, after training and supervision, [~~the~~] an employee consistently fails to comply with [~~those~~] laws, rules, or policies, the [~~individual's~~] employee's employment with the division

shall be terminated.

Section 37. Section **80-2-402**, which is renumbered from Section 62A-4a-107 is renumbered and amended to read:

[~~62A-4a-107~~]. 80-2-402. Child welfare training coordinator -- Mandatory education and training of child welfare caseworkers -- Development of curriculum.

(1) There is created within the division a full-time position of a child welfare training coordinator.

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

(a) develop child welfare curriculum that:

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

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

(A) the public sector;

(B) the private sector; and

(C) inside and outside of the state;

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

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

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

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

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

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

(3) The director shall, with the assistance of the child welfare training coordinator, establish and ensure child welfare caseworker competency regarding a core curriculum for child welfare services that:

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

(b) emphasizes child and family voice;

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

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

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

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

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

(i) initial contact;

(ii) safety and risk assessment, as described in Section 80-2-403; and

(iii) intervention;

(c) recognizing situations involving:

(i) substance abuse;

(ii) domestic violence;

(iii) abuse; and

(iv) neglect; and

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

(i) search and seizure of evidence;

(ii) the warrant requirement;

(iii) exceptions to the warrant requirement; and

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

(5) The division shall train the division's child welfare caseworkers to:

(a) apply the [~~safety, risk, needs, and strength~~] risk assessment tools and rules described in Subsection [~~62A-4a-1002(2).~~] 80-1-102(83); and

(b) develop child and family plans that comply with:

(i) federal mandates; and

(ii) the specific needs of the child and the child's family.

(6) The division shall use the training of child welfare caseworkers to emphasize:

(a) the importance of maintaining the parent-child relationship;

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

and

(c) the importance and priority of:

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

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

(7) [~~When~~] If a child welfare caseworker is hired, before assuming independent casework responsibilities, the division shall ensure that the child welfare caseworker has:

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

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

Section 38. Section **80-2-403**, which is renumbered from Section 62A-4a-203.1 is renumbered and amended to read:

[~~62A-4a-203.1~~]. 80-2-403. Child welfare caseworker safety and risk assessments.

(1) [~~Child welfare caseworkers~~] A child welfare caseworker within the division shall use evidence-informed or evidence-based safety and risk assessments to guide decisions concerning a child throughout a child protection investigation or proceeding.

(2) As part of [~~the~~] an evidence-informed or evidence-based safety and risk [~~assessments, the division~~] assessment, the child welfare caseworker shall assess at least the following:

(a) threat to [~~a~~] the child's safety;

(b) protective capabilities of a parent or guardian, including the parent or guardian's readiness, willingness, and ability to plan for the child's safety;

(c) [~~a~~] the child's particular vulnerabilities;

(d) interventions required to protect [~~a~~] the child; and

(e) likelihood of future harm to [~~a~~] the child.

Section 39. Section **80-2-404**, which is renumbered from Section 62A-4a-110 is renumbered and amended to read:

[~~62A-4a-110~~]. 80-2-404. Division volunteers -- Reimbursement.

[~~(1) The division may receive gifts, grants, devises, and donations. These gifts, grants, devises, donations, or their proceeds shall be credited to the program which the donor designates and may be used for the purposes requested by the donor, if the request conforms to~~

~~state and federal law. If a donor makes no specific request, the division may use the gift, grant, devise, or donation for the best interest of the division.~~]

[~~(2)~~] (1) The division may:

(a) accept and use volunteer labor or services [~~of applicants, recipients, and other members of the community. The division may~~];

(b) reimburse volunteers for necessary expenses, including transportation, and provide recognition awards and [~~recognition~~] meals for services rendered[~~. The division may~~]; and

(c) cooperate with volunteer organizations in collecting funds to be used in the volunteer program. [~~Those donated funds shall be~~]

(2) The funds donated under Section (1)(c) are considered [~~as~~] private, nonlapsing funds until used by the division, and may be invested under guidelines established by the state treasurer[~~;~~].

[~~(b) encourage merchants and providers of services to donate goods and services or to provide them at a nominal price or below cost;~~]

[~~(c) distribute goods to applicants or consumers free or for a nominal charge and tax free; and~~]

[~~(d) appeal to the public for funds to meet applicants' and consumers' needs which are not otherwise provided for by law. Those appeals may include Sub-for-Santa Programs, recreational programs for minors, and requests for household appliances and home repairs, under rules established by the division.~~]

Section 40. Section **80-2-405**, which is renumbered from Section 62A-4a-107.5 is renumbered and amended to read:

[~~62A-4a-107.5~~]. 80-2-405. Private recruitment and training of foster care parents and child welfare volunteers -- Extension of immunity.

(1) As used in this section:

(a) "Referring entity" means:

(i) an incorporated or unincorporated organization or association whether formally incorporated or otherwise established and operating for religious, charitable, or educational purposes, that does not distribute any of the organization's or association's income or assets to the organization's or association's members, directors, officers, or other participants;

(ii) an organization described in Section 501(c)(3) of the Internal Revenue Code of

1986 and is exempt from tax under Section 501 of the Internal Revenue Code; or

(iii) any not-for-profit organization which is formed and conducted for public benefit and operated primarily for charitable, civic, educational, religious, benevolent, welfare, or health purposes.

(b) "Referring individual" means an individual:

(i) with the authority to act on behalf of a referring entity in making a referral; and

(ii) who may or may not be compensated by the referring entity.

[~~(1)~~] (2) The division may contract with one or more private, nonprofit organizations to recruit and train foster care parents and child welfare volunteers on a statewide or regional basis.

[~~(2)~~] (3) An organization that contracts with the division [~~pursuant to~~] under Subsection [~~(1)~~] (2) shall agree to:

(a) increase the number of licensed and trained foster care parents in the geographic area covered by:

(i) developing a strategic plan;

(ii) assessing the needs, perceptions, and qualities of potential foster care parents;

(iii) assessing the needs, perceptions, and qualities of children in state custody;

(iv) identifying potential foster care parents through public and private resources;

(v) screening foster care parent applicants;

(vi) providing preservice, ongoing, and customized training to foster care parents;

(vii) developing a competency-based training curriculum with input from public and private resources and approved by the division;

(viii) focusing training exercises on skill development; and

(ix) supporting foster care parents by supplying staff support, identifying common issues, encouraging peer support, and connecting available resources;

(b) increase the number of child welfare volunteers in the geographical area covered by:

(i) developing a strategic plan;

(ii) seeking the participation of established volunteer organizations;

(iii) designing and offering initial orientation sessions to child welfare volunteers;

(iv) informing volunteers of options for service as specified by the division; and

(v) facilitating the placement and certification of child welfare volunteers;

(c) coordinate efforts, [~~where~~] if appropriate, with the division;

(d) seek private contributions in furtherance of the organization's activities under this Subsection [~~(2)~~] (3);

(e) perform other related services and activities as may be required by the division; and

(f) establish a system for evaluating performance and obtaining feedback on the activities performed [~~pursuant to~~] under this Subsection [~~(2)~~] (3).

[~~(3)~~] (4) Notwithstanding Subsection [~~(2)~~] (3), the department shall retain ultimate authority over and responsibility for:

(a) initial and ongoing training content, material, curriculum, and techniques, and certification standards used by an organization; and

(b) screening, investigation, licensing, certification, referral, and placement decisions with respect to any [~~person~~] individual recruited or trained by an organization.

[~~(4)~~] (5) (a) An organization under contract with the department and [~~its~~] the department's directors, trustees, officers, employees, and agents, whether compensated or not, may not be held civilly liable for any act or omission on a matter for which the department retains ultimate authority and responsibility under Subsection [~~(3)~~] (4).

(b) [~~Nothing in Subsection (4)(a) may be construed as altering~~] Subsection (5)(a) does not alter the abuse and neglect reporting requirements of Section [~~62A-4a-403~~] 80-2-602, regardless of whether the facts that give rise to such a report occur before or after a screening, investigation, licensing, or placement decision of the department.

[~~(5)~~] (6) A referring entity or a referring individual that voluntarily and without remuneration assists [~~the~~] an organization to identify and recruit foster care parents or child welfare volunteers is not liable in any civil action for any act or omission of:

(a) the referring entity or [~~the~~] referring individual[~~, which~~] that is performed in good faith and in furtherance of the entity's assistance to the organization; or

(b) any [~~person~~] individual directly or indirectly referred to the organization by the entity as a foster care parent or child welfare volunteer, if the referring individual was without actual knowledge of any substantiated fact that would have disqualified the [~~person~~] individual who was referred from such a position at the time the referral was made.

[~~(6) As used in this section:~~]

[~~(a) "referring entity" means:~~]

[~~(i) an incorporated or unincorporated organization or association whether formally incorporated or otherwise established and operating for religious, charitable, or educational purposes which does not distribute any of its income or assets to its members, directors, officers, or other participants;~~]

[~~(ii) any organization which is described in Section 501(c)(3) of the Internal Revenue Code of 1986 and is exempt from tax under Section 501 of the Internal Revenue Code; or~~]

[~~(iii) any not-for-profit organization which is formed and conducted for public benefit and operated primarily for charitable, civic, educational, religious, benevolent, welfare, or health purposes; and~~]

[~~(b) "referring individual" means an individual:~~]

[~~(i) with the authority to act on behalf of a referring entity in making a referral; and~~]

[~~(ii) who may or may not be compensated by the referring entity.~~]

Section 41. Section **80-2-501**, which is renumbered from Section 62A-4a-309 is renumbered and amended to read:

Part 5. Funds, Accounts, and Grant Programs

[~~62A-4a-309~~]. 80-2-501. Children's Account.

(1) There is created a restricted account within the General Fund known as the "Children's Account." [~~The restricted account is for crediting of contributions from private sources and from appropriate revenues received under Section 26-2-12.5 for abuse and neglect prevention programs described in Section 62A-4a-305.~~]

[~~(2) Money shall be appropriated from the account to the division by the Legislature under the Utah Budgetary Procedures Act, and shall be drawn upon by the director in consultation with the executive director of the department.~~]

(2) The account shall be funded by:

(a) appropriations to the account by the Legislature;

(b) revenues received under Section 26-2-12.5; and

(c) transfers, grants, gifts, bequests, or any money made available from any source for the abuse and neglect prevention programs described in Subsection 80-2-503(3).

(3) The Legislature shall appropriate money in the account to the division.

(4) (a) The director shall consult with the executive director of the department before

using the funds in the account as described in this section.

[~~(3)~~] (b) Except as provided in Subsection [~~(4), the Children's Account~~] (5), the account may be used only to implement prevention programs described in Section [~~62A-4a-305~~] 80-2-503, and may only be allocated to an entity that provides a one-to-one match, comprising a match from the community of at least 50% in cash and up to 50% in in-kind donations, which is 25% of the total funding received from the [~~Children's Account~~] account.

[~~(4) (a) The entity that receives the statewide evaluation contract is excepted from the cash-match provisions of Subsection (3).~~]

[~~(b)~~] (5) Upon recommendation of the executive director of the department and the council, the division may reduce or waive the match requirements described in Subsection [~~(3)~~] (4) for an entity, if the division determines that imposing the requirements would prohibit or limit the provision of services needed in a particular geographic area.

Section 42. Section **80-2-502**, which is renumbered from Section 62A-4a-608 is renumbered and amended to read:

[~~62A-4a-608~~]. 80-2-502. Choose Life Adoption Support Restricted Account.

(1) There is created [~~in~~] a restricted account within the General Fund known as the "Choose Life Adoption Support Restricted Account."

(2) The account shall be funded by:

(a) contributions deposited into the [~~Choose Life Adoption Support Restricted Account~~] account in accordance with Section 41-1a-422;

(b) appropriations to the account by the Legislature;

(c) private contributions; and

(d) donations or grants from public or private entities.

(3) The Legislature shall appropriate money in the account to the division.

(4) The division shall distribute the funds in the account to one or more charitable organizations that:

(a) qualify as being tax exempt under Section 501(c)(3) of the Internal Revenue Code;

(b) have as part of their primary mission the support, promotion, and education of adoption programs; and

(c) are licensed or registered to do business within the state in accordance with state

law.

(5) (a) An organization described in Subsection (4) may apply to the division to receive a distribution in accordance with Subsection (4).

(b) An organization that receives a distribution from the division in accordance with Subsection (4) shall expend the distribution only to:

(i) produce and distribute educational and promotional materials on adoption;

(ii) conduct educational courses on adoption; and

(iii) provide other programs that support adoption.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules providing procedures and requirements for an organization to apply to the division to receive a distribution under Subsection (4).

Section 43. Section **80-2-503** is enacted to read:

80-2-503. Division contracts for prevention and treatment of child abuse and neglect -- Requirements -- Public hearing -- Funding provided by contractor.

(1) (a) The Legislature finds that there is a need to assist private and public agencies in identifying and establishing community-based education, service, and treatment programs to prevent the occurrence and recurrence of abuse and neglect.

(b) It is the purpose of this section to provide a means to increase prevention and treatment programs designed to reduce the occurrence or recurrence of child abuse and neglect.

(2) The division shall contract with public or private nonprofit organizations, agencies, or schools, or with qualified individuals to establish voluntary community-based educational and service programs designed to reduce or prevent the occurrence or recurrence of abuse and neglect.

(3) (a) A program that the division contracts with under this section shall provide voluntary primary abuse and neglect prevention, and voluntary or court-ordered treatment services.

(b) A program described in Subsection (3)(a) includes:

(i) a program related to prenatal care, perinatal bonding, child growth and development, basic child care, care of children with special needs, and coping with family stress;

(ii) a program related to crisis care, aid to parents, abuse counseling, support groups for

abusive or potentially abusive parents and abusive parents' children, and early identification of families where the potential for abuse and neglect exists;

(iii) a program clearly designed to prevent the occurrence or recurrence of abuse, neglect, sexual abuse, sexual exploitation, medical or educational neglect;

(iv) a program that the division and council consider potentially effective in reducing the incidence of family problems leading to abuse or neglect; and

(v) a program designed to establish and assist community resources that prevent abuse and neglect.

(4) The division shall:

(a) consult with appropriate state agencies, commissions, and boards to help determine the probable effectiveness, fiscal soundness, and need for proposed education and service programs for the prevention and treatment of abuse and neglect;

(b) develop policies to determine whether a program will be discontinued or receive continuous funding;

(c) facilitate the exchange of information between and among groups concerned with families and children;

(d) establish flexible fees and fee schedules based on the recipient's ability to pay for part or all of the costs of service received;

(e) before awarding a contract for an abuse or neglect prevention or treatment program or service:

(i) conduct a public hearing to receive public comment on the program or service and ensure the council conducted a public hearing on the program or service in accordance with Subsection (6);

(ii) if the program or service is intended for presentation in public schools, receive evidence that the program or service is approved by the local board of education of each school district that will be utilizing the program or service, or under the direction of the local board of education, the state superintendent; and

(iii) consider need, diversity of geographic locations, the program's or services' coordination with or enhancement of existing services, and the program's or services' extensive use of volunteers;

(f) award a contract under this section for services to prevent abuse and neglect on the

basis of probability of success, based in part on sound research data; and

(g) adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to carry out the purposes of this section.

(5) The division may:

(a) require that 25% of the funding for a program contracted for under this section be provided by the contractor operating the program; and

(b) consider a contribution of materials, supplies, or physical facilities as all or part of the funding provided by the contractor under Subsection (5)(a).

(6) The council shall conduct a public hearing to receive public comment on the program or service before the division may enter into a contract under this section.

(7) A contract entered into under this section shall contain a provision for the evaluation of services provided under the contract.

(8) Contract funds awarded under this section for the treatment of victims of abuse or neglect are not a collateral source as defined in Section 63M-7-502.

Section 44. Section **80-2-503.5**, which is renumbered from Section 62A-4a-213 is renumbered and amended to read:

[~~62A-4a-213~~]. 80-2-503.5. Psychotropic medication oversight pilot program.

(1) As used in this section, "psychotropic medication" means medication prescribed to affect or alter thought processes, mood, or behavior, including antipsychotic, antidepressant, anxiolytic, or behavior medication.

(2) The division shall, through contract with the Department of Health, establish and operate a psychotropic medication oversight pilot program for children in foster care to ensure that foster children are being prescribed psychotropic medication consistent with [~~their~~] the foster children's needs.

(3) The division shall establish an oversight team to manage the psychotropic medication oversight program, composed of at least the following individuals:

(a) an [~~"advanced practice registered nurse,"~~] advanced practice registered nurse, as defined in Section 58-31b-102, employed by the Department of Health; and

(b) a child psychiatrist.

(4) The oversight team shall monitor foster children:

(a) six years old or younger who are being prescribed one or more psychotropic medications; and

(b) seven years old or older who are being prescribed two or more psychotropic medications.

(5) The oversight team shall, upon request, be given information or records related to the foster child's health care history, including psychotropic medication history and mental and behavioral health history, from:

(a) the foster child's current or past caseworker;

(b) the foster child; or

(c) the foster child's:

(i) current or past health care provider;

(ii) natural parents; or

(iii) foster parents.

(6) The oversight team may review and monitor the following information about a foster child:

(a) the foster child's history;

(b) the foster child's health care, including psychotropic medication history and mental or behavioral health history;

(c) whether there are less invasive treatment options available to meet the foster child's needs;

(d) the dosage or dosage range and appropriateness of the foster child's psychotropic medication;

(e) the short-term or long-term risks associated with the use of the foster child's psychotropic medication; or

(f) the reported benefits of the foster child's psychotropic medication.

(7) (a) The oversight team may make recommendations to the foster child's health care providers concerning the foster child's psychotropic medication or the foster child's mental or behavioral health.

(b) The oversight team shall provide the recommendations made in Subsection (7)(a) to the foster child's parent or guardian after discussing the recommendations with the foster child's current health care providers.

(8) The division may adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to administer this section.

(9) The division shall report to the Child Welfare Legislative Oversight Panel regarding the psychotropic medication oversight pilot program by October 1 of each even numbered year.

Section 45. Section **80-2-601**, which is renumbered from Section 62A-4a-401 is renumbered and amended to read:

Part 6. Child Abuse and Neglect Reports

[~~62A-4a-401~~]. 80-2-601. Legislative purpose.

It is the purpose of this part to protect the best interests of children, offer protective services to prevent harm to children, stabilize the home environment, preserve family life whenever possible, and encourage cooperation among the states in dealing with the problem of abuse or neglect.

Section 46. Section **80-2-602**, which is renumbered from Section 62A-4a-403 is renumbered and amended to read:

[~~62A-4a-403~~]. 80-2-602. Child abuse and neglect reporting requirements -- Exceptions.

(1) Except as provided in Subsection (3), if [~~an individual~~] a person, including an individual licensed under Title 58, Chapter 31b, Nurse Practice Act, or Title 58, Chapter 67, Utah Medical Practice Act, has reason to believe that a child is, or has been, the subject of abuse or neglect, or observes a child being subjected to conditions or circumstances that would reasonably result in abuse or neglect, the [~~individual~~] person shall immediately report the suspected abuse or neglect to the division or to the nearest peace officer or law enforcement agency.

(2) (a) (i) If a peace officer or [~~a~~] law enforcement agency receives a report under Subsection (1), the peace officer or law enforcement agency shall immediately notify the nearest office of the division.

(ii) If the division receives a report under Subsection (1), the division shall immediately notify the appropriate local law enforcement agency.

(b) (i) The division shall, in addition to the division's own investigation in accordance with Section [~~62A-4a-409~~] 80-2-701, coordinate with the law enforcement agency on

[~~investigations~~] an investigation undertaken by the law enforcement agency to investigate the report of abuse or neglect under Subsection (1).

(ii) If a law enforcement agency undertakes an investigation of a report under Subsection (1), the law enforcement agency shall provide a final investigatory report to the division upon request.

(3) Subject to Subsection (4), the reporting requirement described in Subsection (1) does not apply to:

(a) a member of the clergy, with regard to any confession made to the member of the clergy while functioning in the ministerial capacity of the member of the clergy and without the consent of the individual making the confession, if:

(i) the perpetrator made the confession directly to the member of the clergy; and

(ii) the member of the clergy is, under canon law or church doctrine or practice, bound to maintain the confidentiality of [~~that~~] the confession; or

(b) an attorney, or an individual employed by the attorney, if the knowledge or belief of the suspected abuse or neglect of a child arises from the representation of a client, unless the attorney is permitted to reveal the suspected abuse or neglect of the child to prevent reasonably certain death or substantial bodily harm in accordance with Utah Rules of Professional Conduct, Rule 1.6.

(4) (a) When a member of the clergy receives information about abuse or neglect from any source other than confession of the perpetrator, the member of the clergy is required to report [~~that~~] the information even [~~though~~] if the member of the clergy [~~may have~~] also received information about the abuse or neglect from the confession of the perpetrator.

(b) Exemption of the reporting requirement for an individual described in Subsection (3) does not exempt the individual from any other efforts required by law to prevent further abuse or neglect by the perpetrator.

(5) The physician-patient privilege does not:

(a) excuse an individual who is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, from reporting under this section; or

(b) constitute grounds for excluding evidence regarding the child's injuries, or the cause of the child's injuries, in a judicial or administrative proceeding resulting from a report

under this section.

Section 47. Section **80-2-603**, which is renumbered from Section 62A-4a-404 is renumbered and amended to read:

[~~62A-4a-404~~]. 80-2-603. Fetal alcohol syndrome or spectrum disorder and drug dependency reporting requirements.

(1) As used in this section:

(a) "Health care provider" means:

(i) an individual licensed under:

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

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

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

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

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

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

(ii) an unlicensed individual who practices midwifery.

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

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

[~~(c)~~] (d) (i) "Substance abuse" means, except as provided in Subsection [~~(1)(c)(ii)~~] (1)(d)(ii), the same as that term is defined in Section [~~80-1-102~~] 80-2-102.

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

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

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

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

(a) the newborn child:

(i) is adversely affected by the child's mother's substance abuse during pregnancy;

(ii) has fetal alcohol syndrome or fetal alcohol spectrum disorder; or

(iii) demonstrates drug or alcohol withdrawal symptoms; or

(b) the parent of the newborn child or a person responsible for the child's care demonstrates functional impairment or an inability to care for the child as a result of the parent's or person's substance abuse.

(3) The physician-patient privilege does not:

(a) excuse an individual who is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, from reporting under this section; or

(b) constitute grounds for excluding evidence regarding the child's injuries, or the cause of the child's injuries, in a judicial or administrative proceeding resulting from a report under this section.

Section 48. Section **80-2-604**, which is renumbered from Section 62A-4a-405 is renumbered and amended to read:

[~~62A-4a-405~~]. 80-2-604. Death of a child reporting requirements.

(1) [~~Any~~] A person who has reason to believe that a child has died as a result of abuse or neglect shall report that fact to:

(a) the local law enforcement agency[~~, who shall report to the county attorney or district attorney as provided under Section 17-18a-202 or 17-18a-203~~]; and

(b) the appropriate medical examiner in accordance with Title 26, Chapter 4, Utah Medical Examiner Act.

(2) After receiving a report described in Subsection (1)[~~,~~]:

(a) the local law enforcement agency shall report to the county attorney or district attorney as provided under Section 17-18a-202 or 17-18a-203; and

(b) the medical examiner shall investigate and report the medical examiner's findings to:

[~~(a)~~] (i) the police;

[~~(b)~~] (ii) the appropriate county attorney or district attorney;

[~~(c)~~] (iii) the attorney general's office;

[~~(d)~~] (iv) the division; and

[~~(e)~~] (v) if the institution making the report is a hospital, to [~~that~~] the hospital.

Section 49. Section **80-2-605**, which is renumbered from Section 62A-4a-407 is renumbered and amended to read:

[~~62A-4a-407~~]. 80-2-605. Physician removal of a child -- Report to division.

(1) [~~A~~] Subject to Subsection (3), a physician examining or treating a child may take the child into [~~protective~~] custody [~~not to exceed 72 hours~~], without the consent of the child's parent, guardian, or any other person responsible for the child's care or exercising temporary or permanent control over the child, [~~when~~] if the physician has reason to believe that the child's life or safety will be in danger unless [~~protective custody is exercised~~] the child is taken into custody.

(2) (a) [~~The~~] Subject to Subsection (3), the person in charge of a hospital or similar medical facility may retain [~~protective~~] custody of a child [~~suspected of being abused or neglected, when he~~] taken into custody under Subsection (1) if the person reasonably believes the [~~facts warrant that retention. This action may be taken~~] circumstances warrant retention of custody.

(b) The person may take the action described in Subsection (2)(a) regardless of whether additional medical treatment is required[~~, and regardless of whether~~] for the child or the person responsible for the child's care requests the child's return.

[~~(3) The division shall be immediately notified of protective custody exercised under this section. Protective custody~~]

(3) Custody of a child under this section may not exceed 72 hours without an order of the [~~district or~~] juvenile court.

(4) A person who takes a child into, or retains a child in, [~~protective~~] custody under this section shall [~~document~~]:

(a) immediately notify the division that the child is in the person's custody; and

(b) document:

[~~(a)~~] (i) the grounds upon which the child was taken into, or retained in, [~~protective~~] custody; and

[~~(b)~~] (ii) the nature of, and necessity for, any medical care or treatment provided to the child.

Section 50. Section **80-2-606**, which is renumbered from Section 62A-4a-408 is renumbered and amended to read:

[~~62A-4a-408~~]. 80-2-606. Written reports.

[~~(1) Reports made pursuant to this part shall be followed by a written report within 48~~

~~hours, if requested by the division. The division shall immediately forward a copy of that report to the statewide central register, on forms supplied by the register.~~]

(1) (a) A person who orally reports under Section 80-2-602, 80-2-603, or 80-2-604 shall, upon request of the division, provide the division with a written version of the oral report.

(b) The person shall provide the written report within 48 hours after the division's request.

(2) If, in connection with an intended or completed abortion [~~by a minor~~], a physician is required to make a report of incest or abuse of a minor, the report may not include information that would in any way disclose that the report was made in connection with:

(a) an abortion; or

(b) a consultation regarding an abortion.

(3) The division shall, immediately after receipt, forward a copy of a written report to the state child abuse and neglect registry on a form supplied by the registry.

Section 51. Section **80-2-607**, which is renumbered from Section 62A-4a-406 is renumbered and amended to read:

[~~62A-4a-406~~]. 80-2-607. Health care provider photographs of abuse or neglect.

(1) [~~Any physician, surgeon,~~] A licensed physician, licensed physician assistant, medical examiner, peace officer, [~~law enforcement official,~~] or public health officer or official may take [~~photographs~~] a photograph of the areas of trauma visible on a child and, if medically indicated, perform radiological examinations.

(2) [~~Photographs~~] A photograph may be taken of the premises or of [~~objects~~] an object relevant to a reported circumstance of child abuse or neglect.

(3) [~~Photographs or X-rays, and all other medical records~~] A photograph, X-ray, or other medical record pertinent to an investigation for child abuse or neglect shall be made available to the division, law enforcement [~~officials~~] agencies, and the court.

Section 52. Section **80-2-608** is enacted to read:

80-2-608. Confidential identity of person who reports.

Except as provided in Sections 80-2-611 and 80-2-1005, the division and a law enforcement agency shall ensure the anonymity of the person who makes the initial report

under this part and any other person involved in the division's or law enforcement agency's subsequent investigation of the report.

Section 53. Section **80-2-609**, which is renumbered from Section 62A-4a-411 is renumbered and amended to read:

[~~62A-4a-411~~]. 80-2-609. Failure to report -- Threats and intimidation -- Penalty.

(1) If the division has substantial grounds to believe that [~~an individual has~~] a person knowingly failed to report [~~suspected abuse, neglect, fetal alcohol syndrome, or fetal drug dependency in accordance with this part~~] under Section 80-2-602 or 80-2-603, the division shall file a complaint with:

(a) the Division of Occupational and Professional Licensing if the [~~individual~~] person is a health care provider, as defined in [~~Section 62A-4a-404~~] Subsection 80-2-603(1)(a)(i), or a mental health therapist, as defined in Section 58-60-102;

(b) the appropriate law enforcement agency if the [~~individual~~] person is a law enforcement officer, as defined in Section 53-13-103; [~~and~~] or

(c) the State Board of Education if the [~~individual~~] person is an educator, as defined in Section 53E-6-102.

(2) (a) [~~An individual~~] A person is guilty of a class B misdemeanor if the [~~individual~~] person willfully fails to report [~~the suspected abuse, neglect, fetal alcohol syndrome, or fetal drug dependency in accordance with this part~~] under Section 80-2-602 or 80-2-603.

(b) If [~~an individual~~] a person is convicted under Subsection (2)(a), the court may order the [~~individual~~] person, in addition to any other sentence the court imposes, to:

(i) complete community service hours; or

(ii) complete a program on preventing abuse and neglect of children.

(c) In determining whether it would be appropriate to charge [~~an individual~~] a person with a violation of Subsection (2)(a), the prosecuting attorney shall take into account whether a reasonable [~~individual~~] person would not have reported suspected abuse or neglect of a child because reporting would have placed the [~~individual~~] person in immediate danger of death or serious bodily injury.

(d) Notwithstanding any contrary provision of law, a prosecuting attorney may not use [~~an individual's~~] a person's violation of Subsection (2)(a) as the basis for charging the

[~~individual~~] person with another offense.

(e) A prosecution for failure to report under Subsection (2)(a) shall be commenced within two years after the day on which the [~~individual~~] person had knowledge of the suspected abuse[~~, neglect, fetal alcohol syndrome, or fetal drug dependency~~] or neglect or the circumstances described in Subsection 80-2-603(2) and willfully failed to report.

(3) Under circumstances not amounting to a violation of Section 76-8-508, [~~an individual~~] a person is guilty of a class B misdemeanor if the [~~individual~~] person threatens, intimidates, or attempts to intimidate a child who is the [~~subject of a report under this part, the individual~~] subject of the report under Section 80-2-602 or 80-2-603, the person who made the report, a witness, or any other person cooperating with an investigation conducted in accordance with this chapter or Chapter 2a, Removal and Protective Custody of a Child.

Section 54. Section **80-2-610**, which is renumbered from Section 62A-4a-410 is renumbered and amended to read:

[~~62A-4a-410~~]. 80-2-610. Immunity from liability for a report -- Exception.

(1) (a) [~~Any~~] A person who in good faith makes a report under Section [~~62A-4a-403, 62A-4a-404, or 62A-4a-405~~] 80-2-602, 80-2-603, or 80-2-604, or who otherwise notifies the division or a peace officer or law enforcement agency of suspected abuse or neglect of a child, is immune from civil and criminal liability in connection with the report or notification.

(b) Except as provided in Subsection (3), [~~any person, official, or institution taking photographs or X-rays~~] a person taking a photograph or X-ray, assisting an investigator from the division, serving as a member of a child protection team, or taking a child into protective custody in accordance [~~with this part~~] Chapter 2a, Removal and Protective Custody of a Child, is immune from civil or criminal liability in connection with those actions.

(2) This section does not provide immunity with respect to [~~acts or omissions~~] an act or omission of a governmental employee except as provided in Title 63G, Chapter 7, Governmental Immunity Act of Utah.

(3) The immunity described in Subsection (1)(b) does not apply if the person[~~, official, or institution~~]:

(a) acted or failed to act through fraud or willful misconduct;

(b) in a judicial or administrative proceeding, intentionally or knowingly gave, upon a lawful oath or in any form allowed by law as a substitute for an oath, false testimony material

to the issue or matter of inquiry in the proceeding; [~~or~~]

(c) intentionally or knowingly[~~: (i)~~] fabricated evidence; or

[~~(ii)~~] (d) except as provided in Subsection (4), intentionally or knowingly with a conscious disregard for the rights of others, failed to disclose evidence that was known by the person to be relevant to a material issue or matter of inquiry in:

[~~(A) was known to the person, official, or institution; and~~]

[~~(B) (I)~~] (i) [~~was known by the person, official, or institution to be relevant to a material issue or matter of inquiry in~~] a pending judicial or administrative proceeding if the person[~~, official, or institution~~] knew of the pending judicial or administrative proceeding; or

[~~(II)~~] (ii) [~~was known by the person, official, or institution to be relevant to a material issue or matter of inquiry in~~] a judicial or administrative proceeding, if disclosure of the evidence was requested of the employee by a party to the proceeding or counsel for a party to the proceeding.

(4) Immunity is not lost under Subsection [~~(3)(c)(ii)~~] (3)(d), if the person[~~, official, or institution~~]:

(a) failed to disclose evidence described in Subsection [~~(3)(c)(ii)~~] (3)(d), because the person[~~, official, or institution~~] is prohibited by law from disclosing the evidence; or

(b) (i) in accordance with the provisions of 45 C.F.R. 164.502(g)(5), refused to disclose evidence described in Subsection [~~(3)(c)(ii) to a~~] (3)(d) to another person who requested the evidence; and

(ii) after refusing to disclose the evidence under Subsection (4)(b)(i), complied with or responded to a valid court order or valid subpoena received by the person[~~, official, or institution~~] to disclose the evidence described in Subsection [~~(3)(c)(ii)~~] (3)(d).

Section 55. Section **80-2-611**, which is renumbered from Section 62A-4a-1007 is renumbered and amended to read:

[~~62A-4a-1007~~]. 80-2-611. False reports -- Investigation -- Notice of penalty.

(1) The division may conduct an investigation to determine whether a report under Section 80-2-602 or 80-2-603 is false.

[~~(1)~~] (2) The division shall send a certified letter to [~~any~~] a person who [~~submits~~] makes a report of abuse or neglect that is placed into or included in any part of the Management Information System, if the division determines, at the conclusion of [~~its~~] the

division's investigation~~{ under Subsection (1)}~~, that:

(a) the report is false;

(b) it is more likely than not that the person knew the report was false at the time that person [~~submitted~~] made the report; and

(c) the reporting person's address is known or reasonably available.

[~~(2)~~] (3) The certified letter described in Subsection (2) shall inform the reporting person of:

(a) the division's determination made under Subsection [~~(1)~~] (2);

(b) the penalty for submitting false information under Section 76-8-506 and other applicable laws; and

(c) the obligation or ability of the division under Subsection (4) to inform law enforcement and the person alleged to have committed abuse or neglect:

(i) in the present instance if [~~law enforcement~~] the division considers an immediate referral of the reporting person to law enforcement to be justified by the facts; or

(ii) if the reporting person submits a subsequent false report involving the same alleged perpetrator or victim.

[~~(3)~~] (4) The division:

(a) may inform law enforcement and the alleged perpetrator of a report for which a certified letter is required to be sent under Subsection [~~(1)~~] (2), if an immediate referral is justified by the facts[~~.~~];

[~~(4)~~] (b) [~~The division~~] shall inform law enforcement and the alleged perpetrator of a report for which a certified letter is required to be sent under Subsection [~~(1)~~] (2) if a second letter is sent to the reporting person involving the same alleged perpetrator or victim[~~.~~]; and

[~~(5)~~] (c) [~~The division~~] shall determine, in consultation with law enforcement:

[~~(a)~~] (i) what information should be given to an alleged perpetrator relating to a false report; and

[~~(b)~~] (ii) whether good cause exists, as defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for not informing an alleged perpetrator about a false report.

[~~(6)~~] (5) [~~Nothing in this section may be construed as requiring~~] This section does not require the division to conduct an investigation beyond what is described in [~~Subsection (1)~~]

Subsections (1) and (2), to determine whether [~~or not~~] a report is false.

Section 56. Section **80-2-701**, which is renumbered from Section 62A-4a-409 is renumbered and amended to read:

Part 7. Child Abuse and Neglect Investigation

[~~62A-4a-409~~]. 80-2-701. Division preremoval investigation -- Supported or unsupported reports -- Convening of child protection team -- Consultation with child protection team and law enforcement.

(1) (a) The division shall conduct a thorough preremoval investigation upon receiving [~~either an oral or written report of alleged abuse or neglect, or an oral or written report under Subsection 62A-4a-404(2), when~~] a report under Section 80-2-602 or 80-2-603 if there is reasonable cause to suspect that a situation of abuse, neglect, or the circumstances described [~~under Subsection 62A-4a-404(2)~~] in Subsection 80-2-603(2) exist.

(b) The primary purpose of the preremoval investigation described in Subsection (1)(a) shall be protection of the child.

(2) The preremoval investigation described in Subsection (1)(a) shall [~~include the same investigative requirements~~] meet the reasonable professional standards described in Section [~~62A-4a-202.3~~] 80-2-702.

(3) The division shall make a written report of [~~its~~] the division's preremoval investigation under Subsection (1)(a) that [~~shall include~~] includes a determination regarding whether the alleged abuse or neglect in the report described in Subsection (1)(a) is supported, unsupported, or without merit.

(4) [~~(a)~~] The division:

(a) shall use an interdisciplinary approach [~~when~~] if appropriate in dealing with [~~reports~~] a report made under [~~this part.~~] Section 80-2-602, 80-2-603, or 80-2-604;

(b) [~~The division~~] in accordance with Section 80-2-706, shall convene a child protection team to assist the division in the division's protective, diagnostic, assessment, treatment, and coordination services[~~.~~]; and

(c) [~~The division~~] may include [~~members of~~] a member of the child protection team in the division's protective, diagnostic, assessment, treatment, [~~and~~] or coordination services.

