

1 **CHILD WELFARE AMENDMENTS**

2 2022 GENERAL SESSION

3 STATE OF UTAH

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

5 House Sponsor: Christine F. Watkins

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions relating to child welfare.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ defines terms;
- 13 ▶ modifies the definition of "relative" used in provisions regarding child welfare,
14 child custody, and adoption;
- 15 ▶ modifies the type of performance standards the Division of Child and Family
16 Services (division) is required to track and report to the Legislature;
- 17 ▶ clarifies provisions regarding background checks performed by the division for an
18 emergency placement of a child;
- 19 ▶ provides a penalty for engaging in child placing and other related actions without a
20 license;
- 21 ▶ modifies provisions relating to consent and notice for an abortion performed on a
22 minor;
- 23 ▶ subject to certain requirements, creates a rebuttable presumption that placement of a
24 child with the child's relative during a child welfare proceeding is in the best interest
25 of the child;
- 26 ▶ requires the division and juvenile court to consider the rebuttable presumption at
27 certain times throughout a child welfare proceeding;
- 28 ▶ requires the juvenile court to:
 - 29 • determine whether the division considered the rebuttable presumption and

30 preferential consideration for placement of a child with a relative at the child welfare review
31 hearing; and

32 • provide preferential consideration to a relative's request for placement of a child
33 at the permanency hearing;

34 ▶ requires a court to consider whether a child's relative was given due weight as a
35 placement for the child during the child welfare proceeding before entering a final
36 order of adoption for the child; and

37 ▶ makes technical changes.

38 **Money Appropriated in this Bill:**

39 None

40 **Other Special Clauses:**

41 None

42 **Utah Code Sections Affected:**

43 AMENDS:

44 **62A-4a-117**, as last amended by Laws of Utah 2019, Chapter 335

45 **62A-4a-206**, as last amended by Laws of Utah 2021, Chapter 262

46 **62A-4a-209**, as last amended by Laws of Utah 2021, Chapter 262

47 **62A-4a-602**, as last amended by Laws of Utah 2020, Chapter 250

48 **76-7-304.5**, as last amended by Laws of Utah 2018, Chapter 282

49 **80-3-102**, as renumbered and amended by Laws of Utah 2021, Chapter 261 and last
50 amended by Coordination Clause, Laws of Utah 2021, Chapter 261

51 **80-3-301**, as last amended by Laws of Utah 2021, Chapter 231 and renumbered and
52 amended by Laws of Utah 2021, Chapter 261

53 **80-3-302**, as renumbered and amended by Laws of Utah 2021, Chapter 261

54 **80-3-303**, as renumbered and amended by Laws of Utah 2021, Chapter 261

55 **80-3-406**, as last amended by Laws of Utah 2021, Chapter 38 and renumbered and
56 amended by Laws of Utah 2021, Chapter 261

57 **80-3-407**, as renumbered and amended by Laws of Utah 2021, Chapter 261

58 **80-3-409**, as renumbered and amended by Laws of Utah 2021, Chapter 261

59 **80-4-305**, as renumbered and amended by Laws of Utah 2021, Chapter 261

60

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

62 Section 1. Section **62A-4a-117** is amended to read:

63 **62A-4a-117. Performance monitoring system -- Annual report.**

64 (1) As used in this section:

65 (a) "Council" means the Child Welfare Improvement Council established under
66 Section **62A-4a-311**.

67 (b) "Performance indicators" means actual performance in a program, activity, or other
68 function for which there is a performance standard.

69 (c) [(†)] "Performance standards" means the targeted or expected level of performance
70 of each area in the child welfare system, including:

71 [~~(A)~~] (i) child protection services;

72 [~~(B)~~] (ii) adoption;

73 (iii) in-home services;

74 [~~(C)~~] (iv) foster care; [~~and~~]

75 [~~(D)~~] (v) other substitute care[-];

76 [(ii) "Performance standards" includes the performance goals and measures in effect in
77 2008 that the division was subject to under federal court oversight, as amended pursuant to
78 Subsection (2), including:]

79 [~~(A)~~ the qualitative case review; and]

80 [~~(B)~~ the case process review.]

81 (vi) qualitative case review; and

82 (vii) case process review.

83 (2) (a) The division may not amend the performance standards unless the amendment
84 is:

85 (i) necessary and proper for the effective administration of the division; or

86 (ii) necessary to comply with, or implement changes in, the law.

87 (b) Before amending the performance standards, the division shall provide written
88 notice of the proposed amendment to the council.

89 (c) The notice described in Subsection (2)(b) shall include:

90 (i) the proposed amendment;

91 (ii) a summary of the reason for the proposed amendment; and

92 (iii) the proposed effective date of the amendment.

93 (d) Within 45 days after the day on which the division provides the notice described in
94 Subsection (2)(b) to the council, the council shall provide to the division written comments on
95 the proposed amendment.

96 (e) The division may not implement a proposed amendment to the performance
97 standards until the earlier of:

98 (i) seven days after the day on which the division receives the written comments
99 regarding the proposed change described in Subsection (2)(d); or

100 (ii) 52 days after the day on which the division provides the notice described in
101 Subsection (2)(b) to the council.

102 (f) The division shall:

103 (i) give full, fair, and good faith consideration to all comments and objections received
104 from the council;

105 (ii) notify the council in writing of:

106 (A) the division's decision regarding the proposed amendment; and

107 (B) the reasons that support the decision;

108 (iii) include complete information on all amendments to the performance standards in
109 the report described in Subsection (4); and

110 (iv) post the changes on the division's website.

111 (3) The division shall maintain a performance monitoring system to regularly:

112 (a) collect information on performance indicators; and

113 (b) compare performance indicators to performance standards.

114 (4) Before January 1 each year, the director shall submit a written report to the Child
115 Welfare Legislative Oversight Panel and the Social Services Appropriations Subcommittee that
116 includes:

117 (a) a comparison between the performance indicators for the prior fiscal year and the
118 performance standards;

119 (b) for each performance indicator that does not meet the performance standard:

120 (i) the reason the standard was not met;

121 (ii) the measures that need to be taken to meet the standard; and

122 (iii) the division's plan to comply with the standard for the current fiscal year;

123 (c) data on the extent to which new and experienced division employees have received
124 training [~~pursuant to~~] under statute, administrative rule, and division policy; and

125 (d) an analysis of the use and efficacy of in-home services, both before and after
126 removal of a child from the child's home.

127 Section 2. Section **62A-4a-206** is amended to read:

128 **62A-4a-206. Process for removal of a child from foster family -- Procedural due**
129 **process.**

130 (1) (a) The Legislature finds that, except with regard to a child's natural parent or legal
131 guardian, a foster family has a very limited but recognized interest in its familial relationship
132 with a foster child who has been in the care and custody of that family. In making
133 determinations regarding removal of a child from a foster home, the division may not dismiss
134 the foster family as a mere collection of unrelated individuals.

135 (b) The Legislature finds that children in the temporary custody and custody of the
136 division are experiencing multiple changes in foster care placements with little or no
137 documentation, and that numerous studies of child growth and development emphasize the
138 importance of stability in foster care living arrangements.

139 (c) For the reasons described in Subsections (1)(a) and (b), the division shall provide
140 procedural due process for a foster family prior to removal of a foster child from their home,
141 regardless of the length of time the child has been in that home, unless removal is for the

142 purpose of:

143 (i) returning the child to the child's natural parent or legal guardian;

144 (ii) immediately placing the child in an approved adoptive home;

145 (iii) placing the child with a relative, as defined in Section [80-3-102](#), who obtained
146 custody or asserted an interest in the child within the preference period described in Subsection
147 ~~[80-3-302(8)]~~ [80-3-302\(7\)](#); or

148 (iv) placing an Indian child in accordance with placement preferences and other
149 requirements described in the Indian Child Welfare Act, 25 U.S.C. Sec. 1915.

150 (2) (a) The division shall maintain and utilize due process procedures for removal of a
151 foster child from a foster home, in accordance with the procedures and requirements of Title
152 63G, Chapter 4, Administrative Procedures Act.

153 (b) Those procedures shall include requirements for:

154 (i) personal communication with, and a written explanation of the reasons for the
155 removal to, the foster parents prior to removal of the child; and

156 (ii) an opportunity for foster parents to present their information and concerns to the
157 division and to:

158 (A) request a review, to be held before removal of the child, by a third party neutral
159 fact finder; or

160 (B) if the child has been placed with the foster parents for a period of at least two years,
161 request a review, to be held before removal of the child, by:

162 (I) the juvenile court judge currently assigned to the child's case; or

163 (II) if the juvenile court judge currently assigned to the child's case is not available,
164 another juvenile court judge.

165 (c) If the division determines that there is a reasonable basis to believe that the child is
166 in danger or that there is a substantial threat of danger to the health or welfare of the child, it
167 shall place the child in emergency foster care during the pendency of the procedures described
168 in this subsection, instead of making another foster care placement.

169 (3) If the division removes a child from a foster home based upon the child's statement

170 alone, the division shall initiate and expedite the processes described in Subsection (2). The
171 division may take no formal action with regard to that foster parent's license until after those
172 processes, in addition to any other procedure or hearing required by law, have been completed.

173 (4) When a complaint is made to the division by a foster child against a foster parent,
174 the division shall, within 30 business days, provide the foster parent with information regarding
175 the specific nature of the complaint, the time and place of the alleged incident, and who was
176 alleged to have been involved.

177 (5) Whenever the division places a child in a foster home, it shall provide the foster
178 parents with:

179 (a) notification of the requirements of this section;

180 (b) a written description of the procedures enacted by the division pursuant to
181 Subsection (2) and how to access those processes; and

182 (c) written notification of the foster parents' ability to petition the juvenile court
183 directly for review of a decision to remove a foster child who has been in their custody for 12
184 months or longer, in accordance with the limitations and requirements of Section [80-3-502](#).

185 (6) The requirements of this section do not apply to the removal of a child based on a
186 foster parent's request for that removal.

187 (7) It is unlawful for a person, with the intent to avoid compliance with the
188 requirements of this section, to:

189 (a) take action, or encourage another to take action, against the license of a foster
190 parent; or

191 (b) remove a child from a foster home before the child has been placed with the foster
192 parents for two years.

