

SB0056S03 compared with SB0056S02

~~{deleted text}~~ shows text that was in SB0056S02 but was deleted in SB0056S03.

inserted text shows text that was not in SB0056S02 but was inserted into SB0056S03.

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Senator Wayne A. Harper proposes the following substitute bill:

CHILD WELFARE AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: ~~{Tyler Clancy}~~Christine F. Watkins

LONG TITLE

General Description:

This bill amends provisions of the Utah Juvenile Code related to child welfare.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies the requirements for a member of the oversight team managing the psychotropic medication oversight pilot program for children in foster care;
- ▶ allows the Division of Child and Family Services to establish citizen review panels;
- ▶ describes the duties of a citizen review panel and authorizes a citizen review panel to access certain records and information to fulfill the panel's duties;
- ▶ establishes the Child Welfare Improvement Council as a citizen review panel;
- ▶ provides that ~~{a child's placement is temporary}~~. while an interstate compact

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request is ordered or pending, the court may not finalize a non-relative placement unless the court makes certain considerations;

- ▶ modifies the preferential consideration granted to a relative for placement of a child;
- ▶ removes a limit on the preferential consideration granted to a natural parent after 120 days following a shelter hearing;
- ▶ amends the circumstances under which the division is required to notify former foster parents when a child reenters temporary custody or the custody of the division;
- ▶ removes a provision related to the primary permanency plan for a child who is three years old or younger;
- ▶ repeals a provision related to the development of a volunteer network by the Division of Child and Family Services; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

80-2-503.5, as renumbered and amended by Laws of Utah 2022, Chapter 334

80-2-1001, as renumbered and amended by Laws of Utah 2022, Chapter 334

80-2-1101, as renumbered and amended by Laws of Utah 2022, Chapter 334

80-3-301, as last amended by Laws of Utah 2022, Chapters 287, 334

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

80-3-307, as renumbered and amended by Laws of Utah 2022, Chapter 334

80-3-405, as last amended by Laws of Utah 2022, Chapter 335

80-3-407, as last amended by Laws of Utah 2022, Chapters 287, 335

80-3-409, as last amended by Laws of Utah 2022, Chapters 287, 335

ENACTS:

80-3-111, Utah Code Annotated 1953

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REPEALS:

78B-7-112, as last amended by Laws of Utah 2020, Chapter 142

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

Section 1. Section **80-2-503.5** is amended to read:

80-2-503.5. Psychotropic medication oversight pilot program.

(1) As used in this section, "psychotropic medication" means medication prescribed to affect or alter thought processes, mood, or behavior, including antipsychotic, antidepressant, anxiolytic, or behavior medication.

(2) The division shall, through contract with the Department of Health and Human Services, establish and operate a psychotropic medication oversight pilot program for children in foster care to ensure that foster children are being prescribed psychotropic medication consistent with the foster children's needs.

(3) The division shall establish an oversight team to manage the psychotropic medication oversight program, composed of at least the following individuals:

(a) an advanced practice registered nurse, as defined in Section 58-31b-102, [~~employed by~~] contracted with the Department of Health and Human Services; and

(b) a child psychiatrist.

(4) The oversight team shall monitor foster children:

(a) six years old or younger who are being prescribed one or more psychotropic medications; and

(b) seven years old or older who are being prescribed two or more psychotropic medications.

(5) The oversight team shall, upon request, be given information or records related to the foster child's health care history, including psychotropic medication history and mental and behavioral health history, from:

(a) the foster child's current or past caseworker;

(b) the foster child; or

(c) the foster child's:

(i) current or past health care provider;

(ii) natural parents; or

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(iii) foster parents.

(6) The oversight team may review and monitor the following information about a foster child:

(a) the foster child's history;

(b) the foster child's health care, including psychotropic medication history and mental or behavioral health history;

(c) whether there are less invasive treatment options available to meet the foster child's needs;

(d) the dosage or dosage range and appropriateness of the foster child's psychotropic medication;

(e) the short-term or long-term risks associated with the use of the foster child's psychotropic medication; or

(f) the reported benefits of the foster child's psychotropic medication.

(7) (a) The oversight team may make recommendations to the foster child's health care providers concerning the foster child's psychotropic medication or the foster child's mental or behavioral health.

(b) The oversight team shall provide the recommendations made in Subsection (7)(a) to the foster child's parent or guardian after discussing the recommendations with the foster child's current health care providers.

(8) The division may adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to administer this section.

(9) The division shall report to the Child Welfare Legislative Oversight Panel regarding the psychotropic medication oversight pilot program by October 1 of each even numbered year.

Section 2. Section **80-2-1001** is amended to read:

80-2-1001. Management Information System -- Contents -- Classification of records -- Access.

(1) The division shall develop and implement a Management Information System that meets the requirements of this section and the requirements of federal law and regulation.

(2) The Management Information System shall:

(a) contain all key elements of each family's current child and family plan, including:

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(i) the dates and number of times the plan has been administratively or judicially reviewed;

(ii) the number of times the parent failed the child and family plan; and

(iii) the exact length of time the child and family plan has been in effect; and

(b) alert child welfare caseworkers regarding deadlines for completion of and compliance with policy, including child and family plans.