[~~(d) A representative of the division shall serve as the team's coordinator and chair. Members of the team shall serve at the coordinator's invitation. Whenever possible, the team~~

~~shall include representatives of:~~]

[~~(i) health, mental health, education, and law enforcement agencies;~~]

[~~(ii) the child;~~]

[~~(iii) parent and family support groups unless the parent is alleged to be the perpetrator; and~~]

[~~(iv) other appropriate agencies or individuals.~~]

(5) If a report of neglect is based [~~upon~~] on or includes an allegation of educational neglect, the division shall immediately consult with school authorities to verify the child's status in accordance with Sections 53G-6-201 through 53G-6-206.

(6) [~~When the division completes the division's initial~~] Upon completion of the initial preremoval investigation under this [~~part~~] section, the division shall give notice of [~~that~~] the completion to the person who made the initial report described in Subsection (1)(a).

(7) [~~Division workers or other child protection team members have~~] A division child welfare caseworker:

(a) has authority to:

(i) enter upon public or private premises, using appropriate legal processes[~~,~~]; and

(ii) to investigate [~~reports~~] a report of alleged child abuse or neglect, upon notice to [~~parents of their rights~~] a parent of the parent's rights under the Child Abuse Prevention and Treatment Act, 42 U.S.C. Sec. 5106, or any successor thereof[~~.~~]; and

(b) may take a child into protective custody in accordance with Chapter 2, Removal and Protective Custody of a Child.

[~~(8) With regard to any interview of a child prior to removal of that child from the child's home:~~]

[~~(a) except as provided in Subsection (8)(b) or (c), the division shall inform a parent of the child prior to the interview of:~~]

[~~(i) the specific allegations concerning the child; and~~]

[~~(ii) the time and place of the interview;~~]

[~~(b) if a child's parent or stepparent, or a parent's paramour has been identified as the alleged perpetrator, the division is not required to comply with Subsection (8)(a);~~]

[~~(c) if the perpetrator is unknown, or if the perpetrator's relationship to the child's family is unknown, the division may conduct a minimal interview or conversation, not to~~

~~exceed 15 minutes, with the child prior to complying with Subsection (8)(a);~~]

[~~(d) in all cases described in Subsection (8)(b) or (c), a parent of the child shall be notified as soon as practicable after the child has been interviewed, but in no case later than 24 hours after the interview has taken place;~~]

[~~(e) a child's parents shall be notified of the time and place of all subsequent interviews with the child; and~~]

[~~(f) the child shall be allowed to have a support person of the child's choice present, who:~~]

[~~(i) may include:~~]

[~~(A) a school teacher;~~]

[~~(B) an administrator;~~]

[~~(C) a guidance counselor;~~]

[~~(D) a child care provider;~~]

[~~(E) a family member;~~]

[~~(F) a family advocate; or~~]

[~~(G) a member of the clergy; and~~]

[~~(ii) may not be an individual who is alleged to be, or potentially may be, the perpetrator.~~]

[~~(9) In accordance with the procedures and requirements of Sections 62A-4a-202.1 through 62A-4a-202.3, a division worker or child protection team member may take a child into protective custody and deliver the child to a law enforcement officer, or place the child in an emergency shelter facility approved by the juvenile court, at the earliest opportunity subsequent to the child's removal from the child's original environment. Control and jurisdiction over the child is determined by the provisions of Title 78A, Chapter 6, Juvenile Court, and Title 80, Utah Juvenile Code, and as otherwise provided by law.~~]

[~~(10) With regard to cases in which~~]

(8) If law enforcement has investigated or is conducting an investigation of alleged abuse or neglect of a child, the division:

(a) [~~the division~~] shall coordinate with law enforcement to ensure that there is an adequate safety plan to protect the child from further abuse or neglect; and

(b) [~~the division~~] is not required to duplicate an aspect of the investigation that, in the

division's determination, has been satisfactorily completed by law enforcement.

[~~(11)~~] (9) [~~With regard to~~] In a mutual case in which a child protection team [~~was~~] is involved in the investigation of alleged abuse or neglect of a child, the division shall consult with the child protection team before closing the case.

Section 57. Section **80-2-702**, which is renumbered from Section 62A-4a-202.3 is renumbered and amended to read:

[~~62A-4a-202.3~~]. 80-2-702. Post-removal investigation -- Supported or unsupported reports -- Convening of child protection team -- Cooperation with law enforcement -- Close of investigation.

(1) [~~When~~] If a child is taken into protective custody in accordance with Section [~~62A-4a-202.1~~] 80-2a-202 or 80-3-204 or [~~when~~] the division takes any other action that [~~would require~~] requires a shelter hearing under Subsection 80-3-301(1), the division shall immediately initiate an investigation of [~~the~~]:

(a) the circumstances of the child; and

(b) the grounds upon which the decision to place the child into protective custody was made.

(2) The division's investigation under Subsection (1) shall conform to reasonable professional standards[~~;~~] and [~~shall~~] include:

(a) a search for and review of any records of past reports of abuse or neglect involving:

(i) the same child;

(ii) any sibling or other child residing in the same household as the child; and

(iii) the alleged perpetrator;

(b) with regard to a child who is five years old or older, a personal interview with the child:

(i) outside of the presence of the alleged perpetrator; and

(ii) conducted in accordance with the requirements of [~~Subsection (7)~~] Section 80-2-704;

(c) if a parent or guardian [~~can be~~] is located, an interview with at least one of the child's parents or guardian;

(d) an interview with the person who reported the abuse, unless the report was made anonymously;

(e) [~~where~~] if possible and appropriate, interviews with other third parties who have had direct contact with the child, including:

(i) school personnel; and

(ii) the child's health care provider;

(f) an unscheduled visit to the child's home, unless:

(i) there is a reasonable basis to believe that the reported abuse was committed by a person who:

(A) is not the child's parent; and

(B) does not[~~: (I)~~] live in the child's home[~~; or (II)~~] or otherwise have access to the child in the child's home; or

(ii) an unscheduled visit is not necessary to obtain evidence for the investigation; and

(g) if appropriate and indicated in any case alleging physical injury, sexual abuse, or failure to meet the child's medical needs, a medical examination, obtained no later than 24 hours after the child is placed in protective custody.

(3) The division may rely on a written report of a prior interview rather than conducting an additional interview under Subsection (2), if:

(a) law enforcement:

(i) previously conducted a timely and thorough investigation regarding the alleged abuse, neglect, or dependency; and

(ii) produced a written report;

(b) the investigation described in Subsection (3)(a)(i) included one or more of the interviews [~~required by~~] described in Subsection (2); and

(c) the division finds that an additional interview is not in the best interest of the child.

(4) (a) (i) The division shall:

(A) make a determination after the division's investigation under Subsection (1) regarding whether the report is supported, unsupported, or without merit; and

(B) base the determination on the facts of the case at the time the report is made.

[~~(4) (a)~~] (ii) The division's determination of whether a report is supported or unsupported may be based on the child's statements alone.

(b) The division may not:

[~~(b)~~] (i) [~~Inability~~] use the inability to identify or locate the perpetrator [~~may not be~~

~~used by the division~~] as a basis for:

[~~(i)~~] (A) determining that a report is unsupported; or

[~~(ii)~~] (B) closing the case[~~.~~]; or

[~~(c)~~] (ii) [~~The division may not~~] determine a case [~~to be~~] is unsupported or identify a case as unsupported solely because the perpetrator [~~was~~] is an out-of-home perpetrator.

[~~(d) Decisions regarding whether a report is supported, unsupported, or without merit shall be based on the facts of the case at the time the report was made.~~]

(5) The division [~~should~~] shall maintain protective custody of the child if [~~it~~] the division finds that one or more of the following conditions exist:

(a) the child does not have a natural parent, guardian, or responsible relative who is able and willing to provide safe and appropriate care for the child;

(b) (i) shelter of the child is a matter of necessity for the protection of the child; and

(ii) there are no reasonable means by which the child can be protected in:

(A) the child's home; or

(B) the home of a responsible relative;

(c) there is substantial evidence that the parent or guardian is likely to flee the jurisdiction of the juvenile court; or

(d) the child has left a previously court ordered placement.

(6) [~~(a)~~] Within 24 hours after receipt of a child into protective custody, excluding weekends and holidays, the division shall:

[~~(i)~~] (a) convene a child protection team [~~to review the circumstances regarding removal of the child from the child's home or school~~] in accordance with Section 80-2-706; and

[~~(ii)~~] (b) prepare the testimony and evidence that will be required of the division at the shelter hearing, in accordance with Section 80-3-301.

[~~(b) At the 24-hour meeting, the division shall have available for review and consideration the complete child protective services and foster care history of the child and the child's parents and siblings.~~]

[~~(7) (a) After receipt of a child into protective custody and prior to the adjudication hearing, all investigative interviews with the child that are initiated by the division shall be:~~]

[~~(i) except as provided in Subsection (7)(b), audio or video taped; and~~]

[~~(ii) except as provided in Subsection (7)(c), conducted with a support person of the~~

~~child's choice present.~~]

[~~(b) (i) Subject to Subsection (7)(b)(ii), an interview described in Subsection (7)(a) may be conducted without being taped if the child:~~]

[~~(A) is at least nine years old;~~]

[~~(B) refuses to have the interview audio taped; and~~]

[~~(C) refuses to have the interview video taped.~~]

[~~(ii) If, pursuant to Subsection (7)(b)(i), an interview is conducted without being taped, the child's refusal shall be documented, as follows:~~]

[~~(A) the interviewer shall attempt to get the child's refusal on tape, including the reasons for the refusal; or~~]

[~~(B) if the child does not allow the refusal, or the reasons for the refusal, to be taped, the interviewer shall:~~]

[~~(I) state on the tape that the child is present, but has refused to have the interview, refusal, or the reasons for the refusal taped; or~~]

[~~(II) if complying with Subsection (7)(b)(ii)(B)(I) will result in the child, who would otherwise consent to be interviewed, to refuse to be interviewed, the interviewer shall document, in writing, that the child refused to allow the interview to be taped and the reasons for that refusal.~~]

[~~(iii) The division shall track the number of interviews under this Subsection (7) that are not taped, and the number of refusals that are not taped, for each interviewer, in order to determine whether a particular interviewer has a higher incidence of refusals, or taped refusals, than other interviewers.~~]

[~~(c) (i) Notwithstanding Subsection (7)(a)(ii), the support person who is present for an interview of a child may not be an alleged perpetrator.~~]

[~~(ii) Subsection (7)(a)(ii) does not apply if the child refuses to have a support person present during the interview.~~]

[~~(iii) If a child described in Subsection (7)(c)(ii) refuses to have a support person present in the interview, the interviewer shall document, in writing, the refusal and the reasons for the refusal.~~]

[~~(iv) The division shall track the number of interviews under this Subsection (7) where a child refuses to have a support person present for each interviewer, in order to determine~~

~~whether a particular interviewer has a higher incidence of refusals than other interviewers.~~]

[~~(8)~~] (7) The division shall cooperate with a law enforcement [~~investigations~~] investigation and with the members of a child protection team, if applicable, regarding the alleged perpetrator.

[~~(9)~~] (8) The division may not close an investigation solely on the grounds that the division [~~investigator~~] is unable to locate the child until all reasonable efforts have been made to locate the child and family members including:

(a) visiting the home at times other than normal work hours;

(b) contacting local schools;

(c) contacting local, county, and state law enforcement agencies; and

(d) checking public assistance records.

Section 58. Section **80-2-703**, which is renumbered from Section 62A-4a-202.6 is renumbered and amended to read:

[~~62A-4a-202.6~~]. 80-2-703. Conflict child protective services investigations -- Authority of investigators.

(1) (a) The department, through the Office of Quality and Design created in Section 62A-18-101, shall conduct an independent child protective service investigation to investigate reports of abuse or neglect if:

(i) the report occurs while the child is in the custody of the division; or

(ii) the executive director of the department determines that, if the division conducts the investigation, the division would have an actual or potential conflict of interest in the results of the investigation.

(b) [~~When~~] If a report is made while a child is in the custody of the division that indicates the child is abused or neglected:

(i) the attorney general may, in accordance with Section 67-5-16, and with the consent of the department, employ a child protective services investigator to conduct a conflict investigation of the report; or

(ii) a law enforcement officer, as defined in Section 53-13-103, may, with the consent of the department, conduct a conflict investigation of the report.

(c) Subsection (1)(b)(ii) does not prevent a law enforcement officer from, without the consent of the department, conducting a criminal investigation of abuse or neglect under Title

53, Public Safety Code.

(2) [~~The investigators~~] An investigator described in Subsection (1) may also investigate allegations of abuse or neglect of a child by a department employee or a licensed substitute care provider.

(3) [~~The investigators~~] An investigator described in Subsection (1), if not a law enforcement [~~officers~~] officer, shall have the same rights, duties, and authority of a child [~~protective services investigator employed by the division~~] welfare caseworker to:

(a) make a thorough investigation under Section 80-2-701 upon receiving [~~either an oral or written~~] a report of alleged abuse or neglect of a child, with the primary purpose of [~~that~~] the investigation being the protection of the child;

(b) make an inquiry into the child's home environment, emotional, or mental health, the nature and extent of the child's injuries, and the child's physical safety;

(c) make a written report of [~~their~~] the investigator's investigation, including determination regarding whether the alleged abuse or neglect [~~was~~] is supported, unsupported, or without merit, and forward a copy of [~~that~~] the report to the division within the time mandates for investigations established by the division; and

(d) immediately consult with school authorities to verify the child's status in accordance with Sections 53G-6-201 through 53G-6-206 [~~when~~] if a report is based [~~upon~~] on or includes an allegation of educational neglect.

Section 59. Section **80-2-704**, which is renumbered from Section 62A-4a-414 is renumbered and amended to read:

[~~62A-4a-414~~]. 80-2-704. Division interview of a child -- Support person for the child -- Notice -- Recording.

(1) The division may conduct an investigative interview of a child who:

(a) except as provided in Subsection (5), is the subject of the report or identified during an investigation under Subsection 80-2-701; or

(b) is in protective custody before the day on which the adjudication hearing is held under Section 80-3-401.

(2) (a) If the division interviews a child under Subsection (1), the division shall:

(i) except as provided in Subsection (3), conduct the interview with a support person of the child's choice present; and

(ii) except as provided in Subsection (6), audiotape or videotape the interview.

(b) The interviewer ~~{under}~~described in Subsection (1) shall say at the beginning of the audiotape or videotape:

(i) the time, date, and place of the interview; and

(ii) the full name and age of the child being interviewed.

(3) (a) Except as provided in Subsection (3)(b), the support person described in Subsection (2) may be:

(i) a school teacher;

(ii) a school administrator;

(iii) a guidance counselor;

(iv) a child care provider;

(v) a family member;

(vi) a family advocate;

(vii) a member of the clergy; or

(viii) another individual chosen by the child.

(b) The support person described in Subsection (2) may not be an individual who is alleged to be, or potentially may be, the perpetrator.

(c) (i) Subsection (2)(a)(i) does not apply if the child refuses to have a support person present during the interview.

(ii) If the child refuses to have a support person present during the interview, the interviewer shall document, in writing, the refusal and the reasons for the refusal.

(iii) The division shall track the number of interviews under this section during which a child refuses to have a support person present for each interviewer, to determine whether a particular interviewer has a higher incidence of refusals than other interviewers.

(4) (a) Except as provided in Subsection (4)(b), the division shall notify the child's parent before the time at which the interview under Subsection (1)(a) is held of:

(i) the specific allegations concerning the child; and

(ii) the time and place of the interview.

(b) (i) The division is not required to provide notice under Subsection (4)(a) if the child's parent or stepparent or the parent's paramour is identified as the alleged perpetrator.

(ii) If the alleged perpetrator is unknown, or the alleged perpetrator's relationship to the

child's family is unknown, the division may conduct a minimal interview or conversation with the child that does not exceed 15 minutes before providing notice under Subsection (4)(a).

(iii) The division shall notify the parent of a child who is interviewed under Subsection (4)(b)(i) or (ii) as soon as practicable after the interview is conducted and no later than 24 hours after the interview is conducted.

(c) The division shall notify the child's parent of the time and place of all subsequent interviews of the child.

[~~(1)~~] (5) (a) (i) Except as provided in [~~Subsection (4), interviews of children~~] Subsections (5)(a)(i)(B) and (6), the division may interview a child under Subsection (1)(a) during an investigation [~~in accordance with Section 62A-4a-409, and involving~~] under Section 80-2-701 that involves allegations of sexual abuse, sexual exploitation, severe abuse, or severe neglect of [~~a child, shall be conducted only under the following conditions~~] the child only if:

[~~(i)~~] (A) the interview [~~shall be~~] is recorded visually and aurally on film, videotape, or by other electronic means;

[~~(ii)~~] (B) both the interviewer and the child [~~shall be~~] are simultaneously recorded and visible on the final product;

[~~(iii)~~] (C) the time and date of the interview [~~shall be~~] is continuously and clearly visible to any subsequent viewer of the recording; and

[~~(iv)~~] (D) the recording equipment [~~shall run~~] runs continuously for the duration of the interview.

[~~(b)~~] (ii) [~~This Subsection (1)~~] Subsection (5)(a)(i) does not apply to initial or minimal interviews conducted in accordance with Subsection [~~62A-4a-409(8)(b) or (c)~~] (4)(b)(ii).

[~~(2) Interviews conducted in accordance with Subsection (1) shall be carried out~~]

(b) The division shall conduct an interview under Subsection (5)(a) in an existing Children's Justice Center or in a soft interview room, [~~when~~] if available.

[~~(a)~~] (c) If [~~the~~] a Children's Justice Center or a soft interview room is not available, the [~~interviewer~~] division shall use the best setting available under the circumstances.

[~~(b)~~] (d) Except as provided in Subsection [~~(4)~~] (6), if the equipment required under Subsection [~~(1)~~] (5)(a) is not available, the [~~interview shall be audiotaped, provided that the interviewer shall clearly state~~] division shall audiotape the interview and the child welfare caseworker shall clearly say at the beginning of the tape:

(i) the time, date, and place of the interview;

(ii) the full name and age of the child being interviewed; and

(iii) that the equipment required under Subsection [~~(1)~~] (5)(a) is not available and why.

(6) (a) Subject to Subsection (6)(b), the division may conduct an interview under Subsection (1) or (5) without taping the interview if the child:

(i) is at least nine years old;

(ii) refuses to have the interview audiotaped; and

(iii) refuses to have the interview videotaped.

(b) If, under Subsection (6)(a), an interview is conducted without being taped, the division shall document the child's refusal to have the interview taped as follows:

[~~(3) Except as provided in Subsection (4), all other investigative interviews shall be audiotaped using electronic means. At the beginning of the tape, the worker shall state clearly the time, date, and place of the meeting, and the full name and age of the child in attendance.~~]

[~~(4) (a) Subject to Subsection (4)(b), an interview described in this section may be conducted without being taped if the child:~~]

[~~(i) is at least nine years old;~~]

[~~(ii) refuses to have the interview audio taped; and~~]

[~~(iii) refuses to have the interview video taped.~~]

[~~(b) If, pursuant to Subsection (4)(a), an interview is conducted without being taped, the child's refusal shall be documented as follows:~~]

(i) the interviewer shall attempt to get the child's refusal on tape, including the reasons for the refusal; or

(ii) if the child does not allow the refusal, or the reasons for the refusal, to be taped, the interviewer shall:

(A) state on the tape that the child is present, but has refused to have the interview, refusal, or the reasons for the refusal taped; or

(B) if complying with Subsection [~~(4)(b)(ii)(A)~~] (6)(b)(i)(A) will result in the child, who would otherwise consent to be interviewed, to refuse to be interviewed, the interviewer shall document, in writing, that the child refused to allow the interview to be taped and the reasons for that refusal.

(c) The division shall track the number of interviews under this section that are not

taped, and the number of refusals that are not taped, for each interviewer, in order to determine whether a particular interviewer has a higher incidence of refusals, or taped refusals, than other interviewers.

Section 60. Section **80-2-705**, which is renumbered from Section 62A-4a-415 is renumbered and amended to read:

[~~62A-4a-415~~]. 80-2-705. Law enforcement interview of a child in division's custody.

(1) Except as provided in Subsection (2), the division may not consent to the interview of a child in [~~the division's custody~~] protective custody or the division's temporary custody or custody by a law enforcement officer, unless consent for the interview is obtained from the child's guardian ad litem.

(2) Subsection (1) does not apply if a guardian ad litem is not appointed for the child.

Section 61. Section **80-2-706**, which is renumbered from Section 62A-4a-202.8 is renumbered and amended to read:

[~~62A-4a-202.8~~]. 80-2-706. Child protection team during division investigation -- Coordination of team -- Timing of team meetings.

[~~(1) A child protection team may assemble for a particular case when:~~]

(1) (a) The division shall convene a child protection team for a particular case:

(i) in accordance with Section 80-2-701;

(ii) if the child is taken into protective custody, for the purpose of reviewing the circumstances regarding removal of the child from the child's home or school; or

(iii) if the division files an abuse, neglect, or dependency petition, as defined in Section 80-3-102, for the purposes of:

(A) reviewing the circumstances of the filing of the abuse, neglect, or dependency petition; and

(B) developing or reviewing implementation of a safety plan to protect the child from further abuse, neglect, or dependency.

(b) The division may convene a child protection team for a particular case if:

[~~(a)~~] (i) the case demonstrates:

[~~(i)~~] (A) the likelihood of severe child abuse or neglect; or

[~~(ii)~~] (B) a high risk of repetition as evidenced by previous involvements with law

enforcement or the division; and

[~~(b)~~] (ii) the child protection team is assembled for the purpose of information sharing and identification of resources, services, or actions that support the child and the child's family.

[~~(2) Subject to Subsection (3), if the division files a petition under Section 80-3-201, the division shall convene a child protection team meeting to:~~]

[~~(a) review the circumstances of the filing of the petition; and~~]

[~~(b) develop or review implementation of a safety plan to protect the child from further abuse, neglect, or dependency.~~]

(2) (a) A representative of the division shall serve as coordinator and chair of a child protection team convened under Subsection (1).

(b) A member of the child protection team shall serve at the coordinator's invitation.

(c) If possible, the child protection team coordinator and chair shall include on the child protection team a representative of:

(i) health, mental health, education, and law enforcement agencies;

(ii) the child;

(iii) a parent and family support group unless the parent is alleged to be the perpetrator; and

(iv) other appropriate agencies and individuals.

(3) The division shall hold the child protection team meeting [~~required~~] under Subsection [~~(2) shall be held~~] (1)(a)(ii) or (iii) within the shorter of:

[~~(a) 14 days of the day on which the petition is filed under Section 80-3-201 if the conditions of Subsection (3)(b) or (c) are not met;~~]

[~~(b) 24 hours of the filing of the petition under Section 80-3-201, excluding weekends and holidays, if the child who is the subject of the petition will likely be taken into protective custody unless there is an expedited hearing and services ordered under the protective supervision of the court; or~~]

[~~(c)~~] (a) 24 hours after receipt of [~~a~~] the child into protective custody, excluding weekends and holidays, if the child is taken into protective custody [~~as provided in Section 62A-4a-202.3.~~];

(b) 24 hours after the abuse, neglect, or dependency petition, as defined in Section 80-3-102, is filed, excluding weekends and holidays, if the child who is the subject of the

abuse, neglect, or dependency petition will likely be taken into protective custody unless there is an expedited hearing and services ordered under the protective supervision of the juvenile court; or

(c) 14 days after the day on which the abuse, neglect, or dependency petition, as defined in Section 80-3-102, is filed.

(4) At [~~its~~] a child protection team meeting, the division shall have available and the child protection team shall review the complete child protective services and foster care history of the child and the child's parents and siblings.

Section 62. Section **80-2-707**, which is renumbered from Section 62A-4a-1009 is renumbered and amended to read:

[~~62A-4a-1009~~]. 80-2-707. Supported finding of child abuse or neglect after division investigation -- Notice to alleged perpetrator -- Rights of alleged perpetrator -- Administrative review -- Joinder in juvenile court.

(1) (a) Except as provided in Subsection (2), if, after investigation, the division makes a supported finding, the division shall send a notice of agency action to [~~a person with respect to whom the division makes a supported finding. In addition, if~~] the alleged perpetrator.

(b) If the alleged perpetrator described in Subsection (1)(a) is under [~~the age of~~] 18 years old, the division shall:

(i) make reasonable efforts to identify the alleged perpetrator's parent or guardian; and

(ii) send a notice to each parent or guardian identified under Subsection [~~(1)(a)(i)~~] (1)(b)(i) that lives at a different address, unless there is good cause, as defined by rule, made in accordance with Title 63G, Chapter 3, Administrative Rulemaking Act, for not sending a notice to [~~a~~] the parent or guardian.

[~~(b) Nothing in this section may be construed as affecting:~~]

(c) This section does not affect:

(i) the manner in which the division conducts an investigation; or

(ii) the use or effect, in any other setting, of a supported finding by the division at the completion of an investigation for any purpose other than for notification under Subsection (1)(a) or (b).

(2) Subsection (1) does not apply to [~~a person who has been~~] an alleged perpetrator who is served with notice under [~~Subsection 62A-4a-1005(1)(a)~~] Section 80-2-708.

(3) The notice described in Subsection (1) shall state that:

(a) [~~that~~] the division [~~has~~] conducted an investigation regarding alleged abuse, neglect, or dependency;

(b) [~~that~~] the division [~~has~~] made a supported finding of abuse, neglect, or dependency;

(c) [~~that~~] facts gathered by the division support the supported finding;

(d) [~~that the person~~] the alleged perpetrator has the right to request:

(i) a copy of the report; and

(ii) an opportunity to challenge the supported finding by the division; and

(e) [~~that~~] failure to request an opportunity to challenge the supported finding within 30 days [~~of receiving the~~] after the day on which the notice is received will result in an unappealable supported finding of abuse, neglect, or dependency unless the [~~person~~] alleged perpetrator can show good cause for why compliance within the 30-day requirement [~~was~~] is virtually impossible or unreasonably burdensome.

(4) (a) [~~A person~~] Except as provided in Subsection (7), an alleged perpetrator may make a request to challenge a supported finding within 30 days [~~of a notice being received~~] after the day on which the alleged perpetrator receives a notice under this section.

(b) Upon receipt of a request under Subsection (4)(a), the Office of Administrative Hearings shall hold an adjudicative proceeding [~~pursuant to~~] under Title 63G, Chapter 4, Administrative Procedures Act.

(5) (a) In an adjudicative proceeding held [~~pursuant to~~] under this section, the division [~~shall have~~] has the burden of proving, by a preponderance of the evidence, that abuse, neglect, or dependency occurred and that the alleged perpetrator [~~was~~] is substantially responsible for the abuse or neglect that occurred.

(b) Any party [~~shall have~~] has the right of judicial review of final agency action, in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(c) [~~Proceedings~~] A proceeding for judicial review of a final agency action under this section shall be closed to the public.

(d) The Judicial Council shall make rules that ensure the confidentiality of the [~~proceedings~~] proceeding described in Subsection (5)(c) and the records related to the proceedings.

(6) Except as otherwise provided in this chapter, an alleged perpetrator who, after

receiving notice, fails to challenge a supported finding in accordance with this section:

(a) may not further challenge the finding; and

(b) shall have no right to:

(i) agency review of the finding;

(ii) an adjudicative hearing on the finding; or

(iii) judicial review of the finding.

(7) (a) Except as provided in Subsection (7)(b), an alleged perpetrator may not make a request under Subsection (4) to challenge a supported finding if a court of competent jurisdiction entered a finding, in a proceeding in which the alleged perpetrator was a party, that the alleged perpetrator is substantially responsible for the abuse, neglect, or dependency [~~which was also~~] that is the subject of the supported finding.

(b) Subsection (7)(a) does not apply to pleas in abeyance or diversion agreements.

(c) An adjudicative proceeding under Subsection (5) may be stayed during the time a judicial action on the same matter is pending.

(8) [~~Pursuant to~~] Under Section 80-3-404, an adjudicative proceeding on a supported finding of a type of abuse or neglect that does not constitute a severe type of child abuse or neglect may be joined in the juvenile court with an [~~adjudicative proceeding~~] adjudication on a supported finding of a severe type of child abuse or neglect.

Section 63. Section **80-2-708**, which is renumbered from Section 62A-4a-1005 is renumbered and amended to read:

[~~62A-4a-1005~~]. 80-2-708. Supported finding of a severe type of child abuse or neglect after division investigation -- Notation in Licensing Information System -- Juvenile court petition or notice to alleged perpetrator -- Rights of alleged perpetrator.

(1) If, after investigation, the division makes a supported finding that [~~a person~~] an individual committed a severe type of child abuse or neglect, the division shall:

(a) serve notice of the supported finding on the alleged perpetrator;

[~~(b) enter the following information into the Licensing Information System created in Section 62A-4a-1006:~~]

[~~(i) the name and other identifying information of the perpetrator with the supported finding, without identifying the person as a perpetrator or alleged perpetrator; and~~]

[~~(ii) a notation to the effect that an investigation regarding the person is pending; and~~]

(b) enter the information described in Subsections 80-2-1002(2)(a) and (b) into the Licensing Information System; and

(c) if the division considers it advisable, file a petition for substantiation within one year [~~of the~~] after the day on which the division makes the supported finding.

(2) The notice [~~referred to~~] described in Subsection (1)(a):

(a) shall state that:

(i) the division [~~has~~] conducted an investigation regarding alleged abuse or neglect;

(ii) the division [~~has~~] made a supported finding that the alleged perpetrator described in Subsection (1) committed a severe type of child abuse or neglect;

(iii) facts gathered by the division support the supported finding;

(iv) as a result of the supported finding, the alleged perpetrator's name and other identifying information have been listed in the Licensing Information System in accordance with Subsection (1)(b);

(v) the alleged perpetrator may be disqualified from adopting a child, receiving state funds as a child care provider, or being licensed by:

(A) the department;

(B) a human services licensee;

(C) a child care provider or program; or

(D) a covered health care facility;

(vi) the alleged perpetrator has the rights described in Subsection (3); and

(vii) failure to take [~~either~~] the action described in Subsection (3)(a) within one year after [~~service of~~] the day on which the notice is served will result in the action described in Subsection (3)(b);

(b) shall include a general statement of the nature of the [~~findings~~] supported finding; and

(c) may not include:

(i) the name of a victim or witness; or

(ii) any privacy information related to the victim or a witness.

(3) (a) Upon receipt of the notice described in Subsection (2), the alleged perpetrator has the right to:

(i) file a written request asking the division to review the [~~findings~~] supported finding

made under Subsection (1);

(ii) except as provided in Subsection [~~(3)(c)~~] (3)(b), immediately petition the juvenile court under Section 80-3-404; or

(iii) sign a written consent to:

(A) the supported finding made under Subsection (1); and

(B) entry into the Licensing Information System of[~~: (I)~~] the alleged perpetrator's name[~~; and (II)~~] other information regarding the supported finding made under Subsection (1).

[~~(b) Except as provided in Subsection (3)(c), the alleged perpetrator's name and the information described in Subsection (1)(b) shall remain in the Licensing Information System:~~]

[~~(i) if the alleged perpetrator fails to take the action described in Subsection (3)(a) within one year after service of the notice described in Subsections (1)(a) and (2);~~]

[~~(ii) during the time that the division awaits a response from the alleged perpetrator pursuant to Subsection (3)(a); and~~]

[~~(iii) until a court determines that the severe type of child abuse or neglect upon which the Licensing Information System entry was based is unsubstantiated or without merit.~~]

[~~(c)~~] (b) The alleged perpetrator has no right to petition the juvenile court under Subsection (3)(a)(ii) if the juvenile court previously held a hearing on the same alleged incident of abuse or neglect [~~pursuant to~~] after the filing of [~~a petition under Section 80-3-201 by some other~~] an abuse, neglect, or dependency petition, as defined in Section 80-3-102, by another party.

[~~(d)~~] (c) [~~Consent~~] The child's parent or guardian shall give the consent for a child under Subsection (3)(a)(iii) [~~by a child shall be given by the child's parent or guardian~~].

[~~(e) Regardless of whether an appeal on the matter is pending:~~]

[~~(i) the division shall remove an alleged perpetrator's name and the information described in Subsection (1)(b) from the Licensing Information System if the severe type of child abuse or neglect upon which the Licensing Information System entry was based:~~]

[~~(A) is found to be unsubstantiated or without merit by the juvenile court under Section 80-3-404; or~~]

[~~(B) is found to be substantiated, but is subsequently reversed on appeal; and~~]

[~~(ii) the division shall place back on the Licensing Information System an alleged perpetrator's name and information that is removed from the Licensing Information System~~

~~under Subsection (3)(c)(i) if the court action that was the basis for removing the alleged perpetrator's name and information is subsequently reversed on appeal.~~]

[~~(4) Upon the filing of a petition under Subsection (1)(c), the juvenile court shall make a finding of substantiated, unsubstantiated, or without merit as provided in Subsections 80-3-404(1) and (2).~~]

[~~(5)~~] (4) Service of the notice described in Subsections (1)(a) and (2):

(a) shall be personal service in accordance with Utah Rules of Civil Procedure, Rule 4; and

(b) does not preclude civil or criminal action against the alleged perpetrator.

Section 64. Section **80-2-709**, which is renumbered from Section 62A-4a-202.4 is renumbered and amended to read:

[~~62A-4a-202.4~~]. 80-2-709. Division access to criminal background information for background screening and investigation.

(1) [~~For purposes of background screening and investigation of abuse or neglect under this chapter and Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, the~~] The division shall have direct access to criminal background information maintained [~~pursuant to~~] under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification[~~.~~], for the purpose of:

(a) background screening under this chapter, Chapter 2a, Removal and Protective Custody of a Child, or Chapter 3, Abuse, Neglect, and Dependency Proceedings, including background screening of an individual who has direct access, as defined in Section 62A-2-101, to a minor:

(i) who is alleged to be or has been abused, neglected, or dependent; and

(ii) for whom the division has an open case; or

(b) investigation of abuse or neglect under this chapter, Chapter 2a, Removal and Protective Custody of a Child, or Chapter 3, Abuse, Neglect, and Dependency.

(2) [~~The~~] Except as provided in Section 80-3-305, the division and the Office of Guardian Ad Litem are authorized to request the Department of Public Safety to conduct a complete Federal Bureau of Investigation criminal background check through the national criminal history system (NCIC).

Section 65. Section **80-2-801**, which is renumbered from Section 62A-4a-902 is renumbered and amended to read:

Part 8. Division Child Placing and Adoption Services

[~~62A-4a-902~~]. 80-2-801. Definitions.

As used in this part:

(1) "Adoptable child" means a child:

(a) who is in the custody of the division; and

(b) (i) who has permanency goals of adoption; or

(ii) for whom a final plan for pursuing termination of parental rights is approved in accordance with Section 80-3-409.

[~~(1)~~] (2) (a) "Adoption assistance" means, except as provided in Section 80-2-809, direct financial subsidies and support to adoptive parents of a child with special needs or whose need or condition has created a barrier that would prevent a successful adoption.

(b) "Adoption assistance" [~~may include~~] includes state medical assistance, reimbursement of nonrecurring adoption expenses, or monthly subsidies.

(3) "Adoption services" means, except as used in Section 80-2-806:

(a) placing children for adoption;

(b) subsidizing adoptions under Section 80-2-301;

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

(d) conducting adoption studies;

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

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

[~~(2)~~] (4) "Child who has a special need" means a child who:

(a) cannot or should not be returned to the home of [~~his~~] the child's biological parents; and [~~who meets at least one of the following conditions:~~]

[~~(a)~~] (b) (i) [~~the child~~] is five years [~~of age~~] old or older;

[~~(b)~~] (ii) [~~the child~~] is under [~~the age of~~] 18 years old with a physical, emotional, or mental disability; or

[~~(c)~~] (iii) [~~the child~~] is a member of a sibling group placed together for adoption.

[~~(3)~~] (5) "Monthly subsidy" means financial support to assist with the costs of adopting and caring for a child who has a special need.

[~~(4)~~] (6) "Nonrecurring adoption expenses" means reasonably necessary adoption fees,

court costs, attorney's fees, and other expenses which are directly related to the legal adoption of a child who has a special need.

[~~(5)~~] (7) "State medical assistance" means the Medicaid program and medical assistance as those terms are defined in Section 26-18-2.

[~~(6)~~] (8) "Supplemental adoption assistance" means financial support for extraordinary, infrequent, or uncommon documented needs not otherwise covered by a monthly subsidy, state medical assistance, or other public benefits for which a child who has a special need is eligible.

(9) "Vendor services" means services that a person provides under contract with the division.

Section 66. Section **80-2-802** is enacted to read:

80-2-802. Division child placing and adoption services -- Best interest of the child -- Restrictions on placement of a child.