193 (8) The division may not remove a foster child from a foster parent who is a relative, as
194 defined in Section [80-3-102](#), of the child on the basis of the age or health of the foster parent
195 without determining by:

196 (a) clear and convincing evidence that the foster parent is incapable of caring for the
197 foster child, if the alternative foster parent would not be another relative of the child; or

198 (b) a preponderance of the evidence that the foster parent is incapable of caring for the
199 foster child, if the alternative foster parent would be another relative of the child.

200 Section 3. Section 62A-4a-209 is amended to read:

201 **62A-4a-209. Emergency placement.**

202 (1) As used in this section:

203 (a) "Friend" means the same as that term is defined in Section 80-3-102.

204 (b) "Nonrelative" means an individual, other than a noncustodial parent or a relative.

205 (c) "Relative" means the same as that term is defined in Section 80-3-102.

206 (2) The division may use an emergency placement under Subsection

207 62A-4a-202.1(7)(b) when:

208 (a) the case worker has made the determination that:

209 (i) the child's home is unsafe;

210 (ii) removal is necessary under the provisions of Section 62A-4a-202.1; and

211 (iii) the child's custodial parent or guardian will agree to not remove the child from the
212 home of the individual that serves as the placement and not have any contact with the child
213 until after the shelter hearing required by Section 80-3-301;

214 (b) an individual, with preference being given in accordance with Subsection (4), can
215 be identified who has the ability and is willing to provide care for the child who would
216 otherwise be placed in shelter care, including:

217 (i) taking the child to medical, mental health, dental, and educational appointments at
218 the request of the division; and

219 (ii) making the child available to division services and the guardian ad litem; and

220 (c) the individual described in Subsection (2)(b) agrees to care for the child on an
221 emergency basis under the following conditions:

222 (i) the individual meets the criteria for an emergency placement under Subsection (3);

223 (ii) the individual agrees to not allow the custodial parent or guardian to have any
224 contact with the child until after the shelter hearing unless authorized by the division in
225 writing;

226 (iii) the individual agrees to contact law enforcement and the division if the custodial
227 parent or guardian attempts to make unauthorized contact with the child;

228 (iv) the individual agrees to allow the division and the child's guardian ad litem to have
229 access to the child;

230 (v) the individual has been informed and understands that the division may continue to
231 search for other possible placements for long-term care, if needed;

232 (vi) the individual is willing to assist the custodial parent or guardian in reunification
233 efforts at the request of the division, and to follow all court orders; and

234 (vii) the child is comfortable with the individual.

235 (3) Except as otherwise provided in Subsection (5), before the division places a child
236 in an emergency placement, the division:

237 (a) may request the name of a reference and may contact the reference to determine the
238 answer to the following questions:

239 (i) would the individual identified as a reference place a child in the home of the
240 emergency placement; and

241 (ii) are there any other relatives or friends to consider as a possible emergency or
242 long-term placement for the child;

243 (b) shall have the custodial parent or guardian sign an emergency placement agreement
244 form during the investigation;

245 (c) (i) if the emergency placement will be with a relative, shall comply with the
246 background check provisions described in Subsection (7); or

247 (ii) if the emergency placement will be with an individual other than a noncustodial
248 parent or a relative, shall comply with the background check provisions described in
249 Subsection (8) for adults living in the household where the child will be placed;

250 (d) shall complete a limited home inspection of the home where the emergency
251 placement is made; and

252 (e) shall have the emergency placement approved by a family service specialist.

253 (4) (a) The following order of preference shall be applied when determining the

254 individual with whom a child will be placed in an emergency placement described in this
255 section, provided that the individual is willing, and has the ability, to care for the child:

- 256 (i) a noncustodial parent of the child in accordance with Section [80-3-302](#);
- 257 (ii) a relative;
- 258 (iii) subject to Subsection (4)(b), a friend designated by the custodial parent, guardian,
259 or the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a
260 placement;

- 261 (iv) a former foster placement designated by the division;
- 262 (v) a foster placement, that is not a former foster placement, designated by the division;

263 and

- 264 (vi) a shelter facility designated by the division.

265 (b) In determining whether a friend is a willing and appropriate temporary emergency
266 placement for a child, the division:

- 267 (i) subject to Subsections (4)(b)(ii) through (iv), shall consider the child's preferences
268 or level of comfort with the friend;

269 (ii) is required to consider no more than one friend designated by each parent or legal
270 guardian of the child and one friend designated by the child, if the child is of sufficient maturity
271 to articulate the child's wishes in relation to a placement;

272 (iii) may limit the number of designated friends to two, one of whom shall be a friend
273 designated by the child, if the child is of sufficient maturity to articulate the child's wishes in
274 relation to a placement; and

275 (iv) shall give preference to a friend designated by the child, if:

276 (A) the child is of sufficient maturity to articulate the child's wishes; and

277 (B) the division's basis for removing the child under Section [62A-4a-202.1](#) is sexual
278 abuse of the child.

279 (5) (a) The division may, pending the outcome of the investigation described in
280 Subsections (5)(b) and (c), place a child in emergency placement with the child's noncustodial
281 parent if, based on a limited investigation, prior to making the emergency placement, the

282 division:

283 (i) determines that the noncustodial parent has regular, unsupervised visitation with the
284 child that is not prohibited by law or court order;

285 (ii) determines that there is not reason to believe that the child's health or safety will be
286 endangered during the emergency placement; and

287 (iii) has the custodial parent or guardian sign an emergency placement agreement.

288 (b) Either before or after making an emergency placement with the noncustodial parent
289 of the child, the division may conduct the investigation described in Subsection (3)(a) in
290 relation to the noncustodial parent.

291 (c) Before, or within one day, excluding weekends and holidays, after a child is placed
292 in an emergency placement with the noncustodial parent of the child, the division shall conduct
293 a limited:

294 (i) background check of the noncustodial parent, [~~pursuant to~~] under Subsection (7);

295 and

296 (ii) inspection of the home where the emergency placement is made.

297 (6) After an emergency placement, the division caseworker must:

298 (a) respond to the emergency placement's calls within one hour if the custodial parents
299 or guardians attempt to make unauthorized contact with the child or attempt to remove the
300 child;

301 (b) complete all removal paperwork, including the notice provided to the custodial
302 parents and guardians under Section 80-3-301;

303 (c) contact the attorney general to schedule a shelter hearing;

304 (d) complete the placement procedures required in Section 80-3-302; and

305 (e) continue to search for other relatives as a possible long-term placement, if needed.

306 (7) (a) The background check described in Subsection (3)(c)(i) shall include

307 completion of:

308 (i) a name-based, Utah Bureau of Criminal Identification background check; and

309 (ii) a search of the Management Information System described in Section

310 62A-4a-1003.

311 (b) The division shall determine whether an individual passes the background check
312 described in this Subsection (7) [~~pursuant to the provisions of Subsection 62A-2-120(14)~~] in
313 accordance with Section 62A-2-120.

314 (c) Notwithstanding Subsection (7)(b), the division may not place a child with an
315 individual who is prohibited by court order from having access to that child.

316 (8) (a) The background check described in Subsection (3)(c)(ii) shall include
317 completion of:

318 (i) a name-based, Utah Bureau of Criminal Identification background check;

319 (ii) a federal name-based criminal background check; and

320 (iii) a search of the Management Information System described in Section

321 62A-4a-1003.

322 (b) The division shall determine whether an individual passes the background [~~checks~~]
323 check described in this Subsection (8) [~~pursuant to the provisions of~~] in accordance with
324 Section 62A-2-120.

325 (c) If the division denies placement of a child as a result of a name-based criminal
326 background check described in Subsection (8)(a), and the individual contests that denial, the
327 individual shall submit a complete set of fingerprints with written permission to the Utah
328 Bureau of Criminal Identification for submission to the Federal Bureau of Investigation for a
329 fingerprint-based criminal background check.

330 (d) (i) Within 15 calendar days of the name-based background checks, the division
331 shall require an individual to provide a complete set of fingerprints with written permission to
332 the Utah Bureau of Criminal Identification for submission to the Federal Bureau of
333 Investigation for a fingerprint-based criminal background check.

334 (ii) If an individual fails to provide the fingerprints and written permission described in
335 Subsection (8)(d)(i), the child shall immediately be removed from the home.

336 Section 4. Section 62A-4a-602 is amended to read:

337 **62A-4a-602. Licensure requirements -- Prohibited acts.**

338 (1) As used in this section:

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

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

344 (b) "Birth parent" means the same as that term is defined in Section [78B-6-103](#).

345 ~~[(b)]~~ (c) "Clearly and conspicuously disclose" means the same as that term is defined in
346 Section [13-11a-2](#).

347 ~~[(c)]~~ (d) (i) "Matching advertisement" means any written, oral, or graphic statement or
348 representation made in connection with a solicitation of business to provide the assistance
349 described in Subsection (3)(a)(i), regardless of whether there is or will be an exchange
350 described in Subsection (3)(a)(ii).

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

354 (2) (a) A person may not engage in child placing, or solicit money or other assistance
355 for child placing, without a valid license issued by the Office of Licensing within the
356 department, in accordance with Chapter 2, Licensure of Programs and Facilities.

357 (b) When a child-placing agency's license is suspended or revoked in accordance with
358 ~~[that chapter]~~ Chapter 2, Licensure of Programs and Facilities, the care, control, or custody of
359 any child who has been in the care, control, or custody of that agency shall be transferred to the
360 division.

361 (3) (a) (i) An attorney, physician, or other person may assist ~~[a parent in identifying or~~
362 ~~locating a person]~~:

363 (A) a birth parent to identify or locate a prospective adoptive parent who is interested
364 in adopting the birth parent's child~~[, or in identifying or locating];~~ or

365 (B) a prospective adoptive parent to identify or locate a child to be adopted.

366 (ii) ~~No~~ A payment, charge, fee, reimbursement of expense, or exchange of value of
367 any kind, or promise or agreement to make the same, may not be made for the assistance
368 described in Subsection (3)(a)(i).

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

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

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

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

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

381 (v) announce, cause, permit, or allow an advertisement that indicates or implies the
382 attorney, physician, or other person is available to provide the assistance described in
383 Subsection (3)(a)(i) as part of, or related to, other adoption-related services by using any of the
384 following terms:

385 (A) "comprehensive";

386 (B) "complete";

387 (C) "one-stop";

388 (D) "all-inclusive"; or

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

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

394 the attorney, physician, or other person is not licensed to provide adoption services by the
395 Office of Licensing [~~within the department~~].

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

397 [~~(a) precludes~~]

398 (4) A person who intentionally or knowingly violates Subsection (2) or (3) is guilty of
399 a third degree felony.