(3) For a child welfare case, the Management Information System shall provide each child welfare caseworker and the Office of Licensing created in Section 62A-2-103, exclusively for the purposes of foster parent licensure and monitoring, with a complete history of each child in the child welfare caseworker's caseload, including:

(a) a record of all past action taken by the division with regard to the child and the child's siblings;

(b) the complete case history and all reports and information in the control or keeping of the division regarding the child and the child's siblings;

(c) the number of times the child has been in the protective custody, temporary custody, and custody of the division;

(d) the cumulative period of time the child has been in the custody of the division;

(e) a record of all reports of abuse or neglect received by the division with regard to the child's parent or guardian including:

(i) for each report, documentation of the:

(A) latest status; or

(B) final outcome or determination; and

(ii) information that indicates whether each report was found to be:

(A) supported;

(B) unsupported;

(C) substantiated;

(D) unsubstantiated; or

(E) without merit;

(f) the number of times the child's parent failed any child and family plan; and

(g) the number of different child welfare caseworkers who have been assigned to the child in the past.

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(4) For child protective services cases, the Management Information System shall:

(a) monitor the compliance of each case with:

(i) division rule;

(ii) state law; and

(iii) federal law and regulation; and

(b) include the age and date of birth of the alleged perpetrator at the time the abuse or neglect is alleged to have occurred, in order to ensure accuracy regarding the identification of the alleged perpetrator.

(5) Information or a record contained in the Management Information System is:

(a) a private, controlled, or protected record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(b) available only:

(i) to a person or government entity with statutory authorization under Title 63G, Chapter 2, Government Records Access and Management Act, to review the information or record;

(ii) to a person who has specific statutory authorization to access the information or record for the purpose of assisting the state with state or federal requirements to maintain information solely for the purpose of protecting minors and providing services to families in need;

(iii) to the extent required by Title IV(b) or IV(e) of the Social Security Act:

(A) to comply with abuse and neglect registry checks requested by other states; or

(B) to the United States Department of Health and Human Services for purposes of maintaining an electronic national registry of supported or substantiated cases of abuse and neglect;

(iv) to the department, upon the approval of the executive director of the department, on a need-to-know basis; ~~[or]~~

(v) as provided in Subsection (6) or Section 80-2-1002[:]; or

(vi) to a citizen review panel for the purpose of fulfilling the panel's duties as described in Section 80-2-1101.

(6) (a) The division may allow a division contract provider, court clerk designated by the Administrative Office of the Courts, the Office of Guardian Ad Litem, or Indian tribe to

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have limited access to the Management Information System.

(b) A division contract provider or Indian tribe has access only to information about a person who is currently receiving services from the specific contract provider or Indian tribe.

(c) A court clerk may only have access to information necessary to comply with Subsection 78B-7-202(2).

(d) (i) The Office of Guardian Ad Litem may only access:

(A) the information that is entered into the Management Information System on or after July 1, 2004, and relates to a child or family where the Office of Guardian Ad Litem is appointed by a court to represent the interests of the child; or

(B) any abuse or neglect referral about a child or family where the office has been appointed by a court to represent the interests of the child, regardless of the date that the information is entered into the Management Information System.

(ii) The division may use the information in the Management Information System to screen an individual as described in Subsection 80-2-1002(4)(b)(ii)(A) at the request of the Office of Guardian Ad Litem.

(e) A contract provider or designated representative of the Office of Guardian Ad Litem or an Indian tribe who requests access to information contained in the Management Information System shall:

(i) take all necessary precautions to safeguard the security of the information contained in the Management Information System;

(ii) train its employees regarding:

(A) requirements for protecting the information contained in the Management Information System under this chapter and under Title 63G, Chapter 2, Government Records Access and Management Act; and

(B) the criminal penalties under Sections 63G-2-801 and 80-2-1005 for improper release of information; and

(iii) monitor its employees to ensure that the employees protect the information contained in the Management Information System as required by law.

(7) The division shall take:

(a) all necessary precautions, including password protection and other appropriate and available technological techniques, to prevent unauthorized access to or release of information

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contained in the Management Information System; and

(b) reasonable precautions to ensure that the division's contract providers comply with Subsection (6).

Section 3. Section **80-2-1101** is amended to read:

80-2-1101. Citizen review panel -- Child Welfare Improvement Council -- Duties.

~~[(1)(a) There is established the Child Welfare Improvement Council composed of no more than 25 members who are appointed by the division.]~~

~~[(b) Except as required by Subsection (1)(c), as terms of current council members expire, the division shall appoint each new member or reappointed member to a four-year term.]~~

~~[(c) Notwithstanding the requirements of Subsection (1)(b), the division shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately half of the council is appointed every two years.]~~

~~[(d) The council shall have geographic, economic, gender, cultural, and philosophical diversity.]~~

~~[(e) When a vacancy occurs in the membership for any reason, the division shall appoint the replacement for the unexpired term.]~~

~~[(2) The council shall elect a chairperson from the council's membership at least biannually.]~~

~~[(3)]~~ (1) (a) The division may establish one or more citizen review panels to:

(i) assist and advise the division as determined by the division; and

(ii) comply with 42 U.S.C. Sec. 5106a(c).

