{deleted text} shows text that was in HB0180 but was deleted in HB0180S02.

inserted text shows text that was not in HB0180 but was inserted into HB0180S02.

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

Representative Stephanie Gricius proposes the following substitute bill:

CHILD WELFARE PLACEMENT 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 {custody}termination of {children}parental rights.

Highlighted Provisions:

This bill:

- - extends the time during which a relative is given preferential consideration for placement of a child after a shelter hearing;
 - creates a preferential consideration for placement of a child with a relative after the
 child is removed from a foster home in certain circumstances;
- 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:

- **80-3-302**, as last amended by Laws of Utah 2022, Chapters 287, 334
- 80-3-303, as last amended by Laws of Utah 2022, Chapters 287, 335
- 80-3-502, as renumbered and amended by Laws of Utah 2021, Chapter 261
- **80-4-301**, as last amended by Laws of Utah 2022, Chapter 335

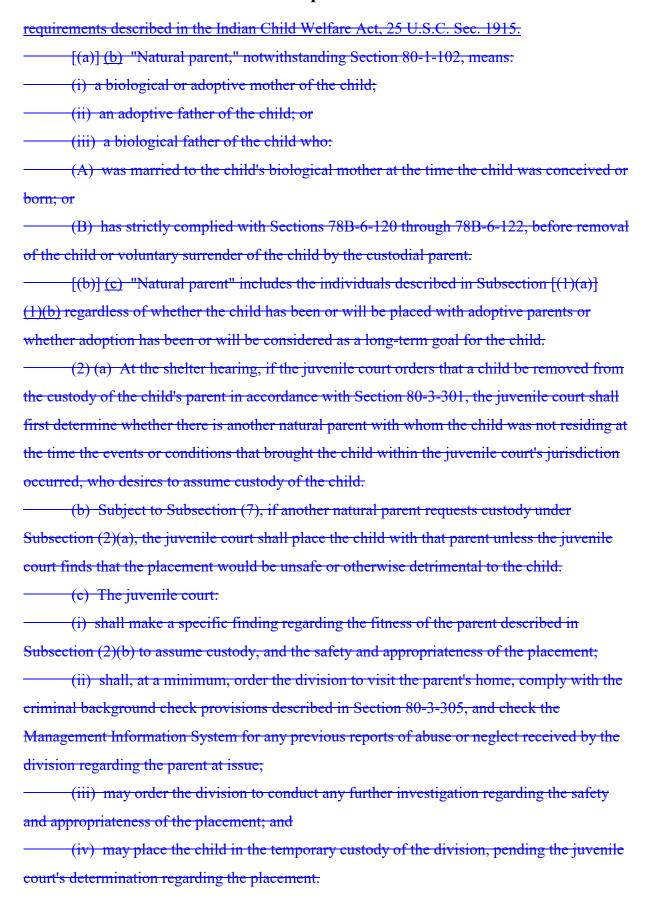
Be it enacted by the Legislature of the state of Utah:

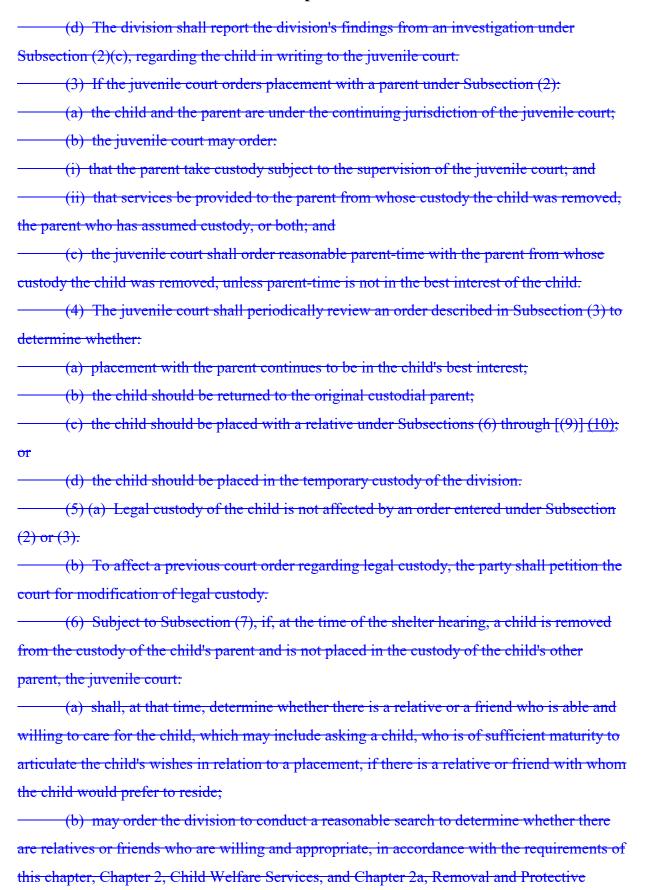
Section 1. Section $\frac{80-3-302}{80-4-301}$ is amended to read:

- **80-3-302.** Shelter hearing -- Placement of a child.
- (1) As used in this section:
- (a) (i) "For cause" means the removal of a foster child from a foster family's home

based on:

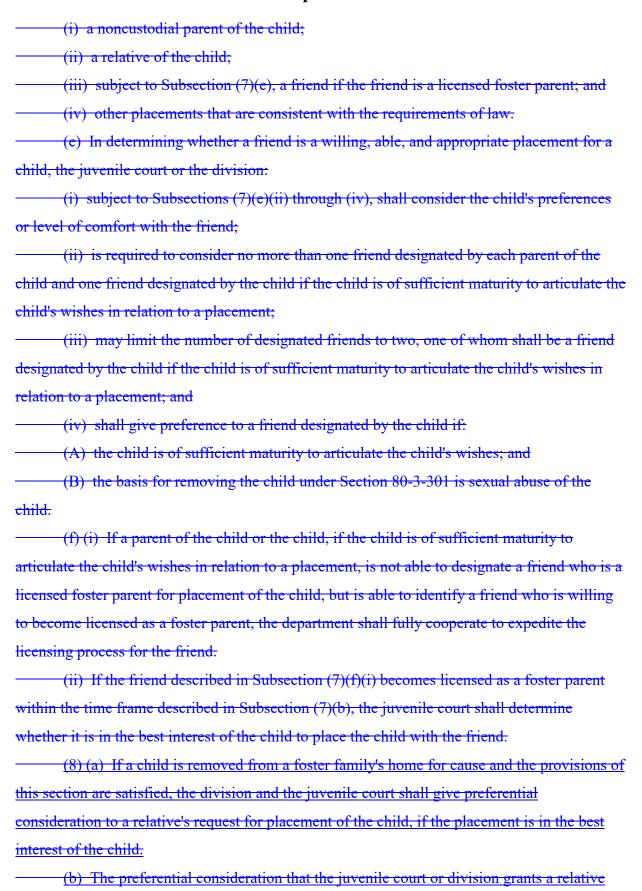
- (A) a foster parent's request for the removal;
- (B) a reasonable belief that the child is in danger or that there is a substantial threat of danger to the health or welfare of the child;
 - (C) a complaint made by a foster child against a foster parent; or
- (D) a determination made in accordance with this title that the foster parent is incapable of caring for the foster child.
- (ii) "For cause" does not include the removal of a foster child from a foster family's home for the purpose of:
- (A) placing the child with a relative who asserted an interest in the child after expiration of the preference period described in Subsection (7)(b)(ii);
 - (B) immediately placing the minor in an approved adoptive home;
- (C) returning the child to the child's natural parent or guardian; or
- (D) placing an Indian child in accordance with placement preferences and other