(1) Except as provided in Subsection (3), the division may provide adoption services and, as a licensed child-placing agency under Title 62A, Chapter 2, Licensure of Programs and Facilities, engage in child placing in accordance with this chapter, Chapter 2a, Removal and Protective Custody of a Child, Chapter 3, Abuse, Neglect, and Dependency Proceedings, and Chapter 4, Termination and Restoration of Parental Rights.

(2) The division shall base the division's decision for placement of an adoptable child for adoption on the best interest of the adoptable child.

(3) The division may not:

(a) in accordance with Subsection 62A-2-108.6(6), place a child for adoption, either temporarily or permanently, with an individual who does not qualify for adoptive placement under Sections 78B-6-102, 78B-6-117, and 78B-6-137;

(b) consider a potential adoptive parent's willingness or unwillingness to enter a postadoption contact agreement under Section 78B-6-146 as a condition of placing a child with a potential adoptive parent; or

(c) except as required under the Indian Child Welfare Act, 25 U.S.C. Secs. 1901 through 1963, base the division's decision for placement of an adoptable child on the race, color, ethnicity, or national origin of either the child or the potential adoptive parent.

(4) The division shall establish a rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, providing that, subject to Subsection (3) and Section

78B-6-117, priority of placement shall be provided to a family in which a couple is legally married under the laws of the state.

(5) Subsections (3) and (4) do not limit the placement of a child with the child's biological or adoptive parent, a relative, or in accordance with the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et seq.

Section 67. Section **80-2-803** is enacted to read:

80-2-803. Division promotion of adoption -- Adoption research and informational pamphlet.

The division shall:

(1) in accordance with Section 62A-2-126, actively promote the adoption of all children in the division's custody who have a final plan for termination of parental rights under Section 80-3-409 or a primary permanency plan of adoption;

(2) develop plans for the effective use of cross-jurisdictional resources to facilitate timely adoptive or permanent placements for waiting children;

(3) obtain information or conduct research regarding prior adoptive families to determine what families may do to be successful with an adoptive child;

(4) make the information or research described in Subsection (3) available to potential adoptive parents;

(5) prepare a pamphlet that explains the information that a child-placing agency is required to provide a potential adoptive parent under Subsection 62A-2-126(2)(b);

(6) regularly distribute copies of the pamphlet described in Subsection (5) to child-placing agencies; and

(7) respond to an inquiry made as a result of the notice provided by a child-placing agency under Subsection 62A-2-126(2)(b).

Section 68. Section **80-2-804**, which is renumbered from Section 62A-4a-205.6 is renumbered and amended to read:

[~~62A-4a-205.6~~]. 80-2-804. Adoptive placement time frame -- Division contracts with child-placing agencies.

(1) [~~With regard to~~] Subject to this part, for a child who has a primary permanency plan of adoption or for whom a final plan for pursuing termination of parental rights [~~has been~~] is approved in accordance with Section 80-3-409, the division shall make intensive efforts to

place the child in an adoptive home within 30 days [~~of~~] after the earlier of the day on which:

(a) [~~approval of~~] the final plan is approved; or

(b) [~~establishment of~~] the primary permanency plan is established.

(2) If within the time periods described in Subsection (1) the division is unable to locate a suitable adoptive home, [~~it shall~~] the division shall, in accordance with Section 62A-2-126, contract with [~~licensed~~] a variety of child-placing agencies licensed under Title 62A, Chapter 2, Licensure of Programs and Facilities, to search for an appropriate adoptive home for the child, and to place the child for adoption. [~~The division shall comply with the requirements of Section 62A-4a-607 and contract with a variety of child placing agencies licensed under Part 6, Child Placing. In accordance with federal law, the division shall develop plans for the effective use of cross-jurisdictional resources to facilitate timely adoptive or permanent placements for waiting children.~~]

[~~(3) The division shall ensure that children who are adopted and were previously in its custody, continue to receive the medical and mental health coverage that they are entitled to under state and federal law.~~]

[~~(4) The division may not consider a prospective adoptive parent's willingness or unwillingness to enter a postadoption contact agreement under Section 78B-6-146 as a condition of placing a child with the prospective adoptive parent.~~]

Section 69. Section **80-2-805**, which is renumbered from Section 62A-4a-106 is renumbered and amended to read:

[~~62A-4a-106~~]. 80-2-805. Division post-adoption services and contracts -- Access to health care for an adopted child.

[~~(1) The division may provide, directly or through contract, services that include the following:~~]

[~~(a) adoptions;~~]

[~~(b) day care for children;~~]

[~~(c) out-of-home placements for minors;~~]

[~~(d) health-related services;~~]

[~~(e) homemaking services;~~]

[~~(f) home management services;~~]

[~~(g) protective services for minors;~~]

[~~(h) transportation services; and~~]

[~~(i) domestic violence services.~~]

[~~(2) The division shall monitor services provided directly by the division or through contract to ensure compliance with applicable law and rule.~~]

[~~(3) When the division provides a service through a private contract, not including a foster parent placement, the division shall post the name of the service provider on the division's website.~~]

[~~(4)~~] (1) Unless a parent or guardian of a child who is adopted from the custody of the division expressly requests otherwise, the division may not, solely on the basis that the parent or guardian contacts the division regarding services or requests services from the division:

(a) remove or facilitate the removal of a child from the child's home;

(b) file a petition for removal of a child from the child's home;

(c) file a petition for a child protective order;

(d) make a supported finding;

(e) seek a substantiated finding;

(f) file an abuse, neglect, or dependency petition, as defined in Section 80-3-102, or a petition alleging that a child is [~~abused, neglected, dependent, or~~] abandoned; or

(g) file a petition for termination of parental rights, as defined in Section 80-4-102.

[~~(5)~~] (2) (a) The division shall, to the extent that sufficient funds are available, use out-of-home services funds or division-designated post-adopt funds to provide services to a child who is adopted from the custody of the division, without requiring that [~~a~~] the child's parent terminate parental rights, or that [~~a~~] the child's parent or legal guardian [~~of the child~~] transfer or surrender custodial rights, in order to receive the services.

(b) The division may not require, request, or recommend that a parent terminate parental rights, or that a parent or guardian transfer or surrender custodial rights, in order to receive services, using out-of-home services funds, for a child who is adopted from the custody of the division.

[~~(6) (a) As used in this Subsection (6), "vendor services" means services that a person provides under contract with the division.~~]

[~~(b)~~] (3) (a) If a parent or guardian of a child who is adopted from the custody of the division requests vendor services from the division, the division shall refer the parent or

guardian to a provider of vendor services, at the parent's or guardian's expense, if:

(i) (A) the parent, guardian, or child is not eligible to receive the vendor services from the division; or

(B) the division does not have sufficient funds to provide the services to the parent, guardian, or child;

(ii) the parent, guardian, or child does not have insurance or other funds available to receive the services without the referral; and

(iii) the parent or guardian desires the referral.

[~~(c)~~] (b) If the division awards, extends, or renews a contract with a vendor for vendor services, the division shall include in the contract a requirement that [~~a vendor to whom~~], if the division makes a referral under Subsection [~~(6)(b)~~] (3)(a), the vendor shall:

(i) provide services to the parent, guardian, or child at a rate that does not exceed the rate that the vendor charges the division for the services; and

(ii) may not charge the parent, guardian, or child any fee that the vendor does not charge the division.

(4) The division shall ensure that a child who is adopted and was previously in the division's custody, continues to receive the medical and mental health coverage that the child is entitled to under state and federal law.

Section 70. Section **80-2-806**, which is renumbered from Section 62A-4a-903 is renumbered and amended to read:

[~~62A-4a-903~~]. 80-2-806. Adoption assistance -- Eligibility -- Limitations.

(1) The purpose of this section is to provide adoption assistance to eligible adoptive families to establish and maintain a permanent adoptive placement for a child who has a special need and who qualifies under state and federal law.

(2) (a) The division may provide adoption assistance to an adoptive family who is eligible under this section.

[~~(1)~~] (b) The Division [~~of Child and Family Services~~] shall establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, eligibility criteria for the receipt of adoption assistance and supplemental adoption assistance.

[~~(2) Eligibility determination shall be based upon:~~]

(c) The division shall base a determination of eligibility for the receipt of adoption

assistance or supplemental adoption assistance on:

[~~(a)~~] (i) the needs of the child;

[~~(b)~~] (ii) the resources available to the child; and

[~~(c)~~] (iii) the federal requirements of Section 473, Social Security Act.

[~~(3)~~] (d) The division:

[~~(a)~~] (i) may, to the extent funds are available, use state funds appropriated for adoption assistance to provide post-adoption services to a child who is adopted from the custody of the division; and

[~~(b)~~] (ii) unless a parent or guardian of a child who is adopted from the custody of the division expressly requests otherwise, may not require, request, or recommend that a parent terminate parental rights, or that a parent or guardian transfer or surrender custodial rights, in order to receive post-adoption services for the child, regardless of whether funds for the post-adoption services come from funds appropriated for adoption assistance or post-adoption services.

(3) (a) Except as provided in Subsection (3)(c) and under the federal requirements of Social Security Act, 42 U.S.C. Sec. 670 et seq., the division:

(i) shall provide for:

(A) payment of nonrecurring adoption expenses for an eligible child who has a special need; and

(B) state medical assistance when required by federal law; and

(ii) may provide for monthly subsidies for an eligible child who has a special need.

(b) (i) The division shall base the level of monthly subsidy under Subsection (3)(a) on:

(A) the child's present and long-term treatment and care needs; and

(B) the family's ability to meet the needs of the child.

(ii) The level of monthly subsidy under Subsection (3)(b)(i) may increase or decrease when the child's level of need or the family's ability to meet the child's need changes.

(iii) The family or the division may initiate changes to the monthly subsidy.

(c) (i) Payment of nonrecurring adoption expenses under Subsection (3)(a) may not exceed $2,000 and shall be limited to costs incurred before the day on which the adoption is finalized.

(ii) Financial support provided under Subsection (3)(a) may not exceed the maximum

foster care payment that would be paid at the time the subsidy amount is initiated or revised or if the eligible child had been in a foster family home.

Section 71. Section **80-2-807**, which is renumbered from Section 62A-4a-905 is renumbered and amended to read:

[~~62A-4a-905~~]. 80-2-807. Supplemental adoption assistance -- Department advisory committee.

(1) (a) The division may, based [~~upon~~] on annual legislative appropriations for adoption assistance and, subject to Subsection (2)(c), division rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide supplemental adoption assistance for a child who has a special need. [~~Supplemental adoption assistance shall be provided~~]

(b) The division shall provide supplemental adoption assistance under Subsection (1)(a) only after all other resources for which [~~a~~] the child is eligible [~~have been~~] are exhausted.

(2) (a) The department shall, by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish [~~in each region~~] at least one advisory committee to review and make recommendations to the division on individual requests for supplemental adoption assistance.

(b) The advisory committee shall be comprised of:

(i) an adoption expert;

(ii) an adoptive parent;

(iii) a division representative;

(iv) a foster parent; and

(v) an adoption caseworker.

[~~(b)~~] (c) The division [~~rule required in~~] rules described in Subsection (1) shall include a provision that establishes a threshold amount for requests for supplemental adoption assistance that require review by the advisory committee [~~established in this Subsection (2)~~].

Section 72. Section **80-2-808**, which is renumbered from Section 62A-4a-906 is renumbered and amended to read:

[~~62A-4a-906~~]. 80-2-808. Termination or modification of adoption assistance.

(1) [~~Adoption assistance may not be terminated or modified~~] The division may not

terminate or modify adoption assistance unless the division [~~has given~~] gives the adoptive parents notice and opportunity for a hearing as required in Title 63G, Chapter 4, Administrative Procedures Act.

(2) [~~Adoption assistance shall be terminated~~] The division shall terminate adoption assistance if any of the following occur:

(a) the adoptive parents request termination;

(b) subject to Subsection (3), the child reaches 18 years [~~of age, unless approval has been given by the division~~] old, unless the division gives approval to continue beyond [~~the age of~~] 18 years old due to mental or physical disability[~~, but in no case shall assistance continue after a child reaches 21 years of age~~];

(c) the child dies;

(d) the adoptive parents die;

(e) the adoptive [~~parent's~~] parents' legal responsibility for the child ceases;

(f) the state determines that the child is no longer receiving support from the adoptive parents;

(g) the child marries; or

(h) the child enters military service.

(3) Adoption assistance may not continue after the day on which the child reaches 21 years old.

Section 73. Section **80-2-809**, which is renumbered from Section 62A-4a-907 is renumbered and amended to read:

[~~62A-4a-907~~]. 80-2-809. Interstate compact adoption assistance agreements.

(1) [~~As~~] Notwithstanding Section 80-2-801, as used in this section:

(a) "Adoption assistance" means financial support to [~~adoptive parents~~] an adoptive parent provided under the Adoption Assistance and Child Welfare Act of 1980, Title IV (e) of the Social Security Act, and Title XIX of the Social Security Act.

(b) "Adoption assistance agreement" means a written agreement between the division and adoptive parents, or between any other state and adoptive parents, providing for adoption assistance.

(2) The division may develop and negotiate [~~interstate compacts~~] an interstate compact

for the provision of medical identification and assistance to [~~adoptive parents who receive~~] an adoptive parent who receives adoption assistance.

(3) An interstate compact under Subsection (2) shall include:

(a) a provision:

(i) for joinder by all states;

[~~(b)~~] (ii) [~~a provision~~] for withdrawal from the compact upon written notice to the parties, with a period of one year between the date of the notice and the effective date of withdrawal;

(iii) that a child who is the subject of an adoption assistance agreement with another party state, and who subsequently becomes a resident of this state, shall receive medical identification and assistance in this state under the Adoption Assistance and Child Welfare Act of 1980, Title IV (e) of the Social Security Act, and Title XIX of the Social Security Act, based on the child's adoption assistance agreement; and

(iv) that a child who is the subject of an adoption assistance agreement with the division, and who subsequently becomes a resident of another party state, shall receive medical identification and assistance from that state under the Adoption and Child Welfare Act of 1980, Title IV (e) of the Social Security Act, and Title XIX of the Social Security Act, based on his adoption assistance agreement; and

[~~(c)~~] (b) a requirement that:

(i) each instance of adoption assistance to which the compact applies be covered by [~~a written~~] an adoption assistance agreement between the adoptive parents and the agency of the state [~~which~~] that initially agrees to provide adoption assistance[~~, and that~~];

(ii) any agreement is expressly for the benefit of the adopted child and is enforceable by the adoptive [~~parents~~] parent, and by the state agency providing adoption assistance; and

(iii) the protections of the interstate compact continue for the duration of the adoption assistance and apply to all children and the children's adoptive parents who receive adoption assistance from a party state other than the state in which the children reside.

[~~(d) a provision that a child who is the subject of an adoption assistance agreement with another party state, and who subsequently becomes a resident of this state, shall receive medical identification and assistance in this state under the Adoption Assistance and Child Welfare Act of 1980, Title IV (e) of the Social Security Act, and Title XIX of the Social~~

~~Security Act, based on his adoption assistance agreement;~~]

[~~(e) a provision that a child who is the subject of an adoption assistance agreement with the division, and who subsequently becomes a resident of another party state, shall receive medical identification and assistance from that state under the Adoption and Child Welfare Act of 1980, Title IV (e) of the Social Security Act, and Title XIX of the Social Security Act, based on his adoption assistance agreement; and~~]

[~~(f) a requirement that the protections of the compact continue for the duration of the adoption assistance and apply to all children and their adoptive parents who receive adoption assistance from a party state other than the state in which they reside.~~]

[~~(3)~~] (4) (a) The division:

(i) shall provide services to a child who is the subject of an adoption assistance agreement executed by the division, and who is a resident of another state, if [~~those~~] the services are not provided by the child's residence state under an interstate compact[~~.~~]; and

[~~(b)~~] (ii) [~~The division may reimburse the adoptive parents~~] may reimburse the adoptive parent upon receipt of evidence of [~~their~~] the adoptive parent's payment for services for which the child is eligible, which were not paid by the residence state, and are not covered by insurance or other third party medical contract.

(b) The services provided under this subsection are [~~those~~] the services for which there is no federal contribution, or which, if federally aided, are not provided by the residence state.

Section 74. Section **80-2-901** is enacted to read:

Part 9. Interstate Compact on Placement of Children

80-2-901. Definitions.

As used in this part:

(1) "State" means:

(a) a state of the United States;

(b) the District of Columbia;

(c) the Commonwealth of Puerto Rico;

(d) the Virgin Islands;

(e) Guam;

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

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

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

Section 75. Section **80-2-902**, which is renumbered from Section 62A-4a-703 is renumbered and amended to read:

[~~62A-4a-703~~]. 80-2-902. Division authority under Article III of Interstate Compact.

(1) The "appropriate public authorities," as used in Article III of the Interstate Compact on the Placement of Children shall, with reference to this state, mean the division.

(2) The division shall receive and act with reference to notices required by Article III of the compact.

Section 76. Section **80-2-903**, which is renumbered from Section 62A-4a-704 is renumbered and amended to read:

[~~62A-4a-704~~]. 80-2-903. Director authority under Article V of Interstate Compact.

As used in Paragraph (1) of Article V of the Interstate Compact on the Placement of Children, "appropriate authority in the receiving state," with reference to this state, means the director of the division.

Section 77. Section **80-2-904**, which is renumbered from Section 62A-4a-707 is renumbered and amended to read:

[~~62A-4a-707~~]. 80-2-904. Executive director authority under Article VII of Interstate Compact.

(1) As used in Article VII of the Interstate Compact on the Placement of Children, "executive" means the executive director of the department.

(2) The executive director of the department is authorized to appoint a compact administrator in accordance with the terms of Article VII of the compact.

Section 78. Section **80-2-905**, which is renumbered from Section 62A-4a-701 is renumbered and amended to read:

[~~62A-4a-701~~]. 80-2-905. Interstate Compact on Placement of Children -- Text.

The Interstate Compact on the Placement of Children is hereby enacted and entered into with all other jurisdictions that legally join in the compact which is, in form, substantially as

follows: INTERSTATE COMPACT ON PLACEMENT OF CHILDREN ARTICLE I Purpose and Policy

It is the purpose and policy of the party states to cooperate with each other in the interstate placement of children so that:

(1) Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide necessary and desirable care.

(2) The appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child.

(3) The proper authorities of the state from which the placement is made may obtain the most complete information on the basis of which to evaluate a projected placement before it is made.

(4) Appropriate jurisdictional arrangements for the care of the children will be promoted. ARTICLE II Definitions

As used in this compact:

(1) "Child" means a person who, by reason of minority, is legally subject to parental, guardianship, or similar control.

(2) "Sending agency" means a party state, officer, or employee thereof; a subdivision of a party state, or officer or employee thereof; a court of a party state; a person, corporation, association, Indian tribe, charitable agency, or other entity which sends, brings, or causes to be sent or brought any child to another party state.

(3) "Receiving state" means the state to which a child is sent, brought or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state or local public authorities or for placement with private agencies or persons.

(4) "Placement" means the arrangement for the care of a child in a family free, adoptive, or boarding home, or in a child-caring agency or institution but does not include any institution caring for the mentally ill, mentally defective or epileptic or any institution, primarily educational in character, and any hospital or other medical facility. ARTICLE III Conditions for Placement

(1) No sending agency shall send, bring, or cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply with each and every requirement set forth in this article and with the applicable laws of the receiving state governing the placement of children therein.

(2) Prior to sending, bringing, or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state. The notice shall contain:

(a) The name, date, and place of birth of the child.

(b) The identity and address or addresses of the parents or legal guardian.

(c) The name and address of the person, agency, or institution to or with which the sending agency proposes to send, bring, or place the child.

(d) A full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

(e) Any public officer or agency in a receiving agency state which is in receipt of a notice pursuant to Paragraph (2) of this article may request of the sending agency, or any other appropriate officer or agency of or in the sending agency's state, and shall be entitled to receive therefrom, such supporting or additional information as it may deem necessary under the circumstances to carry out the purpose and policy of this compact.

(f) The child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child. ARTICLE IV Penalty for Illegal Placement

The sending, bringing, or causing to be sent or brought into any receiving state of a child in violation of the terms of this compact shall constitute a violation of the laws respecting the placement of children of both the state in which the sending agency is located or from which it sends or brings the child and of the receiving state. Such violation may be punished or subjected to penalty in either jurisdiction in accordance with its laws. In addition to liability for any such punishment or penalty, any violation shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or other legal authorization held by the

sending agency which empowers or allows it to place, or care for children. ARTICLE V Retention of Jurisdiction

(1) The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment, and disposition of the child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting, or is discharged with the concurrence of the appropriate authority in the receiving state. Such jurisdiction shall also include the power to effect or cause the return of the child or its transfer to another location and custody pursuant to law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein.

(2) When the sending agency is a public agency, it may enter into an agreement with an authorized public or private agency in the receiving state providing for the performance of one or more services in respect of such case by the latter as agent for the sending agency.

(3) Nothing in this compact shall be construed to prevent any agency authorized to place children in the receiving agency from performing services or acting as agent in the receiving agency jurisdiction for a private charitable agency of the sending agency; nor to prevent the receiving agency from discharging financial responsibility for the support and maintenance of a child who has been placed on behalf of the sending agency without relieving the responsibility set forth in Paragraph (1) above. ARTICLE VI Institutional Care of Delinquent Children

A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this compact, but no such placement shall be made unless the child is given a court hearing on notice to the parent or guardian with opportunity to be heard, prior to his being sent to such other party jurisdiction for institutional care and the court finds that:

(1) equivalent facilities for the child are not available in the sending agency's jurisdiction; and

(2) institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship. ARTICLE VII Compact Administrator

The executive head of each jurisdiction party to this compact shall designate an officer

who shall be general coordinator of activities under this compact in his jurisdiction and who, acting jointly with like officers of the party jurisdictions, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE VIII Limitations

This compact shall not apply to:

(1) The sending or bringing of a child into a receiving state by his parent, step-parent, grandparent, adult brother or sister, adult uncle or aunt, or his guardian and leaving the child with any such relative or nonagency guardian in the receiving state.

(2) Any placement, sending or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party or to any other agreement between said states which has the force of law. ARTICLE IX Enactment and Withdrawal

This compact shall be open to joinder by any state, territory, or possession of the United States, the District of Columbia, the commonwealth of Puerto Rico, and with the consent of Congress, the government of Canada or any province thereof. It shall become effective with respect to any such jurisdiction when such jurisdiction has enacted the same into law. Withdrawal from this compact shall be by the enactment of a statute repealing the same but shall not take effect until two years after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other party jurisdiction. Withdrawal of a party state shall not affect the rights, duties, and obligations under this compact of any sending agency therein with respect to a placement made prior to the effective date of withdrawal. ARTICLE X Construction and Severability

The provisions of this compact shall be liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States, the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

Section 79. Section **80-2-906**, which is renumbered from Section 62A-4a-702 is renumbered and amended to read:

[~~62A-4a-702~~]. 80-2-906. Financial responsibility for child placed under Interstate Compact.

(1) Financial responsibility for a child placed [~~pursuant to~~] under the provisions of the Interstate Compact on the Placement of Children shall, in the first instance, be determined in accordance with the provisions of Article V of the compact. [~~However, in~~]

(2) In the event of partial or complete default of performance [~~thereunder~~] under the compact, the provisions of Title 78B, Chapter 12, Utah Child Support Act, may also be invoked.

Section 80. Section **80-2-907**, which is renumbered from Section 62A-4a-705 is renumbered and amended to read:

[~~62A-4a-705~~]. 80-2-907. Fulfillment of requirements under Interstate Compact.

Requirements for visitation, inspection, or supervision of children, homes, institutions, or other agencies in another party state which may apply under [~~Part 2, Child Welfare Services~~] this chapter or Chapter 2a, Removal and Protective Custody of a Child, shall be deemed to be met if performed [~~pursuant to~~] under an agreement entered into by appropriate officers or agencies of this state, or a subdivision thereof, as contemplated by Paragraph (2) of Article V of the Interstate Compact on the Placement of Children.

Section 81. Section **80-2-908**, which is renumbered from Section 62A-4a-706 is renumbered and amended to read:

[~~62A-4a-706~~]. 80-2-908. Jurisdiction over delinquent children under Interstate Compact.

Any court having jurisdiction to place delinquent children may place such a child in an institution in another state, [~~pursuant to~~] under Article VI of the Interstate Compact on the Placement of Children, and shall retain jurisdiction as provided in Article V of the compact.

Section 82. Section **80-2-909**, which is renumbered from Section 62A-4a-708 is renumbered and amended to read:

[~~62A-4a-708~~]. 80-2-909. Existing authority for child placement continues.

Any person who, under any law of this state other than this part or the [~~interstate compact~~] Interstate Compact on the Placement of Children established under Section [~~62A-4a-701~~] 80-2-905, has authority to make or assist in making the placement of a child,

shall continue to have the ability lawfully to make or assist in making that placement, and the provisions of [~~Part 6, Child Placing~~] Sections 62A-2-108.6, 62A-2-115.1, 62A-2-115.2, 62A-2-126, 62A-2-127, Subsections 80-2-802(3)(a) and (4) and 80-2-803(1), (2), and (5) through (7), and [~~of~~] Title 78B, Chapter 6, Part 1, Utah Adoption Act, continue to apply.

Section 83. Section **80-2-910**, which is renumbered from Section 62A-4a-710 is renumbered and amended to read:

[~~62A-4a-710~~]. 80-2-910. Interjurisdictional home study report.

(1) The state of Utah may request a home study report from another state or an Indian Tribe for purposes of assessing the safety and suitability of placing a child in a home outside of the jurisdiction of the state of Utah.

(2) The state of Utah may not impose any restriction on the ability of a state agency administering, or supervising the administration of, a state program operated under a state plan approved under Section 42 U.S.C. 671 to contract with a private agency to conduct a home study report described in Subsection (1).

(3) [~~When~~] If the state of Utah receives a home study report described in Subsection (1), the home study report shall be considered to meet all requirements imposed by the state of Utah for completion of a home study before a child is placed in a home, unless, within 14 days after the day on which the report is received, the state of Utah determines, based on grounds that are specific to the content of the report, that making a decision in reliance on the report would be contrary to the welfare of the child.

Section 84. Section **80-2-1001**, which is renumbered from Section 62A-4a-1003 is renumbered and amended to read:

Part 10. Division and Child Welfare Records

[~~62A-4a-1003~~]. 80-2-1001. Management Information System -- Contents -- Classification of records -- Access.

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

[~~(b) The information and records contained in the Management Information System:~~]

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

[~~(ii) except as provided in Subsections (1)(c) and (d), are available only to a person or~~

~~government entity with statutory authorization under Title 63G, Chapter 2, Government Records Access and Management Act, to review the information and records described in this Subsection (1)(b).~~]

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

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

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

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

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

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

(2) The Management Information System shall:

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

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

(ii) the number of times the parent failed the child and family plan; and

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

(b) alert child welfare caseworkers regarding deadlines for completion of and compliance with policy, including child and family plans.

[~~(2)~~] (3) [~~With regard to all~~] For a child welfare [~~cases~~] case, the Management Information System shall provide each child welfare caseworker and the [~~department's office of licensing~~] Office of Licensing created in Section 62A-2-103, exclusively for the purposes of foster parent licensure and monitoring, with a complete history of each child in [~~that worker's~~] the child welfare caseworker's caseload, including:

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

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

(c) the number of times the child has been in the protective custody, temporary custody, and custody of the division;

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

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

(i) for each report, documentation of the:

(A) latest status; or

(B) final outcome or determination; and

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

(A) supported;

(B) unsupported;

(C) substantiated;

(D) unsubstantiated; or

(E) without merit;

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

(g) the number of different child welfare caseworkers who have been assigned to [~~that~~] the child in the past.

[~~(3) The division's Management Information System shall:~~]

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

[~~(i) the dates and number of times the plan has been administratively or judicially reviewed;~~]

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

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

[~~(b) alert caseworkers regarding deadlines for completion of and compliance with policy, including child and family plans.~~]

(4) [~~With regard to all~~] For child protective services cases, the Management Information System shall:

(a) monitor the compliance of each case with:

(i) division rule;

(ii) state law; and

(iii) federal law and regulation; and

(b) include the age and date of birth of the alleged perpetrator at the time the abuse or neglect is alleged to have occurred, in order to ensure accuracy regarding the identification of the alleged perpetrator.

(5) Information or a record contained in the Management Information System is:

(a) a private, controlled, or protected record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(b) available only:

(i) to a person or government entity with statutory authorization under Title 63G, Chapter 2, Government Records Access and Management Act, to review the information or record;

(ii) to a person who has specific statutory authorization to access the information or record for the purpose of assisting the state with state or federal requirements to maintain information solely for the purpose of protecting minors and providing services to families in need;

(iii) to the extent required by Title IV(b) or IV(e) of the Social Security Act:

(A) to comply with abuse and neglect registry checks requested by other states; or

(B) to the United States Department of Health and Human Services for purposes of maintaining an electronic national registry of supported or substantiated cases of abuse and neglect;

[~~(5) Except as provided in Subsection (6) regarding contract providers and Section 62A-4a-1006 regarding limited access to the Licensing Information System, all information contained in the division's Management Information System is available~~]

(iv) to the department, upon the approval of the executive director of the department, on a need-to-know basis[~~.~~]; or

(v) as provided in Subsection (6) or Section 80-2-1002.

(6) (a) [~~Subject to this Subsection (6), the division may allow the division's contract providers, court clerks~~] The division may allow a division contract provider, court clerk

designated by the Administrative Office of the Courts, the Office of Guardian Ad Litem, or [~~an~~] Indian tribe to have limited access to the Management Information System.

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

(c) [~~(i) {[} Designated court clerks~~] A court clerk may only have access to information necessary to comply with Subsection 78B-7-202(2).

[~~(ii)~~] (d) (i) The Office of Guardian Ad Litem may only access [~~only the information that~~]:

(A) ~~{except as provided in Subsection (6)(d),}~~the information that is entered into the Management Information System on or after July 1, 2004, and relates to [~~children and families~~] a child or family where the Office of Guardian Ad Litem is appointed by a court to represent the interests of the [~~children; and~~] child; or

[~~(B) {[} except as provided in Subsection (6)(d), is entered into the Management Information System on or after July 1, 2004.~~]~~{ is necessary to screen an individual at the time the individual seeks a paid or voluntary position with the Office of Guardian Ad Litem and annually throughout the time the individual remains with the Office of Guardian Ad Litem.}~~

[~~(d) Notwithstanding Subsection (6)(c)(ii) {[} (B) {]} (A)}, the Office of Guardian Ad Litem shall have access to all abuse and neglect referrals about {[} children and families~~]~~{ }~~

(B) any abuse or neglect referral about a child or family where the ~~{[}~~office has been~~{]} Office of Guardian Ad Litem is}~~ appointed by a court to represent the interests of the [~~children~~] child, regardless of the date that the information is entered into the Management Information System.

(ii) The division may use the information in the Management Information System to screen an individual as described in Subsection 80-2-1002(4)(b)(ii)(A) at the request of the Office of Guardian Ad Litem.

(e) [~~Each~~] A contract provider[~~;~~] or designated representative of the Office of Guardian Ad Litem[~~, and~~] or an Indian tribe who requests access to information contained in the Management Information System shall:

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

(ii) train its employees regarding:

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

(B) the criminal penalties under Sections [~~62A-4a-412 and~~] 63G-2-801 and 80-2-1005 for improper release of information; and

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

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

(7) The division shall take:

(a) all necessary precautions, including password protection and other appropriate and available technological techniques, to prevent unauthorized access to or release of information contained in the Management Information System[~~.~~]; and

(b) reasonable precautions to ensure that the division's contract providers comply with Subsection (6).

Section 85. Section **80-2-1002**, which is renumbered from Section 62A-4a-1006 is renumbered and amended to read:

[~~62A-4a-1006~~]. 80-2-1002. Licensing Information System -- Contents -- Classification of records -- Access -- Unlawful release -- Penalty.

(1) ~~{[}~~(a)~~{]}~~ The division shall maintain a sub-part of the Management Information System [~~established pursuant to Section 62A-4a-1003, to be known~~] as the Licensing Information System[~~,~~] to be used:

~~{[}~~(i)~~{] (a)}~~ for licensing purposes; or

~~{[}~~(ii)~~{] (b)}~~ as otherwise [~~specifically~~] provided [~~for~~] by law.

(b) Notwithstanding Subsection (1)(a), the department's access to information in the Management Information System for the licensure and monitoring of a foster parent is governed by Sections 80-2-1001 and 62A-2-121.

[~~(b)~~] (2) The Licensing Information System shall include only the following information:

(a) the name and other identifying information of the alleged perpetrator in a supported

finding, without identifying the alleged perpetrator as a perpetrator or alleged perpetrator;

(b) a notation to the effect that an investigation regarding the alleged perpetrator described in Subsection (2)(a) is pending;

[~~(i)~~] (c) the information described in [~~Subsections 62A-4a-1005(1)(b) and (3)(b)~~] Subsection (3);

[~~(ii)~~] (d) consented-to supported findings by [~~alleged perpetrators~~] an alleged perpetrator under Subsection [~~62A-4a-1005(3)(a)(iii); and~~] 80-2-708(3)(a)(iii);

(e) a finding from the juvenile court under Section 80-3-404; and

[~~(iii)~~] (f) the information in the licensing part of the division's Management Information System as of May 6, 2002.

[~~(2) Notwithstanding Subsection (1), the department's access to information in the Management Information System for the licensure and monitoring of foster parents is governed by Sections 62A-4a-1003 and 62A-2-121.~~]

(3) Subject to [~~Subsection 62A-4a-1005(3)(c)~~] Section 80-2-1003, upon receipt of a finding from the juvenile court under Section 80-3-404, the division shall:

(a) promptly amend the Licensing Information System to include the finding; and

(b) enter the [~~information~~] finding in the Management Information System.

(4) [~~(a)~~] Information or a record contained in the Licensing Information System is [~~classified as~~]:

(a) a protected record under Title 63G, Chapter 2, Government Records Access and Management Act[~~.~~]; and

(b) [~~Notwithstanding the disclosure provisions of~~] notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, [~~the information contained in the Licensing Information System may only be used or disclosed as specifically provided in this chapter and Section 62A-2-121.~~] accessible only~~{ to}~~:

[~~(c) The information described in Subsection (4)(b) is accessible only to:~~]

(i) to the Office of Licensing [~~within the department~~] created in Section 62A-2-103:

(A) for licensing purposes; or

(B) as otherwise specifically provided for by law;

(ii) to the division to:

(A) screen an individual at the request of the Office of Guardian Ad Litem[~~: (I)~~] at the

time [~~that~~] the individual seeks a paid or voluntary position with the Office of Guardian Ad Litem[~~; and (II) on an annual basis,~~] and annually throughout the time that the individual remains with the Office of Guardian Ad Litem; and

(B) respond to a request for information from [~~a person~~] an individual whose name is listed in the Licensing Information System;

(iii) [~~persons~~] to a person designated by the Department of Health and approved by the Department of Human Services, only for the following purposes:

(A) licensing a child care program or provider;

(B) determining whether an individual associated with a child care facility, program, or provider, who is exempt from being licensed or certified by the Department of Health under Title 26, Chapter 39, Utah Child Care Licensing Act, has a supported finding of a severe type of child abuse or neglect; or

(C) determining whether an individual who is seeking an emergency medical services license has a supported finding of a severe type of child abuse or neglect;

(iv) [~~persons~~] to a person designated by the Department of Workforce Services and approved by the Department of Human Services for the purpose of qualifying a child care [~~providers~~] provider under Section 35A-3-310.5; [~~and~~]

(v) as provided in Section 62A-2-121; or

[~~(v)~~] (vi) to~~{ }~~ the department[~~, as specifically~~] or another person, as provided in this chapter.

(5) [~~The persons~~] A person designated by the Department of Health [~~under Subsection (4)(c)(iii) and the persons designated by~~] or the Department of Workforce Services under Subsection (4)[~~(c)(iv)~~] shall adopt measures to:

(a) protect the security of the Licensing Information System; and

(b) strictly limit access to the Licensing Information System to [~~those~~] persons [~~designated~~] allowed access by statute.

(6) [~~All persons designated by statute as having access~~] The department shall approve a person allowed access by statute to information or a record contained in the Licensing Information System [~~shall be approved by the Department of Human Services and receive training from the department~~] and provide training to the person with respect to:

(a) accessing the Licensing Information System;

(b) maintaining strict security; and

(c) the criminal provisions of Sections [~~62A-4a-412 and~~] 63G-2-801 and 80-2-1005 pertaining to the improper release of information.

(7) (a) [~~A person, except those~~] Except as authorized by this chapter, a person may not request another person to obtain or release any other information in the Licensing Information System to screen for potential perpetrators of abuse or neglect.

(b) A person who requests information knowing that the request is a violation of this Subsection (7) is subject to the criminal [~~penalty~~] penalties described in Sections [~~62A-4a-412 and~~] 63G-2-801 and 80-2-1005.

Section 86. Section **80-2-1003**, which is renumbered from Section 62A-4a-1008 is renumbered and amended to read:

[~~62A-4a-1008~~]. 80-2-1003. Deletion, expungement, or notation of information or reports in Management Information System or Licensing Information System -- Court finding.

