

HB0180S03 compared with HB0180

~~{deleted text}~~ shows text that was in HB0180 but was deleted in HB0180S03.

inserted text shows text that was not in HB0180 but was inserted into HB0180S03.

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Senator Jacob L. Anderegg 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:

- ~~{ } →~~ defines terms;
- ~~→~~ 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

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- ▶ 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 ~~{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~~

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~~requirements described in the Indian Child Welfare Act, 25 U.S.C. Sec. 1915:~~

~~—— [(a)] (b) "Natural parent," notwithstanding Section 80-1-102, means:~~

~~—— (i) a biological or adoptive mother of the child;~~

~~—— (ii) an adoptive father of the child; or~~

~~—— (iii) a biological father of the child who:~~

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

~~—— (B) has strictly complied with Sections 78B-6-120 through 78B-6-122, before removal of the child or voluntary surrender of the child by the custodial parent.~~

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

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

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

~~—— (c) The juvenile court:~~

~~—— (i) shall make a specific finding regarding the fitness of the parent described in Subsection (2)(b) to assume custody, and the safety and appropriateness of the placement;~~

~~—— (ii) shall, at a minimum, order the division to visit the parent's home, comply with the criminal background check provisions described in Section 80-3-305, and check the Management Information System for any previous reports of abuse or neglect received by the division regarding the parent at issue;~~

~~—— (iii) may order the division to conduct any further investigation regarding the safety and appropriateness of the placement; and~~

~~—— (iv) may place the child in the temporary custody of the division, pending the juvenile court's determination regarding the placement.~~

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~~—— (d) The division shall report the division's findings from an investigation under Subsection (2)(c), regarding the child in writing to the juvenile court.~~

~~—— (3) If the juvenile court orders placement with a parent under Subsection (2):~~

~~—— (a) the child and the parent are under the continuing jurisdiction of the juvenile court;~~

~~—— (b) the juvenile court may order:~~

~~—— (i) that the parent take custody subject to the supervision of the juvenile court; and~~

~~—— (ii) that services be provided to the parent from whose custody the child was removed, the parent who has assumed custody, or both; and~~

~~—— (c) the juvenile court shall order reasonable parent-time with the parent from whose custody the child was removed, unless parent-time is not in the best interest of the child.~~

~~—— (4) The juvenile court shall periodically review an order described in Subsection (3) to determine whether:~~

~~—— (a) placement with the parent continues to be in the child's best interest;~~

~~—— (b) the child should be returned to the original custodial parent;~~

~~—— (c) the child should be placed with a relative under Subsections (6) through [(9)] (10);~~

~~or~~

~~—— (d) the child should be placed in the temporary custody of the division.~~

~~—— (5) (a) Legal custody of the child is not affected by an order entered under Subsection (2) or (3):~~

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

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

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

~~—— (b) may order the division to conduct a reasonable search to determine whether there are relatives or friends who are willing and appropriate, in accordance with the requirements of this chapter, Chapter 2, Child Welfare Services, and Chapter 2a, Removal and Protective~~

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~~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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- ~~—— (i) a noncustodial parent of the child;~~
- ~~—— (ii) a relative of the child;~~
- ~~—— (iii) subject to Subsection (7)(c), a friend if the friend is a licensed foster parent; and~~
- ~~—— (iv) other placements that are consistent with the requirements of law.~~
- ~~—— (c) In determining whether a friend is a willing, able, and appropriate placement for a child, the juvenile court or the division:~~
 - ~~—— (i) subject to Subsections (7)(c)(ii) through (iv), shall consider the child's preferences or level of comfort with the friend;~~
 - ~~—— (ii) is required to consider no more than one friend designated by each parent of the child and one friend designated by the child if the child is of sufficient maturity to articulate the child's wishes in relation to a placement;~~
 - ~~—— (iii) may limit the number of designated friends to two, one of whom shall be a friend designated by the child if the child is of sufficient maturity to articulate the child's wishes in relation to a placement; and~~
 - ~~—— (iv) shall give preference to a friend designated by the child if:~~
 - ~~—— (A) the child is of sufficient maturity to articulate the child's wishes; and~~
 - ~~—— (B) the basis for removing the child under Section 80-3-301 is sexual abuse of the child.~~
 - ~~—— (f) (i) If a parent of the child or the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a placement, is not able to designate a friend who is a licensed foster parent for placement of the child, but is able to identify a friend who is willing to become licensed as a foster parent, the department shall fully cooperate to expedite the licensing process for the friend.~~
 - ~~—— (ii) If the friend described in Subsection (7)(f)(i) becomes licensed as a foster parent within the time frame described in Subsection (7)(b), the juvenile court shall determine whether it is in the best interest of the child to place the child with the friend.~~
- ~~—— (8) (a) If a child is removed from a foster family's home for cause and the provisions of this section are satisfied, the division and the juvenile court shall give preferential consideration to a relative's request for placement of the child, if the placement is in the best interest of the child.~~
- ~~—— (b) The preferential consideration that the juvenile court or division grants a relative~~

