

1 **CHILD WELFARE MODIFICATIONS**

2 2023 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Wayne A. Harper**

5 House Sponsor: Karianne Lisonbee

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7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions regarding the placement of a child.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ defines terms;
- 13 ▶ provides that it is the public policy of the state that, with certain conditions:
  - 14 • a parent retains the right to have contact with a child when the child is placed
  - 15 outside of the home; and
  - 16 • a child has the right to have contact with siblings when the child is placed apart
  - 17 from the child's siblings;
- 18 ▶ requires a juvenile court to order sibling visits except in certain circumstances;
- 19 ▶ directs a juvenile court to make certain findings regarding parent time;
- 20 ▶ creates a rebuttable presumption that, at certain times, parent time will be
- 21 unsupervised and under the least restrictive conditions necessary to protect the
- 22 child;
- 23 ▶ removes a provision related to the primary permanency plan for a child who is three
- 24 years old or younger; and
- 25 ▶ makes technical and conforming changes.

26 **Money Appropriated in this Bill:**

27 None



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **80-2a-201**, as renumbered and amended by Laws of Utah 2022, Chapter 334

33 **80-2a-304**, as last amended by Laws of Utah 2022, Chapter 287 and renumbered and  
34 amended by Laws of Utah 2022, Chapter 334

35 **80-3-301**, as last amended by Laws of Utah 2022, Chapters 287, 334

36 **80-3-302**, as last amended by Laws of Utah 2022, Chapters 287, 334

37 **80-3-303**, as last amended by Laws of Utah 2022, Chapters 287, 335

38 **80-3-307**, as renumbered and amended by Laws of Utah 2022, Chapter 334

39 **80-3-402**, as renumbered and amended by Laws of Utah 2021, Chapter 261

40 **80-3-405**, as last amended by Laws of Utah 2022, Chapter 335

41 **80-3-406**, as last amended by Laws of Utah 2022, Chapters 287, 334

42 **80-3-407**, as last amended by Laws of Utah 2022, Chapters 287, 335

43 **80-3-409**, as last amended by Laws of Utah 2022, Chapters 287, 335

44 **80-3-502**, as renumbered and amended by Laws of Utah 2021, Chapter 261

45 **80-4-305**, as last amended by Laws of Utah 2022, Chapters 287, 334



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

48 Section 1. Section **80-2a-201** is amended to read:

49 **80-2a-201. Rights of parents -- Children's rights -- Interest and responsibility of**  
50 **state.**

51 (1) (a) Under both the United States Constitution and the constitution of this state, a  
52 parent possesses a fundamental liberty interest in the care, custody, and management of the  
53 parent's children. A fundamentally fair process must be provided to parents if the state moves  
54 to challenge or interfere with parental rights. A governmental entity must support any actions  
55 or allegations made in opposition to the rights and desires of a parent regarding the parent's  
56 child by sufficient evidence to satisfy a parent's constitutional entitlement to heightened  
57 protection against government interference with the parent's fundamental rights and liberty  
58 interests and, concomitantly, the right of the child to be reared by the child's natural parent.

59 (b) The fundamental liberty interest of a parent concerning the care, custody, and  
60 management of the parent's child is recognized, protected, and does not cease to exist simply  
61 because a parent may fail to be a model parent or because the parent's child is placed in the  
62 temporary custody of the state. At all times, a parent retains a vital interest in preventing the  
63 irretrievable destruction of family life. Before an adjudication of unfitness, government action  
64 in relation to a parent and the parent's child may not exceed the least restrictive means or  
65 alternatives available to accomplish a compelling state interest. Until the state proves parental  
66 unfitness, and the child suffers, or is substantially likely to suffer, serious detriment as a result,  
67 the child and the child's parent share a vital interest in preventing erroneous termination of their  
68 natural relationship and the state cannot presume that a child and the child's parent are  
69 adversaries.

70 (c) It is in the best interest and welfare of a child to be raised under the care and  
71 supervision of the child's natural parents. A child's need for a normal family life in a permanent  
72 home, and for positive, nurturing family relationships is usually best met by the child's natural  
73 parents. Additionally, the integrity of the family unit and the right of a parent to conceive and  
74 raise the parent's child are constitutionally protected. The right of a fit, competent parent to  
75 raise the parent's child without undue government interference is a fundamental liberty interest  
76 that has long been protected by the laws and Constitution and is a fundamental public policy of  
77 this state.