Custody of a Child, for placement of the child; (c) shall order the parents to cooperate with the division, within five working days, to provide information regarding relatives or friends who may be able and willing to care for the child; and (d) may order that the child be placed in the temporary custody of the division pending the determination under Subsection (6)(a). (7) (a) (i) Subject to Subsections (7)(b) through (d) and if the provisions of this section are satisfied, the division and the juvenile court shall give preferential consideration to a relative's or a friend's request for placement of the child, if the placement is in the best interest of the child. (ii) For purposes of the preferential consideration under Subsection (7)(a)(i), there is a rebuttable presumption that placement of the child with a relative is in the best interest of the child. (b) (i) The preferential consideration that the juvenile court or division initially grants a [relative or] friend under Subsection (7)(a)(i) expires 120 days after the day on which the shelter hearing occurs. (ii) The preferential consideration that the juvenile court or division initially grants a relative under Subsection (7)(a)(i) expires six months after the day on which the shelter hearing occurs. [(ii)] (iii) [After] Except as provided in Subsection (8), after the day on which the time period described in Subsection (7)(b)(i) or (ii) expires, the division or the juvenile court may not grant preferential consideration to a relative or friend, who has not obtained custody or asserted an interest in the child. (c) (i) The preferential consideration that the juvenile court initially grants a natural parent under Subsection (2) is limited after 120 days after the day on which the shelter hearing occurs. (ii) After the time period described in Subsection (7)(c)(i), the juvenile court shall base the juvenile court's custody decision on the best interest of the child.

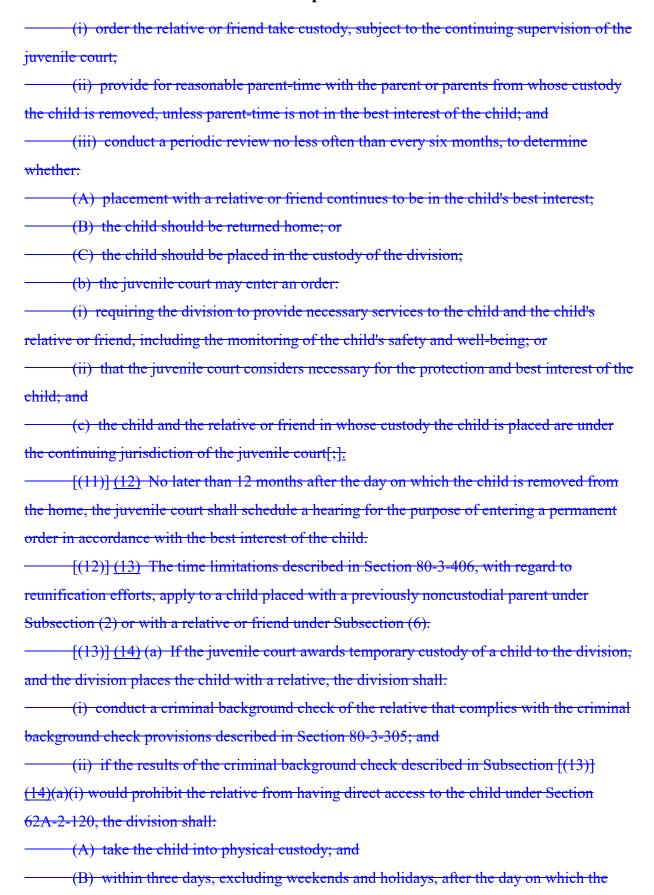
(d) Before the day on which the time period described in Subsection (7)(c)(i) expires, the following order of preference shall be applied when determining the individual with whom a child will be placed, provided that the individual is willing and able to care for the child:



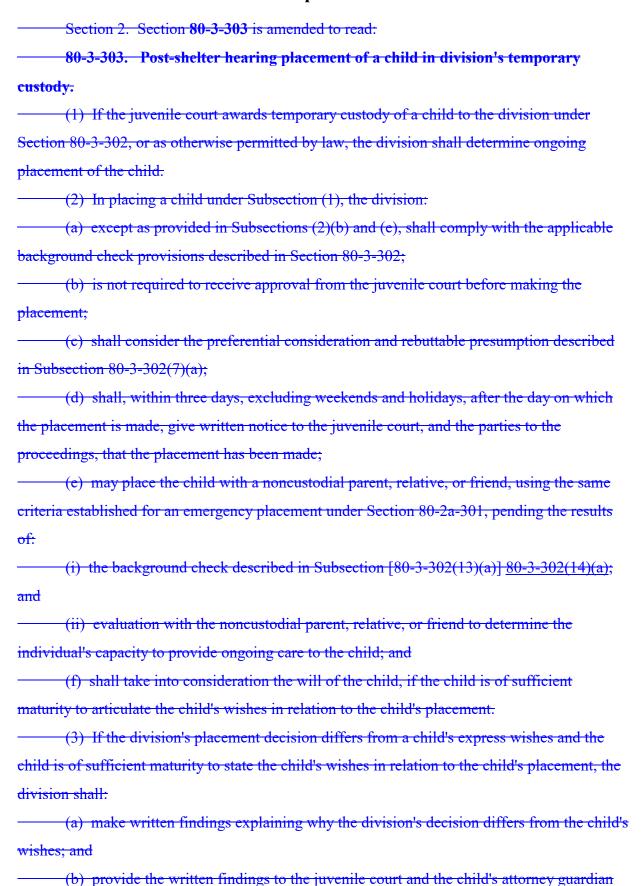
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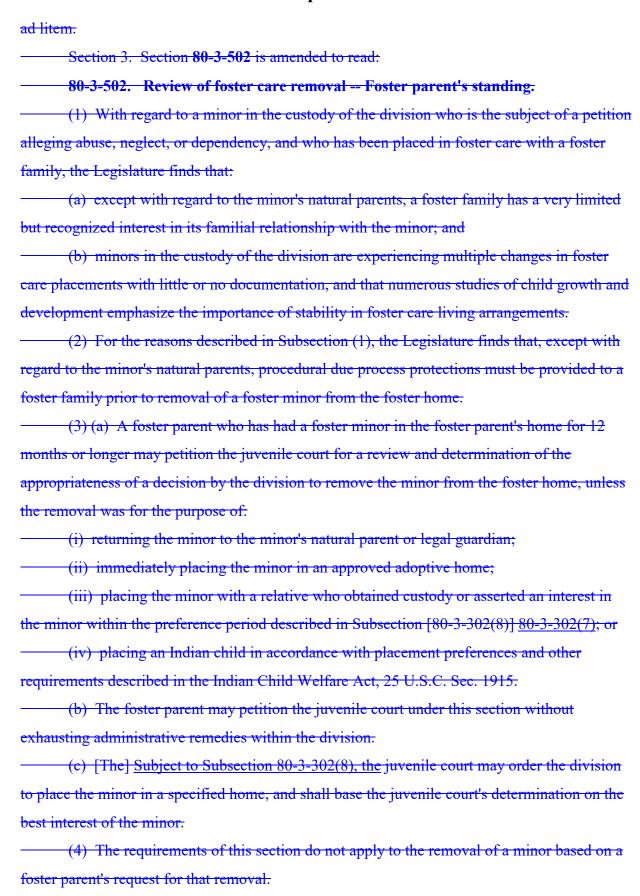
under Subsection (8)(a) expires when the division or the juvenile court determines the new placement of the child. [(8)] (9) (a) If a relative or friend who is willing to cooperate with the child's permanency goal is identified under Subsection (6)(a), the juvenile court: (i) shall make a specific finding regarding: (A) the fitness of that relative or friend as a placement for the child; and (B) the safety and appropriateness of placement with the relative or friend; and (ii) may not consider a request for guardianship or adoption of the child by an individual who is not a relative of the child, or prevent the division from placing the child in the custody of a relative of the child in accordance with this part, until after the day on which the juvenile court makes the findings under Subsection [(8)(a)(i)] (9)(a)(i). (b) In making the finding described in Subsection [(8)(a)] (9)(a)(i), the juvenile court shall, at a minimum, order the division to: (i) if the child may be placed with a relative, conduct a background check that includes: (A) completion of a nonfingerprint-based, Utah Bureau of Criminal Identification background check of the relative; (B) a completed search, relating to the relative, of the Management Information System; and (C) a background check that complies with the criminal background check provisions described in Section 80-3-305, of each nonrelative of the child who resides in the household where the child may be placed; (ii) if the child will be placed with a noncustodial parent, complete a background check that includes: (A) the background check requirements applicable to an emergency placement with a noncustodial parent that are described in Subsections 80-2a-301(4) and (6); (B) a completed search, relating to the noncustodial parent of the child, of the Management Information System; and (C) a background check that complies with the criminal background check provisions described in Section 80-3-305, of each nonrelative of the child who resides in the household where the child may be placed; (iii) if the child may be placed with an individual other than a noncustodial parent or a