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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~~

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~~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:~~

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~~—— (i) order the relative or friend take custody, subject to the continuing supervision of the juvenile court;~~

~~—— (ii) provide for reasonable parent-time with the parent or parents from whose custody the child is removed, unless parent-time is not in the best interest of the child; and~~

~~—— (iii) conduct a periodic review no less often than every six months, to determine whether:~~

~~—— (A) placement with a relative or friend continues to be in the child's best interest;~~

~~—— (B) the child should be returned home; or~~

~~—— (C) the child should be placed in the custody of the division;~~

~~—— (b) the juvenile court may enter an order:~~

~~—— (i) requiring the division to provide necessary services to the child and the child's relative or friend, including the monitoring of the child's safety and well-being; or~~

~~—— (ii) that the juvenile court considers necessary for the protection and best interest of the child; and~~

~~—— (c) the child and the relative or friend in whose custody the child is placed are under the continuing jurisdiction of the juvenile court[;].~~

~~—— [(11)] (12) No later than 12 months after the day on which the child is removed from the home, the juvenile court shall schedule a hearing for the purpose of entering a permanent order in accordance with the best interest of the child.~~

~~—— [(12)] (13) The time limitations described in Section 80-3-406, with regard to reunification efforts, apply to a child placed with a previously noncustodial parent under Subsection (2) or with a relative or friend under Subsection (6):~~

~~—— [(13)] (14) (a) If the juvenile court awards temporary custody of a child to the division, and the division places the child with a relative, the division shall:~~

~~—— (i) conduct a criminal background check of the relative that complies with the criminal background check provisions described in Section 80-3-305; and~~

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

~~—— (A) take the child into physical custody; and~~

~~—— (B) within three days, excluding weekends and holidays, after the day on which the~~

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~~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.~~

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~~Section 2. Section 80-3-303 is amended to read:~~

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

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

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

~~(a) except as provided in Subsections (2)(b) and (c), shall comply with the applicable background check provisions described in Section 80-3-302;~~

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

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

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

~~(e) may place the child with a noncustodial parent, relative, or friend, using the same criteria established for an emergency placement under Section 80-2a-301, pending the results of:~~

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

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

~~(f) shall take into consideration the will of the child, if the child is of sufficient maturity to articulate the child's wishes in relation to the child's placement.~~

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

~~(a) make written findings explaining why the division's decision differs from the child's wishes; and~~

~~(b) provide the written findings to the juvenile court and the child's attorney guardian~~

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ad litem:

~~Section 3. Section 80-3-502 is amended to read:~~

~~80-3-502. Review of foster care removal--Foster parent's standing.~~

~~(1) With regard to a minor in the custody of the division who is the subject of a petition alleging abuse, neglect, or dependency, and who has been placed in foster care with a foster family, the Legislature finds that:~~

~~(a) except with regard to the minor's natural parents, a foster family has a very limited but recognized interest in its familial relationship with the minor; and~~

~~(b) minors in the custody of the division are experiencing multiple changes in foster care placements with little or no documentation, and that numerous studies of child growth and development emphasize the importance of stability in foster care living arrangements.~~

~~(2) For the reasons described in Subsection (1), the Legislature finds that, except with regard to the minor's natural parents, procedural due process protections must be provided to a foster family prior to removal of a foster minor from the foster home.~~

~~(3) (a) A foster parent who has had a foster minor in the foster parent's home for 12 months or longer may petition the juvenile court for a review and determination of the appropriateness of a decision by the division to remove the minor from the foster home, unless the removal was for the purpose of:~~

~~(i) returning the minor to the minor's natural parent or legal guardian;~~

~~(ii) immediately placing the minor in an approved adoptive home;~~

~~(iii) placing the minor with a relative who obtained custody or asserted an interest in the minor within the preference period described in Subsection [80-3-302(8)] 80-3-302(7); or~~

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

~~(b) The foster parent may petition the juvenile court under this section without exhausting administrative remedies within the division.~~

~~(c) [The] Subject to Subsection 80-3-302(8), the juvenile court may order the division to place the minor in a specified home, and shall base the juvenile court's determination on the best interest of the minor.~~

~~(4) The requirements of this section do not apply to the removal of a minor based on a foster parent's request for that removal.~~

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

‡ **80-4-301. 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) ~~[(†)]~~ (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;

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

~~[(†)]~~ (A) to support or communicate with the child;

~~[(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) ~~[(†)]~~ (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

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give the child proper parental care and protection; or

~~[(1)]~~ ~~(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;~~

~~{~~ ~~(c)}~~ ~~b~~ 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)}~~ ~~c~~ ~~{there is a rebuttable presumption that reunification efforts were sufficient and}~~ 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 {if the juvenile court finds, by clear and convincing evidence, that any of the circumstances described in Subsection 80-3-406(5) exist}to promote the child's best interest; and

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

~~[(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:

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(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.