78 (d) The state recognizes that:

79 (i) a parent has the right, obligation, responsibility, and authority to raise, manage,  
80 train, educate, provide and care for, and reasonably discipline the parent's child; and

81 (ii) the state's role is secondary and supportive to the primary role of a parent.

82 (e) It is the public policy of this state that:

83 (i) a parent retains the fundamental right and duty to exercise primary control over the  
84 care, supervision, upbringing, and education of the parent's child[-];

85 (ii) a parent retains the right to have contact with the parent's child when the child is  
86 placed outside of the parent's home, and parent-time should be ordered by a court so long as the  
87 contact is not contrary to the best interest of the child; and

88 (iii) a child has the right to have contact with the child's sibling when the child is  
89 placed outside of the home and apart from the child's sibling, and sibling visits should be

90 ordered by a court unless the contact would be contrary to the safety or well-being of the child.

91 (f) Subsections (2) through (7) shall be interpreted and applied consistent with this  
92 Subsection (1).

93 (2) It is also the public policy of this state that children have the right to protection  
94 from abuse and neglect, and that the state retains a compelling interest in investigating,  
95 prosecuting, and punishing abuse and neglect. Therefore, the state, as *parens patriae*, has an  
96 interest in and responsibility to protect a child whose parent abuses the child or does not  
97 adequately provide for the child's welfare. There may be circumstances where a parent's  
98 conduct or condition is a substantial departure from the norm and the parent is unable or  
99 unwilling to render safe and proper parental care and protection. Under those circumstances,  
100 the state may take action for the welfare and protection of the parent's child.

101 (3) When the division intervenes on behalf of an abused, neglected, or dependent child,  
102 the division shall take into account the child's need for protection from immediate harm and the  
103 extent to which the child's extended family may provide needed protection. Throughout the  
104 division's involvement, the division shall utilize the least intrusive and least restrictive means  
105 available to protect a child, in an effort to ensure that children are brought up in stable,  
106 permanent families, rather than in temporary foster placements under the supervision of the  
107 state.

108 (4) If circumstances within the family pose a threat to the child's immediate safety or  
109 welfare, the division may seek custody of the child for a planned, temporary period and place  
110 the child in a safe environment, subject to the requirements of this section and in accordance  
111 with Chapter 3, Abuse, Neglect, and Dependency Proceedings, and when safe and appropriate,  
112 return the child to the child's parent or as a last resort, pursue another permanency plan.

113 (5) In determining and making reasonable efforts with regard to a child, under Section  
114 [80-2a-302](#), both the division's and the juvenile court's paramount concern shall be the child's  
115 health, safety, and welfare. The desires of a parent for the parent's child, and the  
116 constitutionally protected rights of a parent, as described in this section, shall be given full and  
117 serious consideration by the division and the juvenile court.

118 (6) In accordance with Subsections [80-2a-302\(4\)](#) and [80-3-301\(12\)](#), in cases where  
119 sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved,  
120 the state has no duty to make reasonable efforts or to, in any other way, attempt to maintain a

121 child in the child's home, provide reunification services, or rehabilitate the offending parent or  
122 parents. This Subsection (6) does not exempt the division from providing court-ordered  
123 services.

124 (7) (a) In accordance with Subsection (1), the division shall strive to achieve  
125 appropriate permanency for children who are abused, neglected, or dependent. The division  
126 shall provide in-home services, if appropriate and safe, in an effort to help a parent to correct  
127 the behavior that resulted in abuse, neglect, or dependency of the parent's child. The division  
128 may pursue a foster placement only if in-home services fail or are otherwise insufficient or  
129 inappropriate, kinship placement is not safe or appropriate, or in-home services and kinship  
130 placement fail and cannot be corrected. The division shall also seek qualified extended family  
131 support or a kinship placement to maintain a sense of security and stability for the child.

132 (b) If the use or continuation of reasonable efforts, as described in Subsections (5) and  
133 (6), is determined to be inconsistent with the permanency plan for a child, then measures shall  
134 be taken, in a timely manner, to place the child in accordance with the permanency plan, and to  
135 complete whatever steps are necessary to finalize the permanent placement of the child.

136 (c) Subject to the parental rights recognized and protected under this section, if,  
137 because of a parent's conduct or condition, the parent is determined to be unfit or incompetent  
138 based on the grounds for termination of parental rights described in Chapter 4, Termination and  
139 Restoration of Parental Rights, the continuing welfare and best interest of the child is of  
140 paramount importance, and shall be protected in determining whether that parent's rights  
141 should be terminated.