relative, conduct a criminal background check of the individual, and each adult that resides in the household where the child may be placed, that complies with the criminal background check provisions described in Section 80-3-305; (iv) visit the relative's or friend's home; (v) check the Management Information System for any previous reports of abuse or neglect regarding the relative or friend at issue; (vi) report the division's findings in writing to the juvenile court; and (vii) provide sufficient information so that the juvenile court may determine whether: (A) the relative or friend has any history of abusive or neglectful behavior toward other children that may indicate or present a danger to this child; (B) the child is comfortable with the relative or friend; (C) the relative or friend recognizes the parent's history of abuse and is committed to protect the child; (D) the relative or friend is strong enough to resist inappropriate requests by the parent for access to the child, in accordance with court orders; (E) the relative or friend is committed to caring for the child as long as necessary; and (F) the relative or friend can provide a secure and stable environment for the child. (c) The division may determine to conduct, or the juvenile court may order the division to conduct, any further investigation regarding the safety and appropriateness of the placement described in Subsection [(8)] (9)(a). (d) The division shall complete and file the division's assessment regarding placement with a relative or friend under Subsections [(8)] (9)(a) and (b) as soon as practicable, in an effort to facilitate placement of the child with a relative or friend. [(9)] (10) (a) The juvenile court may place a child described in Subsection (2)(a) in the temporary custody of the division, pending the division's investigation under Subsection [(8)] (9), and the juvenile court's determination regarding the appropriateness of the placement. (b) The juvenile court shall ultimately base the juvenile court's determination regarding the appropriateness of a placement with a relative or friend on the best interest of the child. -[(10)] (11) If a juvenile court places a child described in Subsection (6) with the child's relative or friend: (a) the juvenile court shall:



child is taken into physical custody under Subsection [(13)] (14)(a)(ii)(A), give written notice to the juvenile court, and all parties to the proceedings, of the division's action. (b) Subsection [(13)] (14)(a) does not prohibit the division from placing a child with a relative, pending the results of the background check described in Subsection [(13)] (14)(a) on the relative. [(14)] (15) If the juvenile court orders that a child be removed from the custody of the child's parent and does not award custody and guardianship to another parent, relative, or friend under this section, the juvenile court shall order that the child be placed in the temporary custody of the division, to proceed to adjudication and disposition and to be provided with care and services in accordance with this chapter, Chapter 2, Child Welfare Services, and Chapter 2a, Removal and Protective Custody of a Child. [(15)] (16) (a) If a child reenters the temporary custody or the custody of the division and is placed in foster care, the division shall: (i) notify the child's former foster parents; and (ii) upon a determination of the former foster parents' willingness and ability to safely and appropriately care for the child, give the former foster parents preference for placement of the child. (b) If, after the shelter hearing, the child is placed with an individual who is not a parent, a relative, a friend, or a former foster parent of the child, priority shall be given to a foster placement with a married couple, unless it is in the best interests of the child to place the child with a single foster parent. [(16)] (17) In determining the placement of a child, the juvenile court and the division may not take into account, or discriminate against, the religion of an individual with whom the child may be placed, unless the purpose of taking religion into account is to place the child with an individual or family of the same religion as the child. [(17)] (18) If the juvenile court's decision differs from a child's express wishes if the child is of sufficient maturity to articulate the wishes in relation to the child's placement, the juvenile court shall make findings explaining why the juvenile court's decision differs from the child's wishes. [(18)] (19) This section does not guarantee that an identified relative or friend will receive custody of the child.