400 (5) This part does not preclude payment of fees for medical, legal, or other lawful
401 services rendered in connection with the care of a mother, delivery and care of a child, or
402 lawful adoption proceedings[~~;~~~~or~~].

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

404 [~~(5)~~] (6) In accordance with federal law, only [agents or employees] an agent or
405 employee of the division and of a licensed child-placing [agencies] agency may certify to the
406 United States Citizenship and Immigration [and Naturalization Service] Services that a family
407 meets the division's preadoption requirements.

408 [~~(6)~~] (7) (a) Neither a licensed child-placing agency nor any attorney practicing in this
409 state may place a child for adoption, either temporarily or permanently, with [any individual or
410 individuals that] an individual who would not be qualified for adoptive placement [pursuant to
411 the provisions of] under Sections 78B-6-117, 78B-6-102, and 78B-6-137.

412 (b) (i) The division, as a licensed child-placing agency, may not place a child in foster
413 care with [any] an individual [or individuals that] who would not be qualified for adoptive
414 placement [pursuant to the provisions of] under Sections 78B-6-117, 78B-6-102, and
415 78B-6-137. [However, nothing in this Subsection (6)(b) limits]

416 (ii) This Subsection (7)(b) does not limit the placement of a child in foster care with
417 the child's biological or adoptive parent, a relative, or in accordance with the Indian Child
418 Welfare Act, 25 U.S.C. Sec. 1901 et seq.

419 (c) (i) With regard to [children who are] a child who is in the custody of the state, the
420 division shall establish a rule providing that priority for placement shall be provided to
421 [families] a family in which a couple is legally married under the laws of this state. [However,

422 ~~nothing in this Subsection (6)(c) limits]~~

423 (ii) This Subsection (7)(c) does not limit the placement of a child with the child's
 424 biological or adoptive parent, a relative, or in accordance with the Indian Child Welfare Act, 25
 425 U.S.C. Sec. 1901 et seq.

426 Section 5. Section ~~76-7-304.5~~ is amended to read:

427 **76-7-304.5. Consent required for abortions performed on minors -- Division of**
 428 **Child and Family Services as guardian of a minor -- Hearing to allow a minor to**
 429 **self-consent -- Appeals.**

430 (1) In addition to the other requirements of this part, a physician may not perform an
 431 abortion on a minor unless:

432 (a) the physician obtains the informed written consent of a parent or guardian of the
 433 minor, ~~[consistent]~~ in accordance with Sections ~~76-7-305~~ and ~~76-7-305.5~~;

434 (b) the minor is granted the right, by court order under Subsection (4)(b), to consent to
 435 the abortion without obtaining consent from a parent or guardian; or

436 (c) (i) a medical condition exists that, on the basis of the physician's good faith clinical
 437 judgment, so complicates the medical condition of a pregnant minor as to necessitate the
 438 abortion of her pregnancy to avert:

439 (A) the minor's death; or

440 (B) a serious risk of substantial and irreversible impairment of a major bodily function
 441 of the minor; and

442 (ii) there is not sufficient time to obtain the consent in the manner chosen by the minor
 443 under Subsection (2) before it is necessary to terminate the minor's pregnancy in order to avert
 444 the minor's death or impairment described in Subsection (1)(c)(i).

445 (2) (a) A ~~[pregnant]~~ minor who wants to have an abortion may choose:

446 ~~[(a)]~~ (i) to seek consent from ~~[a]~~ the minor's parent or guardian ~~[under]~~ as described in
 447 Subsection (1)~~[(a)]~~; or

448 ~~[(b)]~~ (ii) to seek a court order ~~[under]~~ as described in Subsection (1)~~[(b)]~~.

449 (b) Neither Subsection (1) nor this Subsection (2) require the minor to seek or obtain

450 consent from the minor's parent or guardian if the circumstances described in Subsection
 451 76-7-304(3)(b)(ii) exist.

452 ~~[(3) If a pregnant minor fails to obtain the consent of a parent or guardian of the minor~~
 453 ~~to the performance of an abortion, or if the minor chooses not to seek]~~

454 (3) If a minor does not obtain the consent of [a] the minor's parent or guardian, the
 455 minor may file a petition with the juvenile court to obtain a court order [~~under~~] as described in
 456 Subsection (1)[~~(b)~~].

457 (4) (a) [~~A~~] The juvenile court shall close the hearing on a petition described in
 458 Subsection (3) [~~shall be closed~~] to the public.

459 (b) After considering the evidence presented at the hearing, the court shall order that
 460 the minor may obtain an abortion without the consent of a parent or guardian of the minor if
 461 the court finds by a preponderance of the evidence that:

462 (i) the minor:

463 (A) has given her informed consent to the abortion; and

464 (B) is mature and capable of giving informed consent to the abortion; or

465 (ii) an abortion would be in the minor's best interest.

466 (5) The Judicial Council shall make rules that:

467 (a) provide for the administration of the proceedings described in this section;

468 (b) provide for the appeal of a court's decision under this section;

469 (c) ensure the confidentiality of the proceedings described in this section and the
 470 records related to the proceedings; and

471 (d) establish procedures to expedite the hearing and appeal proceedings described in
 472 this section.

473 Section 6. Section **80-3-102** is amended to read:

474 **80-3-102. Definitions.**

475 As used in this chapter:

476 (1) "Abuse, neglect, or dependency petition" means a petition filed in accordance with
 477 this chapter to commence proceedings in a juvenile court alleging that a child is:

- 478 (a) abused;
- 479 (b) neglected; or
- 480 (c) dependent.
- 481 (2) "Child protection team" means the same as that term is defined in Section
- 482 [62A-4a-101](#).
- 483 (3) "Custody" means the same as that term is defined in Section [62A-4a-101](#).
- 484 (4) "Division" means the Division of Child and Family Services created in Section
- 485 [62A-4a-103](#).
- 486 (5) "Friend" means an adult who:
- 487 (a) has an established relationship with the child or a family member of the child; and
- 488 (b) is not the natural parent of the child.
- 489 (6) "Immediate family member" means a spouse, child, parent, sibling, grandparent, or
- 490 grandchild.
- 491 (7) "Relative" means an adult who:
- 492 (a) is the child's grandparent, great grandparent, aunt, great aunt, uncle, great uncle,
- 493 brother-in-law, sister-in-law, stepparent, first cousin, stepsibling, or sibling;
- 494 (b) is a first cousin of the child's parent;
- 495 (c) is [~~an adoptive~~] a permanent guardian or natural parent of the child's sibling; or
- 496 (d) in the case of a child who is an Indian child, is an extended family member as
- 497 defined in the Indian Child Welfare Act, 25 U.S.C. Sec. 1903.
- 498 (8) "Shelter care" means the same as that term is defined in Section [62A-4a-101](#).
- 499 (9) "Sibling" means the same as that term is defined in Section [62A-4a-101](#).
- 500 (10) "Sibling visitation" means the same as that term is defined in Section [62A-4a-101](#).
- 501 (11) "Substitute care" means the same as that term is defined in Section [62A-4a-101](#).
- 502 (12) "Temporary custody" means the same as that term is defined in Section
- 503 [62A-4a-101](#).
- 504 Section 7. Section **80-3-301** is amended to read:
- 505 **80-3-301. Shelter hearing -- Court considerations.**

506 (1) A juvenile court shall hold a shelter hearing to determine the temporary custody of
507 a child within 72 hours, excluding weekends and holidays, after any one or all of the following
508 occur:

- 509 (a) removal of the child from the child's home by the division;
- 510 (b) placement of the child in protective custody;
- 511 (c) emergency placement under Subsection 62A-4a-202.1(7);
- 512 (d) as an alternative to removal of the child, a parent enters a domestic violence shelter
513 at the request of the division; or
- 514 (e) a motion for expedited placement in temporary custody is filed under Section
515 80-3-203.

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

- 518 (a) the name and address of the individual to whom the notice is directed;
- 519 (b) the date, time, and place of the shelter hearing;
- 520 (c) the name of the child on whose behalf an abuse, neglect, or dependency petition is
521 brought;
- 522 (d) a concise statement regarding:
 - 523 (i) the reasons for removal or other action of the division under Subsection (1); and
 - 524 (ii) the allegations and code sections under which the proceeding is instituted;
- 525 (e) a statement that the parent or guardian to whom notice is given, and the child, are
526 entitled to have an attorney present at the shelter hearing, and that if the parent or guardian is
527 an indigent individual and cannot afford an attorney, and desires to be represented by an
528 attorney, one will be provided in accordance with Title 78B, Chapter 22, Indigent Defense Act;
529 and
- 530 (f) a statement that the parent or guardian is liable for the cost of support of the child in
531 the protective custody, temporary custody, and custody of the division, and the cost for legal
532 counsel appointed for the parent or guardian under Subsection (2)(e), according to the financial
533 ability of the parent or guardian.

534 (3) The notice described in Subsection (2) shall be personally served as soon as
535 possible, but no later than one business day after the day on which the child is removed from
536 the child's home, or the day on which a motion for expedited placement in temporary custody
537 under Section 80-3-203 is filed, on:

- 538 (a) the appropriate guardian ad litem; and
- 539 (b) both parents and any guardian of the child, unless the parents or guardians cannot
540 be located.

541 (4) Notwithstanding Section 80-3-104, the following individuals shall be present at the
542 shelter hearing:

- 543 (a) the child, unless it would be detrimental for the child;
- 544 (b) the child's parents or guardian, unless the parents or guardian cannot be located, or
545 fail to appear in response to the notice;
- 546 (c) counsel for the parents, if one is requested;
- 547 (d) the child's guardian ad litem;
- 548 (e) the child welfare worker from the division who is assigned to the case; and
- 549 (f) the attorney from the attorney general's office who is representing the division.

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

- 551 (i) provide an opportunity to provide relevant testimony to:
 - 552 (A) the child's parent or guardian, if present; and
 - 553 (B) any other individual with relevant knowledge;
- 554 (ii) subject to Section 80-3-108, provide an opportunity for the child to testify; and
- 555 (iii) in accordance with Subsections [~~80-3-302(8)(c)~~] 80-3-302(7)(c) through (e), grant
556 preferential consideration to a relative or friend for the temporary placement of the child.