142 (8) The state's right to direct or intervene in the provision of medical or mental health  
143 care for a child is subject to Subsections 80-1-102(58)(b)(i) through (iii) and Sections 80-3-109  
144 and 80-3-304.

145 Section 2. Section **80-2a-304** is amended to read:

146 **80-2a-304. Removal of a child from foster family placement -- Procedural due**  
147 **process.**

148 (1) (a) The Legislature finds that, except with regard to a child's natural parent or  
149 guardian, a foster family has a very limited but recognized interest in the foster family's  
150 familial relationship with a foster child who has been in the care and custody of the foster  
151 family and in making determinations regarding removal of a child from a foster home, the

152 division may not dismiss the foster family as a mere collection of unrelated individuals.

153 (b) The Legislature finds that children in the temporary custody and custody of the  
154 division are experiencing multiple changes in foster care placements with little or no  
155 documentation, and that numerous studies of child growth and development emphasize the  
156 importance of stability in foster care living arrangements.

157 (c) For the reasons described in Subsections (1)(a) and (b), the division shall provide  
158 procedural due process for a foster family before removal of a foster child from the foster  
159 family's home, regardless of the length of time the child has been in the foster family's home,  
160 unless removal is for the purpose of:

- 161 (i) returning the child to the child's natural parent or guardian;
- 162 (ii) immediately placing the child in an approved adoptive home;
- 163 (iii) placing the child with a relative who obtained custody or asserted an interest in the  
164 child within the preference period described in Subsection [~~80-3-302(7)~~ 80-3-302(9)]; or
- 165 (iv) placing an Indian child in accordance with placement preferences and other  
166 requirements described in the Indian Child Welfare Act, 25 U.S.C. Sec. 1915.

167 (2) (a) The division shall maintain and utilize due process procedures for removal of a  
168 foster child from a foster home, in accordance with the procedures and requirements of Title  
169 63G, Chapter 4, Administrative Procedures Act.

170 (b) The procedures described in Subsection (2)(a) shall include requirements for:

- 171 (i) personal communication with, and a written explanation of the reasons for the  
172 removal to, the foster parents before removal of the child; and
- 173 (ii) an opportunity for foster parents to:

174 (A) present the foster parents' information and concerns to the division; and

175 (B) request a review, to be held before removal of the child, by a third party neutral  
176 fact finder or if the child is placed with the foster parents for a period of at least two years,  
177 request a review, to be held before removal of the child, by the juvenile court judge currently  
178 assigned to the child's case or, if the juvenile court judge currently assigned to the child's case  
179 is not available, another juvenile court judge.

180 (c) If the division determines that there is a reasonable basis to believe that the child is  
181 in danger or that there is a substantial threat of danger to the health or welfare of the child, the  
182 division shall place the child in emergency foster care during the pendency of the procedures

183 described in this Subsection (2), instead of making another foster care placement.

184 (3) (a) If the division removes a child from a foster home based on the child's statement  
185 alone, the division shall initiate and expedite the processes described in Subsection (2).

186 (b) The division may not take formal action with regard to the foster parent's license  
187 until after the processes described in Subsection (2), in addition to any other procedure or  
188 hearing required by law, are completed.

189 (4) If a complaint is made to the division by a foster child against a foster parent, the  
190 division shall, within 30 business days after the day on which the complaint is received,  
191 provide the foster parent with information regarding the specific nature of the complaint, the  
192 time and place of the alleged incident, and who was alleged to have been involved.

193 (5) If the division places a child in a foster home, the division shall provide the foster  
194 parents with:

195 (a) notification of the requirements of this section;

196 (b) a written description of the procedures enacted by the division under Subsection (2)  
197 and how to access the procedures; and

198 (c) written notification of the foster parents' ability to petition the juvenile court  
199 directly for review of a decision to remove a foster child who, subject to Section 80-3-502, has  
200 been in the foster parents' custody for 12 months or longer.

201 (6) This section does not apply to the removal of a child based on a foster parent's  
202 request for the removal.

203 (7) It is unlawful for a person, with the intent to avoid compliance with the  
204 requirements of this section, to:

205 (a) take action, or encourage another to take action, against the license of a foster  
206 parent; or

207 (b) remove a child from a foster home before the child is placed with the foster parents  
208 for two years.

209 (8) The division may not remove a foster child from a foster parent who is a relative of  
210 the child on the basis of the age or health of the foster parent without determining:

211 (a) by clear and convincing evidence that the foster parent is incapable of caring for the  
212 foster child, if the alternative foster parent would not be another relative of the child; or

213 (b) by a preponderance of the evidence that the foster parent is incapable of caring for

214 the foster child, if the alternative foster parent would be another relative of the child.