(1) (a) The division shall delete any reference in the Management Information System or Licensing Information System to a report that:

[~~(a) a report that is determined by the division to be~~] (i) the division determines is without merit, if no subsequent report involving the same alleged perpetrator [~~has occurred~~] occurs within one year after the day on which the division makes the determination; or

[~~(b) a report that is determined by~~] (ii) a court of competent jurisdiction [~~to be~~] determines is unsubstantiated or without merit, if no subsequent report involving the same alleged perpetrator [~~has occurred~~] occurs within five years after the day on which the juvenile court makes the determination.

(b) Except as provided in Subsection (1)(c), the information described in Subsections 80-2-1002(2)(a) and (b) shall remain in the Licensing Information System:

(i) if the alleged perpetrator fails to take the action described in Subsection 80-2-708(3)(a) within one year after the day on which the notice described in Subsections 80-2-708(1)(a) and (2) is served;

(ii) during the time that the division awaits a response from the alleged perpetrator under Subsection 80-2-708(3)(a); and

(iii) until a juvenile court determines that the severe type of child abuse or neglect upon

which the Licensing Information System entry was based is unsubstantiated or without merit.

(c) Regardless of whether an appeal on the matter is pending:

(i) the division shall remove the information described in Subsections 80-2-1002(2)(a) and (b) from the Licensing Information System if the severe type of child abuse or neglect upon which the Licensing Information System entry is based:

(A) is found to be unsubstantiated or without merit by the juvenile court under Section 80-3-404; or

(B) is found to be substantiated, but is subsequently reversed on appeal; and

(ii) the division shall place back on the Licensing Information System an alleged perpetrator's name and information that is removed from the Licensing Information System under Subsection (1)(c) if the court action that was the basis for removing the alleged perpetrator's name and information is subsequently reversed on appeal.

(2) (a) The division shall maintain a separation of reports as follows:

[~~(a)~~] (i) those that are supported;

[~~(b)~~] (ii) those that are unsupported;

[~~(c)~~] (iii) those that are without merit;

[~~(d)~~] (iv) those that are unsubstantiated under the law in effect before May 6, 2002;

[~~(e)~~] (v) those that are substantiated under the law in effect before May 6, 2002; and

[~~(f)~~] (vi) those that are consented-to supported findings under Subsection [~~62A-4a-1005~~] 80-2-708(3)(a)(iii).

(b) Only a person with statutory authority may access the information contained in a report described in Subsection (2)(a).

(3) [~~On or before May 1, 2018, the~~] The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the expungement of supported reports or unsupported reports in the Management Information System and the Licensing Information System[~~.~~] that:

[~~(4) The rules described in Subsection (3) shall:~~]

(a) in relation to an unsupported report or a supported report, identify the types of child abuse or neglect reports that the division:

(i) [~~the division~~] shall expunge within five years after the last date on which the individual's name [~~was~~] is placed in the information system, without requiring the subject of

the report to request expungement;

(ii) [~~the division~~] shall expunge within 10 years after the last date on which the individual's name [~~was~~] is placed in the information system, without requiring the subject of the report to request expungement;

(iii) [~~the division~~] may expunge following an individual's request for expungement in accordance with Subsection (4); and

(iv) [~~the division~~] may not expunge due to the serious nature of the specified types of child abuse or neglect;

(b) establish an administrative process and a standard of review for the subject of a report to make an expungement request; and

(c) define the term "expunge" or "expungement" to clarify the administrative process for removing a record from the information system.

[~~(5)~~] (4) (a) If an individual's name is in the [~~information system~~] Management Information System or Licensing Information System for a type of child abuse or neglect report identified under Subsection [~~(4)~~] (3)(a)(iii), the individual may request to have the report expunged 10 years after the last date on which the individual's name [~~was~~] is placed in the information system for a supported or unsupported report.

[~~(6)~~] (b) If an individual's expungement request is denied, the individual shall wait at least one year after the [~~issuance of~~] day on which the denial is issued before the individual may again request to have the individual's report expunged.

[~~(7) Only persons with statutory authority may access the information contained in any of the reports identified in Subsection (2).~~]

Section 87. Section **80-2-1004**, which is renumbered from Section 62A-4a-1010 is renumbered and amended to read:

[~~62A-4a-1010~~]. 80-2-1004. Request for division removal of name from Licensing Information System -- Petition for evidentiary hearing or substantiation.

(1) [~~Persons whose names were~~] Except as provided in Subsection (2), an individual whose name is listed on the Licensing Information System as of May 6, 2002 [~~and who have not been the subject of a court determination with respect to the alleged incident of abuse or neglect~~], may at any time:

(a) request review by the division of [~~their~~] the individual's case and removal of [~~their~~]

the individual's name from the Licensing Information System [~~pursuant to~~] under Subsection (3); or

(b) file a petition for [~~an evidentiary hearing~~] substantiation and a request for a finding of unsubstantiated or without merit in accordance with Section 80-3-504.

(2) Subsection (1) does not apply to an individual who has been the subject of any of the following court determinations with respect to the alleged incident of abuse or neglect:

(a) conviction;

(b) adjudication under Section 80-3-402 or 80-6-701;

(c) plea of guilty;

(d) plea of guilty with a mental illness; or

(e) no contest.

(3) If an alleged perpetrator listed on the Licensing Information System [~~prior to~~] before May 6, 2002, requests removal of the alleged perpetrator's name from the Licensing Information System, the division shall, within 30 days after the day on which the request is made:

(a) (i) review the case to determine whether the incident of alleged abuse or neglect qualifies as:

(A) a severe type of child abuse or neglect;

(B) chronic abuse; or

(C) chronic neglect; and

(ii) if the alleged abuse or neglect does not qualify as a type of abuse or neglect described in Subsections (3)(a)(i)(A) through (C), remove the alleged perpetrator's name from the Licensing Information System; or

(b) determine whether to file a petition for substantiation in accordance with Section 80-3-504.

[~~(4) If the division decides to file a petition, that petition must be filed no more than 14 days after the decision.~~]

[~~(5) The juvenile court shall act on the petition as provided in Subsection 80-3-404(3).~~]

[~~(6) If a person whose name appears on the Licensing Information System prior to May 6, 2002 files a petition pursuant to Section 80-3-404 during the time that an alleged perpetrator's application for clearance to work with children or vulnerable adults is pending, the~~

~~court shall hear the matter on an expedited basis.~~]

Section 88. Section **80-2-1005**, which is renumbered from Section 62A-4a-412 is renumbered and amended to read:

[~~62A-4a-412~~]. 80-2-1005. Classification of reports of alleged abuse or neglect -- Confidential identity of a person who reports -- Access -- Admitting reports into evidence -- Unlawful release and use -- Penalty.

(1) Except as otherwise provided in this chapter[~~, reports~~] or Chapter 2a, Removal and Protective Custody of a Child, a report made under [~~this part, as well as~~] Part 6, Child Abuse and Neglect Reports, and any other information in the possession of the division obtained as [~~the~~] a result of [~~a~~] the report [~~are~~] is a private, protected, or controlled [~~records~~] record under Title 63G, Chapter 2, Government Records Access and Management Act, and may only be made available to:

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

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

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

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

(e) [~~a~~] the subject of the report, the natural parents of the child, and the guardian ad litem;

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

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

(ii) devoid of conclusions drawn by the division or any of the division's workers on the ultimate issue of whether or not an individual's acts or omissions constituted any level of abuse or neglect of another individual;

(g) an office of the public prosecutor or [~~its~~] the public prosecutor's deputies in

performing an official duty;

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

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

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

(k) any individual identified in the report as a perpetrator or possible perpetrator of abuse or neglect, after being advised of the screening prohibition in Subsection (2);

(l) a person filing a petition for a child protective order on behalf of a child who is the subject of the report;

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

(n) an Indian tribe to:

(i) certify or license a foster home;

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

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

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

[~~(2) (a) A person, unless listed in Subsection (1), may not request another person to obtain or release a report or any other information in the possession of the division obtained as~~

~~a result of the report that is available under Subsection (1)(k) to screen for potential perpetrators of abuse or neglect.~~]

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

[~~(3) (a) Except as provided in Section 62A-4a-1007, the~~] (2) In accordance with Section 80-2-607 and except as provided in Section 80-2-610, the division and a law enforcement [~~officials~~] agency shall ensure the anonymity of the person [~~or persons making~~] who makes the initial report under Part 6, Child Abuse and Neglect Reports, and any [~~others~~] other person involved in the division's or law enforcement [~~officials'~~] agency's subsequent investigation of the report.

[~~(b)~~] (3) Notwithstanding any other provision of law, excluding Section 80-3-107, but including this chapter, Chapter 2a, Removal and Protective Custody of a Child, and Title 63G, Chapter 2, Government Records Access and Management Act, [~~when~~] if the division makes a report or other information in the division's possession available under Subsection (1)(e) to a subject of the report or a parent of a child, the division shall remove from the report or other information only the names, addresses, and telephone numbers of individuals or specific information that could:

[~~(i)~~] (a) identify the referent;

[~~(ii)~~] (b) impede a criminal investigation; or

[~~(iii)~~] (c) endanger an individual's safety.

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

[~~(5) (a) As used in this Subsection (5), "physician" means an individual licensed to practice as a physician or osteopath in this state under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.~~]

[~~(b) The physician-patient privilege does not:~~]

[~~(i) excuse a physician from reporting suspected abuse, neglect, fetal alcohol syndrome, or fetal drug dependency under this part; and~~]

[~~(ii) constitute grounds for excluding evidence regarding a child's injuries, or the cause~~

~~of the child's injuries, in any judicial or administrative proceeding resulting from a report under this part.~~]

[~~(6)~~] (4) A child-placing agency or person who receives a report [~~in connection with a preplacement adoptive evaluation under Sections 78B-6-128 and 78B-6-130~~] from the division under Subsection (1)(m) may provide the report to:

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

(b) [~~may provide this report to~~] a person who is performing a preplacement adoptive evaluation in accordance with [~~the requirement of~~] Sections 78B-6-128 and 78B-6-130[~~, or~~];

(c) to a licensed child-placing agency; or [~~to~~]

(d) an attorney seeking to facilitate an adoption.

[~~(7)~~] (5) A member of a child protection team may, before the day on which the child is removed, share case-specific information obtained from the division under this section with other members of the child protection team.

[~~(8)~~] (6) (a) Except as provided in Subsection [~~(8)~~] (6)(b), in a divorce, custody, or related proceeding between private parties, a court may not receive into evidence a report that:

(i) is provided to the court:

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

(B) by a parent of the child after the record is made available to the parent under Subsection (1)(e);

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

(iii) is found to be unsubstantiated, unsupported, or without merit.

(b) (i) After a motion to admit the report described in Subsection [~~(8)~~] (6)(a) is made, the court shall allow sufficient time for all subjects of the record to respond before making a finding on the motion.

(ii) After considering the motion described in Subsection [~~(8)~~] (6)(b), the court may receive the report into evidence upon a finding on the record of good cause.

(7) (a) A person may not:

(i) willfully permit, or aid and abet, the release of data or information in the possession of the division or contained in the Management Information System in violation of this part or Part 6, Child Abuse and Neglect Reports; or

(ii) if the person is not listed in Subsection (1), request another person to obtain or

release a report or other information that the other person obtained under Subsection (1)(k) to screen for potential perpetrators of abuse or neglect.

(b) A person who violates Subsection (7)(a)(i), or violates Subsection (7)(a)(ii) knowing the person's actions are a violation of Subsection (7)(a)(ii), is guilty of a class C misdemeanor.

Section 89. Section **80-2-1006** is enacted to read:

80-2-1006. Sharing of records with Indian tribe under agreement.

If the division has a privacy agreement with an Indian tribe to protect the confidentiality of division records regarding an Indian child to the same extent that the division is required to protect other division records, the division shall cooperate with and share all appropriate information in the division's possession regarding an Indian child, the Indian child's parent or guardian, or a proposed placement for the Indian child with the Indian tribe that is affiliated with the Indian child.

Section 90. Section **80-2-1007**, which is renumbered from Section 62A-4a-112 is renumbered and amended to read:

[~~62A-4a-112~~]. 80-2-1007. Request to examine division services payment -- Access to related records -- Unlawful removal -- Penalty.

(1) (a) An individual who is a taxpayer and resident of this state and who desires to examine a payment for services offered by the division in accordance with this chapter or Chapter 2a, Removal and Protective Custody of a Child, shall sign a statement using a form prescribed by the division[~~. That statement shall include the~~] that includes:

(i) an assertion that the individual is a taxpayer and a resident[~~, and shall include~~] of the state; and

(ii) a commitment that any information obtained will not be used for commercial or political purposes. [~~No partial or complete list of names, addresses, or amounts of payment may be made by any individual under this subsection, and none of that information may be removed from the offices of the division.~~]

(b) An individual may not make a partial or complete list of names, addresses, or amounts of payment under Subsection (1)(a) or remove information regarding names, addresses, or amounts of payment under Subsection (1)(a) from an office of the division.

(2) The division shall[~~,~~]:

(a) after due consideration of the public interest, define the nature of confidential information to be safeguarded by the division; and [~~shall~~]

(b) establish rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) govern the custody and disclosure of the confidential information[~~, as well as to~~]; and

(ii) provide access to information regarding payments for services offered by the division.

(3) This section does not prohibit:

(a) the division or [~~its agents, or individuals, commissions, or agencies~~] an agent of the division, or an individual, commission, or agency duly authorized for the purpose, from making [~~special studies or from~~] a special study or issuing or publishing statistical material [~~and reports~~] or a report of a general character[~~. This section does not prohibit~~]; or

(b) the division or [~~its representatives or employees~~] a division representative or employee from conveying or providing to a local, state, or federal governmental [~~agencies~~] agency written information that would affect an individual's eligibility or ineligibility for financial service, or other beneficial [~~programs~~] program offered by [~~that~~] the governmental agency. [~~Access to the division's program plans, policies, and records, as well as consumer records and data, is governed by~~]

(4) A person may access a division program plan, policy, or record, including a consumer record or data, in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

[~~(4) Violation of this section is~~] (5) A person who violates this section is guilty of a class B misdemeanor.

Section 91. Section **80-2-1101**, which is renumbered from Section 62A-4a-311 is renumbered and amended to read:

Part 11. Child Welfare Services Improvement and Oversight

[~~62A-4a-311~~]. 80-2-1101. Child Welfare Improvement Council -- Creation -- Membership -- Expenses.

(1) (a) There is established the Child Welfare Improvement Council composed of no more than 25 members who are appointed by the division.

(b) Except as required by Subsection (1)(c), as terms of current council members expire, the division shall appoint each new member or reappointed member to a four-year term.

(c) Notwithstanding the requirements of Subsection (1)(b), the division shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately half of the council is appointed every two years.

(d) The council shall have geographic, economic, gender, cultural, and philosophical diversity.

(e) When a vacancy occurs in the membership for any reason, the division shall appoint the replacement [~~shall be appointed~~] for the unexpired term.

(2) The council shall elect a chairperson from [~~its~~] the council's membership at least biannually.

(3) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance [~~pursuant to~~] under Sections 63A-3-106 and 63A-3-107.

(4) (a) The council shall hold a public meeting quarterly.

(b) Within budgetary constraints, meetings may also be held on the call of the chair, or of a majority of the members.

(c) A majority of the members currently appointed to the council constitute a quorum at any meeting and the action of the majority of the members present shall be the action of the council.

(5) The council shall:

(a) advise the division on matters relating to abuse and neglect;

(b) recommend to the division how funds contained in the Children's Account, created in Section 80-2-501, should be allocated; [~~and~~]

(c) conduct public hearings to receive public comment on an abuse or neglect prevention or treatment program under Section 80-2-503;

(d) provide comments to the division on a proposed amendment to performance

standards in accordance with Section 80-2-1102; and

[~~(c)~~] (e) provide community and professional input on the performance of the division.

Section 92. Section **80-2-1102**, which is renumbered from Section 62A-4a-117 is renumbered and amended to read:

[~~62A-4a-117~~]. 80-2-1102. Performance monitoring system -- Report.

(1) As used in this section:

[~~(a) "Council" means the Child Welfare Improvement Council established under Section 62A-4a-311.~~]

[~~(b)~~] (a) "Performance indicators" means actual performance in a program, activity, or other function for which there is a performance standard.

[~~(c)~~] (b) (i) "Performance standards" means the targeted or expected level of performance of each area in the child welfare system, including:

(A) child protection services;

(B) adoption;

(C) foster care; and

(D) other substitute care.

(ii) "Performance standards" includes the performance goals and measures in effect in 2008 that the division was subject to under federal court oversight, as amended [~~pursuant to~~] under Subsection (2), including:

(A) the qualitative case review; and

(B) the case process review.

(2) (a) The division shall create performance standards.

[~~(2) (a)~~] (b) The division may not amend [~~the~~] performance standards unless the amendment is:

(i) necessary and proper for the effective administration of the division; or

(ii) necessary to comply with, or implement changes in, the law.

[~~(b)~~] (c) Before amending the performance standards, the division shall provide written notice of the proposed amendment to the council.

[~~(c)~~] (d) The notice described in Subsection [~~(2)(b)~~] (2)(c) shall include:

(i) the proposed amendment;

(ii) a summary of the reason for the proposed amendment; and

(iii) the proposed effective date of the amendment.

[~~(d)~~] (e) Within 45 days after the day on which the division provides the notice described in Subsection [~~(2)(b)~~] (2)(c) to the council, the council shall provide to the division written comments on the proposed amendment.

[~~(e)~~] (f) The division may not implement a proposed amendment to the performance standards until the earlier of:

(i) seven days after the day on which the division receives the written comments regarding the proposed change described in Subsection [~~(2)(d)~~] (2)(e); or

(ii) 52 days after the day on which the division provides the notice described in Subsection [~~(2)(b)~~] (2)(c) to the council.

[~~(f)~~] (g) The division shall:

(i) give full, fair, and good faith consideration to all comments and objections received from the council;

(ii) notify the council in writing of:

(A) the division's decision regarding the proposed amendment; and

(B) the reasons that support the decision;

(iii) include complete information on all amendments to the performance standards in the report described in Subsection (4); and

(iv) post the changes on the division's website.

(3) The division shall maintain a performance monitoring system to regularly:

(a) collect information on performance indicators; and

(b) compare performance indicators to performance standards.

(4) Before January 1 of each year, the director shall submit a written report to the Child Welfare Legislative Oversight Panel and the Social Services Appropriations Subcommittee that includes:

(a) a comparison between the performance indicators for the prior fiscal year and the performance standards;

(b) for each performance indicator that does not meet the performance standard:

(i) the reason the standard was not met;

(ii) the measures that need to be taken to meet the standard; and

(iii) the division's plan to comply with the standard for the current fiscal year;

(c) data on the extent to which new and experienced division employees have received training [~~pursuant to~~] under statute, administrative rule, and division policy; and

(d) an analysis of the use and efficacy of in-home services, both before and after removal of a child from the child's home.

Section 93. Section **80-2-1103**, which is renumbered from Section 62A-4a-118 is renumbered and amended to read:

[~~62A-4a-118~~]. 80-2-1103. Annual review of child welfare referrals and cases by department -- Review by legislative auditor general -- Reports.

(1) The division shall use principles of quality management systems, including statistical measures of processes of service, and the routine reporting of performance data to employees.

[~~(2) (a) In addition to development of~~]

(2) (a) The department shall:

(i) develop quantifiable outcome measures and performance measures in accordance with Section [~~62A-4a-117, the executive director, or the executive director's designee, shall~~] 80-2-1102; and

(ii) annually review a randomly selected sample of child welfare referrals to and cases handled by the division. [~~The purpose of that review shall be to~~]

(b) In conducting the review described in Subsection (2)(a)(ii), the department shall:

(i) assess whether the division is adequately protecting children and providing appropriate services to families, in accordance with [~~the provisions of Title 62A, Chapter 4a, Child and Family Services, and Title 80,~~] this chapter, Chapter 2a, Removal and Protective Custody of a Child, Chapter 3, Abuse, Neglect, and Dependency Proceedings, and Chapter 4, Termination and Restoration of Parental Rights[~~. The review shall~~]; and

(ii) focus directly on the outcome of cases to children and families, and not simply on procedural compliance with specified criteria.

[~~(b)~~] (c) [~~The executive director shall report on the executive director's~~] The department shall report on the review described in Subsection (2)(a) to the legislative auditor general and the Child Welfare Legislative Oversight Panel.

[~~(c)~~] (d) Information obtained as a result of the review described in Subsection (2)(a) shall be provided to child welfare caseworkers, supervisors, and division personnel involved in

the respective cases, for purposes of education, training, and performance evaluation.

(3) The [~~executive director's~~] review and report to the legislative auditor general and the Child Welfare Legislative Oversight Panel under Subsection (2) shall include:

(a) the criteria used by the [~~executive director, or the executive director's designee,~~] department in making the evaluation;

(b) findings regarding whether state statutes, division rule, legislative policy, and division policy were followed in each sample case;

(c) findings regarding whether, in each sample case, referrals, removals, or cases were appropriately handled by the division and [~~its~~] the division's employees, and whether children were adequately and appropriately protected and appropriate services provided to families, in accordance with the provisions of [~~Title 62A, Chapter 4a, Child and Family Services, Title 80,~~] this chapter, Chapter 2a, Removal and Protective Custody of a Child, Chapter 3, Abuse, Neglect, and Dependency Proceedings, [~~and~~] Chapter 4, Termination and Restoration of Parental Rights, and division rule;

(d) an assessment of the division's intake procedures and decisions, including an assessment of the appropriateness of decisions not to accept referrals; and

(e) an assessment of the appropriateness of the division's assignment of priority.

(4) (a) In addition to the [~~executive director's~~] review under Subsection (2), the legislative auditor general shall audit, subject to the prioritization of the Legislative Audit Subcommittee, a sample of child welfare referrals to and cases handled by the division and report the findings to the Child Welfare Legislative Oversight Panel.

(b) An audit under Subsection (4)(a) may be initiated by:

(i) the Audit Subcommittee of the Legislative Management Committee;

(ii) the Child Welfare Legislative Oversight Panel; or

(iii) the legislative auditor general, based on the results of the executive director's review under Subsection (2).

(c) With regard to the sample of referrals, removals, and cases, the Legislative Auditor General's report may include:

(i) findings regarding whether state statutes, division rule, legislative policy, and division policy were followed by the division and [~~its~~] the division's employees;

(ii) a determination regarding whether referrals, removals, and cases were appropriately

handled by the division and [~~its~~] the division's employees, and whether children were adequately and appropriately protected and appropriate services provided for families, in accordance with the provisions of [~~Title 62A, Chapter 4a, Child and Family Services, Title 80,~~] this chapter, Chapter 2a, Removal and Protective Custody of a Child, Chapter 3, Abuse, Neglect, and Dependency Proceedings, [~~and~~] Chapter 4, Termination and Restoration of Parental Rights, and division rule;

(iii) an assessment of the division's intake procedures and decisions, including an assessment of the appropriateness of decisions not to accept referrals;

(iv) an assessment of the appropriateness of the division's assignment of priority;

(v) a determination regarding whether the department's review process is effecting beneficial change within the division and accomplishing the mission established by the Legislature and the department for that review process; and

(vi) findings regarding any other issues identified by the auditor or others under this Subsection (4).

Section 94. Section **80-2-1104**, which is renumbered from Section 62A-4a-208 is renumbered and amended to read:

[~~62A-4a-208~~]. 80-2-1104. Child protection ombudsman -- Responsibility -- Authority -- Report.

(1) As used in this section:

(a) "Complaint" means a complaint regarding an act or omission by the division with respect to a particular child.

[~~(a)~~] (b) "Complainant" means a person who initiates a complaint with the ombudsman.

[~~(b)~~] (c) "Ombudsman" means the child protection ombudsman appointed [~~pursuant to~~] under this section.

(2) (a) There is created within the department the position of child protection ombudsman. [~~The ombudsman shall be appointed by and serve at the pleasure of the executive director.~~]

[~~(b) The ombudsman shall be:~~]

[~~(i) an individual of~~]

(b) The executive director of the department shall:

(i) appoint an ombudsman who has:

(A) recognized executive and administrative capacity; and

[~~(ii) selected solely with regard to qualifications and fitness to discharge the duties of ombudsman; and~~]

[~~(iii)~~] (B) [~~have~~] experience in child welfare, and in state laws and policies governing abused, neglected, and dependent children[~~.~~]; and

(ii) select the ombudsman solely with regard to qualifications and fitness to discharge the duties of the ombudsman.

(c) The ombudsman shall [~~devote full time to the duties of office.~~]:

(i) serve at the pleasure of the executive director of the department; and

(ii) devote full-time to the duties described in this section.

(3) [~~(a) Except as provided in Subsection (3)(b), the~~] The ombudsman shall[~~,~~]:

(a) unless the ombudsman decides not to investigate the complaint, upon receipt of a complaint [~~from any person~~], investigate whether an act or omission of the division with respect to a particular child:

(i) is contrary to statute, rule, or policy;

(ii) places a child's health or safety at risk;

(iii) is made without an adequate statement of reason; or

(iv) is based on irrelevant, immaterial, or erroneous grounds[~~.~~];

[~~(b) The ombudsman may decline to investigate any complaint. If the ombudsman declines to investigate a complaint or continue an investigation, the ombudsman shall notify the complainant and the division of the decision and of the reasons for that decision.~~]

[~~(c) The ombudsman may conduct an investigation on the ombudsman's own initiative.~~]

[~~(4) The ombudsman shall:~~]

(b) notify the complainant and the division of:

(i) the ombudsman's decision to investigate or not investigate the complaint; and

(ii) if the ombudsman decides not to investigate the complaint, the reason for the decision;

(c) if the ombudsman finds that a person's act or omission violates state or federal

criminal law, immediately report the finding to the appropriate county or district attorney or to the attorney general;

(d) immediately notify the division if the ombudsman finds that a child needs protective custody;

(e) prepare a written report of the findings and recommendations, if any, of each investigation;

(f) make recommendations to the division if the ombudsman finds that:

(i) a matter should be further considered by the division;

(ii) an administrative act should be addressed, modified, or canceled;

(iii) action should be taken by the division with regard to one of the division's employees; or

(iv) any other action should be taken by the division;

[~~(a)~~] (g) subject to Subsection (2), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that govern the following:

(i) receiving and processing [~~complaints~~] a complaint;

(ii) notifying [~~complainants~~] a complainant and the division regarding a decision to investigate or to decline to investigate a complaint;

(iii) prioritizing workload;

(iv) maximum time within which [~~investigations shall be~~] an investigation is required to be completed;

(v) conducting [~~investigations~~] an investigation;

(vi) notifying [~~complainants~~] a complaint and the division regarding the results of [~~investigations~~] an investigation; and

(vii) making recommendations based on the findings and results of [~~recommendations~~] investigations;

[~~(b) report findings and recommendations in writing to the complainant and the division, in accordance with the provisions of this section;~~]

[~~(c)~~] (h) within appropriations from the Legislature, employ staff as may be necessary to carry out the ombudsman's duties under this [~~part~~] section;

[~~(d)~~] (i) provide information regarding the role, duties, and functions of the ombudsman to public agencies, private entities, and individuals;

[~~(e) annually report to the:~~]

(j) provide an annual report regarding the ombudsman's duties and recommendations for improvements to the child welfare system to:

(i) the Child Welfare Legislative Oversight Panel;

(ii) the governor;

[~~(iii) Division of Child and Family Services;~~]

(iii) the division; and

(iv) the executive director of the department; and

[~~(v) director of the division; and~~]

[~~(f)~~] (k) as appropriate, make recommendations to the division regarding individual child welfare cases, and the rules, policies, and operations of the division.

(4) (a) The ombudsman may:

(i) decline to investigate a complaint or continue an investigation of a complaint;

(ii) conduct an investigation on the ombudsman's own initiative;

(iii) conduct further investigation upon the request of the complainant or upon the ombudsman's own initiative; and

(iv) advise a complainant to pursue administrative remedies or channels of a complaint before pursuing a complaint with the ombudsman.

(b) Subsection (4)(a)(iv) does not prevent a complainant from making a complaint directly to the ombudsman before pursuing an administrative remedy.

[~~(5) (a) Upon rendering a decision to investigate a complaint, the ombudsman shall notify the complainant and the division of that decision.~~]

[~~(b) The ombudsman may advise a complainant to pursue all administrative remedies or channels of complaint before pursuing a complaint with the ombudsman. Subsequent to processing a complaint, the ombudsman may conduct further investigations upon the request of the complainant or upon the ombudsman's own initiative. Nothing in this subsection precludes a complainant from making a complaint directly to the ombudsman before pursuing an administrative remedy.~~]

[~~(c) If the ombudsman finds that an individual's act or omission violates state or federal criminal law, the ombudsman shall immediately report that finding to the appropriate county or district attorney or to the attorney general.~~]

[~~(d) The ombudsman shall immediately notify the division if the ombudsman finds that a child needs protective custody.~~]

[~~(e) The ombudsman shall immediately comply with Part 4, Child Abuse or Neglect Reporting Requirements.~~]

[~~(6) (a) All records of the ombudsman regarding individual cases shall be~~]

(5) (a) A record of the ombudsman regarding an individual child welfare case shall be classified in accordance with federal law and [~~the provisions of~~] Title 63G, Chapter 2, Government Records Access and Management Act. [~~The ombudsman may make public a report prepared pursuant to this section in accordance with the provisions of Title 63G, Chapter 2, Government Records Access and Management Act.~~]

(b) The ombudsman shall have access to all of the department's written and electronic records and databases, including those regarding individual child welfare cases.

(c) In accordance with Title 63G, Chapter 2, Government Records Access and Management Act, all documents and information received by the ombudsman shall maintain the same classification that was designated by the department.

[~~(7) (a) The ombudsman shall prepare a written report of the findings and recommendations, if any, of each investigation.~~]

[~~(b) The ombudsman shall make recommendations to the division if the ombudsman finds that:~~]

[~~(i) a matter should be further considered by the division;~~]

[~~(ii) an administrative act should be addressed, modified, or canceled;~~]

[~~(iii) action should be taken by the division with regard to one of its employees; or~~]

[~~(iv) any other action should be taken by the division.~~]

Section 95. Section **80-2a-101** is enacted to read:

CHAPTER 2a. REMOVAL AND PROTECTIVE CUSTODY OF A CHILD

Part 1. General Provisions

80-2a-101. Definitions.

(1) "Custody" means the same as that term is defined in Section 80-2-102.

(2) "Division" means the Division of Child and Family Services created in Section 80-2-201.

(3) "Friend" means an adult who:

(a) has an established relationship with the child or a family member of the child; and

(b) is not the natural parent of the child.

(4) "Nonrelative" means an individual who is not a noncustodial parent or relative.

(5) "Relative" means an adult who:

(a) is the child's grandparent, great grandparent, aunt, great aunt, uncle, great uncle, brother-in-law, sister-in-law, stepparent, first cousin, stepsibling, or sibling;

(b) is the first cousin of the child's parent;

(c) is an adoptive parent of the child's sibling; or

(d) in the case of a child who is an Indian child, is an extended family member as defined in 25 U.S.C. Sec. 1903.

(6) "Sibling" means the same as that term is defined in Section 80-2-102.

(7) "Temporary custody" means the same as that term is defined in Section 80-2-102.

Section 96. Section **80-2a-201**, which is renumbered from Section 62A-4a-201 is renumbered and amended to read:

Part 2. Warrants and Removal

[~~62A-4a-201~~]. 80-2a-201. Rights of parents -- Children's rights -- Interest and responsibility of state.

(1) (a) Under both the United States Constitution and the constitution of this state, a parent possesses a fundamental liberty interest in the care, custody, and management of the parent's children. A fundamentally fair process must be provided to parents if the state moves to challenge or interfere with parental rights. A governmental entity must support any actions or allegations made in opposition to the rights and desires of a parent regarding the parent's [~~children~~] child by sufficient evidence to satisfy a parent's constitutional entitlement to heightened protection against government interference with the parent's fundamental rights and liberty interests and, concomitantly, the right of the child to be reared by the child's natural parent.

(b) The fundamental liberty interest of a parent concerning the care, custody, and management of the parent's [~~children~~] child is recognized, protected, and does not cease to exist simply because a parent may fail to be a model parent or because the parent's child is placed in the temporary custody of the state. At all times, a parent retains a vital interest in preventing the irretrievable destruction of family life. [~~Prior to~~] Before an adjudication of

unfitness, government action in relation to [~~parents and their children~~] a parent and the parent's child may not exceed the least restrictive means or alternatives available to accomplish a compelling state interest. Until the state proves parental unfitness, and the child suffers, or is substantially likely to suffer, serious detriment as a result, the child and the child's [~~parents~~] parent share a vital interest in preventing erroneous termination of their natural relationship and the state cannot presume that a child and the child's [~~parents~~] parent are adversaries.

(c) It is in the best interest and welfare of a child to be raised under the care and supervision of the child's natural parents. A child's need for a normal family life in a permanent home, and for positive, nurturing family relationships is usually best met by the child's natural parents. Additionally, the integrity of the family unit and the right of [~~parents~~] a parent to conceive and raise [~~their children~~] the parent's child are constitutionally protected. The right of a fit, competent parent to raise the parent's child without undue government interference is a fundamental liberty interest that has long been protected by the laws and Constitution and is a fundamental public policy of this state.

(d) The state recognizes that:

(i) a parent has the right, obligation, responsibility, and authority to raise, manage, train, educate, provide and care for, and reasonably discipline the parent's [~~children~~] child; and

(ii) the state's role is secondary and supportive to the primary role of a parent.

(e) It is the public policy of this state that [~~parents retain~~] a parent retains the fundamental right and duty to exercise primary control over the care, supervision, upbringing, and education of [~~their children~~] the parent's child.

(f) Subsections (2) through (7) shall be interpreted and applied consistent with this Subsection (1).

(2) It is also the public policy of this state that children have the right to protection from abuse and neglect, and that the state retains a compelling interest in investigating, prosecuting, and punishing abuse and neglect. Therefore, the state, as parens patriae, has an interest in and responsibility to protect [~~children whose parents abuse them or do~~] a child whose parent abuses the child or does not adequately provide for [~~their~~] the child's welfare. There may be circumstances where a parent's conduct or condition is a substantial departure from the norm and the parent is unable or unwilling to render safe and proper parental care and protection. Under those circumstances, the state may take action for the welfare and protection

of the parent's [~~children~~] child.

(3) When the division intervenes on behalf of an abused, neglected, or dependent child, [~~it~~] the division shall take into account the child's need for protection from immediate harm and the extent to which the child's extended family may provide needed protection. Throughout [~~its~~] the division's involvement, the division shall utilize the least intrusive and least restrictive means available to protect a child, in an effort to ensure that children are brought up in stable, permanent families, rather than in temporary foster placements under the supervision of the state.

(4) [~~When~~] If circumstances within the family pose a threat to the child's immediate safety or welfare, the division may seek custody of the child for a planned, temporary period and place the child in a safe environment, subject to the requirements of this section and in accordance with [~~the requirements of Title 80,~~] Chapter 3, Abuse, Neglect, and Dependency Proceedings, and[~~: (a)~~] when safe and appropriate, return the child to the child's parent[~~; or (b)~~] as a last resort, pursue another permanency plan.

(5) In determining and making [~~"~~]reasonable efforts[~~"~~] with regard to a child, [~~pursuant to the provisions of Section 62A-4a-203~~] under Section 80-2a-302, both the division's and the juvenile court's paramount concern shall be the child's health, safety, and welfare. The desires of a parent for the parent's child, and the constitutionally protected rights of a parent, as described in this section, shall be given full and serious consideration by the division and the juvenile court.

(6) In accordance with Subsections 80-2a-302(4) and 80-3-301(12), in cases where [~~actual~~] sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are [~~established~~] involved, the state has no duty to make [~~"~~]reasonable efforts[~~"~~] or to, in any other way, attempt to maintain a child in the child's home, provide reunification services, or [~~to attempt to~~] rehabilitate the offending parent or parents. This Subsection (6) does not exempt the division from providing court-ordered services.

(7) (a) In accordance with Subsection (1), the division shall strive to achieve appropriate permanency for children who are abused, neglected, or dependent. The division shall provide in-home services, [~~where~~] if appropriate and safe, in an effort to help a parent to correct the behavior that resulted in abuse, neglect, or dependency of the parent's child. The division may pursue a foster placement only if in-home services fail or are otherwise

insufficient or inappropriate, kinship placement is not safe or appropriate, or in-home services and kinship placement fail and cannot be corrected. The division shall also seek qualified extended family support or a kinship placement to maintain a sense of security and stability for the child.

(b) If the use or continuation of [~~"~~]reasonable efforts,[~~"~~] as described in Subsections (5) and (6), is determined to be inconsistent with the permanency plan for a child, then measures shall be taken, in a timely manner, to place the child in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child.

(c) Subject to the parental rights recognized and protected under this section, if, because of a parent's conduct or condition, the parent is determined to be unfit or incompetent based on the grounds for termination of parental rights described in [~~Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings,~~] Chapter 4, Termination and Restoration of Parental Rights, the continuing welfare and best interest of the child is of paramount importance, and shall be protected in determining whether that parent's rights should be terminated.