(b) Each panel shall be composed of volunteer members, including former consumers of services, who broadly represent the geographic community or topic area for which the panel is established.

(c) A member [may not receive compensation or benefits for the member's service, but] of a citizen review panel may receive per diem and travel expenses in accordance with:

~~[(a)]~~ (i) Section 63A-3-106;

~~[(b)]~~ (ii) Section 63A-3-107; and

~~[(c)]~~ (iii) rules made by the Division of Finance under Sections 63A-3-106 and

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63A-3-107.

(d) The division shall provide staff to assist a citizen review panel in completing the panel's duties.

(e) (i) A citizen review panel member or division staff assisting a citizen review panel may not disclose to a person or government entity identifying information about a specific child protection case that is provided to the citizen review panel.

(ii) A citizen review panel member or division staff member who violates Subsection (1)(e)(i) may be subject to a civil fine not to exceed \$500 for each violation.

~~[(4)(a) The council shall hold a public meeting quarterly.]~~

~~[(b) Within budgetary constraints, meetings may also be held on the call of the chair, or of a majority of the members.]~~

~~[(c) A majority of the members currently appointed to the council constitute a quorum at any meeting and the action of the majority of the members present shall be the action of the council.]~~

~~[(5) The council shall:]~~

~~[(a) advise the division on matters relating to abuse and neglect;]~~

~~[(b) recommend to the division how funds contained in the Children's Account, created in Section 80-2-501, should be allocated;]~~

~~[(c) conduct public hearings to receive public comment on an abuse or neglect prevention or treatment program under Section 80-2-503;]~~

~~[(d) provide comments to the division on a proposed amendment to performance standards in accordance with Section 80-2-1102; and]~~

~~[(e) provide community and professional input on the performance of the division.]~~

(2) There is established the Child Welfare Improvement Council as a citizen review panel.

(3) The division may designate a child fatality committee, created in Section 62A-16-202, as a citizen review panel.

(4) A citizen review panel designated by the division to fulfill the requirements of 42 U.S.C. Sec. 5106a:

(a) shall meet at least quarterly;

(b) may examine specific cases to evaluate the extent to which an agency is effectively

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discharging the agency's responsibilities in accordance with the state's plan submitted in accordance with 42 U.S.C. Sec. 5106a(b)(1) and the child protection standards set forth in 42 U.S.C. Sec. 5106a(b);

(c) shall annually review findings related to the division made by the Division of Continuous Quality Improvement created in Subsection 26B-1-204(3); and

(d) shall facilitate public outreach and comment in order to assess the impact of current procedures and practices upon children and families in the community.

Section 4. Section **80-3-111** is enacted to read:

80-3-111. Interstate compact -- Relative placement

(1) ~~{Notwithstanding any other provision of this chapter, if}~~If, for a relative placement, an interstate placement requested under the Interstate Compact on the Placement of Children has been initiated by the division or is ordered by or pending before the juvenile court, the ~~{child's placement is temporary until:~~

~~—— (a) the out-of-state placement is made by the division;~~

~~—— (b) the out-of-state placement is declined by the receiving state; or}~~court may not finalize a non-relative placement unless the court gives due weight to:

(a) the preferential consideration granted to a relative in Section 80-3-302;

(b) the rebuttable presumption in Section 80-3-302; and

(c) the ~~{division or the juvenile court determines, in writing, that the out-of-state placement is no longer appropriate or in the best interest of the child}~~division's placement authority under Subsections 80-1-102(50) and 80-3-303(1).

(2) Nothing in this section affects the ability of a foster parent to petition the juvenile court under Subsection 80-3-502(3).

Section 5. Section **80-3-301** is amended to read:

80-3-301. Shelter hearing -- Court considerations.

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

(a) removal of the child from the child's home by the division;

(b) placement of the child in protective custody;

(c) emergency placement under Subsection 80-2a-202(5);

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(d) as an alternative to removal of the child, a parent enters a domestic violence shelter at the request of the division; or

(e) a motion for expedited placement in temporary custody is filed under Section 80-3-203.

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

(a) the name and address of the individual to whom the notice is directed;

(b) the date, time, and place of the shelter hearing;

(c) the name of the child on whose behalf an abuse, neglect, or dependency petition is brought;

(d) a concise statement regarding:

(i) the reasons for removal or other action of the division under Subsection (1); and

(ii) the allegations and code sections under which the proceeding is instituted;

(e) a statement that the parent or guardian to whom notice is given, and the child, are entitled to have an attorney present at the shelter hearing, and that if the parent or guardian is an indigent individual and cannot afford an attorney, and desires to be represented by an attorney, one will be provided in accordance with Title 78B, Chapter 22, Indigent Defense Act; and

(f) a statement that the parent or guardian is liable for the cost of support of the child in the protective custody, temporary custody, and custody of the division, and the cost for legal counsel appointed for the parent or guardian under Subsection (2)(e), according to the financial ability of the parent or guardian.

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

(a) the appropriate guardian ad litem; and

(b) both parents and any guardian of the child, unless the parents or guardians cannot be located.