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

216 **80-3-301. Shelter hearing -- Court considerations.**

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

- 220 (a) removal of the child from the child's home by the division;
- 221 (b) placement of the child in protective custody;
- 222 (c) emergency placement under Subsection [80-2a-202\(5\)](#);
- 223 (d) as an alternative to removal of the child, a parent enters a domestic violence shelter  
224 at the request of the division; or
- 225 (e) a motion for expedited placement in temporary custody is filed under Section  
226 [80-3-203](#).

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

- 229 (a) the name and address of the individual to whom the notice is directed;
- 230 (b) the date, time, and place of the shelter hearing;
- 231 (c) the name of the child on whose behalf an abuse, neglect, or dependency petition is  
232 brought;
- 233 (d) a concise statement regarding:
  - 234 (i) the reasons for removal or other action of the division under Subsection (1); and
  - 235 (ii) the allegations and code sections under which the proceeding is instituted;
- 236 (e) a statement that the parent or guardian to whom notice is given, and the child, are  
237 entitled to have an attorney present at the shelter hearing, and that if the parent or guardian is  
238 an indigent individual and cannot afford an attorney, and desires to be represented by an  
239 attorney, one will be provided in accordance with Title 78B, Chapter 22, Indigent Defense Act;  
240 and
- 241 (f) a statement that the parent or guardian is liable for the cost of support of the child in  
242 the protective custody, temporary custody, and custody of the division, and the cost for legal  
243 counsel appointed for the parent or guardian under Subsection (2)(e), according to the financial  
244 ability of the parent or guardian.



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

249 (a) the appropriate guardian ad litem; and

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

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

254 (a) the child, unless it would be detrimental for the child;

255 (b) the child's parents or guardian, unless the parents or guardian cannot be located, or  
256 fail to appear in response to the notice;

257 (c) counsel for the parents, if one is requested;

258 (d) the child's guardian ad litem;

259 (e) the child welfare caseworker from the division who is assigned to the case; and

260 (f) the attorney from the attorney general's office who is representing the division.

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

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

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

264 (B) any other individual with relevant knowledge;

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

266 (iii) in accordance with Subsections [~~80-3-302(7)(c)~~] 80-3-302(9)(c) through (e), grant  
267 preferential consideration to a relative or friend for the temporary placement of the child.

268 (b) The juvenile court:

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

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

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

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

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

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

278 removal;

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

280 (d) the available services that could facilitate the return of the child to the custody of

281 the child's parent or guardian; and

282 (e) subject to Subsections [~~80-3-302(7)(c)~~] 80-3-302(9)(c) through (e), whether any

283 relatives of the child or friends of the child's parents may be able and willing to accept

284 temporary placement of the child.

285 (7) The juvenile court shall consider all relevant evidence provided by an individual or

286 entity authorized to present relevant evidence under this section.

287 (8) (a) If necessary to protect the child, preserve the rights of a party, or for other good

288 cause shown, the juvenile court may grant no more than one continuance, not to exceed five

289 judicial days.

290 (b) A juvenile court shall honor, as nearly as practicable, the request by a parent or

291 guardian for a continuance under Subsection (8)(a).

292 (c) Notwithstanding Subsection (8)(a), if the division fails to provide the notice

293 described in Subsection (2) within the time described in Subsection (3), the juvenile court may

294 grant the request of a parent or guardian for a continuance, not to exceed five judicial days.

295 (9) (a) If the child is in protective custody, the juvenile court shall order that the child

296 be returned to the custody of the parent or guardian unless the juvenile court finds, by a

297 preponderance of the evidence, consistent with the protections and requirements provided in

298 Subsection 80-2a-201(1), that any one of the following exists:

299 (i) subject to Subsection (9)(b)(i), there is a serious danger to the physical health or

300 safety of the child and the child's physical health or safety may not be protected without

301 removing the child from the custody of the child's parent;

302 (ii) (A) the child is suffering emotional damage that results in a serious impairment in

303 the child's growth, development, behavior, or psychological functioning;

304 (B) the parent or guardian is unwilling or unable to make reasonable changes that

305 would sufficiently prevent future damage; and

306 (C) there are no reasonable means available by which the child's emotional health may

307 be protected without removing the child from the custody of the child's parent or guardian;

308 (iii) there is a substantial risk that the child will suffer abuse or neglect if the child is

309 not removed from the custody of the child's parent or guardian;