(8) The state's right to direct or intervene in the provision of medical or mental health care for a child is subject to Subsections [~~80-1-102(51)(b)(i)~~] 80-1-102(58)(b)(i) through (iii) and Sections 80-3-109 and 80-3-304.

Section 97. Section **80-2a-202**, which is renumbered from Section 62A-4a-202.1 is renumbered and amended to read:

[~~62A-4a-202.1~~]. 80-2a-202. Removal of a child by a peace officer or child welfare caseworker -- Search warrants -- Protective custody and temporary care of a child.

(1) A peace officer or child welfare caseworker may remove a child or take a child into protective custody, temporary custody, or custody in accordance with this section.

[~~(1) A~~] (2)(a) Except as provided in Subsection (2)(b), a peace officer or a child welfare [~~worker~~] caseworker may not enter the home of a child whose case is not under the jurisdiction of the juvenile court, remove a child from the child's home or school, or take a child into protective custody unless:

[~~(a)~~] (i) there exist exigent circumstances sufficient to relieve the peace officer or the child welfare [~~worker~~] caseworker of the requirement to obtain a search warrant under

Subsection [~~(4) or (8)~~] (3);

[~~(b)~~] (ii) the peace officer or [~~the~~] child welfare [~~worker~~] caseworker obtains a search warrant under Subsection [~~(4) or (8)~~] (3);

[~~(c)~~] (iii) the peace officer or [~~the~~] child welfare [~~worker~~] caseworker obtains a court order after the child's parent or guardian is given notice and an opportunity to be heard; or

[~~(d)~~] (iv) the peace officer or [~~the~~] child welfare [~~worker~~] caseworker obtains the consent of the child's parent or guardian.

[~~(2)~~] (b) A peace officer or a child welfare [~~worker may not remove a child from the child's home or take a child into custody under this section~~] caseworker may not take action under Subsection (2)(a) solely on the basis of:

[~~(a)~~] (i) educational neglect, truancy, or failure to comply with a court order to attend school; or

[~~(b)~~] (ii) the possession or use, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, as those terms are defined in Section 26-61a-102.

[~~(3) (a) A child welfare worker may take action under Subsection (1) accompanied by a peace officer or without a peace officer if a peace officer is not reasonably available.~~]

[~~(b) Before taking a child into protective custody, and if possible and if consistent with the child's safety and welfare, a child welfare worker shall determine whether there are services available that, if provided to a parent or guardian of the child, would eliminate the need to remove the child from the custody of the child's parent or guardian.~~]

[~~(c) If the services described in Subsection (3)(b) are reasonably available, the services described in Subsection (3)(b) shall be utilized.~~]

[~~(d) In determining whether the services described in Subsection (3)(b) are reasonably available, and in making reasonable efforts to provide the services described in Subsection (3)(b), the child's health, safety, and welfare shall be the child welfare worker's paramount concern.~~]

[~~(4)~~] (3) (a) The juvenile court may issue a warrant authorizing a peace officer or a child welfare [~~worker~~] caseworker to search for a child and take the child into protective custody if it appears to the juvenile court upon a verified petition, recorded sworn testimony or an affidavit sworn to by a peace officer or [~~any other~~] another individual, and upon the

examination of other witnesses if required by the juvenile court, that there is probable cause to believe that:

(i) there is a threat of substantial harm to the child's health or safety;

(ii) it is necessary to take the child into protective custody to avoid the harm described in Subsection [~~(4)~~] (3)(a)(i); and

(iii) it is likely that the child will suffer substantial harm if the child's parent or guardian [~~of the child~~] is given notice and an opportunity to be heard before the child is taken into protective custody.

(b) In accordance with Section 77-23-210, a peace officer making the search under Subsection (3)(a) may enter a house or premises by force, if necessary, in order to remove the child.

[~~(c) The individual executing the warrant shall take the child to a shelter facility designated by the juvenile court or the division or to an emergency placement if the division makes an emergency placement under Section 62A-4a-209.~~]

(4) (a) A child welfare caseworker may take action under Subsection (2) accompanied by a peace officer or without a peace officer if a peace officer is not reasonably available.

(b) (i) Before taking a child into protective custody, and if possible and consistent with the child's safety and welfare, a child welfare caseworker shall determine whether there are services available that, if provided to a parent or guardian of the child, would eliminate the need to remove the child from the custody of the child's parent or guardian.

(ii) In determining whether the services described in Subsection (4)(b)(i) are reasonably available, the child welfare caseworker shall consider the child's health, safety, and welfare as the paramount concern.

(iii) If the child welfare caseworker determines the services described in Subsection (4)(b)(i) are reasonably available, the services shall be utilized.

(5) (a) If a peace officer or a child welfare [~~worker~~] caseworker takes a child into protective custody under Subsection [~~(1)~~] (2), the peace officer or [~~the~~] child welfare [~~worker~~] caseworker shall:

[~~(a)~~] (i) notify the child's parent or guardian [~~as described in Section 62A-4a-202.2~~] in accordance with Section 80-2a-203; and

[~~(b)~~] (ii) release the child to the care of the child's parent[~~,~~] or guardian[~~,~~] or another

responsible adult, unless:

[~~(i)~~] (A) the child's immediate welfare requires the child remain in protective custody; or

[~~(ii)~~] (B) the protection of the community requires the child's detention in accordance with [~~Title 80,~~] Chapter 6, Part 2, Custody and Detention.

(b) (i) If a peace officer or child welfare caseworker is executing a warrant under Subsection (3), the peace officer or child welfare caseworker shall take the child to:

(A) a shelter facility; or

(B) if the division makes an emergency placement under Section 80-2a-301, the emergency placement.

[~~(6)~~] (ii) If a peace officer or a child welfare [~~worker~~] caseworker takes a child to a shelter facility under Subsection (5)(b)(i), the peace officer or the child welfare [~~worker~~] caseworker shall promptly file a written report that includes the child's information, on a form provided by the division, with the shelter facility.

[~~(7) (a)~~] (c) A child removed or taken into protective custody under this section may not be placed or kept in detention[~~, as defined in Section 80-1-102,~~] pending court proceedings, unless the child may be held in detention under [~~Title 80,~~] Chapter 6, Part 2, Custody and Detention.

[~~(b) A child removed from the custody of the child's parent or guardian but who does not require physical restriction shall be given temporary care in:~~]

[~~(i) a shelter facility; or~~]

[~~(ii) an emergency placement in accordance with Section 62A-4a-209.~~]

[~~(c) When making a placement under Subsection (7)(b), the division shall give priority to a placement with a noncustodial parent, relative, or friend in accordance with Section 62A-4a-209.~~]

[~~(d) If the child is not placed with a noncustodial parent, a relative, or a designated friend, the caseworker assigned to the child shall file a report with the caseworker's supervisor explaining why a different placement was in the child's best interest.~~]

[~~(8) A~~] (6) (a) The juvenile court shall issue a warrant authorizing a peace officer or a child welfare worker to search for a child who is missing, has been abducted, or has run away, and take the child into physical custody if the juvenile court determines that[~~: (a) the child is in~~

~~the legal custody of the division; and (b)~~] the child is missing, has been abducted, or has run away from the protective custody, temporary custody, or custody of the division.

[~~(9) When a~~] (b) If the juvenile court issues a warrant under Subsection [~~(8)~~] (6)(a):

[~~(a)~~] (i) the division shall notify the child's parent or guardian who has a right to parent-time with the child in accordance with Subsection 80-2a-203(5)(a);

[~~(b)~~] (ii) the court shall order:

[~~(i)~~] (A) the law enforcement agency that has jurisdiction over the location from which the child ran away to enter a record of the warrant into the National Crime Information Center database within 24 hours after the time in which the law enforcement agency receives a copy of the warrant; and

[~~(ii)~~] (B) the division to notify the law enforcement agency described in Subsection [~~(9)(b)(i)~~] (6)(b)(ii)(A) of the order described in Subsection [~~(9)(b)(i)~~] (6)(b)(ii)(A); and

(c) the court shall specify the location to which the peace officer or the child welfare [~~worker~~] caseworker shall transport the child.

[~~(10) (a) The parent or guardian to be notified under Subsection (9) must be:~~]

[~~(i) the child's primary caregiver; or~~]

[~~(ii) the parent or guardian who has custody of the child when the order is sought.~~]

[~~(b) The person required to provide notice under Subsection (9) shall make a good faith effort to provide notice to a parent or guardian who:~~]

[~~(i) is not required to be notified under Subsection (10)(a); and~~]

[~~(ii) has a right to parent-time with the child.~~]

Section 98. Section **80-2a-203**, which is renumbered from Section 62A-4a-202.2 is renumbered and amended to read:

[~~62A-4a-202.2~~]. 80-2a-203. Notice upon issuance of a warrant or removal of a child -- Locating noncustodial parent -- Information provided to parent, guardian, or responsible relative.

(1) (a) A peace officer or [~~a~~] child welfare [~~worker~~] caseworker who takes a child into protective custody under Subsection [~~62A-4a-202.1(1)~~] 80-2a-202(1), shall immediately use reasonable efforts to locate and inform, through the most efficient means available, the child's parents, including a noncustodial parent, the child's guardian, or a responsible relative:

(i) that the child [~~has been taken into~~] is in protective custody;

(ii) the [~~reasons~~] reason for removal and placement of the child in protective custody;

(iii) that the parent, guardian, or relative will be provided with information on:

(A) the parent's or guardian's procedural rights; and

(B) the preliminary stages of the investigation and shelter hearing;

(iv) of a telephone number where the parent or guardian may access further information;

(v) that the child and the child's parent or guardian are entitled to have an attorney present at the shelter hearing;

(vi) that if the child's parent or guardian is an indigent individual[~~, as defined in Section 78B-22-102,~~] and desires to have an attorney, one will be provided; and

(vii) that resources are available to assist the child's parent or guardian, including:

(A) a parent advocate;

(B) a qualified attorney; or

(C) potential expert witnesses to testify on behalf of the child[~~,~~] or the child's parent [~~or~~], guardian, or [~~the child's~~] family.

(b) For purposes of locating and informing the noncustodial parent [~~as required in~~] under Subsection (1)(a), the division shall search for the noncustodial parent through the [~~national parent locator database~~] Federal Parent Locator Service if the division is unable to locate the noncustodial parent through other reasonable efforts.

(2) At the time that a child is taken into protective custody under Subsection [~~62A-4a-202.1(1), the~~] 80-2a-202(1), the division shall provide the child's parent or [~~a~~] guardian [~~shall be provided~~] an informational packet with:

(a) all of the information described in Subsection (1);

(b) information on the conditions under which a child may be released from protective custody;

(c) information on resources that are available to the parent or guardian, including:

(i) mental health resources;

(ii) substance abuse resources; and

(iii) parenting classes; and

(d) any other information considered relevant by the division.

(3) The division shall ensure the informational packet described in Subsection (2)

[~~shall be~~] is:

(a) evaluated periodically for the effectiveness of the informational packet at conveying necessary information and revised accordingly;

(b) written in simple, easy-to-understand language;

(c) available in English and other languages as the division determines to be appropriate and necessary; and

(d) made available for distribution in:

(i) schools;

(ii) health care facilities;

(iii) local police and sheriff's offices;

(iv) the offices of the division; and

(v) any other appropriate office within the [~~Department of Human Services~~] department.

(4) If reasonable efforts are made by the peace officer or child welfare caseworker to notify the child's parent or guardian or a responsible relative [~~in accordance with the requirements of~~] under Subsection (1), failure to notify:

(a) shall be considered to be due to circumstances beyond the control of the peace officer or child welfare caseworker; and

(b) may not be construed to:

(i) permit a new defense to any juvenile or judicial proceeding; or

(ii) interfere with any rights, procedures, or investigations provided for by this chapter [~~or Title 80~~], Chapter 3, Abuse, Neglect, and Dependency Proceedings, or Chapter 4, Termination and Restoration of Parental Rights.

(5) (a) If the juvenile court issues a warrant under Subsection 80-2a-202(6), the division shall provide notice of the warrant to the child's parent or guardian who:

(i) has a right to parent-time with the child; and

(ii) (A) is the child's primary caregiver; or

(B) has custody of the child when the warrant is sought.

(b) The division shall make a good faith effort to provide notice to the child's parent or guardian who:

(i) is not required to be notified under Subsection (5)(a); and

(ii) has a right to parent-time with the child.

Section 99. Section **80-2a-301**, which is renumbered from Section 62A-4a-209 is renumbered and amended to read:

Part 3. Division Placement of a Child After Removal

[~~62A-4a-209~~]. 80-2a-301. Division's emergency placement of a child -- Background checks.

[~~(1) As used in this section:~~]

[~~(a) "Friend" means the same as that term is defined in Section 80-3-102.~~]

[~~(b) "Nonrelative" means an individual, other than a noncustodial parent or a relative.~~]

[~~(c) "Relative" means the same as that term is defined in Section 80-3-102.~~]

[~~(2) The division may use an emergency placement under Subsection 62A-4a-202.1(7)(b) when:~~]

(1) The division may place a child in an emergency placement if:

(a) the [~~case worker has made~~] child welfare caseworker makes the determination that:

(i) the child's home is unsafe;

(ii) removal is necessary under [~~the provisions of Section 62A-4a-202.1~~] Section 80-2a-202; and

(iii) the child's custodial parent or guardian will agree to not remove the child from the home of the individual that serves as the placement and not have any contact with the child until after the time at which the shelter hearing [~~required by~~] is held under Section 80-3-301;

(b) an individual, with preference being given in accordance with Subsection (4), can be identified who has the ability and is willing to provide care for the child who would otherwise be placed in shelter care, including:

(i) taking the child to medical, mental health, dental, and educational appointments at the request of the division; and

(ii) making the child available to division services and the guardian ad litem; and

(c) the individual described in Subsection [~~(2)~~] (1)(b) agrees to care for the child on an emergency basis under the following conditions:

(i) the individual meets the criteria for an emergency placement under Subsection [~~(3)~~] (2);

(ii) the individual agrees to not allow the custodial parent or guardian to have any

contact with the child until after the time at which the shelter hearing is held unless authorized by the division in writing;

(iii) the individual agrees to contact law enforcement and the division if the custodial parent or guardian attempts to make unauthorized contact with the child;

(iv) the individual agrees to allow the division and the child's guardian ad litem to have access to the child;

(v) the individual [~~has been~~] is informed and understands that the division may continue to search for other possible placements for long-term care of the child, if needed;

(vi) the individual is willing to assist the custodial parent or guardian in reunification efforts at the request of the division, and to follow all court orders; and

(vii) the child is comfortable with the individual.

[~~(3)~~] (2) Except as [~~otherwise~~] provided in Subsection [~~(5)~~] (4), before the day on which the division places a child in an emergency placement, the division:

(a) may request the name of a reference and may contact the reference to determine [~~the answer to the following questions~~] whether:

(i) [~~would~~] the individual identified as a reference would place a child in the home of the emergency placement; and

(ii) [~~are~~] there are any other relatives or friends to consider as a possible emergency or long-term placement for the child;

(b) in accordance with Subsection (4)(a), shall have the custodial parent or guardian sign an emergency placement agreement form during the investigation described in Subsection (2)(a);

(c) (i) if the emergency placement will be with a relative, shall comply with the background check provisions described in Subsection [~~(7)~~] (6); or

(ii) if the emergency placement will be with an individual other than a noncustodial parent or [~~a~~] relative, shall comply with the background check provisions described in Subsection [~~(8)~~] (7) for adults living in the household where the child will be placed;

(d) shall complete a limited home inspection of the home where the emergency placement is made; and

(e) shall require the child welfare caseworker to have the emergency placement approved by a [~~family service specialist~~] supervisor designated by the division.

[~~(4)~~] (3) (a) [~~The following order of preference shall be applied~~] The division shall apply the following order of preference when determining the [~~individual~~] person with whom a child will be placed in an emergency placement [~~described in this section~~], provided that the individual is able and willing[~~, and has the ability,~~] to care for the child:

(i) a noncustodial parent of the child in accordance with Section 80-3-302;

(ii) a relative;

(iii) subject to Subsection [~~(4)~~] (3)(b), a friend designated by the custodial parent, guardian, or the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a placement;

(iv) a former foster placement designated by the division;

(v) a foster placement, that is not a former foster placement, designated by the division; and

(vi) a shelter facility designated by the division.

(b) In determining whether a friend is a willing and appropriate temporary emergency placement for a child, the division:

(i) subject to Subsections [~~(4)~~] (3)(b)(ii) through (iv), shall consider the child's preferences or level of comfort with the friend;

(ii) is required to consider no more than one friend designated by each parent or legal guardian of the child and one friend designated by the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a placement;

(iii) may limit the number of designated friends to two, one of whom shall be a friend designated by the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a placement; and

(iv) shall give preference to a friend designated by the child, if:

(A) the child is of sufficient maturity to articulate the child's wishes; and

(B) the division's basis for removing the child under Section [~~62A-4a-202.1~~] 80-2a-202 is sexual abuse of the child.

[~~(5)~~] (4) (a) The division may, pending the outcome of the investigation described in Subsections [~~(5)~~] (4)(b) and (c), place a child in emergency placement with the child's noncustodial parent if, based on a limited investigation[~~, prior to making~~] before the day on which the division makes the emergency placement, the division:

(i) determines that the noncustodial parent has regular, unsupervised visitation with the child that is not prohibited by law or court order;

(ii) determines that there is not reason to believe that the child's health or safety will be endangered during the emergency placement; and

(iii) has the custodial parent or guardian sign an emergency placement agreement.

(b) Either before or after [~~making~~] the day on which the division makes an emergency placement with the noncustodial parent of the child, the division may conduct the investigation described in Subsection [~~(3)~~] (2)(a) in relation to the noncustodial parent.

(c) Before, or within one day, excluding weekends and holidays, after [~~a child is placed~~] the day on which the division places a child in an emergency placement with the noncustodial parent of the child, the division shall conduct a limited:

(i) background check of the noncustodial parent, [~~pursuant to~~] under Subsection [~~(7)~~] (6); and

(ii) inspection of the home where the emergency placement is made.

[~~(6)~~] (5) After an emergency placement, the [~~division~~] child welfare caseworker must:

(a) respond to the emergency placement's calls within one hour after the call is received if the custodial [~~parents or guardians attempt~~] parent or guardian attempts to make unauthorized contact with the child or [~~attempt~~] attempts to remove the child from the emergency placement;

(b) complete all removal paperwork, including the notice provided to the [~~custodial parents and guardians~~] child's custodial parent or guardian under Section 80-3-301;

(c) if the child is not placed with a noncustodial parent, relative, or friend, file a report with the child welfare caseworker's supervisor that explains why a different placement is in the child's best interest;

[~~(c)~~] (d) contact the attorney general to schedule a shelter hearing;

[~~(d)~~] (e) complete the placement procedures required in Section 80-3-302; and

[~~(e)~~] (f) continue to search for other relatives as a possible long-term placement for the child, if needed.

[~~(7)~~] (6) (a) The background check described in [~~Subsection (3)(c)(i)~~] Subsections (2)(c)(i) and (4)(c)(i) shall include completion of:

(i) a name-based, Utah Bureau of Criminal Identification background check; and

(ii) a search of the Management Information System [~~described in Section 62A-4a-1003~~].

(b) The division shall determine whether an individual passes the background check described in [~~this Subsection (7) pursuant to the provisions of~~] Subsection (6)(a) in accordance with Subsection 62A-2-120(14).

(c) Notwithstanding Subsection [~~(7)~~] (6)(b), the division may not place a child with an individual who is prohibited by court order from having access to [~~that~~] the child.

[~~(8)~~] (7) (a) The background check described in Subsection [~~(3)~~] (2)(c)(ii) shall include completion of:

(i) a name-based, Utah Bureau of Criminal Identification background check;

(ii) a federal name-based criminal background check; and

(iii) a search of the Management Information System [~~described in Section 62A-4a-1003~~].

(b) The division shall determine whether an individual passes the background checks described in [~~this Subsection (8) pursuant to the provisions of~~] Subsection (7)(a) in accordance with Section 62A-2-120.

(c) If the division denies placement of a child as a result of a name-based criminal background check described in Subsection [~~(8)~~] (7)(a), and the individual contests [~~that~~] the denial, the individual shall submit a complete set of fingerprints with written permission to the Utah Bureau of Criminal Identification for submission to the Federal Bureau of Investigation for a fingerprint-based criminal background check.

(d) (i) Within 15 calendar days [~~of~~] after the day on which the name-based background checks are completed, the division shall require [~~an~~] the individual to provide a complete set of fingerprints with written permission to the Utah Bureau of Criminal Identification for submission to the Federal Bureau of Investigation for a fingerprint-based criminal background check.

(ii) If [~~an~~] the individual fails to provide the fingerprints and written permission described in Subsection [~~(8)~~] (7)(d)(i), the child shall immediately be removed from the child's home.

Section 100. Section **80-2a-302**, which is renumbered from Section 62A-4a-203 is renumbered and amended to read:

[~~62A-4a-203~~]. 80-2a-302. Reasonable efforts to maintain a child in the home -- Exception -- Reasonable efforts for reunification.

(1) Because removal of a child from the child's home affects protected, constitutional rights of the parent and has a dramatic, long-term impact on a child, the division shall:

(a) [~~when~~] if possible and appropriate, without danger to the child's welfare, make reasonable efforts to prevent or eliminate the need for removal of a child from the child's home [~~prior to placement~~] before the day on which the child is placed in substitute care;

(b) determine whether there is substantial cause to believe that a child has been or is in danger of abuse or neglect, in accordance with the guidelines described in [~~Title 80,~~] Chapter 3, Abuse, Neglect, and Dependency Proceedings, before removing the child from the child's home; and

(c) [~~when it is~~] if possible and appropriate, and in accordance with the limitations and requirements of Sections 80-3-406 and 80-3-409, make reasonable efforts to make it possible for a child in substitute care to return to the child's home.

(2) (a) In determining the reasonableness of efforts needed to maintain a child in the child's home or to return a child to the child's home, in accordance with Subsection (1)(a) or (c), the child's health, safety, and welfare shall be the paramount concern.

(b) The division shall consider whether the efforts described in Subsections (1) and (2) are likely to prevent abuse or continued neglect of the child.

(3) [~~When~~] If removal and placement in substitute care is necessary to protect a child, the efforts described in Subsections (1) and (2):

(a) are not reasonable or appropriate; and

(b) should not be utilized.

(4) Subject to Subsection (5), in cases where sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved, the state has no duty to make reasonable efforts to, in any way, attempt to:

(a) maintain a child in the child's home;

(b) provide reunification services; or

(c) rehabilitate the offending parent or parents.

(5) [~~Nothing in Subsection (4) exempts~~] Subsection (4) does not exempt the division from providing court ordered services.

Section 101. Section **80-2a-303**, which is renumbered from Section 62A-4a-206.5 is renumbered and amended to read:

[~~62A-4a-206.5~~]. 80-2a-303. Child missing from division custody -- Placement.

(1) [~~When~~] If the division receives information that a child in the protective custody, temporary custody, or custody of the division is missing, has been abducted, or has run away, the division shall:

(a) within 24 hours after the time when the division has reason to believe that the information that the child is missing, has been abducted, or has run away is accurate, notify the National Center for Missing and Exploited Children; and

(b) pursue a warrant under Subsection [~~62A-4a-202.1(8)~~] 80-2a-202(6).

(2) [~~When~~] If the division locates a child described in Subsection (1), the division shall:

(a) determine the primary factors that caused or contributed to the child's absence from care;

(b) determine the child's experiences while absent from care, including screening the child to determine if the child is a sex trafficking victim;

(c) to the extent possible, select a placement for the child that accommodates the child's needs and takes into consideration the factors and experiences described in Subsections (2)(a) and (b); and

(d) follow the requirements in Section 80-3-303 for determining an ongoing placement of the child.

Section 102. Section **80-2a-304**, which is renumbered from Section 62A-4a-206 is renumbered and amended to read:

[~~62A-4a-206~~]. 80-2a-304. Removal of a child from foster family placement -- Procedural due process.

(1) (a) The Legislature finds that, except with regard to a child's natural parent or [~~legal~~] guardian, a foster family has a very limited but recognized interest in [~~its~~] the foster family's familial relationship with a foster child who has been in the care and custody of [~~that family. In~~] the foster family and in making determinations regarding removal of a child from a foster home, the division may not dismiss the foster family as a mere collection of unrelated individuals.

(b) The Legislature finds that children in the temporary custody and custody of the division are experiencing multiple changes in foster care placements with little or no documentation, and that numerous studies of child growth and development emphasize the importance of stability in foster care living arrangements.

(c) For the reasons described in Subsections (1)(a) and (b), the division shall provide procedural due process for a foster family [~~prior to~~] before removal of a foster child from [~~their~~] the foster family's home, regardless of the length of time the child has been in [~~that~~] the foster family's home, unless removal is for the purpose of:

(i) returning the child to the child's natural parent or [~~legal~~] guardian;

(ii) immediately placing the child in an approved adoptive home;

(iii) placing the child with a relative[~~, as defined in Section 80-3-102,~~] who obtained custody or asserted an interest in the child within the preference period described in Subsection 80-3-302(8); or

(iv) placing an Indian child in accordance with placement preferences and other requirements described in the Indian Child Welfare Act, 25 U.S.C. Sec. 1915.

(2) (a) The division shall maintain and utilize due process procedures for removal of a foster child from a foster home, in accordance with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.

(b) [~~Those~~] The procedures described in Subsection (2)(a) shall include requirements for:

(i) personal communication with, and a written explanation of the reasons for the removal to, the foster parents [~~prior to~~] before removal of the child; and

(ii) an opportunity for foster parents to:

(A) present [~~their~~] the foster parents' information and concerns to the division [~~and to:~~]; and

[~~(A)~~] (B) request a review, to be held before removal of the child, by a third party neutral fact finder[~~; or (B)~~] or if the child [~~has been~~] is placed with the foster parents for a period of at least two years, request a review, to be held before removal of the child, by[~~: (I)~~] the juvenile court judge currently assigned to the child's case[~~; or (II)~~] or if the juvenile court judge currently assigned to the child's case is not available, another juvenile court judge.

(c) If the division determines that there is a reasonable basis to believe that the child is

in danger or that there is a substantial threat of danger to the health or welfare of the child, [~~it~~] the division shall place the child in emergency foster care during the pendency of the procedures described in this [~~subsection~~] Subsection (2), instead of making another foster care placement.

(3) (a) If the division removes a child from a foster home based [~~upon~~] on the child's statement alone, the division shall initiate and expedite the processes described in Subsection (2).

(b) The division may [~~take no~~] not take formal action with regard to [~~that~~] the foster parent's license until after [~~those~~] the processes described in Subsection (2), in addition to any other procedure or hearing required by law, [~~have been~~] are completed.

(4) [~~When~~] If a complaint is made to the division by a foster child against a foster parent, the division shall, within 30 business days after the day on which the complaint is received, provide the foster parent with information regarding the specific nature of the complaint, the time and place of the alleged incident, and who was alleged to have been involved.

(5) [~~Whenever~~] If the division places a child in a foster home, [~~it~~] the division shall provide the foster parents with:

(a) notification of the requirements of this section;

(b) a written description of the procedures enacted by the division [~~pursuant to~~] under Subsection (2) and how to access [~~those processes~~] the procedures; and

(c) written notification of the foster parents' ability to petition the juvenile court directly for review of a decision to remove a foster child who [~~has been in their~~], subject to Section 80-3-502, has been in the foster parents' custody for 12 months or longer[~~, in accordance with the limitations and requirements of Section 80-3-502~~].

(6) [~~The requirements of this section do~~] This section does not apply to the removal of a child based on a foster parent's request for [~~that~~] the removal.

(7) It is unlawful for a person, with the intent to avoid compliance with the requirements of this section, to:

(a) take action, or encourage another to take action, against the license of a foster parent; or

(b) remove a child from a foster home before the child [~~has been~~] is placed with the

foster parents for two years.

(8) The division may not remove a foster child from a foster parent who is a relative[~~, as defined in Section 80-3-102,~~] of the child on the basis of the age or health of the foster parent without determining [~~by~~]:

(a) by clear and convincing evidence that the foster parent is incapable of caring for the foster child, if the alternative foster parent would not be another relative of the child; or

(b) by a preponderance of the evidence that the foster parent is incapable of caring for the foster child, if the alternative foster parent would be another relative of the child.

Section 103. Section **80-3-102** is amended to read:

80-3-102. Definitions.

As used in this chapter:

(1) "Abuse, neglect, or dependency petition" means a petition filed in accordance with this chapter to commence proceedings in a juvenile court alleging that a child is:

(a) abused;

(b) neglected; or

(c) dependent.

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

[~~(3)~~] (2) "Custody" means the same as that term is defined in Section [~~62A-4a-101~~] 80-2-102.

[~~(4)~~] (3) "Division" means the Division of Child and Family Services created in Section [~~62A-4a-103~~] 80-2-201.

[~~(5)~~] (4) "Friend" means an adult who:

(a) has an established relationship with the child or a family member of the child; and

(b) is not the natural parent of the child.

[~~(6)~~] (5) "Immediate family member" means a spouse, child, parent, sibling, grandparent, or grandchild.

[~~(7)~~] (6) "Relative" means an adult who:

(a) is the child's grandparent, great grandparent, aunt, great aunt, uncle, great uncle, brother-in-law, sister-in-law, stepparent, first cousin, stepsibling, or sibling;

(b) is a first cousin of the child's parent;

(c) is an adoptive parent of the child's sibling; or

(d) in the case of a child who is an Indian child, is an extended family member as defined in 25 U.S.C. Sec. 1903.

[~~(8) "Shelter care" means the same as that term is defined in Section 62A-4a-101.~~]

[~~(9)~~] (7) "Sibling" means the same as that term is defined in Section [~~62A-4a-101~~] 80-2-102.

[~~(10)~~] (8) "Sibling visitation" means the same as that term is defined in Section [~~62A-4a-101~~] 80-2-102.

[~~(11) "Substitute care" means the same as that term is defined in Section 62A-4a-101.~~]

[~~(12)~~] (9) "Temporary custody" means the same as that term is defined in Section [~~62A-4a-101~~] 80-2-102.

Section 104. Section **80-3-104** is amended to read:

80-3-104. Individuals entitled to be present at proceedings -- Legal representation -- Attorney general responsibilities.

(1) (a) A minor who is the subject of a juvenile court hearing, any person entitled to notice under Section 80-3-201 or 80-3-301, preadoptive parents, foster parents, and any relative providing care for the minor, are:

(i) entitled to notice of, and to be present at, each hearing and proceeding held under this chapter, including administrative reviews; and

(ii) have a right to be heard at each hearing and proceeding described in Subsection (1)(a)(i).

(b) A child's right to be present at a hearing under Subsection (1)(a) is subject to the discretion of the guardian ad litem[~~, as defined in Section 78A-2-801,~~] appointed under Subsection (3) or the juvenile court regarding any possible detriment to the child.

(2) (a) The parent or guardian of a minor who is the subject of an abuse, neglect, or dependency petition has the right to be represented by counsel, and to present evidence, at each hearing.

(b) If a parent or guardian is the subject of an abuse, neglect, or dependency petition, the juvenile court shall:

(i) appoint an indigent defense service provider for a parent or guardian determined to be an indigent individual in accordance with Title 78B, Chapter 22, Part 2, Appointment of

Counsel; and

(ii) order indigent defense services for the parent or [~~legal~~] guardian who is determined to be an indigent individual in accordance with Title 78B, Chapter 22, Part 2, Appointment of Counsel.

(3) (a) In an abuse, neglect, or dependency proceeding under this chapter, the juvenile court shall order that the child be represented by an attorney guardian ad litem, in accordance with Section 78A-2-803.

(b) A guardian ad litem appointed under Subsection (3)(a) shall represent the best interest of the minor, in accordance with the requirements of Section 78A-2-803:

(i) at the shelter hearing and at all subsequent court and administrative proceedings, including any proceeding for termination of parental rights in accordance with Chapter 4, Termination and Restoration of Parental Rights; and

(ii) in other actions initiated under this chapter when appointed by the court under Section 78A-2-803 or as otherwise provided by law.

(4) Subject to Section 67-5-17 and the attorney general's prosecutorial discretion in civil enforcement actions, the attorney general shall, in accordance with Section [~~62A-4a-113~~] 80-2-303, enforce [~~all provisions of~~] this chapter [~~and Title 62A, Chapter 4a, Child and Family Services~~], Chapter 2, Child Welfare Services, and Chapter 2a, Removal and Protective Custody of a Child, relating to protection or custody of an abused, neglected, or dependent minor and the termination of parental rights.

(5) (a) The juvenile court shall admit any individual to a hearing under this chapter, including a hearing under Section 80-3-205, unless the juvenile court makes a finding upon the record that the individual's presence at the hearing would:

(i) be detrimental to the best interest of a minor who is a party to the proceeding;

(ii) impair the fact-finding process; or

(iii) be otherwise contrary to the interests of justice.

(b) The juvenile court may exclude an individual from a hearing under Subsection (5)(a) on the juvenile court's own motion or by motion of a party to the proceeding.

Section 105. Section **80-3-109** is amended to read:

80-3-109. Physical or mental health examination during proceedings -- Division duties.

(1) In a proceeding under this chapter, the juvenile court:

(a) may appoint any mental health therapist, as defined in Section 58-60-102, who the juvenile court finds to be qualified to:

(i) evaluate the mental health of a minor or provide mental health services to the minor; or

(ii) after notice and a hearing set for the specific purpose, evaluate the mental health of the minor's parent or guardian or provide mental health services to the parent or guardian if the juvenile court finds from the evidence presented at the hearing that the parent's or guardian's mental or emotional condition may be a factor in causing the abuse, neglect, or dependency of the minor; or

(b) may appoint a physician, or a physician assistant, who the juvenile court finds to be qualified to:

(i) physically examine the minor; or

(ii) after notice and a hearing set for the specific purpose, physically examine the minor's parent or guardian if the juvenile court finds from the evidence presented at the hearing that the parent's or guardian's physical condition may be a factor in causing the abuse, neglect, or dependency of the minor.

(2) The juvenile court may not refuse to appoint a mental health therapist under Subsection (1) for the reason that the therapist's recommendations in another case did not follow the recommendations of the division.

(3) The division shall, with regard to a minor in the division's custody:

(a) take reasonable measures to notify a minor's parent or guardian of any non-emergency health treatment or care scheduled for a minor;

(b) include the minor's parent or guardian as fully as possible in making health care decisions for the minor;

(c) defer to the minor's parent's or guardian's reasonable and informed decisions regarding the minor's health care to the extent that the minor's health and well-being are not unreasonably compromised by the parent's or guardian's decision; and

(d) notify the minor's parent or guardian within five business days after the day on which the minor receives emergency health care or treatment.

(4) An examination conducted in accordance with Subsection (1) is not a privileged

communication under Utah Rules of Evidence, Rule 506(d)(3), and is exempt from the general rule of privilege.

(5) Subsection (1) applies to a proceeding under this chapter involving:

(a) parents and minors; or

(b) the division.

Section 106. Section **80-3-201** is amended to read:

80-3-201. Petition -- Who may file -- Timing -- Dismissal -- Notice.

(1) Subject to Subsection (2), any interested person may file an abuse, neglect, or dependency petition.

(2) A person described in Subsection (1) shall make a referral with the division before the person files an abuse, neglect, or dependency petition.

(3) If a child who is the subject of an abuse, neglect, or dependency petition is removed from the child's home by the division, the petition shall be filed on or before the day on which the initial shelter hearing described in Section 80-3-301 is held.

(4) An abuse, neglect, or dependency petition shall include:

(a) a concise statement of facts, separately stated, to support the conclusion that the child upon whose behalf the abuse, neglect, or dependency petition is brought is abused, neglected, or dependent; and

(b) a statement regarding whether the child is in protective custody, and if so, the date and precise time the child was taken into protective custody.

(5) (a) Upon the filing of an abuse, neglect, or dependency petition, the petitioner shall serve the petition and notice on:

(i) the guardian ad litem;

(ii) both parents and any guardian of the child; and

(iii) the child's foster parents.

(b) The notice described in Subsection (5) shall contain all of the following:

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

(ii) the date, time, and place of the hearing on the petition;

(iii) the name of the child on whose behalf the petition is brought;

(iv) a statement that the parent or guardian to whom notice is given, and the child, are entitled to have an attorney present at the hearing on the petition, and that if the parent or

guardian is indigent and cannot afford an attorney, and desires to be represented by an attorney, one will be provided; and

(v) a statement that the parent or [~~legal~~] guardian is liable for the cost of support of the child in the protective custody, temporary custody, and custody of the division, and for legal counsel appointed for the parent or guardian under Subsection (5)(b)(iv), according to the parent's or guardian's financial ability.

(6) The petitioner shall serve the abuse, neglect, or dependency petition and notice under this section on all individuals described in Subsection (5)(a) as soon as possible after the petition is filed and at least five days before the day on which the hearing is set.

(7) The juvenile court may dismiss an abuse, neglect, or dependency petition at any stage of the proceedings.