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

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(a) the child, unless it would be detrimental for the child;
(b) the child's parents or guardian, unless the parents or guardian cannot be located, or fail to appear in response to the notice;

- (c) counsel for the parents, if one is requested;
(d) the child's guardian ad litem;
(e) the child welfare caseworker from the division who is assigned to the case; and
(f) the attorney from the attorney general's office who is representing the division.

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

(i) provide an opportunity to provide relevant testimony to:

(A) the child's parent or guardian, if present; and

(B) any other individual with relevant knowledge;

(ii) subject to Section 80-3-108, provide an opportunity for the child to testify; and

(iii) in accordance with Subsections 80-3-302(7)(c) [~~through (e)~~] and (d), grant preferential consideration to a relative or friend for the temporary placement of the child.

(b) The juvenile court:

(i) may consider all relevant evidence, in accordance with the Utah Rules of Juvenile Procedure;

(ii) shall hear relevant evidence presented by the child, the child's parent or guardian, the requesting party, or the requesting party's counsel; and

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

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

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

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

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

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

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

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

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

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

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

(9) (a) If the child is in protective custody, the juvenile court shall order that the child be returned to the custody of the parent or guardian unless the juvenile court finds, by a preponderance of the evidence, consistent with the protections and requirements provided in Subsection 80-2a-201(1), that any one of the following exists:

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

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

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

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

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

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

(A) a parent or guardian;

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

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

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- (v) the parent or guardian is unwilling to have physical custody of the child;
- (vi) the parent or guardian is unable to have physical custody of the child;
- (vii) the child is without any provision for the child's support;
- (viii) a parent who is incarcerated or institutionalized has not or cannot arrange for safe and appropriate care for the child;
- (ix) (A) a relative or other adult custodian with whom the child is left by the parent or guardian is unwilling or unable to provide care or support for the child;
- (B) the whereabouts of the parent or guardian are unknown; and
- (C) reasonable efforts to locate the parent or guardian are unsuccessful;
- (x) subject to Subsection 80-1-102(58)(b)(i) and Sections 80-3-109 and 80-3-304, the child is in immediate need of medical care;
- (xi) (A) the physical environment or the fact that the child is left unattended beyond a reasonable period of time poses a threat to the child's health or safety; and
- (B) the parent or guardian is unwilling or unable to make reasonable changes that would remove the threat;
- (xii) (A) the child or a minor residing in the same household has been neglected; and
- (B) the parent or guardian is unwilling or unable to make reasonable changes that would prevent the neglect;
- (xiii) the parent, guardian, or an adult residing in the same household as the parent or guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act, and any clandestine laboratory operation was located in the residence or on the property where the child resided;
- (xiv) (A) the child's welfare is substantially endangered; and
- (B) the parent or guardian is unwilling or unable to make reasonable changes that would remove the danger; or
- (xv) the child's natural parent:
 - (A) intentionally, knowingly, or recklessly causes the death of another parent of the child;
 - (B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or
 - (C) is being prosecuted for or has been convicted of intentionally, knowingly, or

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recklessly causing the death of another parent of the child.

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

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

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

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

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

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

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

(11) If the division's first contact with the family occurred during an emergency situation in which the child could not safely remain at home, the juvenile court shall make a finding that any lack of preplacement preventive efforts, as described in Section 80-2a-302, was appropriate.

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

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

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

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

(15) If the juvenile court finds that continued removal and temporary custody are necessary for the protection of a child under Subsection (9)(a), the juvenile court shall order continued removal regardless of:

- (a) any error in the initial removal of the child;
- (b) the failure of a party to comply with notice provisions; or
- (c) any other procedural requirement of this chapter, Chapter 2, Child Welfare Services, or Chapter 2a, Removal and Protective Custody of a Child.

Section 6. Section **80-3-302** is amended to read:

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

(1) As used in this section:

(a) "Asserted an interest" means to communicate, verbally or in writing, to the division or the court, that the relative or friend is interested in becoming a placement for the child.

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

~~[(+)]~~ (A) a biological or adoptive mother of the child;

~~[(+)]~~ (B) an adoptive father of the child; or

~~[(+)]~~ (C) a biological father of the child who:

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

~~[(B)]~~ (II) 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)]~~ (ii) "Natural parent" includes the individuals described in Subsection ~~[(+)]~~(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

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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.

(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;

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(c) the child should be placed with a relative under Subsections (6) through (9); 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 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]~~ Subsection (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.]~~

(ii) If a relative or friend verbally communicates to the division or court that the relative or friend is interested in becoming a placement for the child, the division or court shall

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make a written record of the communication and include that written record in the report the division submits at the initial dispositional hearing, a report the division submits under Section 80-3-408, or the court's legal file.

(b) (i) (A) 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)]~~ (B) After the day on which the time period described in Subsection ~~[(7)(b)(i)]~~ (7)(b)(i)(A) 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.

(ii) (A) Until eight months after the day on which the shelter hearing occurs, the preferential consideration that the juvenile court or division grants a relative under Subsection (7)(a)(i) is a rebuttable presumption that placement of the child with a relative is in the best interest of the child.

(B) After the rebuttable presumption described in Subsection (7)(b)(ii)(A) expires, the juvenile court or division 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 considering the totality of the circumstances.