557 (b) The juvenile court:

- 558 (i) may consider all relevant evidence, in accordance with the Utah Rules of Juvenile
559 Procedure;
- 560 (ii) shall hear relevant evidence presented by the child, the child's parent or guardian,
561 the requesting party, or the requesting party's counsel; and

562 (iii) may in the juvenile court's discretion limit testimony and evidence to only that
563 which goes to the issues of removal and the child's need for continued protection.

564 (6) If the child is in protective custody, the division shall report to the juvenile court:

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

566 (b) any services provided to the child and the child's family in an effort to prevent
567 removal;

568 (c) the need, if any, for continued shelter;

569 (d) the available services that could facilitate the return of the child to the custody of
570 the child's parent or guardian; and

571 (e) subject to Subsections [~~80-3-302(8)(c)~~] 80-3-302(7)(c) through (e), whether any
572 relatives of the child or friends of the child's parents may be able and willing to accept
573 temporary placement of the child.

574 (7) The juvenile court shall consider all relevant evidence provided by an individual or
575 entity authorized to present relevant evidence under this section.

576 (8) (a) If necessary to protect the child, preserve the rights of a party, or for other good
577 cause shown, the juvenile court may grant no more than one continuance, not to exceed five
578 judicial days.

579 (b) A juvenile court shall honor, as nearly as practicable, the request by a parent or
580 guardian for a continuance under Subsection (8)(a).

581 (c) Notwithstanding Subsection (8)(a), if the division fails to provide the notice
582 described in Subsection (2) within the time described in Subsection (3), the juvenile court may
583 grant the request of a parent or guardian for a continuance, not to exceed five judicial days.

584 (9) (a) If the child is in protective custody, the juvenile court shall order that the child
585 be returned to the custody of the parent or guardian unless the juvenile court finds, by a
586 preponderance of the evidence, consistent with the protections and requirements provided in
587 Subsection 62A-4a-201(1), that any one of the following exists:

588 (i) subject to Subsection (9)(b)(i), there is a serious danger to the physical health or
589 safety of the child and the child's physical health or safety may not be protected without

590 removing the child from the custody of the child's parent;

591 (ii) (A) the child is suffering emotional damage that results in a serious impairment in
592 the child's growth, development, behavior, or psychological functioning;

593 (B) the parent or guardian is unwilling or unable to make reasonable changes that
594 would sufficiently prevent future damage; and

595 (C) there are no reasonable means available by which the child's emotional health may
596 be protected without removing the child from the custody of the child's parent or guardian;

597 (iii) there is a substantial risk that the child will suffer abuse or neglect if the child is
598 not removed from the custody of the child's parent or guardian;

599 (iv) subject to Subsection (9)(b)(ii), the child or a minor residing in the same
600 household has been, or is considered to be at substantial risk of being, physically abused,
601 sexually abused, or sexually exploited by:

602 (A) a parent or guardian;

603 (B) a member of the parent's household or the guardian's household; or

604 (C) an individual known to the parent or guardian;

605 (v) the parent or guardian is unwilling to have physical custody of the child;

606 (vi) the parent or guardian is unable to have physical custody of the child;

607 (vii) the child is without any provision for the child's support;

608 (viii) a parent who is incarcerated or institutionalized has not or cannot arrange for safe
609 and appropriate care for the child;

610 (ix) (A) a relative or other adult custodian with whom the child is left by the parent or
611 guardian is unwilling or unable to provide care or support for the child;

612 (B) the whereabouts of the parent or guardian are unknown; and

613 (C) reasonable efforts to locate the parent or guardian are unsuccessful;

614 (x) subject to Subsection 80-1-102(51)(b) and Sections 80-3-109 and 80-3-304, the
615 child is in immediate need of medical care;

616 (xi) (A) the physical environment or the fact that the child is left unattended beyond a
617 reasonable period of time poses a threat to the child's health or safety; and

618 (B) the parent or guardian is unwilling or unable to make reasonable changes that
619 would remove the threat;

620 (xii) (A) the child or a minor residing in the same household has been neglected; and

621 (B) the parent or guardian is unwilling or unable to make reasonable changes that
622 would prevent the neglect;

623 (xiii) the parent, guardian, or an adult residing in the same household as the parent or
624 guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act,
625 and any clandestine laboratory operation was located in the residence or on the property where
626 the child resided;

627 (xiv) (A) the child's welfare is substantially endangered; and

628 (B) the parent or guardian is unwilling or unable to make reasonable changes that
629 would remove the danger; or

630 (xv) the child's natural parent:

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

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

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

637 (b) (i) Prima facie evidence of the finding described in Subsection (9)(a)(i) is
638 established if:

639 (A) a court previously adjudicated that the child suffered abuse, neglect, or dependency
640 involving the parent; and

641 (B) a subsequent incident of abuse, neglect, or dependency involving the parent occurs.

642 (ii) For purposes of Subsection (9)(a)(iv), if the juvenile court finds that the parent
643 knowingly allowed the child to be in the physical care of an individual after the parent received
644 actual notice that the individual physically abused, sexually abused, or sexually exploited the
645 child, that fact is prima facie evidence that there is a substantial risk that the child will be

646 physically abused, sexually abused, or sexually exploited.

647 (10) (a) (i) The juvenile court shall make a determination on the record as to whether
648 reasonable efforts were made to prevent or eliminate the need for removal of the child from the
649 child's home and whether there are available services that would prevent the need for continued
650 removal.

651 (ii) If the juvenile court finds that the child can be safely returned to the custody of the
652 child's parent or guardian through the provision of the services described in Subsection
653 (10)(a)(i), the juvenile court shall place the child with the child's parent or guardian and order
654 that the services be provided by the division.

655 (b) In accordance with federal law, the juvenile court shall consider the child's health,
656 safety, and welfare as the paramount concern when making the determination described in
657 Subsection (10)(a), and in ordering and providing the services described in Subsection (10)(a).

658 (11) Where the division's first contact with the family occurred during an emergency
659 situation in which the child could not safely remain at home, the juvenile court shall make a
660 finding that any lack of preplacement preventive efforts, as described in Section [62A-4a-203](#),
661 was appropriate.

662 (12) In cases where sexual abuse, sexual exploitation, abandonment, severe abuse, or
663 severe neglect are involved, the juvenile court and the division do not have any duty to make
664 reasonable efforts or to, in any other way, attempt to maintain a child in the child's home, return
665 a child to the child's home, provide reunification services, or attempt to rehabilitate the
666 offending parent or parents.

667 (13) The juvenile court may not order continued removal of a child solely on the basis
668 of educational neglect, truancy, or failure to comply with a court order to attend school.

669 (14) (a) Whenever a juvenile court orders continued removal of a child under this
670 section, the juvenile court shall state the facts on which the decision is based.

671 (b) If no continued removal is ordered and the child is returned home, the juvenile
672 court shall state the facts on which the decision is based.

673 (15) If the juvenile court finds that continued removal and temporary custody are

674 necessary for the protection of a child under Subsection (9)(a), the juvenile court shall order
675 continued removal regardless of:

- 676 (a) any error in the initial removal of the child;
677 (b) the failure of a party to comply with notice provisions; or
678 (c) any other procedural requirement of this chapter or Title 62A, Chapter 4a, Child
679 and Family Services.

680 Section 8. Section **80-3-302** is amended to read:

681 **80-3-302. Shelter hearing -- Placement of a child.**

682 (1) As used in this section:

683 (a) "Natural parent," notwithstanding Section [80-1-102](#), means:

- 684 (i) a biological or adoptive mother of the child;
685 (ii) an adoptive father of the child; or
686 (iii) a biological father of the child who:

687 (A) was married to the child's biological mother at the time the child was conceived or
688 born; or

689 (B) has strictly complied with Sections [78B-6-120](#) through [78B-6-122](#), before removal
690 of the child or voluntary surrender of the child by the custodial parent.

691 (b) "Natural parent" includes the individuals described in Subsection (1)(a) regardless
692 of whether the child has been or will be placed with adoptive parents or whether adoption has
693 been or will be considered as a long-term goal for the child.

694 (2) (a) At the shelter hearing, [~~when~~] if the juvenile court orders that a child be
695 removed from the custody of the child's parent in accordance with the requirements of Section
696 [80-3-301](#), the juvenile court shall first determine whether there is another natural parent with
697 whom the child was not residing at the time the events or conditions that brought the child
698 within the juvenile court's jurisdiction occurred, who desires to assume custody of the child.

699 (b) Subject to Subsection [~~(8)~~] (7), if another natural parent requests custody under
700 Subsection (2)(a), the juvenile court shall place the child with that parent unless the juvenile
701 court finds that the placement would be unsafe or otherwise detrimental to the child.

- 702 (c) The juvenile court:
- 703 (i) shall make a specific finding regarding the fitness of the parent described in
- 704 Subsection (2)(b) to assume custody, and the safety and appropriateness of the placement;
- 705 (ii) shall, at a minimum, order the division to visit the parent's home, comply with the
- 706 criminal background check provisions described in Section 80-3-305, and check the division's
- 707 management information system for any previous reports of abuse or neglect received by the
- 708 division regarding the parent at issue;
- 709 (iii) may order the division to conduct any further investigation regarding the safety
- 710 and appropriateness of the placement; and
- 711 (iv) may place the child in the temporary custody of the division, pending the juvenile
- 712 court's determination regarding the placement.
- 713 (d) The division shall report the division's findings from an investigation regarding the
- 714 child in writing to the juvenile court.
- 715 (3) If the juvenile court orders placement with a parent under Subsection (2):
- 716 (a) the child and the parent are under the continuing jurisdiction of the juvenile court;
- 717 (b) the juvenile court may order:
- 718 (i) that the parent take custody subject to the supervision of the juvenile court; and
- 719 (ii) that services be provided to the parent from whose custody the child was removed,
- 720 the parent who has assumed custody, or both; and
- 721 (c) the juvenile court shall order reasonable parent-time with the parent from whose
- 722 custody the child was removed, unless parent-time is not in the best interest of the child.
- 723 (4) The juvenile court shall periodically review an order described in Subsection (3) to
- 724 determine whether:
- 725 (a) placement with the parent continues to be in the child's best interest;
- 726 (b) the child should be returned to the original custodial parent;
- 727 (c) the child should be placed with a relative under Subsections [~~(7)~~] (6) through [~~(10)~~]
- 728 (9); or
- 729 (d) the child should be placed in the temporary custody of the division.

730 ~~[(5) The time limitations described in Section 80-3-406 with regard to reunification~~
731 ~~efforts apply to children placed with a previously noncustodial parent under Subsection (2).]~~

732 ~~[(6)]~~ (5) (a) Legal custody of the child is not affected by an order entered under
733 Subsection (2) or (3).