(8) If an abuse, neglect, or dependency petition includes an allegation of educational neglect, Sections 53G-6-210 and 53G-6-211 are applicable to the proceedings under this chapter.

Section 107. Section **80-3-301** is amended to read:

80-3-301. Shelter hearing -- Court considerations.

(1) A juvenile court shall hold a shelter hearing to determine the temporary custody of a child within 72 hours, excluding weekends and holidays, after any one or all of the following occur:

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

(b) placement of the child in protective custody;

(c) emergency placement under Subsection [~~62A-4a-202.1(7)~~] 80-2a-202(5)(c);

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

(e) a motion for expedited placement in temporary custody is filed under Section 80-3-203.

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

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

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

(c) the name of the child on whose behalf an abuse, neglect, or dependency petition is

brought;

(d) a concise statement regarding:

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

(ii) the allegations and code sections under which the proceeding is instituted;

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

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

(3) The notice described in Subsection (2) shall be personally served as soon as possible, but no later than one business day after the day on which the child is removed from the child's home, or the day on which a motion for expedited placement in temporary custody under Section 80-3-203 is filed, on:

(a) the appropriate guardian ad litem; and

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

(4) Notwithstanding Section 80-3-104, the following individuals shall be present at the shelter hearing:

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

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

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

(d) the child's guardian ad litem;

(e) the child welfare [~~worker~~] caseworker from the division who is assigned to the case; and

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

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

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

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

(B) any other individual with relevant knowledge;

(ii) subject to Section 80-3-108, provide an opportunity for the child to testify; and

(iii) in accordance with Subsections 80-3-302(8)(c) through (e), grant preferential consideration to a relative or friend for the temporary placement of the child.

(b) The juvenile court:

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

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

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

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

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

(b) any services provided to the child and the child's family in an effort to prevent removal;

(c) the need, if any, for continued shelter;

(d) the available services that could facilitate the return of the child to the custody of the child's parent or guardian; and

(e) subject to Subsections 80-3-302(8)(c) through (e), whether any relatives of the child or friends of the child's parents may be able and willing to accept temporary placement of the child.

(7) The juvenile court shall consider all relevant evidence provided by an individual or entity authorized to present relevant evidence under this section.

(8) (a) If necessary to protect the child, preserve the rights of a party, or for other good cause shown, the juvenile court may grant no more than one continuance, not to exceed five judicial days.

(b) A juvenile court shall honor, as nearly as practicable, the request by a parent or guardian for a continuance under Subsection (8)(a).

(c) Notwithstanding Subsection (8)(a), if the division fails to provide the notice

described in Subsection (2) within the time described in Subsection (3), the juvenile court may grant the request of a parent or guardian for a continuance, not to exceed five judicial days.

(9) (a) If the child is in protective custody, the juvenile court shall order that the child be returned to the custody of the parent or guardian unless the juvenile court finds, by a preponderance of the evidence, consistent with the protections and requirements provided in Subsection [~~62A-4a-201(1)~~] 80-2a-201(1), that any one of the following exists:

(i) subject to Subsection (9)(b)(i), there is a serious danger to the physical health or safety of the child and the child's physical health or safety may not be protected without removing the child from the custody of the child's parent;

(ii) (A) the child is suffering emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;

(B) the parent or guardian is unwilling or unable to make reasonable changes that would sufficiently prevent future damage; and

(C) there are no reasonable means available by which the child's emotional health may be protected without removing the child from the custody of the child's parent or guardian;

(iii) there is a substantial risk that the child will suffer abuse or neglect if the child is not removed from the custody of the child's parent or guardian;

(iv) subject to Subsection (9)(b)(ii), the child or a minor residing in the same household has been, or is considered to be at substantial risk of being, physically abused, sexually abused, or sexually exploited by:

(A) a parent or guardian;

(B) a member of the parent's household or the guardian's household; or

(C) an individual known to the parent or guardian;

(v) the parent or guardian is unwilling to have physical custody of the child;

(vi) the parent or guardian is unable to have physical custody of the child;

(vii) the child is without any provision for the child's support;

(viii) a parent who is incarcerated or institutionalized has not or cannot arrange for safe and appropriate care for the child;

(ix) (A) a relative or other adult custodian with whom the child is left by the parent or guardian is unwilling or unable to provide care or support for the child;

(B) the whereabouts of the parent or guardian are unknown; and

(C) reasonable efforts to locate the parent or guardian are unsuccessful;

(x) subject to Subsection [~~80-1-102(51)(b)~~] 80-1-102(58)(b)(i) and Sections 80-3-109 and 80-3-304, the child is in immediate need of medical care;

(xi) (A) the physical environment or the fact that the child is left unattended beyond a reasonable period of time poses a threat to the child's health or safety; and

(B) the parent or guardian is unwilling or unable to make reasonable changes that would remove the threat;

(xii) (A) the child or a minor residing in the same household has been neglected; and

(B) the parent or guardian is unwilling or unable to make reasonable changes that would prevent the neglect;

(xiii) the parent, guardian, or an adult residing in the same household as the parent or guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act, and any clandestine laboratory operation was located in the residence or on the property where the child resided;

(xiv) (A) the child's welfare is substantially endangered; and

(B) the parent or guardian is unwilling or unable to make reasonable changes that would remove the danger; or

(xv) the child's natural parent:

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

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

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

(b) (i) Prima facie evidence of the finding described in Subsection (9)(a)(i) is established if:

(A) a court previously adjudicated that the child suffered abuse, neglect, or dependency involving the parent; and

(B) a subsequent incident of abuse, neglect, or dependency involving the parent occurs.

(ii) For purposes of Subsection (9)(a)(iv), if the juvenile court finds that the parent knowingly allowed the child to be in the physical care of an individual after the parent received

actual notice that the individual physically abused, sexually abused, or sexually exploited the child, that fact is prima facie evidence that there is a substantial risk that the child will be physically abused, sexually abused, or sexually exploited.

(10) (a) (i) The juvenile court shall make a determination on the record as to whether reasonable efforts were made to prevent or eliminate the need for removal of the child from the child's home and whether there are available services that would prevent the need for continued removal.

(ii) If the juvenile court finds that the child can be safely returned to the custody of the child's parent or guardian through the provision of the services described in Subsection (10)(a)(i), the juvenile court shall place the child with the child's parent or guardian and order that the services be provided by the division.

(b) In accordance with federal law, the juvenile court shall consider the child's health, safety, and welfare as the paramount concern when making the determination described in Subsection (10)(a), and in ordering and providing the services described in Subsection (10)(a).

(11) [~~Where~~] If the division's first contact with the family occurred during an emergency situation in which the child could not safely remain at home, the juvenile court shall make a finding that any lack of preplacement preventive efforts, as described in Section [~~62A-4a-203~~] 80-2a-302, was appropriate.

(12) In cases where sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved, the juvenile court and the division do not have any duty to make reasonable efforts or to, in any other way, attempt to maintain a child in the child's home, return a child to the child's home, provide reunification services, or attempt to rehabilitate the offending parent or parents.

(13) The juvenile court may not order continued removal of a child solely on the basis of educational neglect, truancy, or failure to comply with a court order to attend school.

(14) (a) [~~Whenever~~] If a juvenile court orders continued removal of a child under this section, the juvenile court shall state the facts on which the decision is based.

(b) If no continued removal is ordered and the child is returned home, the juvenile court shall state the facts on which the decision is based.

(15) If the juvenile court finds that continued removal and temporary custody are necessary for the protection of a child under Subsection (9)(a), the juvenile court shall order

continued removal regardless of:

(a) any error in the initial removal of the child;

(b) the failure of a party to comply with notice provisions; or

(c) any other procedural requirement of this chapter [~~or Title 62A, Chapter 4a, Child and Family Services~~], Chapter 2, Child Welfare Services, or Chapter 2a, Removal and Protective Custody of a Child.

Section 108. Section **80-3-302** is amended to read:

80-3-302. Shelter hearing -- Placement of a child.

(1) As used in this section:

(a) "Natural parent," notwithstanding Section 80-1-102, means:

(i) a biological or adoptive mother of the child;

(ii) an adoptive father of the child; or

(iii) a biological father of the child who:

(A) was married to the child's biological mother at the time the child was conceived or born; or

(B) has strictly complied with Sections 78B-6-120 through 78B-6-122, before removal of the child or voluntary surrender of the child by the custodial parent.

(b) "Natural parent" includes the individuals described in Subsection (1)(a) regardless of whether the child has been or will be placed with adoptive parents or whether adoption has been or will be considered as a long-term goal for the child.

(2) (a) At the shelter hearing, [~~when~~] if the juvenile court orders that a child be removed from the custody of the child's parent in accordance with [~~the requirements of~~] Section 80-3-301, the juvenile court shall first determine whether there is another natural parent with whom the child was not residing at the time the events or conditions that brought the child within the juvenile court's jurisdiction occurred, who desires to assume custody of the child.

(b) Subject to Subsection (8), if another natural parent requests custody under Subsection (2)(a), the juvenile court shall place the child with that parent unless the juvenile court finds that the placement would be unsafe or otherwise detrimental to the child.

(c) The juvenile court:

(i) shall make a specific finding regarding the fitness of the parent described in

Subsection (2)(b) to assume custody, and the safety and appropriateness of the placement;

(ii) shall, at a minimum, order the division to visit the parent's home, comply with the criminal background check provisions described in Section 80-3-305, and check the [~~division's management information system~~] Management Information System for any previous reports of abuse or neglect received by the division regarding the parent at issue;

(iii) may order the division to conduct any further investigation regarding the safety and appropriateness of the placement; and

(iv) may place the child in the temporary custody of the division, pending the juvenile court's determination regarding the placement.

(d) The division shall report the division's findings from an investigation under Subsection (2)(c), regarding the child in writing to the juvenile court.

(3) If the juvenile court orders placement with a parent under Subsection (2):

(a) the child and the parent are under the continuing jurisdiction of the juvenile court;

(b) the juvenile court may order:

(i) that the parent take custody subject to the supervision of the juvenile court; and

(ii) that services be provided to the parent from whose custody the child was removed, the parent who has assumed custody, or both; and

(c) the juvenile court shall order reasonable parent-time with the parent from whose custody the child was removed, unless parent-time is not in the best interest of the child.

(4) The juvenile court shall periodically review an order described in Subsection (3) to determine whether:

(a) placement with the parent continues to be in the child's best interest;

(b) the child should be returned to the original custodial parent;

(c) the child should be placed with a relative under Subsections (7) through (10); or

(d) the child should be placed in the temporary custody of the division.

(5) The time limitations described in Section 80-3-406 with regard to reunification efforts apply to [~~children~~] a child placed with a previously noncustodial parent under Subsection (2).

(6) (a) Legal custody of the child is not affected by an order entered under Subsection (2) or (3).

(b) To affect a previous court order regarding legal custody, the party shall petition the

court for modification of legal custody.

(7) Subject to Subsection (8), if, at the time of the shelter hearing, a child is removed from the custody of the child's parent and is not placed in the custody of the child's other parent, the juvenile court:

(a) shall, at that time, determine whether there is a relative or a friend who is able and willing to care for the child, which may include asking a child, who is of sufficient maturity to articulate the child's wishes in relation to a placement, if there is a relative or friend with whom the child would prefer to reside;

(b) may order the division to conduct a reasonable search to determine whether there are relatives or friends who are willing and appropriate, in accordance with the requirements of this chapter [~~and Title 62A, Chapter 4a, Part 2, Child Welfare Services~~], Chapter 2, Child Welfare Services, and Chapter 2a, Removal and Protective Custody of a Child, for placement of the child;

(c) shall order the parents to cooperate with the division, within five working days, to provide information regarding relatives or friends who may be able and willing to care for the child; and

(d) may order that the child be placed in the temporary custody of the division pending the determination under Subsection (7)(a).

(8) (a) Subject to Subsections (8)(b) through (d), preferential consideration shall be given to a relative's or a friend's request for placement of the child, if the placement is in the best interest of the child, and the provisions of this section are satisfied.

(b) (i) The preferential consideration that a relative or friend is initially granted under Subsection (8)(a) expires 120 days after the day on which the shelter hearing occurs.

(ii) After the day on which the time period described in Subsection (8)(b)(i) expires, a relative or friend, who has not obtained custody or asserted an interest in a child, may not be granted preferential consideration by the division or the juvenile court.

(c) (i) The preferential consideration that a natural parent is initially granted under Subsection (2) is limited after 120 days after the day on which the shelter hearing occurs.

(ii) After the time period described in Subsection (8)(c)(i), the juvenile court shall base the juvenile court's custody decision on the best interest of the child.

[~~(iii)~~] (d) Before the day on which the time period described in Subsection (8)(c)(i)

expires, the following order of preference shall be applied when determining the individual with whom a child will be placed, provided that the individual is willing and able to care for the child:

[~~(A)~~] (i) a noncustodial parent of the child;

[~~(B)~~] (ii) a relative of the child;

[~~(C)~~] (iii) subject to Subsection (8)[~~(d)~~](e), a friend if the friend is a licensed foster parent; and

[~~(D)~~] (iv) other placements that are consistent with the requirements of law.

[~~(d)~~] (e) In determining whether a friend is a willing, able, and appropriate placement for a child, the juvenile court or the division:

(i) subject to Subsections [~~(8)(d)(ii) through (iv)~~] (8)(e)(ii) through (iv), shall consider the child's preferences or level of comfort with the friend;

(ii) is required to consider no more than one friend designated by each parent of the child and one friend designated by the child if the child is of sufficient maturity to articulate the child's wishes in relation to a placement;

(iii) may limit the number of designated friends to two, one of whom shall be a friend designated by the child if the child is of sufficient maturity to articulate the child's wishes in relation to a placement; and

(iv) shall give preference to a friend designated by the child if:

(A) the child is of sufficient maturity to articulate the child's wishes; and

(B) the basis for removing the child under Section 80-3-301 is sexual abuse of the child.

[~~(e)~~] (f) (i) If a parent of the child or the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a placement, is not able to designate a friend who is a licensed foster parent for placement of the child, but is able to identify a friend who is willing to become licensed as a foster parent, the department shall fully cooperate to expedite the licensing process for the friend.

(ii) If the friend described in Subsection [~~(8)(e)(i)~~] (8)(f)(i) becomes licensed as a foster parent within the time frame described in Subsection (8)(b), the juvenile court shall determine whether it is in the best interest of the child to place the child with the friend.

(9) (a) If a relative or friend who is willing to cooperate with the child's permanency

goal is identified under Subsection (7)(a), the juvenile court shall make a specific finding regarding:

(i) the fitness of that relative or friend as a placement for the child; and

(ii) the safety and appropriateness of placement with the relative or friend.

(b) In making the finding described in Subsection (9)(a), the juvenile court shall, at a minimum, order the division to:

(i) if the child may be placed with a relative, conduct a background check that includes:

(A) completion of a nonfingerprint-based, Utah Bureau of Criminal Identification background check of the relative;

(B) a completed search, relating to the relative, of the Management Information System [~~described in Section 62A-4a-1003~~]; and

(C) a background check that complies with the criminal background check provisions described in Section 80-3-305, of each nonrelative[~~, as defined in Section 62A-4a-209,~~] of the child who resides in the household where the child may be placed;

(ii) if the child will be placed with a noncustodial parent, complete a background check that includes:

(A) the background check requirements applicable to an emergency placement with a noncustodial parent that are described in Subsections [~~62A-4a-209(5) and (7)~~] 80-2a-301(4) and (6);

(B) a completed search, relating to the noncustodial parent of the child, of the Management Information System [~~described in Section 62A-4a-1003~~]; and

(C) a background check that complies with the criminal background check provisions described in Section 80-3-305, of each nonrelative[~~, as defined in Section 62A-4a-209,~~] of the child who resides in the household where the child may be placed;

(iii) if the child may be placed with an individual other than a noncustodial parent or a relative, conduct a criminal background check of the individual, and each adult that resides in the household where the child may be placed, that complies with the criminal background check provisions described in Section 80-3-305;

(iv) visit the relative's or friend's home;

(v) check the [~~division's management information system~~] Management Information System for any previous reports of abuse or neglect regarding the relative or friend at issue;

(vi) report the division's findings in writing to the juvenile court; and

(vii) provide sufficient information so that the juvenile court may determine whether:

(A) the relative or friend has any history of abusive or neglectful behavior toward other children that may indicate or present a danger to this child;

(B) the child is comfortable with the relative or friend;

(C) the relative or friend recognizes the parent's history of abuse and is committed to protect the child;

(D) the relative or friend is strong enough to resist inappropriate requests by the parent for access to the child, in accordance with court orders;

(E) the relative or friend is committed to caring for the child as long as necessary; and

(F) the relative or friend can provide a secure and stable environment for the child.

(c) The division may determine to conduct, or the juvenile court may order the division to conduct, any further investigation regarding the safety and appropriateness of the placement described in Subsection (9)(a).

(d) The division shall complete and file the division's assessment regarding placement with a relative or friend under Subsections (9)(a) and (b) as soon as practicable, in an effort to facilitate placement of the child with a relative or friend.

(10) (a) The juvenile court may place a child described in Subsection (2)(a) in the temporary custody of the division, pending the division's investigation under Subsection (9), and the juvenile court's determination regarding the appropriateness of the placement.

(b) The juvenile court shall ultimately base the juvenile court's determination regarding the appropriateness of a placement with a relative or friend on the best interest of the child.

(11) [~~When~~] If a juvenile court places a child described in Subsection (7) with the child's relative or friend:

(a) the juvenile court:

(i) shall order the relative or friend take custody, subject to the continuing supervision of the juvenile court; and

(ii) may order the division provide necessary services to the child and the child's relative or friend, including the monitoring of the child's safety and well-being;

(b) the child and the relative or friend in whose custody the child is placed are under the continuing jurisdiction of the juvenile court;

(c) the juvenile court may enter any order that the juvenile court considers necessary for the protection and best interest of the child;

(d) the juvenile court shall provide for reasonable parent-time with the parent or parents from whose custody the child was removed, unless parent-time is not in the best interest of the child; and

(e) the juvenile court shall conduct a periodic review no less often than every six months, to determine whether:

(i) placement with the relative or friend continues to be in the child's best interest;

(ii) the child should be returned home; or

(iii) the child should be placed in the custody of the division.

(12) No later than 12 months after the day on which the child [~~was~~] is removed from the home, the juvenile court shall schedule a hearing for the purpose of entering a permanent order in accordance with the best interest of the child.

(13) The time limitations described in Section 80-3-406, with regard to reunification efforts, apply to [~~children~~] a child placed with a relative or friend under Subsection (7).

(14) (a) If the juvenile court awards temporary custody of a child to the division, and the division places the child with a relative, the division shall:

(i) conduct a criminal background check of the relative that complies with the criminal background check provisions described in Section 80-3-305; and

(ii) if the results of the criminal background check described in Subsection (14)(a)(i) would prohibit the relative from having direct access to the child under Section 62A-2-120, the division shall:

(A) take the child into physical custody; and

(B) within three days, excluding weekends and holidays, after the day on which the child is taken into physical custody under Subsection (14)(a)(ii)(A), give written notice to the juvenile court, and all parties to the proceedings, of the division's action.

(b) Subsection (14)(a) does not prohibit the division from placing a child with a relative, pending the results of the background check described in Subsection (14)(a) on the relative.

(15) If the juvenile court orders that a child be removed from the custody of the child's parent and does not award custody and guardianship to another parent, relative, or friend under

this section, the juvenile court shall order that the child be placed in the temporary custody of the division, to proceed to adjudication and disposition and to be provided with care and services in accordance with this chapter [~~and Title 62A, Chapter 4a, Child and Family Services~~], Chapter 2, Child Welfare Services, and Chapter 2a, Removal and Protective Custody of a Child.

(16) (a) If a child reenters the temporary custody or the custody of the division and is placed in foster care, the division shall:

(i) notify the child's former foster parents; and

(ii) upon a determination of the former foster parents' willingness and ability to safely and appropriately care for the child, give the former foster parents preference for placement of the child.

[~~(16)~~] (b) If, following the shelter hearing, the child is placed with an individual who is not a parent, a relative, a friend, or a former foster parent of the child, priority shall be given to a foster placement with a married couple, unless it is in the best interests of the child to place the child with a single foster parent.

(17) In determining the placement of a child, the juvenile court and the division may not take into account, or discriminate against, the religion of an individual with whom the child may be placed, unless the purpose of taking religion into account is to place the child with an individual or family of the same religion as the child.

(18) If the juvenile court's decision differs from a child's express wishes if the child is of sufficient maturity to articulate the wishes in relation to the child's placement, the juvenile court shall make findings explaining why the juvenile court's decision differs from the child's wishes.

(19) This section does not guarantee that an identified relative or friend will receive custody of the child.

Section 109. Section **80-3-305** is amended to read:

80-3-305. Criminal background checks necessary before out-of-home placement of a child.

(1) Subject to Subsection (3), upon ordering removal of a child from the custody of the child's parent and placing that child in the temporary custody or custody of the division before the division places a child in out-of-home care, the juvenile court shall require the completion

of a nonfingerprint-based background check by the Utah Bureau of Criminal Identification regarding the proposed placement.

(2) (a) Except as provided in Subsection (4), the division [~~and~~] or the Office of Guardian ad Litem may request, or the juvenile court upon the juvenile court's own motion, may order, the Department of Public Safety to conduct a complete Federal Bureau of Investigation criminal background check through the national criminal history system (NCIC).

(b) (i) Except as provided in Subsection (4), upon request by the division or the Office of Guardian ad Litem, or upon the juvenile court's order, an individual subject to the requirements of Subsection (1) shall submit fingerprints and shall be subject to an FBI fingerprint background check.

(ii) The child may be temporarily placed, pending the outcome of the background check described in Subsection (2)(b)(i).

(c) (i) Except as provided in Subsection (2)(c)(ii), the cost of the investigations described in Subsection (2)(a) shall be borne by whoever is to receive placement of the child.

(ii) The division may pay all or part of the cost of the investigations described in Subsection (2)(a).

(3) Except as provided in Subsection (5), a child who is in the [~~legal~~] protective custody, temporary custody, or custody of the division may not be placed with a prospective foster parent or a prospective adoptive parent, unless, before the child is placed with the prospective foster parent or the prospective adoptive parent:

(a) a fingerprint based FBI national criminal history records check is conducted on the prospective foster parent or prospective adoptive parent and any other adult residing in the household;

(b) the department conducts a check of the abuse and neglect registry in each state where the prospective foster parent or prospective adoptive parent resided in the five years immediately before the day on which the prospective foster parent or prospective adoptive parent applied to be a foster parent or adoptive parent, to determine whether the prospective foster parent or prospective adoptive parent is listed in the registry as having a substantiated or supported finding of a severe type of abuse or neglect [~~as defined in Section 62A-4a-1002~~];

(c) the department conducts a check of the abuse and neglect registry of each state where each adult living in the home of the prospective foster parent or prospective adoptive

parent described in Subsection (3)(b) resided in the five years immediately before the day on which the prospective foster parent or prospective adoptive parent applied to be a foster parent or adoptive parent, to determine whether the adult is listed in the registry as having a substantiated or supported finding of a severe type of abuse or neglect [~~as defined in Section 62A-4a-1002~~]; and

(d) each individual required to undergo a background check described in this Subsection (3) passes the background check, in accordance with the provisions of Section 62A-2-120.

(4) Subsections (2)(a) and (b) do not apply to a child who is placed with a noncustodial parent or relative under Section [~~62A-4a-209~~] 80-2a-301, 80-3-302, or 80-3-303, unless the juvenile court finds that compliance with Subsection (2)(a) or (b) is necessary to ensure the safety of the child.

(5) The requirements under Subsection (3) do not apply to the extent that:

(a) federal law or rule permits otherwise; or

(b) the requirements would prohibit the division or a juvenile court from placing a child with:

(i) a noncustodial parent, under Section [~~62A-4a-209~~] 80-2a-301, 80-3-302, or 80-3-303; or

(ii) a relative, under Section [~~62A-4a-209~~] 80-2a-301, 80-3-302, or 80-3-303, pending completion of the background check described in Subsection (3).

Section 110. Section **80-3-307**, which is renumbered from Section 62A-4a-205 is renumbered and amended to read:

[~~62A-4a-205~~]. 80-3-307. Child and family plan developed by division -- Parent-time and relative visitation.

(1) [~~No~~] The division shall develop and finalize a child's child and family plan no more than 45 days after [~~a~~] the day on which the child enters the temporary custody of the division[~~, the child's child and family plan shall be finalized~~].

(2) (a) The division may use an interdisciplinary team approach in developing [~~each~~] a child and family plan.

(b) The interdisciplinary team described in Subsection (2)(a) may include representatives from the following fields:

(i) mental health;

(ii) education; [~~and~~] or

(iii) if appropriate, law enforcement.

(3) (a) The division shall involve all of the following in the development of a child's child and family plan:

(i) both of the child's natural parents, unless the whereabouts of a parent are unknown;

(ii) the child;

(iii) the child's foster parents; and

(iv) if appropriate, the child's stepparent.

(b) Subsection (3)(a) does not prohibit any other party not listed in Subsection (3)(a) or a party's counsel from being involved in the development of a child's child and family plan if the party or counsel's participation is otherwise permitted by law.

(c) In relation to all information considered by the division in developing a child and family plan, the division shall give additional weight and attention [~~shall be given~~] to the input of the child's natural and foster parents upon [~~their~~] the involvement [~~pursuant to~~] of the child's natural and foster parents under Subsections (3)(a)(i) and (iii).

(d) (i) The division shall make a substantial effort to develop a child and family plan with which the child's parents agree.

(ii) If a parent does not agree with a child and family plan:

(A) the division shall strive to resolve the disagreement between the division and the parent; and

(B) if the disagreement is not resolved, the division shall inform the court of the disagreement.

(4) A copy of the child and family plan shall, immediately upon completion, or as soon as reasonably possible thereafter, be provided to [~~the~~]:

(a) the guardian ad litem;

(b) the child's natural parents; and

(c) the child's foster parents.

(5) [~~Each~~] A child and family plan shall:

(a) specifically provide for the safety of the child, in accordance with federal law; [~~and~~]

(b) clearly define what actions or precautions will, or may be, necessary to provide for

the health, safety, protection, and welfare of the child[~~.~~];

(c) be specific to each child and the child's family, rather than general;

(d) include individualized expectations and contain specific time frames;

(e) except as provided in Subsection (6), address problems that:

(i) keep a child in the child's placement; and

(ii) keep a child from achieving permanence in the child's life;

(f) be designed to:

(i) minimize disruption to the normal activities of the child's family, including employment and school; and

(ii) as much as practicable, help the child's parent maintain or obtain employment; and

[~~(6)~~] (g) [~~The child and family plan shall~~] set forth, with specificity, at least the following:

[~~(a)~~] (i) the reason the child entered into [~~the custody of the division~~] protective custody or the division's temporary custody or custody;

[~~(b)~~] (ii) documentation of [~~the~~]:

[~~(i)~~] (A) the reasonable efforts made to prevent placement of the child in [~~the custody of the division~~] protective custody or the division's temporary custody or custody; or

[~~(ii)~~] (B) the emergency situation that existed and that prevented the reasonable efforts described in Subsection [~~(6)(b)(i)~~] (5)(g)(ii)(A), from being made;

[~~(c)~~] (iii) the primary permanency plan for the child, as described in Section 80-3-406, and the reason for selection of [~~that~~] the plan;

[~~(d)~~] (iv) the concurrent permanency plan for the child, as described in Section 80-3-406, and the reason for the selection of [~~that~~] the plan;

[~~(e)~~] (v) if the plan is for the child to return to the child's family:

[~~(i)~~] (A) specifically what the parents must do in order to enable the child to be returned home;

[~~(ii)~~] (B) specifically how the requirements described in Subsection [~~(6)(e)(i)~~] (5)(g)(v)(A) may be accomplished; and

[~~(iii)~~] (C) how the requirements described in Subsection [~~(6)(e)(i)~~] (5)(g)(v)(A) will be measured;

[~~(f)~~] (vi) the specific services needed to reduce the problems that necessitated placing

the child in [~~the division's custody~~] protective custody or the division's temporary custody or custody;

[~~(g)~~] (vii) the name of the [~~person~~] individual who will provide for and be responsible for case management for the division;

[~~(h)~~] (viii) subject to Subsection (10), a parent-time schedule between the natural parent and the child;

[~~(i)~~] (ix) subject to Subsection (7), the health and mental health care to be provided to address any known or diagnosed mental health needs of the child;

[~~(j)~~] (x) if residential treatment rather than a foster home is the proposed placement, a requirement for a specialized assessment of the child's health needs including an assessment of mental illness and behavior and conduct disorders;

[~~(k)~~] (xi) social summaries that include case history information pertinent to case planning; and

[~~(l)~~] (xii) subject to Subsection (12), a sibling visitation schedule.

(6) For purposes of Subsection (5)(e), a child and family plan may only include requirements that:

(a) address findings made by the court; or

(b) (i) are requested or consented to by a parent or guardian of the child; and

(ii) are agreed to by the division and the guardian ad litem.

(7) (a) Subject to Subsection (7)(b), in addition to the information required under Subsection [~~(6)(i), the~~] (5)(g)(ix), a child and family plan shall include a specialized assessment of the medical and mental health needs of a child, if the child:

(i) is placed in residential treatment; and

(ii) has medical or mental health issues that need to be addressed.

(b) Notwithstanding Subsection (7)(a), a parent shall retain the right to seek a separate medical or mental health diagnosis of the parent's child from a licensed practitioner of the parent's choice.

[~~(8) (a) Each child and family plan shall be specific to each child and the child's family, rather than general.~~]

[~~(b)~~] (8) (a) The division shall train [~~its workers~~] the division's employees to develop child and family plans that comply with:

(i) federal mandates; and

(ii) the specific needs of the particular child and the child's family.

[~~(c) All child and family plans and expectations shall be individualized and contain specific time frames.~~]

[~~(d) Subject to Subsection (8)(h), child and family plans shall address problems that:~~]

[~~(i) keep a child in placement; and~~]

[~~(ii) keep a child from achieving permanence in the child's life.~~]

[~~(e) Each child and family plan shall be designed to minimize disruption to the normal activities of the child's family, including employment and school.~~]

[~~(f) In particular, the time, place, and amount of services, hearings, and other requirements ordered by the court in the child and family plan shall be designed, as much as practicable, to help the child's parents maintain or obtain employment.~~]

[~~(g)~~] (b) The child's natural parents, foster parents, and [~~where~~] if appropriate, stepparents, shall be kept informed of and supported to participate in important meetings and procedures related to the child's placement.

[~~(h) For purposes of Subsection (8)(d), a child and family plan may only include requirements that:~~]

[~~(i) address findings made by the court; or~~]

[~~(ii) (A) are requested or consented to by a parent or guardian of the child; and~~]

[~~(B) are agreed to by the division and the guardian ad litem.~~]

(9) (a) Except as provided in Subsection (9)(b), with regard to a child who is three years old or younger, if the child and family plan is not to return the child home, the primary permanency plan described in Section 80-3-406 for [~~that~~] the child shall be adoption.

(b) Notwithstanding Subsection (9)(a), if the division documents to the court that there is a compelling reason that adoption, reunification, guardianship, and a placement described in Subsection 80-3-301(6)(e) are not in the child's best interest, the court may order another planned permanent living arrangement in accordance with federal law.

(10) (a) Except as provided in Subsection (10)(b), parent-time may only be denied by a court order issued in accordance with Subsection 80-3-406(9).

(b) Notwithstanding Subsection (10)(a), the person designated by the division or a court to supervise a parent-time session may deny parent-time for [~~that~~] the session if the

supervising person determines that, based on the parent's condition, it is necessary to deny parent-time [~~in order~~] to:

(i) protect the physical safety of the child;

(ii) protect the life of the child; or

(iii) consistent with Subsection (10)(c), prevent the child from being traumatized by contact with the parent.

(c) In determining whether the condition of the parent described in Subsection (10)(b) will traumatize a child, the person supervising the parent-time session shall consider the impact that the parent's condition will have on the child in light of:

(i) the child's fear of the parent; and

(ii) the nature of the alleged abuse or neglect.

(11) [~~The~~] If a child is in the division's temporary custody or custody, the division shall consider visitation with [~~their grandparents for children in state custody~~] the child's grandparent if:

(a) the division determines the visitation to be in the best interest of the child [~~and:~~];

[~~(a)~~] (b) there are no safety concerns regarding the behavior or criminal background of the [~~grandparents~~] grandparent;

[~~(b)~~] (c) allowing the grandparent visitation would not compete with or undermine the child's reunification plan;

[~~(c)~~] (d) there is a substantial relationship between the [~~grandparents and children~~] grandparent and child; and

[~~(d)~~] (e) the grandparent visitation will not unduly burden the foster parents.

(12) (a) The [~~child and family plan~~] division shall incorporate into the child and family plan reasonable efforts to[~~: (a)~~] provide sibling visitation [~~when~~] if:

(i) siblings are separated due to foster care or adoptive placement;

(ii) the sibling visitation is in the best interest of the child for whom the child and family plan is developed; and

(iii) the division has consent for sibling visitation from the [~~legal~~] guardian of the sibling[~~; and~~].

(b) The division shall obtain consent for sibling visitation from the sibling's [~~legal~~] guardian [~~when~~] if the criteria of Subsections (12)(a)(i) and (ii) are met.

Section 111. Section **80-3-404** is amended to read:

80-3-404. Finding of severe child abuse or neglect -- Order delivered to division -- Court records.

(1) [~~Upon the filing with the juvenile court of~~] If an abuse, neglect, or dependency petition is filed with the juvenile court that informs the juvenile court that the division has made a supported finding that an individual committed a severe type of child abuse or neglect [~~as defined in Section 62A-4a-1002~~], the juvenile court shall:

(a) make a finding of substantiated, unsubstantiated, or without merit;

(b) include the finding described in Subsection (1)(a) in a written order; and

(c) deliver a certified copy of the order described in Subsection (1)(b) to the division.

(2) The juvenile court shall make the finding described in Subsection (1):

(a) as part of the adjudication hearing;

(b) at the conclusion of the adjudication hearing; or

(c) as part of a court order entered [~~pursuant to~~] under a written stipulation of the parties.

[~~(3) (a) An individual described in Subsection 62A-4a-1010(1) may at any time file with the juvenile court a petition for removal of the individual's name from the Licensing Information System.~~]

[~~(b) At the conclusion of the hearing on the petition described in Subsection (3), the juvenile court shall:~~]

[~~(i) make a finding of substantiated, unsubstantiated, or without merit;~~]

[~~(ii) include the finding described in Subsection (1)(a) in a written order; and~~]

[~~(iii) deliver a certified copy of the order described in Subsection (1)(b) to the division.~~]

[~~(4)~~] (3) [~~A~~] In accordance with Section 80-2-707, a proceeding for adjudication of a supported finding [~~under this section~~] of a type of abuse or neglect that does not constitute a severe type of child abuse or neglect may be joined in the juvenile court with an adjudication of a severe type of child abuse or neglect.

(4) (a) The juvenile court shall make records of the juvenile court's findings under Subsection (1) available only to an individual with statutory authority to access the Licensing Information System for the purposes of licensing under Sections 26-39-402, 62A-1-118, and

62A-2-120, or for the purposes described in Sections 26-8a-310, 62A-2-121, or Title 26, Chapter 21, Part 2, Clearance for Direct Patient Access.

(b) An appellate court shall make records of an appeal from the juvenile court's decision under Subsection (1) available only to an individual with statutory authority to access the Licensing Information System for the purposes described in Subsection (4)(a).

[~~(5) If an individual whose name appears on the Licensing Information System before May 6, 2002, files a petition under Subsection (3) during the time that an alleged perpetrator's application for clearance to work with children or vulnerable adults is pending, the juvenile court shall hear the matter and enter a final decision no later than 60 days after the day on which the petition is filed.~~]

[~~(6) For the purposes of licensing under Sections 26-39-402, 62A-1-118, and 62A-2-120, and for the purposes described in Sections 26-8a-310 and 62A-2-121 and Title 26, Chapter 21, Part 2, Clearance for Direct Patient Access:~~]

[~~(a) the juvenile court shall make available records of the juvenile court's findings under Subsections (1) and (2):~~]

[~~(i) for those purposes; and~~]

[~~(ii) only to a person with statutory authority to access the Licensing Information System created under Section 62A-4a-1006; and~~]

[~~(b) any appellate court shall make available court records of appeals from juvenile court decisions under Subsections (1), (2), (3), and (4):~~]

[~~(i) for those purposes; and~~]

[~~(ii) only to a person with statutory authority to also access the Licensing Information System.~~]

Section 112. Section **80-3-406** is amended to read:

80-3-406. Permanency plan -- Reunification services.

(1) If the juvenile court orders continued removal at the dispositional hearing under Section 80-3-402, and that the minor remain in the custody of the division, the juvenile court shall first:

(a) establish a primary permanency plan and a concurrent permanency plan for the minor in accordance with this section; and

(b) determine whether, in view of the primary permanency plan, reunification services

are appropriate for the minor and the minor's family under Subsections (5) through (8).