(C) If a relative asserts an interest in becoming a placement for the child more than one year after the day on which the shelter hearing occurs, the juvenile court may not give the relative the preferential consideration described in Subsection (7)(b)(ii)(B).

~~[(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)]~~ (c) ~~[Before the day on which the time period described in Subsection (7)(c)(i) expires, the]~~ 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:

- (i) a noncustodial parent of the child;
- (ii) a relative of the child;

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

(iv) other placements that are consistent with the requirements of law.

~~[(e)]~~ (d) 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)(e)(ii)~~] (7)(d)(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)]~~ (e) (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)~~] (7)(e)(i) becomes licensed as a foster parent within the time frame described in Subsection (7)(b)(i), 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 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

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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).

(b) In making the finding described in Subsection (8)(a), 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:

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(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)(a).

(d) The division shall complete and file the division's assessment regarding placement with a relative or friend under Subsections (8)(a) and (b) as soon as practicable, in an effort to facilitate placement of the child with a relative or friend.

(9) (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), 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) If a juvenile court places a child described in Subsection (6) with the child's relative or friend:

(a) the juvenile court shall:

(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

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- (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) 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) 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) (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)(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 child is taken into physical custody under Subsection (13)(a)(ii)(A), give written notice to the juvenile court, and all parties to the proceedings, of the division's action.
- (b) Subsection (13)(a) does not prohibit the division from placing a child with a relative, pending the results of the background check described in Subsection (13)(a) on the relative.
- (14) 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

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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) (a) If a child reenters the temporary custody or the custody of the division and ~~is placed in foster care,~~ the child is not placed with an individual who is a parent, relative, or friend, 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) 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) 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) This section does not guarantee that an identified relative or friend will receive custody of the child.

(19) (a) ~~{Notwithstanding any other provision of this chapter, if}~~ If, for a relative placement, an interstate placement requested under the Interstate Compact on the Placement of Children has been initiated by the division or is ordered by or pending before the juvenile court, the ~~{child's placement is temporary until:~~

~~(i) the out-of-state placement is made by the division;~~

~~(ii) the out-of-state placement is declined by the receiving state; or}~~ court may not finalize a non-relative placement unless the court gives due weight to:

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(i) the preferential consideration granted to a relative in Section 80-3-302;
(ii) the rebuttable presumption in Section 80-3-302; and
(iii) the ~~division or the juvenile court determines, in writing, that the out-of-state placement is no longer appropriate or in the best interest of the child;~~ division's placement authority under Subsections 80-1-102(50) and 80-3-303(1).

(b) Nothing in this section affects the ability of a foster parent to petition the juvenile court under Subsection 80-3-502(3).

Section 7. 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 (e), 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); 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.

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(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 ad litem.

(4) (a) ~~{Notwithstanding any other provision of this chapter, if}~~ If, for a relative placement, an interstate placement requested under the Interstate Compact on the Placement of Children has been initiated by the division or is ordered by or pending before the juvenile court, the ~~{child's placement is temporary until:~~

~~—— (i) the out-of-state placement is made by the division;~~

~~—— (ii) the out-of-state placement is declined by the receiving state; or}~~ court may not finalize a non-relative placement unless the court gives due weight to:

(i) the preferential consideration granted to a relative in Section 80-3-302;

(ii) the rebuttable presumption in Section 80-3-302; and

(iii) the ~~{division or the juvenile court determines, in writing, that the out-of-state placement is no longer appropriate or in the best interest of the child}~~ division's placement authority under Subsections 80-1-102(50) and 80-3-303(1).

(b) Nothing in this section affects the ability of a foster parent to petition the juvenile court under Subsection 80-3-502(3).

Section 8. Section **80-3-307** is amended to read:

80-3-307. Child and family plan developed by division -- Parent-time and relative visitation.

(1) The division shall develop and finalize a child's child and family plan no more than 45 days after the day on which the child enters the temporary custody of the division.

(2) (a) The division may use an interdisciplinary team approach in developing a child and family plan.

(b) The interdisciplinary team described in Subsection (2)(a) may include representatives from the following fields:

(i) mental health;

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- (ii) education; or
- (iii) if appropriate, law enforcement.

(3) (a) The division shall involve all of the following in the development of a child's child and family plan:

- (i) both of the child's natural parents, unless the whereabouts of a parent are unknown;
- (ii) the child;
- (iii) the child's foster parents; and
- (iv) if appropriate, the child's stepparent.

(b) Subsection (3)(a) does not prohibit any other party not listed in Subsection (3)(a) or a party's counsel from being involved in the development of a child's child and family plan if the party or counsel's participation is otherwise permitted by law.

(c) In relation to all information considered by the division in developing a child and family plan, the division shall give additional weight and attention to the input of the child's natural and foster parents upon the involvement of the child's natural and foster parents under Subsections (3)(a)(i) and (iii).

(d) (i) The division shall make a substantial effort to develop a child and family plan with which the child's parents agree.

(ii) If a parent does not agree with a child and family plan:

(A) the division shall strive to resolve the disagreement between the division and the parent; and

(B) if the disagreement is not resolved, the division shall inform the court of the disagreement.

(4) A copy of the child and family plan shall, immediately upon completion, or as soon as reasonably possible thereafter, be provided to:

- (a) the guardian ad litem;
- (b) the child's natural parents; and
- (c) the child's foster parents.