734 (b) To affect a previous court order regarding legal custody, the party shall petition the
735 court for modification of legal custody.

736 ~~[(7)]~~ (6) Subject to Subsection ~~[(8)]~~ (7), if, at the time of the shelter hearing, a child is
737 removed from the custody of the child's parent and is not placed in the custody of the child's
738 other parent, the juvenile court:

739 (a) shall, at that time, determine whether there is a relative or a friend who is able and
740 willing to care for the child, which may include asking a child, who is of sufficient maturity to
741 articulate the child's wishes in relation to a placement, if there is a relative or friend with whom
742 the child would prefer to reside;

743 (b) may order the division to conduct a reasonable search to determine whether there
744 are relatives or friends who are willing and appropriate, in accordance with the requirements of
745 this chapter and Title 62A, Chapter 4a, Part 2, Child Welfare Services, for placement of the
746 child;

747 (c) shall order the parents to cooperate with the division, within five working days, to
748 provide information regarding relatives or friends who may be able and willing to care for the
749 child; and

750 (d) may order that the child be placed in the temporary custody of the division pending
751 the determination under Subsection ~~[(7)]~~ (6)(a).

752 ~~[(8)]~~ (7) (a) (i) Subject to Subsections ~~[(8)(b) through (d)]~~, (7)(b) through (d) and if the
753 provisions of this section are satisfied, the division and the juvenile court shall give preferential
754 consideration ~~[shall be given]~~ to a relative's or a friend's request for placement of the child, if
755 the placement is in the best interest of the child~~[- and the provisions of this section are~~
756 ~~satisfied]~~.

757 (ii) For purposes of the preferential consideration under Subsection (7)(a)(i), there is a

758 rebuttable presumption that placement of the child with a relative is in the best interest of the
 759 child.

760 (b) (i) The preferential consideration that the juvenile court or division initially grants a
 761 relative or friend [~~is initially granted~~] under Subsection [~~(8)(a)~~] (7)(a)(i) expires 120 days after
 762 the day on which the shelter hearing occurs.

763 (ii) After the day on which the time period described in Subsection [~~(8)(b)(i)~~] (7)(b)(i)
 764 expires, the division or the juvenile court may not grant preferential consideration to a relative
 765 or friend, who has not obtained custody or asserted an interest in [~~a~~] the child [~~, may not be~~
 766 ~~granted preferential consideration by the division or the juvenile court~~].

767 (c) (i) The preferential consideration that the juvenile court initially grants a natural
 768 parent [~~is initially granted~~] under Subsection (2) is limited after 120 days after the day on
 769 which the shelter hearing occurs.

770 (ii) After the time period described in Subsection [~~(8)(c)(i)~~] (7)(c)(i), the juvenile court
 771 shall base the juvenile court's custody decision on the best interest of the child.

772 [~~(iii)~~] (d) Before the day on which the time period described in Subsection [~~(8)(c)(i)~~]
 773 (7)(c)(i) expires, the following order of preference shall be applied when determining the
 774 individual with whom a child will be placed, provided that the individual is willing and able to
 775 care for the child:

776 [~~(A)~~] (i) a noncustodial parent of the child;

777 [~~(B)~~] (ii) a relative of the child;

778 [~~(C)~~] (iii) subject to Subsection [~~(8)(d)~~] (7)(e), a friend if the friend is a licensed foster
 779 parent; and

780 [~~(D)~~] (iv) other placements that are consistent with the requirements of law.

781 [~~(d)~~] (e) In determining whether a friend is a willing, able, and appropriate placement
 782 for a child, the juvenile court or the division:

783 (i) subject to Subsections [~~(8)(d)(ii)~~] (7)(e)(ii) through (iv), shall consider the child's
 784 preferences or level of comfort with the friend;

785 (ii) is required to consider no more than one friend designated by each parent of the

786 child and one friend designated by the child if the child is of sufficient maturity to articulate the
787 child's wishes in relation to a placement;

788 (iii) may limit the number of designated friends to two, one of whom shall be a friend
789 designated by the child if the child is of sufficient maturity to articulate the child's wishes in
790 relation to a placement; and

791 (iv) shall give preference to a friend designated by the child if:

792 (A) the child is of sufficient maturity to articulate the child's wishes; and

793 (B) the basis for removing the child under Section 80-3-301 is sexual abuse of the
794 child.

795 ~~[(e)]~~ (f) (i) If a parent of the child or the child, if the child is of sufficient maturity to
796 articulate the child's wishes in relation to a placement, is not able to designate a friend who is a
797 licensed foster parent for placement of the child, but is able to identify a friend who is willing
798 to become licensed as a foster parent, the department shall fully cooperate to expedite the
799 licensing process for the friend.

800 (ii) If the friend described in Subsection ~~[(8)(e)(i)]~~ (7)(f)(i) becomes licensed as a foster
801 parent within the time frame described in Subsection ~~[(8)]~~ (7)(b), the juvenile court shall
802 determine whether it is in the best interest of the child to place the child with the friend.

803 ~~[(9)]~~ (8) (a) If a relative or friend who is willing to cooperate with the child's
804 permanency goal is identified under Subsection ~~[(7)]~~ (6)(a), the juvenile court;

805 (i) shall make a specific finding regarding:

806 ~~[(i)]~~ (A) the fitness of that relative or friend as a placement for the child; and

807 ~~[(ii)]~~ (B) the safety and appropriateness of placement with the relative or friend~~[-]~~; and

808 (ii) may not consider a request for guardianship or adoption of the child by an
809 individual who is not a relative of the child, or prevent the division from placing the child in
810 the custody of a relative of the child in accordance with this part, until after the day on which
811 the juvenile court makes the findings under Subsection (8)(a)(i).

812 (b) In making the finding described in Subsection ~~[(9)]~~ (8)(a), the juvenile court shall,
813 at a minimum, order the division to:

- 814 (i) if the child may be placed with a relative, conduct a background check that includes:
815 (A) completion of a nonfingerprint-based, Utah Bureau of Criminal Identification
816 background check of the relative;
817 (B) a completed search, relating to the relative, of the Management Information System
818 described in Section 62A-4a-1003; and
819 (C) a background check that complies with the criminal background check provisions
820 described in Section 80-3-305, of each nonrelative, as defined in Section 62A-4a-209, of the
821 child who resides in the household where the child may be placed;
- 822 (ii) if the child will be placed with a noncustodial parent, complete a background check
823 that includes:
824 (A) the background check requirements applicable to an emergency placement with a
825 noncustodial parent that are described in Subsections 62A-4a-209(5) and (7);
826 (B) a completed search, relating to the noncustodial parent of the child, of the
827 Management Information System described in Section 62A-4a-1003; and
828 (C) a background check that complies with the criminal background check provisions
829 described in Section 80-3-305, of each nonrelative, as defined in Section 62A-4a-209, of the
830 child who resides in the household where the child may be placed;
- 831 (iii) if the child may be placed with an individual other than a noncustodial parent or a
832 relative, conduct a criminal background check of the individual, and each adult that resides in
833 the household where the child may be placed, that complies with the criminal background
834 check provisions described in Section 80-3-305;
- 835 (iv) visit the relative's or friend's home;
- 836 (v) check the division's management information system for any previous reports of
837 abuse or neglect regarding the relative or friend at issue;
- 838 (vi) report the division's findings in writing to the juvenile court; and
839 (vii) provide sufficient information so that the juvenile court may determine whether:
840 (A) the relative or friend has any history of abusive or neglectful behavior toward other
841 children that may indicate or present a danger to this child;

- 842 (B) the child is comfortable with the relative or friend;
- 843 (C) the relative or friend recognizes the parent's history of abuse and is committed to
844 protect the child;
- 845 (D) the relative or friend is strong enough to resist inappropriate requests by the parent
846 for access to the child, in accordance with court orders;
- 847 (E) the relative or friend is committed to caring for the child as long as necessary; and
- 848 (F) the relative or friend can provide a secure and stable environment for the child.
- 849 (c) The division may determine to conduct, or the juvenile court may order the division
850 to conduct, any further investigation regarding the safety and appropriateness of the placement
851 described in Subsection ~~[(9)]~~ (8)(a).
- 852 (d) The division shall complete and file the division's assessment regarding placement
853 with a relative or friend under Subsections ~~[(9)]~~ (8)(a) and (b) as soon as practicable, in an
854 effort to facilitate placement of the child with a relative or friend.
- 855 ~~[(10)]~~ (9) (a) The juvenile court may place a child described in Subsection (2)(a) in the
856 temporary custody of the division, pending the division's investigation under Subsection ~~[(9)]~~
857 (8), and the juvenile court's determination regarding the appropriateness of the placement.
- 858 (b) The juvenile court shall ultimately base the juvenile court's determination regarding
859 the appropriateness of a placement with a relative or friend on the best interest of the child.
- 860 ~~[(11) When]~~ (10) If a juvenile court places a child described in Subsection ~~[(7)]~~ (6)
861 with the child's relative or friend:
- 862 (a) the juvenile court shall:
- 863 (i) ~~[shall]~~ order the relative or friend take custody, subject to the continuing
864 supervision of the juvenile court; ~~[and]~~
- 865 (ii) provide for reasonable parent-time with the parent or parents from whose custody
866 the child is removed, unless parent-time is not in the best interest of the child; and
- 867 (iii) conduct a periodic review no less often than every six months, to determine
868 whether:
- 869 (A) placement with the relative or friend continues to be in the child's best interest;