(2) (a) The concurrent permanency plan shall include:

(i) a representative list of the conditions under which the primary permanency plan will be abandoned in favor of the concurrent permanency plan; and

(ii) an explanation of the effect of abandoning or modifying the primary permanency plan.

(b) In determining the primary permanency plan and concurrent permanency plan, the juvenile court shall consider:

(i) the preference for kinship placement over nonkinship placement;

(ii) the potential for a guardianship placement if parental rights are terminated and no appropriate adoption placement is available; and

(iii) the use of an individualized permanency plan, only as a last resort.

(3) (a) The juvenile court may amend a minor's primary permanency plan before the establishment of a final permanency plan under Section 80-3-409.

(b) The juvenile court is not limited to the terms of the concurrent permanency plan in the event that the primary permanency plan is abandoned.

(c) If, at any time, the juvenile court determines that reunification is no longer a minor's primary permanency plan, the juvenile court shall conduct a permanency hearing in accordance with Section 80-3-409 on or before the earlier of:

(i) 30 days after the day on which the juvenile court makes the determination described in this Subsection (3)(c); or

(ii) the day on which the provision of reunification services, described in Section 80-3-409, ends.

(4) (a) Because of the state's interest in and responsibility to protect and provide permanency for minors who are abused, neglected, or dependent, the Legislature finds that a parent's interest in receiving reunification services is limited.

(b) The juvenile court may determine that:

(i) efforts to reunify a minor with the minor's family are not reasonable or appropriate, based on the individual circumstances; and

(ii) reunification services should not be provided.

(c) In determining reasonable efforts to be made with respect to a minor, and in making

reasonable efforts, the juvenile court and the division shall consider the minor's health, safety, and welfare as the paramount concern.

(5) There is a presumption that reunification services should not be provided to a parent if the juvenile court finds, by clear and convincing evidence, that any of the following circumstances exist:

(a) the whereabouts of the parents are unknown, based [~~upon~~] on a verified affidavit indicating that a reasonably diligent search has failed to locate the parent;

(b) subject to Subsection (6)(a), the parent is suffering from a mental illness of such magnitude that the mental illness renders the parent incapable of utilizing reunification services;

(c) the minor was previously adjudicated as an abused child due to physical abuse, sexual abuse, or sexual exploitation, and following the adjudication the child:

(i) was removed from the custody of the minor's parent;

(ii) was subsequently returned to the custody of the parent; and

(iii) is being removed due to additional physical abuse, sexual abuse, or sexual exploitation;

(d) the parent:

(i) caused the death of another minor through abuse or neglect;

(ii) committed, aided, abetted, attempted, conspired, or solicited to commit:

(A) murder or manslaughter of a minor; or

(B) child abuse homicide;

(iii) committed sexual abuse against the minor;

(iv) is a registered sex offender or required to register as a sex offender; or

(v) (A) intentionally, knowingly, or recklessly causes the death of another parent of the minor;

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

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the minor;

(e) the minor suffered severe abuse by the parent or by any individual known by the parent if the parent knew or reasonably should have known that the individual was abusing the

minor;

(f) the minor is adjudicated as an abused minor as a result of severe abuse by the parent, and the juvenile court finds that it would not benefit the minor to pursue reunification services with the offending parent;

(g) the parent's rights are terminated with regard to any other minor;

(h) the minor was removed from the minor's home on at least two previous occasions and reunification services were offered or provided to the family at those times;

(i) the parent has abandoned the minor for a period of six months or longer;

(j) the parent permitted the minor to reside, on a permanent or temporary basis, at a location where the parent knew or should have known that a clandestine laboratory operation was located;

(k) except as provided in Subsection (6)(b), with respect to a parent who is the minor's birth mother, the minor has fetal alcohol syndrome, fetal alcohol spectrum disorder, or was exposed to an illegal or prescription drug that was abused by the minor's mother while the minor was in utero, if the minor was taken into division custody for that reason, unless the mother agrees to enroll in, is currently enrolled in, or has recently and successfully completed a substance use disorder treatment program approved by the department; or

(l) any other circumstance that the juvenile court determines should preclude reunification efforts or services.

(6) (a) The juvenile court shall base the finding under Subsection (5)(b) on competent evidence from at least two medical or mental health professionals, who are not associates, establishing that, even with the provision of services, the parent is not likely to be capable of adequately caring for the minor within 12 months after the day on which the juvenile court finding is made.

(b) The juvenile court may disregard the provisions of Subsection (5)(k) if the juvenile court finds, under the circumstances of the case, that the substance use disorder treatment described in Subsection (5)(k) is not warranted.

(7) In determining whether reunification services are appropriate, the juvenile court shall take into consideration:

(a) failure of the parent to respond to previous services or comply with a previous child and family plan;

(b) the fact that the minor was abused while the parent was under the influence of drugs or alcohol;

(c) any history of violent behavior directed at the minor or an immediate family member;

(d) whether a parent continues to live with an individual who abused the minor;

(e) any patterns of the parent's behavior that have exposed the minor to repeated abuse;

(f) testimony by a competent professional that the parent's behavior is unlikely to be successful; and

(g) whether the parent has expressed an interest in reunification with the minor.

(8) If, under Subsections (5)(b) through (l), the juvenile court does not order reunification services, a permanency hearing shall be conducted within 30 days in accordance with Section 80-3-409.

(9) (a) Subject to Subsections (9)(b) and (c), if the juvenile court determines that reunification services are appropriate for the minor and the minor's family, the juvenile court shall provide for reasonable parent-time with the parent or parents from whose custody the minor was removed, unless parent-time is not in the best interest of the minor.

(b) Parent-time is in the best interests of a minor unless the juvenile court makes a finding that it is necessary to deny parent-time in order to:

(i) protect the physical safety of the minor;

(ii) protect the life of the minor; or

(iii) prevent the minor from being traumatized by contact with the parent due to the minor's fear of the parent in light of the nature of the alleged abuse or neglect.

(c) Notwithstanding Subsection (9)(a), a juvenile court may not deny parent-time based solely on a parent's failure to:

(i) prove that the parent has not used legal or illegal substances; or

(ii) comply with an aspect of the child and family plan that is ordered by the juvenile court.

(10) (a) If the juvenile court determines that reunification services are appropriate, the juvenile court shall order that the division make reasonable efforts to provide services to the minor and the minor's parent for the purpose of facilitating reunification of the family, for a specified period of time.

(b) In providing the services described in Subsection (10)(a), the juvenile court and the division shall consider the minor's health, safety, and welfare as the paramount concern.

(11) In cases where sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved:

(a) the juvenile court does not have any duty to order reunification services; and

(b) the division does not have a duty to make reasonable efforts to or in any other way attempt to provide reunification services or attempt to rehabilitate the offending parent or parents.

(12) (a) The juvenile court shall:

(i) determine whether the services offered or provided by the division under the child and family plan constitute reasonable efforts on the part of the division;

(ii) determine and define the responsibilities of the parent under the child and family plan in accordance with Subsection [~~62A-4a-205(6)(c)~~] 80-3-307(5)(g)(iii); and

(iii) identify verbally on the record, or in a written document provided to the parties, the responsibilities described in Subsection (12)(a)(ii), for the purpose of assisting in any future determination regarding the provision of reasonable efforts, in accordance with state and federal law.

(b) If the parent is in a substance use disorder treatment program, other than a certified drug court program, the juvenile court may order the parent:

(i) to submit to supplementary drug or alcohol testing, in accordance with Subsection 80-3-110(6), in addition to the testing recommended by the parent's substance use disorder program based on a finding of reasonable suspicion that the parent is abusing drugs or alcohol; and

(ii) to provide the results of drug or alcohol testing recommended by the substance use disorder program to the juvenile court or division.

(13) (a) The time period for reunification services may not exceed 12 months from the day on which the minor was initially removed from the minor's home, unless the time period is extended under Subsection 80-3-409(7).

(b) [~~Nothing in this section may be construed to~~] This section does not entitle any parent to an entire 12 months of reunification services.

(14) (a) If reunification services are ordered, the juvenile court may terminate those

services at any time.

(b) If, at any time, continuation of reasonable efforts to reunify a minor is determined to be inconsistent with the final permanency plan for the minor established under Section 80-3-409, then measures shall be taken, in a timely manner, to:

(i) place the minor in accordance with the final permanency plan; and

(ii) complete whatever steps are necessary to finalize the permanent placement of the minor.

(15) Any physical custody of the minor by the parent or a relative during the period described in Subsections (10) through (14) does not interrupt the running of the period.

(16) (a) If reunification services are ordered, the juvenile court shall conduct a permanency hearing in accordance with Section 80-3-409 before the day on which the time period for reunification services expires.

(b) The permanency hearing shall be held no later than 12 months after the original removal of the minor.

(c) If reunification services are not ordered, a permanency hearing shall be conducted within 30 days in accordance with Section 80-3-409.

(17) With regard to a minor in the custody of the division whose parent or parents are ordered to receive reunification services but who have abandoned that minor for a period of six months from the day on which reunification services are ordered:

(a) the juvenile court shall terminate reunification services; and

(b) the division shall petition the juvenile court for termination of parental rights.

(18) When a minor is under the custody of the division and has been separated from a sibling due to foster care or adoptive placement, a juvenile court may order sibling visitation, subject to the division obtaining consent from the sibling's [~~legal~~] guardian, according to the juvenile court's determination of the best interests of the minor for whom the hearing is held.

(19) (a) If reunification services are not ordered under this section, and the whereabouts of a parent becomes known within six months after the day on which the out-of-home placement of the minor is made, the juvenile court may order the division to provide reunification services.

(b) The time limits described in this section are not tolled by the parent's absence.

(20) (a) If a parent is incarcerated or institutionalized, the juvenile court shall order

reasonable services unless the juvenile court determines that those services would be detrimental to the minor.

(b) In making the determination described in Subsection (20)(a), the juvenile court shall consider:

(i) the age of the minor;

(ii) the degree of parent-child bonding;

(iii) the length of the sentence;

(iv) the nature of the treatment;

(v) the nature of the crime or illness;

(vi) the degree of detriment to the minor if services are not offered;

(vii) for a minor who is 10 years old or older, the minor's attitude toward the implementation of family reunification services; and

(viii) any other appropriate factors.

(c) Reunification services for an incarcerated parent are subject to the time limitations imposed in this section.

(d) Reunification services for an institutionalized parent are subject to the time limitations imposed in this section, unless the juvenile court determines that continued reunification services would be in the minor's best interest.

Section 113. Section **80-3-504** is enacted to read:

80-3-504. Petition for substantiation -- Court findings -- Expedited hearing -- Records of an appeal.

(1) The division or an individual may file a petition for substantiation in accordance with Section 80-2-1004.

(2) If the division decides to file a petition for substantiation under Section 80-2-1004, the division shall file the petition no more than 14 days after the day on which the division makes the decision.

(3) At the conclusion of the hearing on a petition for substantiation, the juvenile court shall:

(a) make a finding of substantiated, unsubstantiated, or without merit;

(b) include the finding in a written order; and

(c) deliver a certified copy of the order to the division.

(4) If an individual whose name is listed on the Licensing Information System before May 6, 2002, files a petition for substantiation under Section 80-2-1004 during the time that an alleged perpetrator's application for clearance to work with children or vulnerable adults is pending, the juvenile court shall:

(a) hear the matter on an expedited basis; and

(b) enter a final decision no later than 60 days after the day on which the petition for substantiation is filed.

(5) An appellate court shall make a record of an appeal from the juvenile court's decision under Subsection (3) available only to an individual with statutory authority to access the Licensing Information System for the purposes of licensing under Sections 26-39-402, 62A-1-118, and 62A-2-120, or for the purposes described in Sections 26-8a-310, 62A-2-121, or Title 26, Chapter 21, Part 2, Clearance for Direct Patient Access.

Section 114. Section **80-4-105** is amended to read:

80-4-105. Effect of decree.

(1) An order for the termination of parental rights divests the child and the parents of all legal rights, powers, immunities, duties, and obligations with respect to each other, except the right of the child to inherit from the parent.

(2) An order or decree entered under this chapter may not disentitle a child to any benefit due to the child from any third person, including any Indian tribe, agency, state, or the United States.

(3) Except as provided in Sections 80-4-401 and 80-4-402, after the termination of a parent's parental rights, the former parent:

(a) is not entitled to any notice of proceedings for the adoption of the child; and

(b) does not have any right to object to the adoption or to participate in any other placement proceedings.

(4) An order [~~permanently~~] terminating the rights of a parent, guardian, or custodian does not expire with termination of the jurisdiction of the juvenile court.

Section 115. Section **80-4-106** is amended to read:

80-4-106. Individuals entitled to be present at proceedings -- Legal representation -- Attorney general responsibilities.

[~~(1) (a) The juvenile court shall admit any individual to a hearing unless the juvenile~~

~~court makes a finding upon the record that the individual's presence at the hearing would:~~]

[~~(i) be detrimental to the best interest of a child who is a party to the proceeding;~~]

[~~(ii) impair the fact-finding process; or~~]

[~~(iii) be otherwise contrary to the interests of justice.~~]

[~~(b) The juvenile court may exclude an individual from a hearing under Subsection (1)(a) on the juvenile court's own motion or by motion of a party to the proceeding.~~]

[~~(2)~~] (1) (a) The parties shall be advised of the parties' right to counsel, including the appointment of counsel for a parent or [~~legal~~] guardian facing any action initiated by a private party under this chapter or under Section 78B-6-112 for termination of parental rights.

(b) If a parent or guardian is the subject of a petition for the termination of parental rights, the juvenile court shall:

(i) appoint an indigent defense service provider for a parent or guardian determined to be an indigent individual in accordance with Title 78B, Chapter 22, Part 2, Appointment of Counsel; and

(ii) order indigent defense services for the parent or [~~legal~~] guardian who is determined to be an indigent individual in accordance with Title 78B, Chapter 22, Part 2, Appointment of Counsel.

(c) In any action under this chapter, a guardian ad litem, as defined in Section 78A-2-801, shall represent the child in accordance with Sections 78A-2-803 and 80-3-104.

[~~(d) A guardian ad litem, as defined in Section 78A-2-801, shall represent the child in other actions initiated under this chapter when appointed by the juvenile court under Section 78A-2-803 or as otherwise provided by law.~~]

[~~(3)~~] (2) Subject to Section 67-5-17 and the attorney general's prosecutorial discretion in civil enforcement actions, the attorney general shall, in accordance with Section [~~62A-4a-113~~] 80-2-303, enforce [~~all provisions of~~] this chapter [~~and Title 62A, Chapter 4a, Child and Family Services~~], Chapter 2, Child Welfare Services, and Chapter 2a, Removal and Protective Custody of a Child, relating to the termination of parental rights.

(3) (a) The juvenile court shall admit any individual to a hearing unless the juvenile court makes a finding upon the record that the individual's presence at the hearing would:

(i) be detrimental to the best interest of a child who is a party to the proceeding;

(ii) impair the fact-finding process; or

(iii) be otherwise contrary to the interests of justice.

(b) The juvenile court may exclude an individual from a hearing under Subsection (3)(a) on the juvenile court's own motion or by motion of a party to the proceeding.

Section 116. Section **80-4-107** is amended to read:

80-4-107. Record of proceedings -- Written reports and other materials -- Statements of a child.

(1) As used in this section, "record of a proceeding" means the same as that term is defined in Section 80-3-106.

(2) A record of a proceeding under this chapter:

(a) shall be taken in accordance with Section 80-3-106; and

(b) may be requested for release as described in Section 80-3-106.

(3) (a) For purposes of determining proper disposition of a child in hearings upon a petition for termination of parental rights, written reports and other material relating to the [~~minor's~~] child's mental, physical, and social history and condition may be:

(i) received in evidence; and

(ii) considered by the court along with other evidence.

(b) The court may require that an individual who wrote a report or prepared the material under Subsection (3)(a) to appear as a witness if the individual is reasonably available.

(4) For the purpose of establishing abuse, neglect, or dependency under this chapter, the juvenile court may, in the juvenile court's discretion, consider evidence of statements made by a child under eight years old to an individual in a trust relationship.

Section 117. Section **80-4-305** is amended to read:

80-4-305. Court disposition of a child upon termination of parental rights -- Posttermination reunification.

(1) As used in this section, "relative" means:

(a) an adult who is a grandparent, great-grandparent, aunt, great aunt, uncle, great uncle, brother-in-law, sister-in-law, stepparent, first cousin, sibling, or stepsibling of a child; and

(b) in the case of a child who is an Indian child, an extended family member as defined in 25 U.S.C. Sec. 1903.

(2) Upon entry of an order under this chapter, the juvenile court may:

(a) place the child in the legal custody and guardianship of a [~~licensed child placement agency~~] child-placing agency or the division for adoption; or

(b) make any other disposition of the child authorized under Section 80-3-405.

(3) Subject to the requirements of Subsections (4) and (5), all adoptable children placed in the custody of the division shall be placed for adoption.

(4) If the parental rights of all parents of an adoptable child placed in the custody of the division have been terminated and a suitable adoptive placement is not already available, the juvenile court:

(a) shall determine whether there is a relative who desires to adopt the child;

(b) may order the division to conduct a reasonable search to determine whether there are relatives who are willing to adopt the child; and

(c) shall, if a relative desires to adopt the child:

(i) make a specific finding regarding the fitness of the relative to adopt the child; and

(ii) place the child for adoption with that relative unless the juvenile court finds that adoption by the relative is not in the best interest of the child.

(5) This section does not guarantee that a relative will be permitted to adopt the child.

(6) A parent whose rights were terminated under this chapter, or a relative of the child, as defined by Section 80-3-102, may petition for guardianship of the child if:

(a) (i) following an adoptive placement, the child's adoptive parent returns the child to the custody of the division; or

(ii) the child is in the custody of the division for one year following the day on which the parent's rights were terminated, and no permanent placement has been found or is likely to be found; and

(b) reunification with the child's parent, or guardianship by the child's relative, is in the best interest of the child.

Section 118. Section **80-4-501**, which is renumbered from Section 62A-4a-801 is renumbered and amended to read:

Part 5. Safe Relinquishment of a Newborn Child

[~~62A-4a-801~~]. 80-4-501. Definitions.

As used in this part:

(1) "Hospital" means a general acute hospital, as that term is defined in Section

26-21-2, that is:

(a) equipped with an emergency room;

(b) open 24 hours a day, seven days a week; and

(c) employs full-time health care professionals who have emergency medical services training.

(2) "Newborn child" means a child who is approximately 30 days [~~of age~~] old or younger, as determined within a reasonable degree of medical certainty.

Section 119. Section **80-4-502**, which is renumbered from Section 62A-4a-802 is renumbered and amended to read:

[~~62A-4a-802~~]. 80-4-502. Safe relinquishment of a newborn child.

(1) (a) A parent or a parent's designee may safely relinquish a newborn child at a hospital in accordance with [~~the provisions of~~] this part and retain complete anonymity, so long as the newborn child has not been subject to abuse or neglect.

(b) Safe relinquishment of a newborn child who has not otherwise been subject to abuse or neglect shall not, in and of itself, constitute neglect, and the newborn child [~~shall~~] may not be considered a neglected child[~~, as defined in Section 80-1-102,~~] so long as the relinquishment is carried out in substantial compliance with [~~the provisions of~~] this part.

(2) (a) Personnel employed by a hospital shall accept a newborn child who is relinquished [~~pursuant to the provisions of~~] under this part, and may presume that the individual relinquishing is the newborn child's parent or the parent's designee.

(b) The person receiving the newborn child may request information regarding the parent and newborn child's medical histories, and identifying information regarding the nonrelinquishing parent of the newborn child.

(c) If the newborn child's parent or the parent's designee provides the person receiving the newborn child with any of the information described in Subsection (2)(b) or any other personal items, the person shall provide the information or personal items to the division.

(d) Personnel employed by the hospital shall:

(i) provide any necessary medical care to the newborn child;

(ii) notify the division of receipt of the newborn child as soon as possible, but no later than 24 hours after receipt of the newborn child; and

(iii) prepare a birth certificate or foundling birth certificate if parentage is unknown for

the newborn child and file the certificate with the Office of Vital Records and Statistics within the Department of Health.

(e) A hospital and personnel employed by a hospital are immune from any civil or criminal liability arising from accepting a newborn child if the personnel employed by the hospital substantially comply with the provisions of this part and medical treatment is administered according to standard medical practice.

(3) The division shall assume care and protective custody of the newborn child immediately upon notice from the hospital.

(4) So long as the division determines there is no abuse or neglect of the newborn child, neither the newborn child nor the child's parents are subject to:

[~~(a) the provisions of Part 2, Child Welfare Services;~~]

[~~(b)~~] (a) the investigation provisions contained in Section [~~62A-4a-409~~] 80-2-701; or

[~~(c)~~] (b) the provisions of [~~Title 80,~~] Chapter 3, Abuse, Neglect, and Dependency Proceedings.

(5) (a) Unless identifying information relating to the nonrelinquishing parent of the newborn child [~~has been~~] is provided, the division shall:

(i) work with local law enforcement and the Bureau of Criminal Identification within the Department of Public Safety in an effort to ensure that the newborn child has not been identified as a missing child;

(ii) immediately place or contract for placement of the newborn child in a potential adoptive home and, within 10 days after the day on which the child is received, file a petition for termination of parental rights in accordance with [~~Title 80, Chapter 4, Termination and Restoration of Parental Rights~~] this chapter;

(iii) direct the Office of Vital Records and Statistics within the Department of Health to conduct a search for:

(A) a birth certificate for the newborn child; and

(B) unmarried biological fathers in the registry maintained by the Office of Vital Records and Statistics in accordance with Title 78B, Chapter 15, Part 4, Registry; and

(iv) provide notice to each potential father identified on the registry described in Subsection (5)(a)(iii) in accordance with Title 78B, Chapter 15, Part 4, Registry.

(b) (i) If no individual has affirmatively identified himself or herself within two weeks

after the day on which notice under Subsection (5)(a)(iv) is complete and established paternity by scientific testing within as expeditious a time frame as practicable, a hearing on the petition for termination of parental rights shall be scheduled and notice provided in accordance with [~~Title 80, Chapter 4, Termination and Restoration of Parental Rights~~] this chapter.

(ii) If a nonrelinquishing parent is not identified, relinquishment of a newborn child [~~pursuant to the provisions of~~] under this part [~~shall be~~] is considered grounds for termination of parental rights of both the relinquishing and nonrelinquishing parents under Section 80-4-301.

(6) If at any time [~~prior to the adoption, a court~~] before the day on which the child is adopted, the juvenile court finds it is in the best interest of the newborn child, the court shall deny the petition for termination of parental rights.

(7) The division shall provide for, or contract with a [~~licensed~~] child-placing agency to provide for expeditious adoption of the newborn child.

(8) So long as the individual relinquishing a newborn child is the newborn child's parent or designee, and there is no abuse or neglect, safe relinquishment of a newborn child in substantial compliance with [~~the provisions of~~] this part is an affirmative defense to any potential criminal liability for abandonment or neglect relating to [~~that~~] the relinquishment.

Section 120. Section **80-5-601** is amended to read:

80-5-601. Harboring a runaway -- Reporting requirements -- Division of Child and Family Services to provide assistance -- Affirmative defense -- Providing shelter after notice.

(1) As used in this section, "harbor" means to provide shelter in:

(a) the home of the person who is providing shelter; or

(b) any structure over which the person providing the shelter has any control.

(2) Except as provided in Subsection (3), a person is guilty of a class B misdemeanor if the person:

(a) knowingly and intentionally harbors a child;

(b) knows at the time of harboring the child that the child is a runaway;

(c) fails to notify one of the following, by telephone or other reasonable means, of the location of the child:

(i) the parent or guardian of the child;

(ii) the division; or

(iii) a youth services center; and

(d) fails to notify a person described in Subsection (2)(c) within eight hours after the later of:

(i) the time that the person becomes aware that the child is a runaway; or

(ii) the time that the person begins harboring the child.

(3) A person described in Subsection (2) is not guilty of a violation of Subsection (2) and is not required to comply with Subsections (2)(c) and (d), if:

(a) (i) a court order is issued authorizing a peace officer to take the child into custody; and

(ii) the person notifies a peace officer, or the nearest detention facility, by telephone or other reasonable means, of the location of the child, within eight hours after the later of:

(A) the time that the person becomes aware that the child is a runaway; or

(B) the time that the person begins harboring the child; or

(b) (i) the child is a runaway who consents to shelter, care, or licensed services under Section 80-5-602; and

(ii) (A) the person is unable to locate the child's parent or guardian; or

(B) the child refuses to disclose the contact information for the child's parent or guardian.

(4) A person described in Subsection (2) shall provide a report to the division:

(a) if the person has an obligation under Section [~~62A-4a-403~~] 80-2-602 to report child abuse or neglect; or

(b) if, within 48 hours after the person begins harboring the child:

(i) the person continues to harbor the child; and

(ii) the person does not make direct contact with:

(A) a parent or [~~legal~~] guardian of the child;

(B) the division;

(C) a youth services center; or

(D) a peace officer or the nearest detention facility if a court order is issued authorizing a peace officer to take the child into custody.

(5) It is an affirmative defense to the crime described in Subsection (2) that:

(a) the person failed to provide notice as described in Subsection (2) or (3) due to circumstances beyond the control of the person providing the shelter; and

(b) the person provided the notice described in Subsection (2) or (3) as soon as it was reasonably practicable to provide the notice.

(6) Upon receipt of a report that a runaway is being harbored by a person:

(a) a youth services center shall:

(i) notify the runaway's parent or guardian that a report has been made; and

(ii) inform the runaway's parent or guardian of assistance available from the youth services center; or

(b) the division shall:

(i) make a referral to the Division of Child and Family Services to determine whether the runaway is abused, neglected, or dependent; and

(ii) if appropriate, make a referral for services for the runaway.

(7) (a) A parent or guardian of a runaway who is aware that the runaway is being harbored may notify a law enforcement agency and request assistance in retrieving the runaway.

(b) The local law enforcement agency may assist the parent or guardian in retrieving the runaway.

(8) Nothing in this section prohibits a person from continuing to provide shelter to a runaway, after giving the notice described in Subsections (2) through (4), if:

(a) a parent or guardian of the runaway consents to the continued provision of shelter; or

(b) a peace officer or a parent or guardian of the runaway fails to retrieve the runaway.

(9) Nothing in this section prohibits a person from providing shelter to a child whose parent or guardian has intentionally:

(a) ceased to maintain physical custody of the child; and

(b) failed to make reasonable arrangements for the safety, care, and physical custody of the child.

(10) Nothing in this section prohibits:

(a) a juvenile receiving center or a youth services center from providing shelter to a runaway in accordance with the requirements of this chapter and the rules relating to a juvenile

receiving center or a youth services center; or

(b) a government agency from taking custody of a child as otherwise provided by law.

Section 121. Section **80-6-707** is amended to read:

80-6-707. Suspension of driving privileges.

(1) This section applies to a minor who:

(a) at the time that the minor is adjudicated under Section 80-6-701, is at least the age eligible for a driver license under Section 53-3-204; and

(b) is found by the juvenile court to be in actual physical control of a motor vehicle during the commission of the offense for which the minor is adjudicated.

(2) (a) Except as otherwise provided by this section, if a minor is adjudicated for a violation of a traffic law by the juvenile court under Section 80-6-701, the juvenile court may:

(i) suspend the minor's driving privileges; and

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

(b) The juvenile court may order any other eligible disposition under Subsection (1), except for a disposition under Section 80-6-703 or 80-6-705.

(c) If a juvenile court suspends a minor's driving privileges under Subsection (2)(a):

(i) the juvenile court shall prepare and send the order to the Driver License Division of the Department of Public Safety; and

(ii) the minor's license shall be suspended under Section 53-3-219.

(3) The juvenile court may reduce a suspension period imposed under Section 53-3-219 if:

(a) (i) the violation is the minor's first violation of:

(A) Section 32B-4-409;

(B) Section 32B-4-410;

(C) Section 58-37-8;

(D) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(E) Title 58, Chapter 37b, Imitation Controlled Substances Act; or

(F) Subsection 76-9-701(1); and

(ii) (A) the minor completes an educational series as defined in Section 41-6a-501; or

(B) the minor demonstrates substantial progress in substance use disorder treatment; or

(b) (i) the violation is the minor's second or subsequent violation of:

(A) Section 32B-4-409;

(B) Section 32B-4-410;

(C) Section 58-37-8;

(D) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(E) Title 58, Chapter 37b, Imitation Controlled Substances Act; or

(F) Subsection 76-9-701(1);

(ii) the minor has completed an educational series as defined in Section 41-6a-501 or demonstrated substantial progress in substance use disorder treatment; and

(iii) (A) the minor is 18 years old or older and provides a sworn statement to the juvenile court that the minor has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Section 53-3-219; or

(B) the minor is under 18 years old and the minor's parent or [~~legal~~] guardian provides an affidavit or sworn statement to the juvenile court certifying that to the parent or guardian's knowledge the minor has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Section 53-3-219.

(4) (a) If a minor is adjudicated under Section 80-6-701 for a proof of age violation, as defined in Section 32B-4-411:

(i) the juvenile court may forward a record of adjudication to the Department of Public Safety for a first or subsequent violation; and

(ii) the minor's driving privileges will be suspended:

(A) for a period of at least one year under Section 53-3-220 for a first conviction for a violation of Section 32B-4-411; or

(B) for a period of two years for a second or subsequent conviction for a violation of Section 32B-4-411.

(b) The juvenile court may reduce the suspension period imposed under Subsection (4)(a)(ii)(A) if:

(i) the violation is the minor's first violation of Section 32B-4-411; and

(ii) (A) the minor completes an educational series as defined in Section 41-6a-501; or

(B) the minor demonstrates substantial progress in substance use disorder treatment.

(c) The juvenile court may reduce the suspension period imposed under Subsection (4)(a)(ii)(B) if:

(i) the violation is the minor's second or subsequent violation of Section 32B-4-411;

(ii) the minor has completed an educational series as defined in Section 41-6a-501 or demonstrated substantial progress in substance use disorder treatment; and

(iii) (A) the minor is 18 years old or older and provides a sworn statement to the court that the minor has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (4)(a)(ii)(B); or

(B) the minor is under 18 years old and has the minor's parent or guardian provide an affidavit or sworn statement to the court certifying that to the [~~parent~~] parent's or guardian's knowledge the minor has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (4)(a)(ii)(B).

(5) When the Department of Public Safety receives the arrest or conviction record of a minor for a driving offense committed while the minor's license is suspended under this section, the Department of Public Safety shall extend the suspension for a like period of time.

Section 122. Section **80-6-710** is amended to read:

80-6-710. Restitution -- Requirements.

(1) If a minor is adjudicated under Section 80-6-701, the juvenile court may order the minor to repair, replace, or otherwise make restitution for:

(a) material loss caused by an offense listed in the petition; or

(b) conduct for which the minor agrees to make restitution.

(2) Within seven days after the day on which a petition is filed under this chapter, the prosecuting attorney or a juvenile probation officer shall provide notification of the restitution process to all reasonably identifiable and locatable victims of an offense listed in the petition.

(3) A victim that receives notice under Subsection (2) is responsible for providing the [~~prosecutor~~] prosecuting attorney with:

(a) all invoices, bills, receipts, and any other evidence of the injury or out-of-pocket loss;

(b) all documentation of any compensation or reimbursement from an insurance company or a local, state, or federal agency that is related to the injury or out-of-pocket loss;

(c) if available, the victim's proof of identification, including the victim's date of birth, social security number, or driver license number; and

(d) the victim's contact information, including the victim's current home and work

address and telephone number.

(4) A prosecuting attorney or victim shall submit a request for restitution to the juvenile court:

(a) if feasible, at the time of disposition; or

(b) within 90 days after disposition.

(5) The juvenile court shall order a financial disposition that prioritizes the payment of restitution.

(6) To determine whether restitution, or the amount of restitution, is appropriate under Subsection (1), the juvenile court:

(a) shall only order restitution for the victim's material loss;

(b) may not order restitution if the juvenile court finds that the minor is unable to pay or acquire the means to pay;

(c) shall credit any amount paid by the minor to the victim in a civil suit against restitution owed by the minor;

(d) shall take into account the presumptive period of supervision for the minor's case under Section 80-6-712, or the presumptive period of commitment for secure care under Section 80-6-804 if the minor is ordered to secure care, in determining the minor's ability to satisfy the restitution order within that presumptive term; and

(e) shall credit any amount paid to the victim in restitution against liability in a civil suit.

(7) If the minor and the victim of the adjudicated offense agree to participate, the juvenile court may refer the minor's case to a restorative justice program, such as victim offender mediation, to address how loss resulting from the adjudicated offense may be addressed.

(8) The juvenile court may require a minor to reimburse an individual, entity, or governmental agency who offered and paid a reward to a person for providing information resulting in an adjudication of a minor for the commission of an offense.

(9) If a minor is returned to this state in accordance with [~~Title 55, Chapter 12,~~] Part 11, Interstate Compact for Juveniles, the juvenile court may order the minor to make restitution for costs expended by any governmental entity for the return of the minor.

Section 123. Section **80-6-1002** is amended to read:

80-6-1002. Vacatur of adjudications.

(1) (a) An individual who has been adjudicated under this chapter may petition the juvenile court for vacatur of the individual's juvenile court records and any related records in the custody of an agency if the record relates to:

(i) an adjudication under Section 76-10-1302, 76-10-1304, or 76-10-1313; or

(ii) an adjudication that was based on an offense that the petitioner engaged in while subject to force, fraud, or coercion, as defined in Section 76-5-308.

(b) The petitioner shall include in the petition the relevant juvenile court incident number and any agencies known or alleged to have any documents related to the offense for which vacatur is being sought.

(c) The petitioner shall include with the petition the original criminal history report obtained from the Bureau of Criminal Identification in accordance with the provisions of Section 53-10-108.

(d) The petitioner shall send a copy of the petition to the county attorney or, if within a prosecution district, the district attorney.

(2) (a) Upon the filing of a petition, the juvenile court shall:

(i) set a date for a hearing;

(ii) notify the county attorney or district attorney and the agency with custody of the records at least 30 days prior to the hearing of the pendency of the petition; and

(iii) notify the county attorney or district attorney and the agency with records the petitioner is asking the juvenile court to vacate of the date of the hearing.

(b) (i) The juvenile court shall provide a victim with the opportunity to request notice of a petition for vacatur.

(ii) A victim shall receive notice of a petition for vacatur at least 30 days before the hearing if, before the entry of vacatur, the victim or, in the case of a child or an individual who is incapacitated or deceased, the victim's next of kin or authorized representative, submits a written and signed request for notice to the court in the judicial district in which the crime occurred or judgment was entered.

(iii) The notice shall include a copy of the petition and statutes and rules applicable to the petition.

(3) (a) At the hearing the petitioner, the county attorney or district attorney, a victim,

and any other person who may have relevant information about the petitioner may testify.

(b) (i) In deciding whether to grant a petition for vacatur, the juvenile court shall consider whether the petitioner acted subject to force, fraud, or coercion, as defined in Section 76-5-308, at the time of the conduct giving rise to the adjudication.

(ii) (A) If the juvenile court finds by a preponderance of the evidence that the petitioner was subject to force, fraud, or coercion, as defined in Section 76-5-308 at the time of the conduct giving rise to the adjudication, the juvenile court shall grant vacatur.

(B) If the court does not find sufficient evidence, the juvenile court shall deny vacatur.

(iii) If the petition is for vacatur of any adjudication under Section 76-10-1302, 76-10-1304, or 76-10-1313, the juvenile court shall presumptively grant vacatur unless the petitioner acted as a purchaser of any sexual activity.

(c) If vacatur is granted, the juvenile court shall order sealed all of the petitioner's records under the control of the juvenile court and any of the petitioner's records under the control of any other agency or official pertaining to the incident identified in the petition, including relevant related records contained in the Management Information System [~~created by Section 62A-4a-1003~~] and the Licensing Information System [~~created by Section 62A-4a-1005~~].

(4) (a) The petitioner shall be responsible for service of the order of vacatur to all affected state, county, and local entities, agencies, and officials.

(b) To avoid destruction or sealing of the records in whole or in part, the agency or entity receiving the vacatur order shall only vacate all references to the petitioner's name in the records pertaining to the relevant adjudicated juvenile court incident.

(5) (a) Upon the entry of vacatur, the proceedings in the incident identified in the petition shall be considered never to have occurred and the petitioner may properly reply accordingly upon any inquiry in the matter.

(b) Inspection of the records may thereafter only be permitted by the juvenile court upon petition by the individual who is the subject of the records, and only to persons named in the petition.

(6) The juvenile court may not vacate a juvenile court record if the record contains an adjudication of:

(a) Section 76-5-202, aggravated murder; or

(b) Section 76-5-203, murder.

Section 124. Section **80-6-1004** is amended to read:

80-6-1004. Requirements to apply to expunge an adjudication.

(1) (a) Except as provided in Subsection (4), an individual who has been adjudicated by a juvenile court may petition the juvenile court for an order to expunge the individual's juvenile court record and any related records in the custody of an agency if:

(i) the individual has reached 18 years old; and

(ii) at least one year has passed from the date of:

(A) termination of the continuing jurisdiction of the juvenile court; or

(B) the individual's unconditional release from the custody of the division if the individual was committed to secure care.

