

Representative Stephanie Gricius proposes the following substitute bill:

CHILD WELFARE REVIEW AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephanie Gricius

Senate Sponsor: Jacob L. Anderegg

LONG TITLE

General Description:

This bill amends provisions of the Utah Juvenile Code related to the termination of parental rights.

Highlighted Provisions:

This bill:

- ▶ addresses the analysis a juvenile court undertakes when evaluating whether to terminate parental rights; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

80-4-301, as last amended by Laws of Utah 2022, Chapter 335

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

Section 1. Section **80-4-301** is amended to read:



26 **80-4-301. Grounds for termination of parental rights -- Findings regarding**
27 **reasonable efforts by division.**

28 (1) Subject to the protections and requirements of Section 80-4-104, [~~and if the~~
29 ~~juvenile court finds termination of parental rights, from the child's point of view, is strictly~~
30 ~~necessary,~~] the juvenile court may terminate all parental rights with respect to the parent if:

31 (a) based on the totality of the circumstances and from the individual child's point of
32 view, the juvenile court finds that termination of parental rights is strictly necessary to promote
33 the child's best interest; and

34 **(b)** the juvenile court finds any one of the following:

35 ~~(a)~~ **(i)** that the parent has abandoned the child;

36 ~~(b)~~ **(ii)** that the parent has neglected or abused the child;

37 ~~(c)~~ **(iii)** that the parent is unfit or incompetent;

38 ~~(d)~~ **(iv)** ~~(i)~~ **(A)** that the child is being cared for in an out-of-home placement under
39 the supervision of the juvenile court or the division;

40 ~~(ii)~~ **(B)** that the parent has substantially neglected, willfully refused, or has been
41 unable or unwilling to remedy the circumstances that cause the child to be in an out-of-home
42 placement; and

43 ~~(iii)~~ **(C)** that there is a substantial likelihood that the parent will not be capable of
44 exercising proper and effective parental care in the near future;

45 ~~(e)~~ **(v)** failure of parental adjustment, as defined in this chapter;

46 ~~(f)~~ **(vi)** that only token efforts have been made by the parent:

47 ~~(i)~~ **(A)** to support or communicate with the child;

48 ~~(ii)~~ **(B)** to prevent neglect of the child;

49 ~~(iii)~~ **(C)** to eliminate the risk of serious harm to the child; or

50 ~~(iv)~~ **(D)** to avoid being an unfit parent;

51 ~~(g)~~ **(vii)** ~~(i)~~ **(A)** that the parent has voluntarily relinquished the parent's parental
52 rights to the child; and

53 ~~(ii)~~ **(B)** that termination is in the child's best interest;

54 ~~(h)~~ **(viii)** that, after a period of trial during which the child was returned to live in the
55 child's own home, the parent substantially and continuously or repeatedly refused or failed to
56 give the child proper parental care and protection; or

57 ~~[(f)]~~ (ix) the terms and conditions of safe relinquishment of a newborn child have been
58 complied with, in accordance with Part 5, Safe Relinquishment of a Newborn Child.

59 (2) If the juvenile court finds that one of the circumstances in Subsection (1)(b) exists,
60 then for purposes of Subsection (1)(a):

61 (a) notwithstanding Subsections ~~80-4-104~~(8) and (12), there is no presumption that a
62 child's best interest will be served by remaining with the child's parent and the juvenile court
63 shall determine the child's best interest based on a totality of the circumstances;

64 (b) the existence of a placement option that does not require the termination of parental
65 rights does not preclude a finding, based on the totality of the circumstances, that termination
66 of parental rights is strictly necessary to promote the child's best interest; and

67 (c) as applicable, the juvenile court shall include the considerations described in
68 Sections ~~80-4-303~~ and ~~80-4-304~~ when determining the best interest of the child.

69 ~~[(2)]~~ (3) The juvenile court may not terminate the parental rights of a parent because
70 the parent has failed to complete the requirements of a child and family plan.

71 ~~[(3)]~~ (4) (a) Except as provided in Subsection ~~[(3)(b)]~~ (4)(b), in any case in which the
72 juvenile court has directed the division to provide reunification services to a parent, the
73 juvenile court must find that the division made reasonable efforts to provide those services
74 before the juvenile court may terminate the parent's rights under Subsection (1)(b)(ii), ~~[(c), (d),~~
75 ~~(e), (f), or (h)]~~ (iii), (iv), (v), or (viii).

76 (b) Notwithstanding Subsection ~~[(3)(a)]~~ (4)(a), the juvenile court is not required to
77 make the finding under Subsection ~~[(3)(a)]~~ (4)(a) before terminating a parent's rights:

78 (i) under Subsection (1)(b)(ii), if the juvenile court finds that the abuse or neglect
79 occurred subsequent to adjudication; or

80 (ii) if reasonable efforts to provide the services described in Subsection ~~[(3)(a)]~~ (4)(a)
81 are not required under federal law, and federal law is not inconsistent with Utah law.

82 Section 2. **Effective date.**

83 If approved by two-thirds of all the members elected to each house, this bill takes effect
84 upon approval by the governor, or the day following the constitutional time limit of Utah
85 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
86 the date of veto override.