870 (B) the child should be returned home; or
871 (C) the child should be placed in the custody of the division;
872 (b) the juvenile court may enter an order:
873 ~~[(ii) may order]~~
874 (i) requiring the division to provide necessary services to the child and the child's
875 relative or friend, including the monitoring of the child's safety and well-being; or
876 (ii) that the juvenile court considers necessary for the protection and best interest of the
877 child; and
878 ~~[(b)]~~ (c) the child and the relative or friend in whose custody the child is placed are
879 under the continuing jurisdiction of the juvenile court[;].
880 ~~[(c) the juvenile court may enter any order that the juvenile court considers necessary~~
881 ~~for the protection and best interest of the child;]~~
882 ~~[(d) the juvenile court shall provide for reasonable parent-time with the parent or~~
883 ~~parents from whose custody the child was removed, unless parent-time is not in the best~~
884 ~~interest of the child; and]~~
885 ~~[(e) the juvenile court shall conduct a periodic review no less often than every six~~
886 ~~months, to determine whether:]~~
887 ~~[(i) placement with the relative or friend continues to be in the child's best interest;]~~
888 ~~[(ii) the child should be returned home; or]~~
889 ~~[(iii) the child should be placed in the custody of the division.]~~
890 ~~[(12)]~~ (11) No later than 12 months after the day on which the child ~~[was]~~ is removed
891 from the home, the juvenile court shall schedule a hearing for the purpose of entering a
892 permanent order in accordance with the best interest of the child.
893 ~~[(13)]~~ (12) The time limitations described in Section 80-3-406, with regard to
894 reunification efforts, apply to ~~[children]~~ a child placed with a previously noncustodial parent
895 under Subsection (2) or with a relative or friend under Subsection ~~[(7)]~~ (6).
896 ~~[(14)]~~ (13) (a) If the juvenile court awards temporary custody of a child to the division,
897 and the division places the child with a relative, the division shall:

898 (i) conduct a criminal background check of the relative that complies with the criminal
899 background check provisions described in Section [80-3-305](#); and

900 (ii) if the results of the criminal background check described in Subsection ~~[(14)]~~
901 ~~(13)~~(a)(i) would prohibit the relative from having direct access to the child under Section
902 [62A-2-120](#), the division shall:

903 (A) take the child into physical custody; and

904 (B) within three days, excluding weekends and holidays, after the day on which the
905 child is taken into physical custody under Subsection ~~[(14)]~~ ~~(13)~~(a)(ii)(A), give written notice
906 to the juvenile court, and all parties to the proceedings, of the division's action.

907 (b) Subsection ~~[(14)]~~ ~~(13)~~(a) does not prohibit the division from placing a child with a
908 relative, pending the results of the background check described in Subsection ~~[(14)]~~ ~~(13)~~(a) on
909 the relative.

910 ~~[(15)]~~ ~~(14)~~ If the juvenile court orders that a child be removed from the custody of the
911 child's parent and does not award custody and guardianship to another parent, relative, or friend
912 under this section, the juvenile court shall order that the child be placed in the temporary
913 custody of the division, to proceed to adjudication and disposition and to be provided with care
914 and services in accordance with this chapter and Title 62A, Chapter 4a, Child and Family
915 Services.

916 ~~[(16)]~~ ~~(15)~~ If, ~~following~~ after the shelter hearing, the child is placed with an
917 individual who is not a parent, a relative, a friend, or a former foster parent of the child, priority
918 shall be given to a foster placement with a married couple, unless it is in the best interests of
919 the child to place the child with a single foster parent.

920 ~~[(17)]~~ ~~(16)~~ In determining the placement of a child, the juvenile court and the division
921 may not take into account, or discriminate against, the religion of an individual with whom the
922 child may be placed, unless the purpose of taking religion into account is to place the child
923 with an individual or family of the same religion as the child.

924 ~~[(18)]~~ ~~(17)~~ If the juvenile court's decision differs from a child's express wishes if the
925 child is of sufficient maturity to articulate the wishes in relation to the child's placement, the

926 juvenile court shall make findings explaining why the juvenile court's decision differs from the
927 child's wishes.

928 ~~[(19)]~~ (18) This section does not guarantee that an identified relative or friend will
929 receive custody of the child.

930 Section 9. Section **80-3-303** is amended to read:

931 **80-3-303. Post-shelter hearing placement of a child in division's temporary**
932 **custody.**

933 (1) If the juvenile court awards temporary custody of a child to the division under
934 Section **80-3-302**, or as otherwise permitted by law, the division shall determine ongoing
935 placement of the child.

936 (2) In placing a child under Subsection (1), the division:

937 (a) except as provided in Subsections (2)(b) and ~~[(d)]~~ (e), shall comply with the
938 applicable background check provisions described in Section **80-3-302**;

939 (b) is not required to receive approval from the juvenile court before making the
940 placement;

941 (c) shall consider the preferential consideration and rebuttable presumption described
942 in Subsection **80-3-302(7)(a)**;

943 ~~[(e)]~~ (d) shall, within three days, excluding weekends and holidays, after the day on
944 which the placement is made, give written notice to the juvenile court, and the parties to the
945 proceedings, that the placement has been made;

946 ~~[(d)]~~ (e) may place the child with a noncustodial parent, relative, or friend, using the
947 same criteria established for an emergency placement under Section **62A-4a-209**, pending the
948 results of:

949 (i) the background check described in Subsection ~~[**80-3-302(14)(a)**]~~ **80-3-302(13)(a)**;
950 and

951 (ii) evaluation with the noncustodial parent, relative, or friend to determine the
952 individual's capacity to provide ongoing care to the child; and

953 ~~[(e)]~~ (f) shall take into consideration the will of the child, if the child is of sufficient

954 maturity to articulate the child's wishes in relation to the child's placement.

955 (3) If the division's placement decision differs from a child's express wishes ~~[if]~~ and the
956 child is of sufficient maturity to state the child's wishes in relation to the child's placement, the
957 division shall:

958 (a) make written findings explaining why the division's decision differs from the child's
959 wishes ~~[in a writing provided to]~~; and

960 (b) provide the written findings to the juvenile court and the child's attorney guardian
961 ad litem.

962 Section 10. Section **80-3-406** is amended to read:

963 **80-3-406. Permanency plan -- Reunification services.**

964 (1) If the juvenile court orders continued removal at the dispositional hearing under
965 Section **80-3-402**, and that the minor remain in the custody of the division, the juvenile court
966 shall first:

967 (a) establish a primary permanency plan and a concurrent permanency plan for the
968 minor in accordance with this section; and

969 (b) determine whether, in view of the primary permanency plan, reunification services
970 are appropriate for the minor and the minor's family under Subsections (5) through (8).

971 (2) (a) The concurrent permanency plan shall include:

972 (i) a representative list of the conditions under which the primary permanency plan will
973 be abandoned in favor of the concurrent permanency plan; and

974 (ii) an explanation of the effect of abandoning or modifying the primary permanency
975 plan.

976 (b) In determining the primary permanency plan and concurrent permanency plan, the
977 juvenile court shall consider:

978 (i) the preference for kinship placement over nonkinship placement, including the
979 rebuttable presumption described in Subsection 80-3-302(7)(a);

980 (ii) the potential for a guardianship placement if parental rights are terminated and no
981 appropriate adoption placement is available; and

982 (iii) the use of an individualized permanency plan, only as a last resort.

983 (3) (a) The juvenile court may amend a minor's primary permanency plan before the
984 establishment of a final permanency plan under Section 80-3-409.

985 (b) The juvenile court is not limited to the terms of the concurrent permanency plan in
986 the event that the primary permanency plan is abandoned.

987 (c) If, at any time, the juvenile court determines that reunification is no longer a minor's
988 primary permanency plan, the juvenile court shall conduct a permanency hearing in accordance
989 with Section 80-3-409 on or before the earlier of:

990 (i) 30 days after the day on which the juvenile court makes the determination described
991 in this Subsection (3)(c); or

992 (ii) the day on which the provision of reunification services, described in Section
993 80-3-409, ends.

994 (4) (a) Because of the state's interest in and responsibility to protect and provide
995 permanency for minors who are abused, neglected, or dependent, the Legislature finds that a
996 parent's interest in receiving reunification services is limited.

997 (b) The juvenile court may determine that:

998 (i) efforts to reunify a minor with the minor's family are not reasonable or appropriate,
999 based on the individual circumstances; and

1000 (ii) reunification services should not be provided.

1001 (c) In determining reasonable efforts to be made with respect to a minor, and in making
1002 reasonable efforts, the juvenile court and the division shall consider the minor's health, safety,
1003 and welfare as the paramount concern.

1004 (5) There is a presumption that reunification services should not be provided to a
1005 parent if the juvenile court finds, by clear and convincing evidence, that any of the following
1006 circumstances exist:

1007 (a) the whereabouts of the parents are unknown, based upon a verified affidavit
1008 indicating that a reasonably diligent search has failed to locate the parent;

1009 (b) subject to Subsection (6)(a), the parent is suffering from a mental illness of such

1010 magnitude that the mental illness renders the parent incapable of utilizing reunification
1011 services;

1012 (c) the minor was previously adjudicated as an abused child due to physical abuse,
1013 sexual abuse, or sexual exploitation, and following the adjudication the child:

1014 (i) was removed from the custody of the minor's parent;

1015 (ii) was subsequently returned to the custody of the parent; and

1016 (iii) is being removed due to additional physical abuse, sexual abuse, or sexual
1017 exploitation;

1018 (d) the parent:

1019 (i) caused the death of another minor through abuse or neglect;

1020 (ii) committed, aided, abetted, attempted, conspired, or solicited to commit:

1021 (A) murder or manslaughter of a minor; or

1022 (B) child abuse homicide;

1023 (iii) committed sexual abuse against the minor;

1024 (iv) is a registered sex offender or required to register as a sex offender; or

1025 (v) (A) intentionally, knowingly, or recklessly causes the death of another parent of the
1026 minor;

1027 (B) is identified by a law enforcement agency as the primary suspect in an investigation
1028 for intentionally, knowingly, or recklessly causing the death of another parent of the minor; or

1029 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or
1030 recklessly causing the death of another parent of the minor;

1031 (e) the minor suffered severe abuse by the parent or by any individual known by the
1032 parent if the parent knew or reasonably should have known that the individual was abusing the
1033 minor;

1034 (f) the minor is adjudicated as an abused minor as a result of severe abuse by the
1035 parent, and the juvenile court finds that it would not benefit the minor to pursue reunification
1036 services with the offending parent;

1037 (g) the parent's rights are terminated with regard to any other minor;

1038 (h) the minor was removed from the minor's home on at least two previous occasions
1039 and reunification services were offered or provided to the family at those times;

1040 (i) the parent has abandoned the minor for a period of six months or longer;

1041 (j) the parent permitted the minor to reside, on a permanent or temporary basis, at a
1042 location where the parent knew or should have known that a clandestine laboratory operation
1043 was located;

1044 (k) except as provided in Subsection (6)(b), with respect to a parent who is the minor's
1045 birth mother, the minor has fetal alcohol syndrome, fetal alcohol spectrum disorder, or was
1046 exposed to an illegal or prescription drug that was abused by the minor's mother while the
1047 minor was in utero, if the minor was taken into division custody for that reason, unless the
1048 mother agrees to enroll in, is currently enrolled in, or has recently and successfully completed a
1049 substance use disorder treatment program approved by the department; or

1050 (l) any other circumstance that the juvenile court determines should preclude
1051 reunification efforts or services.