(5) A child and family plan shall:

- (a) specifically provide for the safety of the child, in accordance with federal law;
- (b) clearly define what actions or precautions will, or may be, necessary to provide for the health, safety, protection, and welfare of the child;

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- (c) be specific to each child and the child's family, rather than general;
- (d) include individualized expectations and contain specific time frames;
- (e) except as provided in Subsection (6), address problems that:
 - (i) keep a child in the child's placement; and
 - (ii) keep a child from achieving permanence in the child's life;
- (f) be designed to:
 - (i) minimize disruption to the normal activities of the child's family, including employment and school; and
 - (ii) as much as practicable, help the child's parent maintain or obtain employment; and
- (g) set forth, with specificity, at least the following:
 - (i) the reason the child entered into protective custody or the division's temporary custody or custody;
 - (ii) documentation of:
 - (A) the reasonable efforts made to prevent placement of the child in protective custody or the division's temporary custody or custody; or
 - (B) the emergency situation that existed and that prevented the reasonable efforts described in Subsection (5)(g)(ii)(A), from being made;
 - (iii) the primary permanency plan for the child, as described in Section 80-3-406, and the reason for selection of the plan;
 - (iv) the concurrent permanency plan for the child, as described in Section 80-3-406, and the reason for the selection of the plan;
 - (v) if the plan is for the child to return to the child's family:
 - (A) specifically what the parents must do in order to enable the child to be returned home;
 - (B) specifically how the requirements described in Subsection (5)(g)(v)(A) may be accomplished; and
 - (C) how the requirements described in Subsection (5)(g)(v)(A) will be measured;
 - (vi) the specific services needed to reduce the problems that necessitated placing the child in protective custody or the division's temporary custody or custody;
 - (vii) the name of the individual who will provide for and be responsible for case management for the division;

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(viii) subject to Subsection (10), a parent-time schedule between the natural parent and the child;

(ix) subject to Subsection (7), the health and mental health care to be provided to address any known or diagnosed mental health needs of the child;

(x) if residential treatment rather than a foster home is the proposed placement, a requirement for a specialized assessment of the child's health needs including an assessment of mental illness and behavior and conduct disorders;

(xi) social summaries that include case history information pertinent to case planning; and

(xii) subject to Subsection (12), a sibling visitation schedule.

(6) For purposes of Subsection (5)(e), a child and family plan may only include requirements that:

(a) address findings made by the court; or

(b) (i) are requested or consented to by a parent or guardian of the child; and

(ii) are agreed to by the division and the guardian ad litem.

(7) (a) Subject to Subsection (7)(b), in addition to the information required under Subsection (5)(g)(ix), a child and family plan shall include a specialized assessment of the medical and mental health needs of a child, if the child:

(i) is placed in residential treatment; and

(ii) has medical or mental health issues that need to be addressed.

(b) Notwithstanding Subsection (7)(a), a parent shall retain the right to seek a separate medical or mental health diagnosis of the parent's child from a licensed practitioner of the parent's choice.

(8) (a) The division shall train the division's employees to develop child and family plans that comply with:

(i) federal mandates; and

(ii) the specific needs of the particular child and the child's family.

(b) The child's natural parents, foster parents, and if appropriate, stepparents, shall be kept informed of and supported to participate in important meetings and procedures related to the child's placement.

~~[(9) (a) Except as provided in Subsection (9)(b), with regard to a child who is three~~

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~~years old or younger, if the child and family plan is not to return the child home, the primary permanency plan described in Section 80-3-406 for the child shall be adoption.]~~

~~[(b) Notwithstanding Subsection (9)(a), if]~~

(9) If the division documents to the court that there is a compelling reason that adoption, reunification, guardianship, and a placement described in Subsection 80-3-301(6)(e) are not in the child's best interest, the court may order another planned permanent living arrangement in accordance with federal law.

(10) (a) Except as provided in Subsection (10)(b), parent-time may only be denied by a court order issued in accordance with Subsection 80-3-406(9).

(b) Notwithstanding Subsection (10)(a), the person designated by the division or a court to supervise a parent-time session may deny parent-time for the session if the supervising person determines that, based on the parent's condition, it is necessary to deny parent-time to:

- (i) protect the physical safety of the child;
- (ii) protect the life of the child; or
- (iii) consistent with Subsection (10)(c), prevent the child from being traumatized by contact with the parent.

(c) In determining whether the condition of the parent described in Subsection (10)(b) will traumatize a child, the person supervising the parent-time session shall consider the impact that the parent's condition will have on the child in light of:

- (i) the child's fear of the parent; and
- (ii) the nature of the alleged abuse or neglect.

(11) If a child is in the division's temporary custody or custody, the division shall consider visitation with the child's grandparent if:

- (a) the division determines the visitation to be in the best interest of the child;
- (b) there are no safety concerns regarding the behavior or criminal background of the grandparent;
- (c) allowing the grandparent visitation would not compete with or undermine the child's reunification plan;
- (d) there is a substantial relationship between the grandparent and child; and
- (e) the grandparent visitation will not unduly burden the foster parents.

