

Senator Jacob L. Anderegg proposes the following substitute bill:

**CHILD WELFARE REVIEW AMENDMENTS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Stephanie Gricius**

Senate Sponsor: Jacob L. Anderegg

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**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

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*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 ~~[(1)]~~ (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) pursuant to Subsection 80-4-104(12)(a), the juvenile court shall consider the  
62 welfare and best interest of the child of paramount importance based on a totality of the  
63 circumstances;

64 (b) as applicable, the juvenile court shall include the considerations described in  
65 Sections 80-4-303 and 80-4-304 when determining the best interest of the child;

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

69 (d) if the best interests of the child can be equally protected and benefited by an option  
70 other than the termination of parental rights, then termination is not strictly necessary.

71 ~~[(2)]~~ (3) The juvenile court may not terminate the parental rights of a parent because  
72 the parent has failed to complete the requirements of a child and family plan.

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

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

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

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

#### 84 Section 2. **Effective date.**

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

88 the date of veto override.