1052 (6) (a) The juvenile court shall base the finding under Subsection (5)(b) on competent
1053 evidence from at least two medical or mental health professionals, who are not associates,
1054 establishing that, even with the provision of services, the parent is not likely to be capable of
1055 adequately caring for the minor within 12 months after the day on which the juvenile court
1056 finding is made.

1057 (b) The juvenile court may disregard the provisions of Subsection (5)(k) if the juvenile
1058 court finds, under the circumstances of the case, that the substance use disorder treatment
1059 described in Subsection (5)(k) is not warranted.

1060 (7) In determining whether reunification services are appropriate, the juvenile court
1061 shall take into consideration:

1062 (a) failure of the parent to respond to previous services or comply with a previous child
1063 and family plan;

1064 (b) the fact that the minor was abused while the parent was under the influence of
1065 drugs or alcohol;

1066 (c) any history of violent behavior directed at the minor or an immediate family
1067 member;

1068 (d) whether a parent continues to live with an individual who abused the minor;

1069 (e) any patterns of the parent's behavior that have exposed the minor to repeated abuse;

1070 (f) testimony by a competent professional that the parent's behavior is unlikely to be
1071 successful; and

1072 (g) whether the parent has expressed an interest in reunification with the minor.

1073 (8) If, under Subsections (5)(b) through (l), the juvenile court does not order
1074 reunification services, a permanency hearing shall be conducted within 30 days in accordance
1075 with Section [80-3-409](#).

1076 (9) (a) Subject to Subsections (9)(b) and (c), if the juvenile court determines that
1077 reunification services are appropriate for the minor and the minor's family, the juvenile court
1078 shall provide for reasonable parent-time with the parent or parents from whose custody the
1079 minor was removed, unless parent-time is not in the best interest of the minor.

1080 (b) Parent-time is in the best interests of a minor unless the juvenile court makes a
1081 finding that it is necessary to deny parent-time in order to:

1082 (i) protect the physical safety of the minor;

1083 (ii) protect the life of the minor; or

1084 (iii) prevent the minor from being traumatized by contact with the parent due to the
1085 minor's fear of the parent in light of the nature of the alleged abuse or neglect.

1086 (c) Notwithstanding Subsection (9)(a), a juvenile court may not deny parent-time based
1087 solely on a parent's failure to:

1088 (i) prove that the parent has not used legal or illegal substances; or

1089 (ii) comply with an aspect of the child and family plan that is ordered by the juvenile
1090 court.

1091 (10) (a) If the juvenile court determines that reunification services are appropriate, the
1092 juvenile court shall order that the division make reasonable efforts to provide services to the
1093 minor and the minor's parent for the purpose of facilitating reunification of the family, for a

1094 specified period of time.

1095 (b) In providing the services described in Subsection (10)(a), the juvenile court and the
1096 division shall consider the minor's health, safety, and welfare as the paramount concern.

1097 (11) In cases where sexual abuse, sexual exploitation, abandonment, severe abuse, or
1098 severe neglect are involved:

1099 (a) the juvenile court does not have any duty to order reunification services; and

1100 (b) the division does not have a duty to make reasonable efforts to or in any other way
1101 attempt to provide reunification services or attempt to rehabilitate the offending parent or
1102 parents.

1103 (12) (a) The juvenile court shall:

1104 (i) determine whether the services offered or provided by the division under the child
1105 and family plan constitute reasonable efforts on the part of the division;

1106 (ii) determine and define the responsibilities of the parent under the child and family
1107 plan in accordance with Subsection 62A-4a-205(6)(e); and

1108 (iii) identify verbally on the record, or in a written document provided to the parties,
1109 the responsibilities described in Subsection (12)(a)(ii), for the purpose of assisting in any future
1110 determination regarding the provision of reasonable efforts, in accordance with state and
1111 federal law.

1112 (b) If the parent is in a substance use disorder treatment program, other than a certified
1113 drug court program, the juvenile court may order the parent:

1114 (i) to submit to supplementary drug or alcohol testing, in accordance with Subsection
1115 80-3-110(6), in addition to the testing recommended by the parent's substance use disorder
1116 program based on a finding of reasonable suspicion that the parent is abusing drugs or alcohol;
1117 and

1118 (ii) to provide the results of drug or alcohol testing recommended by the substance use
1119 disorder program to the juvenile court or division.

1120 (13) (a) The time period for reunification services may not exceed 12 months from the
1121 day on which the minor was initially removed from the minor's home, unless the time period is

1122 extended under Subsection 80-3-409(7).

1123 (b) Nothing in this section may be construed to entitle any parent to an entire 12
1124 months of reunification services.

1125 (14) (a) If reunification services are ordered, the juvenile court may terminate those
1126 services at any time.

1127 (b) If, at any time, continuation of reasonable efforts to reunify a minor is determined
1128 to be inconsistent with the final permanency plan for the minor established under Section
1129 80-3-409, then measures shall be taken, in a timely manner, to:

1130 (i) place the minor in accordance with the final permanency plan; and

1131 (ii) complete whatever steps are necessary to finalize the permanent placement of the
1132 minor.

1133 (15) Any physical custody of the minor by the parent or a relative during the period
1134 described in Subsections (10) through (14) does not interrupt the running of the period.

1135 (16) (a) If reunification services are ordered, the juvenile court shall conduct a
1136 permanency hearing in accordance with Section 80-3-409 before the day on which the time
1137 period for reunification services expires.

1138 (b) The permanency hearing shall be held no later than 12 months after the original
1139 removal of the minor.

1140 (c) If reunification services are not ordered, a permanency hearing shall be conducted
1141 within 30 days in accordance with Section 80-3-409.

1142 (17) With regard to a minor in the custody of the division whose parent or parents are
1143 ordered to receive reunification services but who have abandoned that minor for a period of six
1144 months from the day on which reunification services are ordered:

1145 (a) the juvenile court shall terminate reunification services; and

1146 (b) the division shall petition the juvenile court for termination of parental rights.

1147 (18) When a minor is under the custody of the division and has been separated from a
1148 sibling due to foster care or adoptive placement, a juvenile court may order sibling visitation,
1149 subject to the division obtaining consent from the sibling's legal guardian, according to the

1150 juvenile court's determination of the best interests of the minor for whom the hearing is held.

1151 (19) (a) If reunification services are not ordered under this section, and the
1152 whereabouts of a parent becomes known within six months after the day on which the
1153 out-of-home placement of the minor is made, the juvenile court may order the division to
1154 provide reunification services.

1155 (b) The time limits described in this section are not tolled by the parent's absence.

1156 (20) (a) If a parent is incarcerated or institutionalized, the juvenile court shall order
1157 reasonable services unless the juvenile court determines that those services would be
1158 detrimental to the minor.

1159 (b) In making the determination described in Subsection (20)(a), the juvenile court
1160 shall consider:

1161 (i) the age of the minor;

1162 (ii) the degree of parent-child bonding;

1163 (iii) the length of the sentence;

1164 (iv) the nature of the treatment;

1165 (v) the nature of the crime or illness;

1166 (vi) the degree of detriment to the minor if services are not offered;

1167 (vii) for a minor who is 10 years old or older, the minor's attitude toward the
1168 implementation of family reunification services; and

1169 (viii) any other appropriate factors.

1170 (c) Reunification services for an incarcerated parent are subject to the time limitations
1171 imposed in this section.

1172 (d) Reunification services for an institutionalized parent are subject to the time
1173 limitations imposed in this section, unless the juvenile court determines that continued
1174 reunification services would be in the minor's best interest.

1175 Section 11. Section **80-3-407** is amended to read:

1176 **80-3-407. Six-month review hearing -- Findings regarding reasonable efforts by**
1177 **division -- Findings regarding child and family plan compliance.**

1178 If reunification efforts have been ordered by the juvenile court under Section 80-3-406,
1179 the juvenile court shall hold a hearing no more than six months after the day on which the
1180 minor is initially removed from the minor's home, in order for the juvenile court to determine
1181 whether:

1182 (1) the division has provided and is providing reasonable efforts to reunify the family
1183 in accordance with the child and family plan [~~established under Section 62A-4a-205; and~~];

1184 (2) the parent has fulfilled or is fulfilling identified duties and responsibilities in order
1185 to comply with the requirements of the child and family plan[-]; and

1186 (3) the division considered the preferential consideration and rebuttable presumption
1187 described in Subsections 80-3-302(7)(a) and 80-3-303(2)(c).

1188 Section 12. Section 80-3-409 is amended to read:

1189 **80-3-409. Permanency hearing -- Final plan -- Petition for termination of**
1190 **parental rights filed -- Hearing on termination of parental rights.**

1191 (1) (a) If reunification services are ordered under Section 80-3-406, with regard to a
1192 minor who is in the custody of the division, the juvenile court shall hold a permanency hearing
1193 no later than 12 months after the day on which the minor is initially removed from the minor's
1194 home.

1195 (b) If reunification services are not ordered at the dispositional hearing, the juvenile
1196 court shall hold a permanency hearing within 30 days after the day on which the dispositional
1197 hearing ends.

1198 (2) (a) If reunification services are ordered in accordance with Section 80-3-406, the
1199 juvenile court shall, at the permanency hearing, determine, consistent with Subsection (3),
1200 whether the minor may safely be returned to the custody of the minor's parent.

1201 (b) If the juvenile court finds, by a preponderance of the evidence, that return of the
1202 minor to the minor's parent would create a substantial risk of detriment to the minor's physical
1203 or emotional well-being, the minor may not be returned to the custody of the minor's parent.