(12) (a) The division shall incorporate into the child and family plan reasonable efforts

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to provide sibling visitation if:

- (i) siblings are separated due to foster care or adoptive placement;
 - (ii) the sibling visitation is in the best interest of the child for whom the child and family plan is developed; and
 - (iii) the division has consent for sibling visitation from the guardian of the sibling.
- (b) The division shall obtain consent for sibling visitation from the sibling's guardian if the criteria of Subsections (12)(a)(i) and (ii) are met.

Section 9. Section **80-3-405** is amended to read:

80-3-405. Dispositions after adjudication.

(1) [(a)] Upon adjudication under Subsection 80-3-402(1), the juvenile court may make the dispositions described in Subsection (2) at the dispositional hearing.

(2) (a) (i) The juvenile court may vest custody of an abused, neglected, or dependent minor in the division or any other appropriate person, with or without court-specified child welfare services, in accordance with the requirements and procedures of this chapter.

(ii) When placing a minor in the custody of the division or any other appropriate person, the juvenile court:

(A) shall give primary consideration to the welfare of the minor;

(B) shall give due consideration to the rights of the parent or parents concerning the minor; and

(C) when practicable, may take into consideration the religious preferences of the minor and of the minor's parents or guardian.

(b) (i) The juvenile court may appoint a guardian for the minor if it appears necessary in the interest of the minor.

(ii) A guardian appointed under Subsection (2)(b)(i) may be a public or private institution or agency, but not a nonsecure residential placement provider, in which legal custody of the minor is vested.

(iii) When placing a minor under the guardianship of an individual or of a private agency or institution, the juvenile court:

(A) shall give primary consideration to the welfare of the minor; and

(B) when practicable, may take into consideration the religious preferences of the minor and of the minor's parents or guardian.

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(c) The juvenile court may order:

- (i) protective supervision;
- (ii) family preservation;
- (iii) sibling visitation; or
- (iv) other services.

(d) (i) If a minor has been placed with an individual or relative as a result of an adjudication under this chapter, the juvenile court may enter an order of permanent legal custody and guardianship with the individual or relative of the minor.

(ii) If a juvenile court enters an order of permanent custody and guardianship with an individual or relative of a minor under Subsection (2)(d)(i), the juvenile court may, in accordance with Section 78A-6-356, enter an order for child support on behalf of the minor against the natural parents of the minor.

(iii) An order under this Subsection (2)(d):

- (A) shall remain in effect until the minor is 18 years old;
- (B) is not subject to review under Section 78A-6-358; and
- (C) may be modified by petition or motion as provided in Section 78A-6-357.

(e) The juvenile court may order a child be committed to the physical custody, as defined in Section 62A-15-701, of a local mental health authority, in accordance with the procedures and requirements of Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.

(f) (i) If the child has an intellectual disability, the juvenile court may make an order committing a minor to the Utah State Developmental Center in accordance with Title 62A, Chapter 5, Part 3, Admission to an Intermediate Care Facility for People with an Intellectual Disability.

(ii) The juvenile court shall follow the procedure applicable in the district court with respect to judicial commitments to the Utah State Developmental Center when ordering a commitment under Subsection (2)(f)(i).

(g) (i) Subject to Subsection 80-1-102(58)(b) and Section 80-3-304, the juvenile court may order that a minor:

(A) be examined or treated by a mental health therapist, as described in Section 80-3-109; or

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(B) receive other special care.

(ii) For purposes of receiving the examination, treatment, or care described in Subsection (2)(g)(i), the juvenile court may place the minor in a hospital or other suitable facility that is not secure care or secure detention.

(iii) In determining whether to order the examination, treatment, or care described in Subsection (2)(g)(i), the juvenile court shall consider:

(A) the desires of the minor;

(B) the desires of the parent or guardian of the minor if the minor is younger than 18 years old; and

(C) whether the potential benefits of the examination, treatment, or care outweigh the potential risks and side-effects, including behavioral disturbances, suicidal ideation, brain function impairment, or emotional or physical harm resulting from the compulsory nature of the examination, treatment, or care.

(h) The juvenile court may make other reasonable orders for the best interest of the minor.

(3) Upon an adjudication under this chapter, the juvenile court may not:

(a) commit a minor solely on the ground of abuse, neglect, or dependency to the Division of Juvenile Justice Services;

(b) assume the function of developing foster home services; or

(c) vest legal custody of an abused, neglected, or dependent minor in the division to primarily address the minor's ungovernable or other behavior, mental health, or disability, unless the division:

(i) engages other relevant divisions within the department that are conducting an assessment of the minor and the minor's family's needs;

(ii) based on the assessment described in Subsection (3)(c)(i), determines that vesting custody of the minor in the division is the least restrictive intervention for the minor that meets the minor's needs; and

(iii) consents to legal custody of the minor being vested in the division.

(4) The juvenile court may combine the dispositions listed in Subsection (2) if combining the dispositions is permissible and the dispositions are compatible.