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

- **30-4-301.** Grounds for termination of parental rights -- Findings regarding reasonable efforts by division.
- (1) Subject to the protections and requirements of Section 80-4-104, [and if the juvenile court finds termination of parental rights, from the child's point of view, is strictly necessary,] the juvenile court may terminate all parental rights with respect to the parent if:
- (a) based on the totality of the circumstances and from the individual child's point of view, the juvenile court finds that termination of parental rights is strictly necessary to promote the child's best interest; and
 - (b) the juvenile court finds any one of the following:
 - [(a)] (i) that the parent has abandoned the child;
 - [(b)] (ii) that the parent has neglected or abused the child;
 - [(c)] (iii) that the parent is unfit or incompetent;
- [(d)] (iv) [(i)] (A) that the child is being cared for in an out-of-home placement under the supervision of the juvenile court or the division;
- [(ii)] (B) that the parent has substantially neglected, willfully refused, or has been unable or unwilling to remedy the circumstances that cause the child to be in an out-of-home placement; and
- [(iii)] (C) that there is a substantial likelihood that the parent will not be capable of exercising proper and effective parental care in the near future;
 - [(e)] (v) failure of parental adjustment, as defined in this chapter;
 - $[\underline{\text{(f)}}]$ $\underline{\text{(vi)}}$ that only token efforts have been made by the parent:
 - $[\underbrace{(i)}]$ (A) to support or communicate with the child;
 - $[\underbrace{\text{(ii)}}]$ (B) to prevent neglect of the child;
 - [(iii)] (C) to eliminate the risk of serious harm to the child; or
 - [(iv)] (D) to avoid being an unfit parent;
- [(g)] (vii) [(i)] (A) that the parent has voluntarily relinquished the parent's parental rights to the child; and
 - [(ii)] (B) that termination is in the child's best interest;
- [(h)] (viii) that, after a period of trial during which the child was returned to live in the child's own home, the parent substantially and continuously or repeatedly refused or failed to

give the child proper parental care and protection; or

- [(i)] (ix) the terms and conditions of safe relinquishment of a newborn child have been complied with, in accordance with Part 5, Safe Relinquishment of a Newborn Child.
- (2) {For} If the juvenile court finds that one of the circumstances in Subsection (1)(b) exists, then for purposes of Subsection (1)(a):
- (a) {notwithstanding Subsections 80-4-104(8) and (12), there is no presumption that a child's best interest will be served by remaining with the child's parent and} pursuant to

 Subsection 80-4-104(12)(a), the juvenile court shall {determine} consider the {child's} welfare and best interest of the child of paramount importance based on a totality of the circumstances;
- (b) the existence of a placement option that does not require the termination of parental rights does not preclude a finding, based on the totality of the circumstances, that termination of parental rights is strictly necessary to promote the child's best interest; and
- (c) as applicable, the juvenile court shall include the considerations described in Sections 80-4-303 and 80-4-304 when determining the best interest of the child \{; and\}.
- (d) there is a rebuttable presumption that reunification efforts were sufficient and that termination of parental rights is strictly necessary if the juvenile court finds, by clear and convincing evidence, that any of the circumstances described in Subsection 80-3-406(5) exist.
- † [(2)] (3) The juvenile court may not terminate the parental rights of a parent because the parent has failed to complete the requirements of a child and family plan.
- [(3)] (4) (a) Except as provided in Subsection [(3)(b)] (4)(b), in any case in which the juvenile court has directed the division to provide reunification services to a parent, the juvenile court must find that the division made reasonable efforts to provide those services before the juvenile court may terminate the parent's rights under Subsection (1)(b)(ii), [(c), (d), (e), (f), or (h)] (iii), (iv), (v), or (viii).
- (b) Notwithstanding Subsection [(3)(a)] (4)(a), the juvenile court is not required to make the finding under Subsection [(3)(a)] (4)(a) before terminating a parent's rights:
- (i) under Subsection (1)(b)(ii), if the juvenile court finds that the abuse or neglect occurred subsequent to adjudication; or
- (ii) if reasonable efforts to provide the services described in Subsection [(3)(a)] (4)(a) are not required under federal law, and federal law is not inconsistent with Utah law.

Section $\{5\}$ 2. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah

Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.