1204 (c) Prima facie evidence that return of the minor to a parent or guardian would create a
1205 substantial risk of detriment to the minor is established if:

- 1206 (i) the parent or guardian fails to:
- 1207 (A) participate in a court approved child and family plan;
- 1208 (B) comply with a court approved child and family plan in whole or in part; or
- 1209 (C) meet the goals of a court approved child and family plan; or
- 1210 (ii) the minor's natural parent:
- 1211 (A) intentionally, knowingly, or recklessly causes the death of another parent of the
- 1212 minor;
- 1213 (B) is identified by a law enforcement agency as the primary suspect in an investigation
- 1214 for intentionally, knowingly, or recklessly causing the death of another parent of the minor; or
- 1215 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or
- 1216 recklessly causing the death of another parent of the minor.
- 1217 (3) In making a determination under Subsection (2)(a), the juvenile court shall:
- 1218 (a) review and consider:
- 1219 (i) the report prepared by the division;
- 1220 (ii) in accordance with the Utah Rules of Evidence, any admissible evidence offered by
- 1221 the minor's attorney guardian ad litem;
- 1222 (iii) any report submitted by the division under Subsection 80-3-408(3)(a)(i);
- 1223 (iv) any evidence regarding the efforts or progress demonstrated by the parent; and
- 1224 (v) the extent to which the parent cooperated and used the services provided; and
- 1225 (b) attempt to keep the minor's sibling group together if keeping the sibling group
- 1226 together is:
- 1227 (i) practicable; and
- 1228 (ii) in accordance with the best interest of the minor.
- 1229 (4) With regard to a case where reunification services are ordered by the juvenile court,
- 1230 if a minor is not returned to the minor's parent or guardian at the permanency hearing, the
- 1231 juvenile court shall, unless the time for the provision of reunification services is extended
- 1232 under Subsection (7):
- 1233 (a) order termination of reunification services to the parent;

1234 (b) make a final determination regarding whether termination of parental rights,
1235 adoption, or permanent custody and guardianship is the most appropriate final plan for the
1236 minor, taking into account the minor's primary permanency plan established by the juvenile
1237 court under Section 80-3-406; and

1238 (c) in accordance with Subsection 80-3-406(2), establish a concurrent permanency plan
1239 that identifies the second most appropriate final plan for the minor, if appropriate.

1240 (5) The juvenile court may order another planned permanent living arrangement other
1241 than reunification for a minor who is 16 years old or older upon entering the following
1242 findings:

1243 (a) the division has documented intensive, ongoing, and unsuccessful efforts to reunify
1244 the minor with the minor's parent or parents, or to secure a placement for the minor with a
1245 guardian, an adoptive parent, or an individual described in Subsection 80-3-301(6)(e);

1246 (b) the division has demonstrated that the division has made efforts to normalize the
1247 life of the minor while in the division's custody, in accordance with Sections 62A-4a-210
1248 through 62A-4a-212;

1249 (c) the minor prefers another planned permanent living arrangement; and

1250 (d) there is a compelling reason why reunification or a placement described in
1251 Subsection (5)(a) is not in the minor's best interest.

1252 (6) Except as provided in Subsection (7), the juvenile court may not extend
1253 reunification services beyond 12 months after the day on which the minor is initially removed
1254 from the minor's home, in accordance with the provisions of Section 80-3-406.

1255 (7) (a) Subject to Subsection (7)(b), the juvenile court may extend reunification
1256 services for no more than 90 days if the juvenile court finds, beyond a preponderance of the
1257 evidence, that:

1258 (i) there has been substantial compliance with the child and family plan;

1259 (ii) reunification is probable within that 90-day period; and

1260 (iii) the extension is in the best interest of the minor.

1261 (b) (i) Except as provided in Subsection (7)(c), the juvenile court may not extend any

1262 reunification services beyond 15 months after the day on which the minor is initially removed
1263 from the minor's home.

1264 (ii) Delay or failure of a parent to establish paternity or seek custody does not provide a
1265 basis for the juvenile court to extend services for the parent beyond the 12-month period
1266 described in Subsection (6).

1267 (c) In accordance with Subsection (7)(d), the juvenile court may extend reunification
1268 services for one additional 90-day period, beyond the 90-day period described in Subsection
1269 (7)(a), if:

1270 (i) the juvenile court finds, by clear and convincing evidence, that:

1271 (A) the parent has substantially complied with the child and family plan;

1272 (B) it is likely that reunification will occur within the additional 90-day period; and

1273 (C) the extension is in the best interest of the minor;

1274 (ii) the juvenile court specifies the facts upon which the findings described in
1275 Subsection (7)(c)(i) are based; and

1276 (iii) the juvenile court specifies the time period in which it is likely that reunification
1277 will occur.

1278 (d) A juvenile court may not extend the time period for reunification services without
1279 complying with the requirements of this Subsection (7) before the extension.

1280 (e) In determining whether to extend reunification services for a minor, a juvenile court
1281 shall take into consideration the status of the minor siblings of the minor.

1282 (8) The juvenile court may, in the juvenile court's discretion:

1283 (a) enter any additional order that the juvenile court determines to be in the best
1284 interest of the minor, so long as that order does not conflict with the requirements and
1285 provisions of Subsections (4) through (7); or

1286 (b) order the division to provide protective supervision or other services to a minor and
1287 the minor's family after the division's custody of a minor is terminated.

1288 (9) (a) If the final plan for the minor is to proceed toward termination of parental
1289 rights, the petition for termination of parental rights shall be filed, and a pretrial held, within 45

1290 calendar days after the day on which the permanency hearing is held.

1291 (b) If the division opposes the plan to terminate parental rights, the juvenile court may
1292 not require the division to file a petition for the termination of parental rights, except as
1293 required under Subsection 80-4-203(2).

1294 (10) (a) Any party to an action may, at any time, petition the juvenile court for an
1295 expedited permanency hearing on the basis that continuation of reunification efforts are
1296 inconsistent with the permanency needs of the minor.

1297 (b) If the juvenile court so determines, the juvenile court shall order, in accordance
1298 with federal law, that:

1299 (i) the minor be placed in accordance with the permanency plan; and

1300 (ii) whatever steps are necessary to finalize the permanent placement of the minor be
1301 completed as quickly as possible.

1302 (11) Nothing in this section may be construed to:

1303 (a) entitle any parent to reunification services for any specified period of time;

1304 (b) limit a juvenile court's ability to terminate reunification services at any time before
1305 a permanency hearing; or

1306 (c) limit or prohibit the filing of a petition for termination of parental rights by any
1307 party, or a hearing on termination of parental rights, at any time before a permanency hearing
1308 provided that relative placement and custody options have been fairly considered in accordance
1309 with Sections 62A-4a-201 and 80-4-104.

1310 (12) (a) Subject to Subsection (12)(b), if a petition for termination of parental rights is
1311 filed before the date scheduled for a permanency hearing, the juvenile court may consolidate
1312 the hearing on termination of parental rights with the permanency hearing.

1313 (b) For purposes of Subsection (12)(a), if the juvenile court consolidates the hearing on
1314 termination of parental rights with the permanency hearing:

1315 (i) the juvenile court shall first make a finding regarding whether reasonable efforts
1316 have been made by the division to finalize the permanency plan for the minor; and

1317 (ii) any reunification services shall be terminated in accordance with the time lines

1318 described in Section 80-3-406.

1319 (c) The juvenile court shall make a decision on a petition for termination of parental
1320 rights within 18 months after the day on which the minor is initially removed from the minor's
1321 home.

1322 (13) (a) If a juvenile court determines that a minor will not be returned to a parent of
1323 the minor, the juvenile court shall consider appropriate placement options inside and outside of
1324 the state.

1325 (b) In considering appropriate placement options under Subsection (13)(a), the juvenile
1326 court shall provide preferential consideration to a relative's request for placement of the minor.

1327 (14) (a) In accordance with Section 80-3-108, if a minor 14 years old or older desires
1328 an opportunity to address the juvenile court or testify regarding permanency or placement, the
1329 juvenile court shall give the minor's wishes added weight, but may not treat the minor's wishes
1330 as the single controlling factor under this section.

1331 (b) If the juvenile court's decision under this section differs from a minor's express
1332 wishes if the minor is of sufficient maturity to articulate the wishes in relation to permanency
1333 or the minor's placement, the juvenile court shall make findings explaining why the juvenile
1334 court's decision differs from the minor's wishes.

1335 Section 13. Section 80-4-305 is amended to read:

1336 **80-4-305. Court disposition of child upon termination of parental rights --**
1337 **Posttermination reunification.**

1338 (1) ~~[As]~~ Except as provided in Subsection (7), as used in this section, "relative" means:

1339 (a) an adult who is a grandparent, great-grandparent, aunt, great aunt, uncle, great
1340 uncle, brother-in-law, sister-in-law, stepparent, first cousin, sibling, or stepsibling of a child;
1341 and

1342 (b) in the case of a child who is an Indian child, an extended family member as defined
1343 in the Indian Child Welfare Act, 25 U.S.C. Sec. 1903.

1344 (2) Upon entry of an order under this chapter, the juvenile court may:

1345 (a) place the child in the legal custody and guardianship of a licensed child placement

1346 agency or the division for adoption; or

1347 (b) make any other disposition of the child authorized under Section 80-3-405.

1348 (3) Subject to ~~[the requirements of]~~ Subsections (4) and ~~[(5);]~~ (6), the division shall
1349 place all adoptable children placed in the custody of the division ~~[shall be placed]~~ for adoption.

1350 (4) If the parental rights of all parents of an adoptable child placed in the custody of the
1351 division ~~[have been]~~ are terminated and a suitable adoptive placement is not already available,
1352 the juvenile court:

1353 (a) shall determine whether there is a relative who desires to adopt the child;

1354 (b) may order the division to conduct a reasonable search to determine whether there
1355 ~~[are relatives who are]~~ is a relative who is willing to adopt the child; and

1356 (c) shall, if a relative desires to adopt the child:

1357 (i) make a specific finding regarding the fitness of the relative to adopt the child; and

1358 (ii) place the child for adoption with ~~[that]~~ the relative unless the juvenile court finds
1359 that adoption by the relative is not in the best interest of the child.

1360 (5) If an individual who is not a relative of the child desires to adopt the child, the
1361 juvenile court shall, before entering an order for adoption of the child, determine whether due
1362 weight was given to the relative's preferential consideration under Subsection
1363 80-3-302(7)(a)(i).

1364 ~~[(5)]~~ (6) This section does not guarantee that a relative will be permitted to adopt the
1365 child.

1366 ~~[(6)]~~ (7) A parent whose rights ~~[were]~~ are terminated under this chapter, or a relative of
1367 the child, as defined by Section 80-3-102, may petition for guardianship of the child if:

1368 (a) (i) following an adoptive placement, the child's adoptive parent returns the child to
1369 the custody of the division; or

1370 (ii) the child is in the custody of the division for one year following the day on which
1371 the parent's rights were terminated, and no permanent placement has been found or is likely to
1372 be found; and

1373 (b) reunification with the child's parent, or guardianship by the child's relative, is in the

1374 best interest of the child.