(5) (a) ~~Notwithstanding any other provision of this chapter, if~~ If, for a relative

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placement, an interstate placement requested under the Interstate Compact on the Placement of Children has been initiated by the division or is ordered by or pending before the juvenile court, the ~~{child's placement is temporary until:~~

~~—— (i) the out-of-state placement is made by the division;~~
~~—— (ii) the out-of-state placement is declined by the receiving state; or}~~ court may not finalize a non-relative placement unless the court gives due weight to:

(i) the preferential consideration granted to a relative in Section 80-3-302;

(ii) the rebuttable presumption in Section 80-3-302; and

(iii) the ~~{division or the juvenile court determines, in writing, that the out-of-state placement is no longer appropriate or in the best interest of the child}~~ division's placement authority under Subsections 80-1-102(50) and 80-3-303(1).

(b) Nothing in this section affects the ability of a foster parent to petition the juvenile court under Subsection 80-3-502(3).

Section 10. Section **80-3-407** is amended to read:

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

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

~~[(1)]~~ (a) the division has provided and is providing reasonable efforts to reunify the family in accordance with the child and family plan;

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

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

(2) (a) ~~{Notwithstanding any other provision of this chapter, if}~~ If, for a relative placement, an interstate placement requested under the Interstate Compact on the Placement of Children has been initiated by the division or is ordered by or pending before the juvenile court, the ~~{child's placement is temporary until:~~

~~—— (i) the out-of-state placement is made by the division;~~

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~~(ii) the out-of-state placement is declined by the receiving state; or~~ court may not finalize a non-relative placement unless the court gives due weight to:

(i) the preferential consideration granted to a relative in Section 80-3-302;

(ii) the rebuttable presumption in Section 80-3-302; and

~~(iii) the {division or the juvenile court determines, in writing, that the out-of-state placement is no longer appropriate or in the best interest of the child}~~ division's placement authority under Subsections 80-1-102(50) and 80-3-303(1).

(b) Nothing in this section affects the ability of a foster parent to petition the juvenile court under Subsection 80-3-502(3).

Section 11. Section **80-3-409** is amended to read:

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

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

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

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

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

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

(i) the parent or guardian fails to:

(A) participate in a court approved child and family plan;

(B) comply with a court approved child and family plan in whole or in part; or

(C) meet the goals of a court approved child and family plan; or

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(ii) the minor's natural parent:

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

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

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

(3) In making a determination under Subsection (2)(a), the juvenile court shall:

(a) review and consider:

(i) the report prepared by the division;

(ii) in accordance with the Utah Rules of Evidence, any admissible evidence offered by the minor's attorney guardian ad litem;

(iii) any report submitted by the division under Subsection 80-3-408(3)(a)(i);

(iv) any evidence regarding the efforts or progress demonstrated by the parent; and

(v) the extent to which the parent cooperated and used the services provided; and

(b) attempt to keep the minor's sibling group together if keeping the sibling group together is:

(i) practicable; and

(ii) in accordance with the best interest of the minor.

(4) With regard to a case where reunification services are ordered by the juvenile court, if a minor is not returned to the minor's parent or guardian at the permanency hearing, the juvenile court shall, unless the time for the provision of reunification services is extended under Subsection (7):

(a) order termination of reunification services to the parent;

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

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

(5) The juvenile court may order another planned permanent living arrangement other

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than reunification for a minor who is 16 years old or older upon entering the following findings:

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

(b) the division has demonstrated that the division has made efforts to normalize the life of the minor while in the division's custody, in accordance with Section 80-2-308;

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

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

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

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

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

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

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

(b) (i) Except as provided in Subsection (7)(c), the juvenile court may not extend any reunification services beyond 15 months after the day on which the minor is initially removed from the minor's home.

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

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

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

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

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

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

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

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

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

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

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

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

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

(9) (a) If the final plan for the minor is to proceed toward termination of parental rights, the petition for termination of parental rights shall be filed, and a pretrial held, within 45 calendar days after the day on which the permanency hearing is held.

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

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

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

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

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

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

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

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

(c) limit or prohibit the filing of a petition for termination of parental rights by any party, or a hearing on termination of parental rights, at any time before a permanency hearing provided that relative placement and custody options have been fairly considered in accordance with Sections 80-2a-201 and 80-4-104.

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

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

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

(ii) any reunification services shall be terminated in accordance with the time lines described in Section 80-3-406.

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

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

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

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

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

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(15) (a) ~~{Notwithstanding any other provision of this chapter, if}~~ If, for a relative placement, an interstate placement requested under the Interstate Compact on the Placement of Children has been initiated by the division or is ordered by or pending before the juvenile court, the ~~{child's placement is temporary until:~~

- ~~—— (i) the out-of-state placement is made by the division;~~
- ~~—— (ii) the out-of-state placement is declined by the receiving state; or}~~ court may not finalize a non-relative placement unless the court gives due weight to:
 - (i) the preferential consideration granted to a relative in Section 80-3-302;
 - (ii) the rebuttable presumption in Section 80-3-302; and
 - (iii) the {division or the juvenile court determines, in writing, that the out-of-state placement is no longer appropriate or in the best interest of the child} division's placement authority under Subsections 80-1-102(50) and 80-3-303(1).

(b) Nothing in this section affects the ability of a foster parent to petition the juvenile court under Subsection 80-3-502(3).

Section 12. **Repealer.**

This bill repeals:

Section **78B-7-112, Division of Child and Family Services -- Development and assistance of volunteer network.**