(b) The juvenile court may waive the requirements in Subsection (1)(a) if the juvenile court finds, and states on the record, the reason why the waiver is appropriate.

(c) The petitioner shall include in the petition described in Subsection (1)(a):

(i) any agency known or alleged to have any records related to the offense for which expungement is being sought; and

(ii) the original criminal history report obtained from the Bureau of Criminal Identification in accordance with Section 53-10-108.

(d) The petitioner shall send a copy of the petition described in Subsection (1)(a) to the county attorney or, if within a prosecution district, the district attorney.

(e) (i) Upon the filing of a petition described in Subsection (1)(a), the juvenile court shall:

(A) set a date for a hearing;

(B) notify the county attorney or district attorney and the agency with custody of the records at least 30 days before the day on which the hearing of the pendency of the petition is scheduled; and

(C) notify the county attorney or district attorney and the agency with records that the petitioner is asking the court to expunge of the date of the hearing.

(ii) (A) The juvenile court shall provide a victim with the opportunity to request notice of a petition described in Subsection (1)(a).

(B) Upon the victim's request under Subsection (1)(e)(ii)(A), the victim shall receive

notice of the petition at least 30 days before the day on which the hearing is scheduled if, before the day on which an expungement order is made, the victim or, in the case of a child or an individual who is incapacitated or deceased, the victim's next of kin or authorized representative submits a written and signed request for notice to the juvenile court in the judicial district in which the offense occurred or judgment is entered.

(C) The notice described in Subsection (1)(e)(ii)(B) shall include a copy of the petition described in Subsection (1)(a) and any statutes and rules applicable to the petition.

(2) (a) At the hearing described in Subsection (1)(e)(i), the county attorney or district attorney, a victim, and any other individual who may have relevant information about the petitioner may testify.

(b) In deciding whether to grant a petition described in Subsection (1)(a) for expungement, the juvenile court shall consider whether the rehabilitation of the petitioner has been attained to the satisfaction of the juvenile court, including the petitioner's response to programs and treatment, the petitioner's behavior subsequent to the adjudication, and the nature and seriousness of the conduct.

(c) (i) Except as provided in Subsection (2)(c)(ii), a juvenile court may order expunged all of the petitioner's records under the control of the juvenile court and an agency or an official if the juvenile court finds that:

(A) the petitioner has not, in the five years preceding the day on which the petition described in Subsection (1)(a) is filed, been convicted of a violent felony;

(B) there are no delinquency or criminal proceedings pending against the petitioner; and

(C) a judgment for restitution entered by the juvenile court on the adjudication for which the expungement is sought has been satisfied.

(ii) A court may not order the Division of Child and Family Services to seal a petitioner's record that is contained in the Management Information System [~~created in Section 62A-4a-1003~~] or the Licensing Information System [~~created in Section 62A-4a-1005~~] unless:

(A) the record is unsupported; or

(B) after notice and an opportunity to be heard, the Division of Child and Family Services stipulates in writing to sealing the record.

(3) (a) The petitioner is responsible for service of the expungement order issued under

Subsection (2) to any affected agency or official.

(b) To avoid destruction or sealing of the records in whole or in part, the agency or the official receiving the expungement order described in Subsection (3)(a) shall only expunge all references to the petitioner's name in the records pertaining to the petitioner's juvenile court record.

(4) (a) The juvenile court may not expunge a record if the record contains an adjudication of:

(i) Section 76-5-202, aggravated murder; or

(ii) Section 76-5-203, murder.

(b) This section does not apply to an adjudication under [~~Part 3, Abuse, Neglect, and Dependency Proceedings, Part 5, Termination of Parental Rights Act, or Part 14, Restoration of Parental Rights Act~~] Chapter 3, Abuse, Neglect, and Dependency Proceedings, or Chapter 4, Termination and Restoration of Parental Rights.

Section 125. Section **80-6-1101**, which is renumbered from Section 55-12-100 is renumbered and amended to read:

Part 11. Interstate Compact for Juveniles

[~~55-12-100~~]. 80-6-1101. Interstate Compact for Juveniles -- Execution of compact.

(1) This [~~chapter~~] part is known as the "Interstate Compact for Juveniles."

(2) The governor is authorized and directed to execute a compact on behalf of this state with any other state or states substantially in the form of this [~~chapter~~] part.

Section 126. Section **80-6-1102**, which is renumbered from Section 55-12-101 is renumbered and amended to read:

[~~55-12-101~~]. 80-6-1102. Article 1 -- Purpose.

(1) The compacting states to this Interstate Compact recognize that each state is responsible for the proper supervision or return of juveniles, delinquents, and status offenders who are on probation or parole and who have absconded, escaped, or run away from supervision and control and in so doing have endangered their own safety and the safety of others.

(2) The compacting states also recognize that each state is responsible for the safe return of juveniles who have run away from home and in doing so have left their state of

residence.

(3) The compacting states also recognize that Congress, by enacting the Crime Control Act, 4 U.S.C. Section 112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime.

(4) It is the purpose of this compact, through means of joint and cooperative action among the compacting states to:

(a) ensure that the adjudicated juveniles and status offenders subject to this compact are provided adequate supervision and services in the receiving state as ordered by the adjudicating judge or parole authority in the sending state;

(b) ensure that the public safety interests of the citizens, including the victims of juvenile offenders, in both the sending and receiving states are adequately protected;

(c) return juveniles who have run away, absconded, or escaped from supervision or control or have been accused of an offense to the state requesting their return;

(d) make contracts for the cooperative institutionalization in public facilities in member states for delinquent youth needing special services;

(e) provide for the effective tracking and supervision of juveniles;

(f) equitably allocate the costs, benefits, and obligations of the compacting states;

(g) establish procedures to manage the movement between states of juvenile offenders released to the community under the jurisdiction of courts, juvenile departments, or any other criminal or juvenile justice agency which has jurisdiction over juvenile offenders;

(h) [~~insure~~] ensure immediate notice to jurisdictions where defined offenders are authorized to travel or to relocate across state lines;

(i) establish procedures to resolve pending charges (detainers) against juvenile offenders prior to transfer or release to the community under the terms of this compact;

(j) establish a system of uniform data collection on information pertaining to juveniles subject to this compact that allows access by authorized juvenile justice and criminal justice officials, and regular reporting of compact activities to heads of state executive, judicial, and legislative branches and juvenile and criminal justice administrators;

(k) monitor compliance with rules governing interstate movement of juveniles and initiate interventions to address and correct noncompliance;

(l) coordinate training and education regarding the regulation of interstate movement of

juveniles for officials involved in such activity; and

(m) coordinate the implementation and operation of the compact with the Interstate Compact for the Placement of Children, the Interstate Compact for Adult Offender Supervision, and other compacts affecting juveniles particularly in those cases where concurrent or overlapping supervision issues arise.

(5) It is the policy of the compacting states that the activities conducted by the Interstate Commission created herein are the formation of public policies and, therefore, are public business. Furthermore, the compacting states shall cooperate and observe their individual and collective duties and responsibilities for the prompt return and acceptance of juveniles subject to the provisions of this compact.

(6) The provisions of this compact shall be reasonably and liberally construed to accomplish the purposes and policies of the compact.

Section 127. Section **80-6-1103**, which is renumbered from Section 55-12-102 is renumbered and amended to read:

[~~55-12-102~~]. 80-6-1103. Article 2 -- Definitions.

(1) As used in this compact, unless the context clearly requires a different construction:

[~~(1)~~] (a) "By-laws" means those by-laws established by the Interstate Commission for its governance, or for directing or controlling its actions or conduct.

[~~(2)~~] (b) "Compact Administrator" means the individual in each compacting state appointed pursuant to the terms of this compact, responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the Interstate Commission, and policies adopted by the State Council under this compact.

[~~(3)~~] (c) "Compacting State" means any state which has enacted the enabling legislation for this compact.

[~~(4)~~] (d) "Commissioner" means the voting representative of each compacting state appointed pursuant to Section [~~55-12-103~~] 80-6-1104.

[~~(5)~~] (e) "Court" means any court having jurisdiction over delinquent, neglected, or dependent children.

[~~(6)~~] (f) "Deputy Compact Administrator" means the individual, if any, in each compacting state appointed to act on behalf of a Compact Administrator pursuant to the terms

of this compact responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the Interstate Commission, and policies adopted by the State Council under this compact.

[~~(7)~~] (g) "Interstate Commission" or "commission" means the Interstate Commission for Juveniles created by Section [~~55-12-103~~] 80-6-1104.

[~~(8)~~] (h) "Juvenile" means any person defined as a juvenile in any member state or by the rules of the Interstate Commission, including:

[~~(a)~~] (i) "accused delinquent" meaning a person charged with an offense that, if committed by an adult, would be a criminal offense;

[~~(b)~~] (ii) "accused status offender" meaning a person charged with an offense that would not be a criminal offense if committed by an adult;

[~~(c)~~] (iii) "adjudicated delinquent" meaning a person found to have committed an offense that, if committed by an adult, would be a criminal offense;

[~~(d)~~] (iv) "adjudicated status offender" meaning a person found to have committed an offense that would not be a criminal offense if committed by an adult; and

[~~(e)~~] (v) "nonoffender" meaning a person in need of supervision who has not been accused or adjudicated a status offender or delinquent.

[~~(9)~~] (i) "Noncompacting state" means any state which has not enacted the enabling legislation for this compact.

[~~(10)~~] (j) "Probation or Parole" means any kind of supervision or conditional release of juveniles authorized under the laws of the compacting states.

[~~(11)~~] (k) "Rule" means a written statement by the Interstate Commission promulgated pursuant to Section [~~55-12-106~~] 80-6-1107 that is of general applicability, implements, interprets, or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the Commission, and has the force and effect of statutory law in a compacting state, and includes the amendment, repeal, or suspension of an existing rule.

[~~(12)~~] (l) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands.

(2) The definitions in Section 80-1-102 do not apply to this compact.

Section 128. Section **80-6-1104**, which is renumbered from Section 55-12-103 is

renumbered and amended to read:

[~~55-12-103~~]. 80-6-1104. Article 3 -- Interstate Commission for Juveniles.

(1) The compacting states hereby create the "Interstate Commission for Juveniles."

(2) The commission shall be a body corporate and joint agency of the compacting states.

(3) The commission shall have all the responsibilities, powers, and duties set forth herein, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

(4) The commission shall consist of commissioners appointed by the appropriate appointing authority in each state pursuant to the rules and requirements of each compacting state and in consultation with the State Council for Interstate Juvenile Supervision created hereunder.

(5) The commissioner shall be the compact administrator, deputy compact administrator, or designee from that state who shall serve on the commission in such capacity under or pursuant to the applicable law of the compacting state.

(6) In addition to the commissioners who are the voting representatives of each state, the commission shall include individuals who are not commissioners, but who are members of interested organizations. Noncommissioner members shall include a member of the national organizations of governors, legislators, state chief justices, attorneys general, Interstate Compact for Adult Offender Supervision, Interstate Compact for the Placement of Children, juvenile justice and juvenile corrections officials, and crime victims.

(7) All noncommissioner members of the commission shall be ex officio, nonvoting members. The commission may provide in its by-laws for additional ex officio, nonvoting members, including members of other national organizations, in numbers to be determined by the commission.

(8) Each compacting state represented at any meeting of the commission is entitled to one vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the by-laws of the commission.

(9) The commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall

be open to the public.

(10) The commission shall establish an executive committee, which shall include commission officers, members, and others as determined by the by-laws. The executive committee shall:

(a) have the power to act on behalf of the commission during periods when the commission is not in session, with the exception of rulemaking or amendment to the compact;

(b) oversee the day-to-day activities of the administration of the compact managed by an executive director and commission staff, which administers enforcement and compliance with the provisions of the compact, its by-laws, and rules; and

(c) perform other duties as directed by the commission or set forth in the by-laws.

(11) Each member of the commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the commission. A member shall vote in person and may not delegate a vote to another compacting state. However, a commissioner, in consultation with the state council, shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the compacting state at a specified meeting. The by-laws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication.

(12) The commission's by-laws shall establish conditions and procedures under which the commission shall make its information and official records available to the public for inspection or copying. The commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

(13) Public notice shall be given of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The commission and any of its committees may close a meeting to the public where it determines by two-thirds vote that an open meeting would be likely to:

(a) relate solely to the commission's internal personnel practices and procedures;

(b) disclose matters specifically exempted from disclosure by statute;

(c) disclose trade secrets or commercial or financial information which is privileged or confidential;

(d) involve accusing any person of a crime, or formally censuring any person;

(e) disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(f) disclose investigative records compiled for law enforcement purposes;

(g) disclose information contained in or related to examination, operating, or condition reports prepared by, or on behalf of or for the use of, the commission with respect to a regulated person or entity for the purpose of regulation or supervision of such person or entity;

(h) disclose information, the premature disclosure of which would significantly endanger the stability of a regulated person or entity; or

(i) specifically relate to the commission's issuance of a subpoena, or its participation in a civil action or other legal proceeding.

(14) For every meeting closed pursuant to this provision, the commission's legal counsel shall publicly certify that, in the legal counsel's opinion, the meeting may be closed to the public, and shall reference each relevant exemptive provision. The commission shall keep minutes which shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote, reflected in the vote of each member on the question. All documents considered in connection with any action shall be identified in the minutes.

(15) The commission shall collect standardized data concerning the interstate movement of juveniles as directed through its rules which shall specify the data to be collected, the means of collection, and data exchange and reporting requirements. Methods of data collection, exchange, and reporting shall insofar as is reasonably possible conform to up-to-date technology and coordinate its information functions with the appropriate repository of records.

Section 129. Section **80-6-1105**, which is renumbered from Section 55-12-104 is renumbered and amended to read:

[~~55-12-104~~]. <u>80-6-1105.</u> Article 4 -- Powers and duties of the Interstate Commission.

The commission shall have the following powers and duties:

(1) provide for dispute resolution among compacting states;

(2) promulgate rules to effect the purposes and obligations as enumerated in this compact, which shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this compact;

(3) oversee, supervise, and coordinate the interstate movement of juveniles subject to the terms of this compact and any by-laws adopted and rules promulgated by the commission;

(4) enforce compliance with the compact provisions, the rules promulgated by the commission, and the by-laws, using all necessary and proper means, including, but not limited to, the use of judicial process;

(5) establish and maintain offices which shall be located within one or more of the compacting states;

(6) purchase and maintain insurance and bonds;

(7) borrow, accept, hire, or contract for services of personnel;

(8) establish and appoint committees and hire staff which it considers necessary for the carrying out of its functions including, but not limited to, an executive committee as required by Section [~~55-12-103~~] 80-6-1104, which shall have the power to act on behalf of the commission in carrying out its powers and duties hereunder;

(9) elect or appoint any officers, attorneys, employees, agents, or consultants, fix their compensation, define their duties, and determine their qualifications;

(10) establish the commission's personnel policies and programs relating to, inter alia, conflicts of interest, rates of compensation, and qualifications of personnel;

(11) accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of them;

(12) lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed;

(13) sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;

(14) establish a budget and make expenditures and levy dues as provided in Section [~~55-12-108~~] 80-6-1109;

(15) sue and be sued;

(16) adopt a seal and by-laws governing the management and operation of the commission;

(17) perform any functions necessary or appropriate to achieve the purposes of this compact;

(18) report annually to the legislatures, governors, judiciary, and state councils of the compacting states concerning the activities of the commission during the preceding year, including any recommendations that may have been adopted by the commission;

(19) coordinate education, training, and public awareness regarding the interstate movement of juveniles for officials involved in the activity;

(20) establish uniform standards for the reporting, collecting, and exchanging of data; and

(21) maintain its corporate books and records in accordance with the by-laws.

Section 130. Section **80-6-1106**, which is renumbered from Section 55-12-105 is renumbered and amended to read:

[~~55-12-105~~]. 80-6-1106. Article 5 -- Organization and operation of the Interstate Commission.

(1) Section A. By-laws

The Interstate Commission shall, by a majority of the members present and voting, within 12 months after the first commission meeting, adopt by-laws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

(a) establishing the fiscal year of the commission;

(b) establishing an executive committee and any other committees as necessary;

(c) providing for the establishment of committees governing any general or specific delegation of any authority or function of the commission;

(d) providing reasonable procedures for calling and conducting meetings of the commission, and ensuring reasonable notice of each meeting;

(e) establishing the titles and responsibilities of the officers of the commission;

(f) providing a mechanism for concluding the operations of the commission and the return of any surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations;

(g) providing "start-up" rules for initial administration of the compact; and

(h) establishing standards and procedures for compliance and technical assistance in

carrying out the compact.

(2) Section B. Officers and Staff

(a) The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson and a vice chairperson, each of whom shall have the authority and duties specified in the by-laws. The chairperson or, in the chairperson's absence or disability, the vice chairperson shall preside at all meetings of the commission.

(b) The officers shall serve without compensation or remuneration from the commission, provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for any ordinary and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the commission.

(c) The commission shall, through its executive committee, appoint or retain an executive director for any time period, upon any terms and conditions, and for any compensation as the commission may consider appropriate. The executive director shall serve as secretary to the commission, but may not be a member and shall hire and supervise other staff as authorized by the commission.

(3) Section C. Qualified Immunity, Defense, and Indemnification

(a) The Interstate Commission's executive director and employees shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to any actual or alleged act, error, or omission that occurred, or that the person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided, that a person may not be protected from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of the person.

(b) The liability of any commissioner, or the employee or agent of a commissioner, acting within the scope of the person's employment or duties for acts, errors, or omissions occurring within the person's state may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. Nothing in this Subsection (3) shall be construed to protect any person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of the person.

(c) The commission shall defend the executive director or the employees or representatives of the commission and, subject to the approval of the attorney general of the state represented by any commissioner of a compacting state, shall defend the commissioner or the commissioner's representatives or employees in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of the person.

(d) The commission shall indemnify and hold the commissioner of a compacting state, the commissioner's representatives or employees, or the commission's representatives or employees harmless in the amount of any settlement or judgment obtained against the persons arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the persons had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of the persons.

Section 131. Section **80-6-1107**, which is renumbered from Section 55-12-106 is renumbered and amended to read:

[~~55-12-106~~]. 80-6-1107. Article 6 -- Rulemaking functions of the Interstate Commission.

(1) The Interstate Commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of the compact.

(2) Rulemaking shall occur pursuant to the criteria set forth in this section and the by-laws and rules adopted pursuant thereto. Rulemaking shall substantially conform to the principles of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000), or any other administrative procedures act, as the commission considers appropriate, consistent with due process requirements under the [~~U.S.~~] United States Constitution as interpreted by the [~~U. S.~~] Unites States Supreme Court. All rules and amendments shall become binding as of the date specified, as published with the final version of the rule as approved by the commission.

(3) When promulgating a rule, the commission shall, at a minimum:

(a) publish the proposed rule's entire text stating the reasons for that proposed rule;

(b) allow and invite any and all persons to submit written data, facts, opinions, and arguments, which information shall be added to the record, and be made publicly available;

(c) provide an opportunity for an informal hearing if petitioned by ten or more persons; and

(d) promulgate a final rule and its effective date, if appropriate, based on input from state or local officials, or interested parties.

(4) Not later than 60 days after a rule is promulgated, the commission shall allow any interested person to file a petition in the United States District Court for the District of Columbia or in the Federal District Court where the commission's principal office is located for judicial review of the rule. If the court finds that the commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it aside. For purposes of this Subsection (4), evidence is substantial if it would be considered substantial evidence under the Model State Administrative Procedures Act.

(5) If a majority of the legislatures of the compacting states reject a rule, those states may, by enactment of a statute or resolution in the same manner used to adopt the compact, state that the rule shall have no further force and effect in any compacting state.

(6) The existing rules governing the operation of the Interstate Compact on Juveniles superceded by this act shall be null and void 12 months after the first meeting of the Interstate Commission created in this [~~chapter~~] <u>part</u>.

(7) Upon determination by the Interstate Commission that a state of emergency exists, it may promulgate an emergency rule which shall become effective immediately upon adoption, provided that the usual rulemaking procedures shall be retroactively applied to the rule as soon as reasonably possible, but no later than 90 days after the effective date of the emergency rule.

Section 132. Section **80-6-1108**, which is renumbered from Section 55-12-107 is renumbered and amended to read:

[~~55-12-107~~]. <u>80-6-1108.</u> Article 7 -- Oversight, enforcement, and dispute resolution by the Interstate Commission.

(1) Section A. Oversight

(a) The Interstate Commission shall oversee the administration and operations of the interstate movement of juveniles subject to this compact in the compacting states and shall monitor activities being administered in noncompacting states which may significantly affect compacting states.

(b) The courts and executive agencies in each compacting state shall enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall be received by all the judges, public officers, commissions, and departments of the state government as evidence of the authorized statute and administrative rules. All courts shall take judicial notice of the compact and the rules. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the commission, it shall be entitled to receive all service of process in any proceeding, and shall have standing to intervene in the proceeding for all purposes.

(2) Section B. Dispute Resolution

(a) The compacting states shall report to the Interstate Commission on all issues and activities necessary for the administration of the compact as well as issues and activities pertaining to compliance with the provisions of the compact and its by-laws and rules.

(b) The Interstate Commission shall attempt, upon the request of a compacting state, to resolve any disputes or other issues which are subject to the compact and which may arise among compacting states and between compacting and noncompacting states. The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

(c) The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact using any or all means set forth in Section [~~55-12-109~~] 80-6-1110.

Section 133. Section **80-6-1109**, which is renumbered from Section 55-12-108 is renumbered and amended to read:

[~~55-12-108~~]. 80-6-1109. Article 8 -- Finance.

(1) The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

(2) The commission shall levy on and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the commission and its staff which shall be in a total amount sufficient to cover the commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the commission, taking into consideration the population of each compacting state and the volume of interstate movement of juveniles in each compacting state. The commission shall promulgate a rule binding upon all compacting states which governs the assessment.

(3) The commission may not incur any obligations of any kind prior to securing the funds adequate to meet the obligations, nor shall the commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state.

(4) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its by-laws. All receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

Section 134. Section **80-6-1110**, which is renumbered from Section 55-12-109 is renumbered and amended to read:

[~~55-12-109~~]. <u>80-6-1110.</u> Article 9 -- State council.

(1) Each member state shall create a State Council for Interstate Juvenile Supervision.

(2) While each state may determine the membership of its own state council, its membership shall include at least one representative from the legislative, judicial, and executive branches of government, victims groups, and the compact administrator, deputy compact administrator, or designee.

(3) Each compacting state retains the right to determine the qualifications of the compact administrator or deputy compact administrator.

(4) Each state council shall advise and may exercise oversight and advocacy concerning that state's participation in commission activities and other duties determined by that state, including but not limited to, development of policy concerning operations and procedures of the compact within that state.

Section 135. Section **80-6-1111**, which is renumbered from Section 55-12-110 is

renumbered and amended to read:

[~~55-12-110~~]. 80-6-1111. Article 10 -- Compacting states, effective date, and amendment.

(1) Any state, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands as defined in Section 55-12-102 is eligible to become a compacting state.

(2) The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 35 states. The initial effective date shall be the later of July 1, 2004, or upon enactment into law by the 35th jurisdiction. Thereafter it shall become effective and binding as to any other compacting state upon enactment of the compact into law by that state.

(3) The governors of nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the compact by all states and territories of the United States.

(4) The commission may propose amendments to the compact for enactment by the compacting states. No amendment shall become effective and binding upon the commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

Section 136. Section **80-6-1112**, which is renumbered from Section 55-12-111 is renumbered and amended to read:

[~~55-12-111~~]. 80-6-1112. Article 11 -- Withdrawal, default, termination, and judicial enforcement.

(1) Section A. Withdrawal

(a) Once effective, the compact shall continue in force and remain binding upon each and every compacting state.

(b) A compacting state may withdraw from the compact by specifically repealing the statute which enacted the compact into law. The effective date of withdrawal is the effective date of the repeal.

(c) The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing the compact in the withdrawing state. The commission shall notify the other compacting states of the

withdrawing state's intent to withdraw within 60 days of its receipt thereof.

(d) The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal.

(e) Reinstatement following withdrawal of any compacting state shall occur upon the withdrawing state reenacting the compact or upon a later date as determined by the commission.

(2) Section B. Technical Assistance, Fines, Suspension, Termination, and Default

(a) If the Interstate Commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under this compact, or the by-laws or duly promulgated rules, the commission may impose any or all of the following penalties:

(i) remedial training and technical assistance as directed by the commission;

(ii) alternative dispute resolution;

(iii) fines, fees, and costs in amounts considered to be reasonable as fixed by the commission; and

(iv) suspension or termination of membership in the compact.

(b) Suspension or termination of membership in the compact shall be imposed only after all other reasonable means of securing compliance under the by-laws and rules have been exhausted and the commission has determined that the offending state is in default.

(c) Immediate notice of suspension shall be given by the commission to the governor, the chief justice, or the chief judicial officer of the state, the majority and minority leaders of the defaulting state's legislature, and the state council.

(d) The grounds for default include, but are not limited to, failure of a compacting state to perform obligations or responsibilities imposed upon it by this compact, the by-laws, or duly promulgated rules, and any other grounds designated in commission by-laws and rules.

(i) The commission shall immediately notify the defaulting state in writing of the penalty imposed by the commission and of the default pending a cure of the default.

(ii) The commission shall stipulate the conditions and the time period within which the defaulting state must cure its default.

(e) If the defaulting state fails to cure the default within the time period specified by the

commission, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the compacting states and all rights, privileges, and benefits conferred by this compact shall be terminated upon the effective date of termination.

(f) Within 60 days of the effective date of termination of a defaulting state, the commission shall notify the governor, the chief justice or chief judicial officer, the majority and minority leaders of the defaulting state's legislature, and the state council of the termination.

(g) The defaulting state is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination including any obligations, the performance of which extends beyond the effective date of termination.

(h) The commission may not bear any costs relating to the defaulting state unless otherwise mutually agreed upon in writing between the commission and the defaulting state.

(i) Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state and the approval of the commission pursuant to the rules.

(3) Section C. Judicial Enforcement

(a) The Interstate Commission may, by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its offices, to enforce compliance with the provisions of the compact, its duly promulgated rules and by-laws, against any compacting state in default.

(b) In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of litigation, including reasonable attorneys' fees.

(4) Section D. Dissolution of Compact

(a) The compact dissolves effective upon the date of the withdrawal or default of a compacting state, which reduces membership in the compact to one compacting state.

(b) Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, the business and affairs of the Interstate Commission shall be concluded, and any surplus funds shall be distributed in accordance with the by-laws.

Section 137. Section **80-6-1113**, which is renumbered from Section 55-12-112 is renumbered and amended to read:

[~~55-12-112~~]. <u>80-6-1113.</u> Article 12 -- Severability and construction.

(1) The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is considered unenforceable, the remaining provisions of the compact shall be enforceable.

(2) The provisions of this compact shall be liberally construed to effectuate its purposes.

Section 138. Section **80-6-1114**, which is renumbered from Section 55-12-113 is renumbered and amended to read:

[~~55-12-113~~]. 80-6-1114. Article 13 -- Binding effect of compact and other laws.

(1) Section A. Other Laws

(a) Nothing herein prevents the enforcement of any other law of a compacting state that is not inconsistent with this compact.

(b) All compacting states' laws other than state constitutions and other interstate compacts conflicting with this compact are superseded to the extent of the conflict.

(2) Section B. Binding Effect of the Compact

(a) All lawful actions of the commission, including all rules and by-laws promulgated by the commission, are binding upon the compacting states.

(b) All agreements between the commission and the compacting states are binding in accordance with their terms.

(c) Upon the request of a party to a conflict over meaning or interpretation of commission actions, and upon a majority vote of the compacting states, the commission may issue advisory opinions regarding the meaning or interpretation.

(d) In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers, or jurisdiction sought to be conferred by the provision upon the commission shall be ineffective and the obligations, duties, powers, or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which the obligations, duties, powers, or jurisdiction are delegated by law in effect at the time this compact becomes effective.

Section 139. Section **80-6-1115**, which is renumbered from Section 55-12-114 is renumbered and amended to read:

[~~55-12-114~~]. 80-6-1115. Juvenile compact administrator.

(1) [~~Pursuant to~~] Under this compact, the governor is authorized and empowered to designate a compact administrator and who, acting jointly with like administrators of other party states, shall promulgate rules and regulations to carry out more effectively the terms of the compact. The compact administrator shall serve subject to the pleasure of the governor.

(2) The compact administrator is authorized, empowered and directed to cooperate with all departments, agencies and officers of and in the government of this state and [~~its~~] this state's subdivisions in facilitating the proper administration of the compact or of any supplementary agreement or agreements entered into by this state.

Section 140. Section **80-6-1116**, which is renumbered from Section 55-12-115 is renumbered and amended to read:

[~~55-12-115~~]. 80-6-1116. Supplementary agreements.

The compact administrator is authorized and empowered to enter into supplementary agreements with appropriate officials of other states [~~pursuant to~~] under the compact. In the event that the supplementary agreement requires or contemplates the use of any institution or facility of this state or requires or contemplates the provision of any service by this state, the supplementary agreement shall have no force or effect until approved by the head of the department or agency under whose jurisdiction said institution or facility is operated or whose department or agency will be charged with the rendering of such service.

Section 141. Section **80-6-1117**, which is renumbered from Section 55-12-116 is renumbered and amended to read:

[~~55-12-116~~]. 80-6-1117. Financial arrangements.

The compact administrator, subject to the approval of the Division of Finance, may make or arrange for any payments necessary to discharge any financial obligations imposed upon this state by the compact or by any supplementary agreement entered into.

Section 142. Section **80-6-1118**, which is renumbered from Section 55-12-117 is renumbered and amended to read:

[~~55-12-117~~]. 80-6-1118. Responsibility of parents.

The compact administrator is authorized to take appropriate action to recover from parents or guardians, any and all costs expended by the state, or any of [~~its~~] the state's subdivisions, to return a delinquent or nondelinquent juvenile to this state, for care provided [~~pursuant to~~] under any supplementary agreement, or for care pending the return of the juvenile

to this state.

Section 143. Section **80-6-1119**, which is renumbered from Section 55-12-118 is renumbered and amended to read:

[~~55-12-118~~]. 80-6-1119. Responsibilities of state courts, departments, agencies, and officers.

The courts, departments, agencies and officers of this state and [~~its~~] this state's subdivisions shall enforce this compact and do all things appropriate to the effectuation of [~~its~~] the compact's purposes and intent which may be within their respective jurisdictions.

Section 144. **Repealer.**

This bill repeals:

Section **62A-4a-109, Eligibility -- Fee schedules.**

Section **62A-4a-114, Financial reimbursement by parent or legal guardian.**

Section **62A-4a-119, Division required to produce "family impact statement" with regard to rules.**

Section **62A-4a-120, Accommodation of moral and religious beliefs and culture.**

Section **62A-4a-205.5, Prohibition of discrimination based on race, color, or ethnicity.**

Section **62A-4a-206.1, Foster parent's preference upon child's reentry into foster care.**

Section **62A-4a-301, Legislative finding.**

Section **62A-4a-302, Definitions.**

Section **62A-4a-303, Director's responsibility.**

Section **62A-4a-304, Contracts for services.**

Section **62A-4a-305, Prevention and treatment programs.**

Section **62A-4a-306, Programs and services -- Public hearing requirements -- Review by local board of education.**

Section **62A-4a-307, Factors considered in award of contracts.**

Section **62A-4a-308, Portion of funding provided by contractor.**

Section **62A-4a-310, Funds -- Transfers and gifts.**

Section **62A-4a-402, Definitions.**

Section **62A-4a-601, Definitions.**

Section **62A-4a-609, Preplacement disclosure and training before high needs child adoption.**

Section **62A-4a-901, Legislative purpose.**

Section **62A-4a-904, Adoption assistance.**

Section **62A-4a-1001, Title.**

Section **62A-4a-1002, Definitions.**

Section **62A-4a-1004, Risk assessment training -- Second health care opinion.**

Section **63M-10-201, Creation -- Purpose -- Administration -- Access.**

Section **80-1-101, Title.**

Section **80-2-101, Title.**

Section **80-3-101, Title.**

Section **80-4-101, Title.**

Section **80-5-101, Title.**

Section **80-6-101, Title.**

Section **80-7-101, Title.**

Section 145. **Effective date.**

(1) Except as provided in Subsection (2), this bill takes effect on ~~{May 4}~~September 1, 2022.

(2) ~~{If approved by two-thirds of all the members elected to each house, }~~Section 62A-4a-1003.5 and the amendments to Section 63I-2-262 take effect:

(a) if approved by two-thirds of all members elected to each house, upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override; or

(b) if not approved by two-thirds of all members elected to each house, on May 4, 2022.

Section 146. **Coordinating H.B. 248 with H.B. 153 -- Superseding, technical, and substantive amendments.**

If this H.B. 248 and H.B. 153, Child Welfare Interview Requirements, both pass and become law, it is the intent of the Legislature that, on September 1, 2022, when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication:

(1) the amendments to Subsection 80-2-701(7) in this H.B. 248 supersede the amendments to Subsection 62A-4a-409(7) in H.B. 153;

(2) the amendments to Section 80-2-702 in this H.B. 248 supersede the amendments to Section 62A-4a-202.3 in H.B. 153; and

(3) Subsections 80-2-704(2) and (3) in this H.B. 248 are amended to read:

"(2) (a) If the division interviews a child under Subsection (1), the division shall, except as provided in Subsection (6), audiotape or videotape the interview.

(b) The interviewer under Subsection (1) shall say at the beginning of the audiotape or videotape:

(i) the time, date, and place of the interview; and

(ii) the full name and age of the child being interviewed.

(3) (a) Before conducting an interview under Subsection (1), the interviewer shall:

(i) assess the child's level of comfort with the interview and make reasonable efforts to ensure the child is comfortable during the interview; and

(ii) unless the interview is conducted at a Children's Justice Center, ask the child whether the child is comfortable being alone in the interview with the interviewer.

(b) (i) If a child who is interviewed under Subsection (1)(a) is not comfortable being alone in the interview with the interviewer, the child is allowed to have a support person of the child's choice present in an interview who:

(A) is 18 years old or older;

(B) is readily available; and

(C) is willing and able to be present in the interview without influencing the child through statements or reactions.

(ii) If a child who is interviewed under Subsection (1)(b) is not comfortable being alone in the interview with the interviewer, the interviewer shall conduct the interview with a support person of the child's choice present who meets the requirements of Subsections (2)(b)(i)(A) through (C).

(c) A support person described in this Subsection (3):

(i) may be:

(A) a school teacher;

(B) a school administrator;

(C) a guidance counselor;

(D) a child care provider;

(E) a family member;

(F) a family advocate;

(G) a member of the clergy; or

(H) another individual chosen by the child; and

(ii) may not be an individual who:

(A) is alleged to be, or potentially may be, the perpetrator; or

(B) is protective of the perpetrator or unsupportive of the child. ".

Section 147. **Coordinating H.B. 248 with H.B. 219 -- Technical amendments.**

If this H.B. 248 and H.B. 219, Uniform Unregulated Child Custody Transfer Act, both pass and become law, it is the intent of the Legislature that, on September 1, 2022, when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication Sections 62A-2-126 and 76-7-205 in this H.B. 248 are repealed.

Section 148. **Coordinating H.B. 248 with H.B. 219 and S.B. 132 -- Technical and superseding amendments.**

If this H.B. 248 and H.B. 219, Uniform Unregulated Child Custody Transfer Act, and S.B. 132, Child Welfare Amendments, all pass and become law, it is the intent of the Legislature that, on September 1, 2022, when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication:

(1) Subsection 62A-2-108.6(2)(a) in this H.B. 248 is amended to read:

"(2) (a) Subject to Section 78B-24-205, a person may not engage in child placing, or solicit money or other assistance for child placing, without a valid license issued by the office in accordance with this chapter."; and

(2) Subsection 62A-2-108.6(4) in this H.B. 248 is amended to read:

"(4) This section does not preclude payment of fees for medical, legal, or other lawful services rendered in connection with the care of a mother, delivery and care of a child, or lawful adoption proceedings.".

Section 149. **Coordinating H.B. 248 with S.B. 132 -- Technical and substantive amendments.**

If this H.B. 248 and S.B. 132, Child Welfare Amendments, both pass and become law,

it is the intent of the Legislature that, on September 1, 2022, when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication:

(1) Subsections 80-2a-101(5)(c) and (d) are amended to read:

"(c) is a permanent guardian or natural parent of the child's sibling; or

(d) in the case of a child who is an Indian child, is an extended family member as defined in the Indian Child Welfare Act, 25 U.S.C. Sec. 1903."; and

(2) Subsection 80-2a-301(6)(b) is amended to read:

"(b) The division shall determine whether an individual passes the background check described in Subsection (6)(a) in accordance with Section 62A-2-120.".

Section 150. **Revisor instructions.**

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, not enroll this bill if H.B. 249, Juvenile Amendments Cross References, does not pass.