310 (iv) subject to Subsection (9)(b)(ii), the child or a minor residing in the same

311 household has been, or is considered to be at substantial risk of being, physically abused,

312 sexually abused, or sexually exploited by:

313 (A) a parent or guardian;

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

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

316 (v) the parent or guardian is unwilling to have physical custody of the child;

317 (vi) the parent or guardian is unable to have physical custody of the child;

318 (vii) the child is without any provision for the child's support;

319 (viii) a parent who is incarcerated or institutionalized has not or cannot arrange for safe

320 and appropriate care for the child;

321 (ix) (A) a relative or other adult custodian with whom the child is left by the parent or  
322 guardian is unwilling or unable to provide care or support for the child;

323 (B) the whereabouts of the parent or guardian are unknown; and

324 (C) reasonable efforts to locate the parent or guardian are unsuccessful;

325 (x) subject to Subsection 80-1-102(58)(b)(i) and Sections 80-3-109 and 80-3-304, the  
326 child is in immediate need of medical care;

327 (xi) (A) the physical environment or the fact that the child is left unattended beyond a  
328 reasonable period of time poses a threat to the child's health or safety; and

329 (B) the parent or guardian is unwilling or unable to make reasonable changes that  
330 would remove the threat;

331 (xii) (A) the child or a minor residing in the same household has been neglected; and

332 (B) the parent or guardian is unwilling or unable to make reasonable changes that  
333 would prevent the neglect;

334 (xiii) the parent, guardian, or an adult residing in the same household as the parent or  
335 guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act,  
336 and any clandestine laboratory operation was located in the residence or on the property where  
337 the child resided;

338 (xiv) (A) the child's welfare is substantially endangered; and  
339 (B) the parent or guardian is unwilling or unable to make reasonable changes that  
340 would remove the danger; or  
341 (xv) the child's natural parent:  
342 (A) intentionally, knowingly, or recklessly causes the death of another parent of the  
343 child;  
344 (B) is identified by a law enforcement agency as the primary suspect in an investigation  
345 for intentionally, knowingly, or recklessly causing the death of another parent of the child; or  
346 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or  
347 recklessly causing the death of another parent of the child.  
348 (b) (i) Prima facie evidence of the finding described in Subsection (9)(a)(i) is  
349 established if:  
350 (A) a court previously adjudicated that the child suffered abuse, neglect, or dependency  
351 involving the parent; and  
352 (B) a subsequent incident of abuse, neglect, or dependency involving the parent occurs.  
353 (ii) For purposes of Subsection (9)(a)(iv), if the juvenile court finds that the parent  
354 knowingly allowed the child to be in the physical care of an individual after the parent received  
355 actual notice that the individual physically abused, sexually abused, or sexually exploited the  
356 child, that fact is prima facie evidence that there is a substantial risk that the child will be  
357 physically abused, sexually abused, or sexually exploited.  
358 (10) (a) (i) The juvenile court shall make a determination on the record as to whether  
359 reasonable efforts were made to prevent or eliminate the need for removal of the child from the  
360 child's home and whether there are available services that would prevent the need for continued  
361 removal.  
362 (ii) If the juvenile court finds that the child can be safely returned to the custody of the  
363 child's parent or guardian through the provision of the services described in Subsection  
364 (10)(a)(i), the juvenile court shall place the child with the child's parent or guardian and order  
365 that the services be provided by the division.  
366 (b) In accordance with federal law, the juvenile court shall consider the child's health,  
367 safety, and welfare as the paramount concern when making the determination described in  
368 Subsection (10)(a), and in ordering and providing the services described in Subsection (10)(a).

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

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

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

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

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

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

387 (a) any error in the initial removal of the child;

388 (b) the failure of a party to comply with notice provisions; or

389 (c) any other procedural requirement of this chapter, Chapter 2, Child Welfare  
390 Services, or Chapter 2a, Removal and Protective Custody of a Child.

391 Section 4. Section **80-3-302** is amended to read:

392 **80-3-302. Shelter hearing -- Placement of a child.**

393 (1) As used in this section:

394 (a) "Natural parent," notwithstanding Section 80-1-102, means:

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

396 (ii) an adoptive father of the child; or

397 (iii) a biological father of the child who:

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

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

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

405 (c) "Sibling visitation" means the same as that term is defined in Section 80-2-102.

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

411 (b) Subject to Subsection [~~(7)~~] (9), if another natural parent requests custody under  
412 Subsection (2)(a), the juvenile court shall place the child with that parent unless the juvenile  
413 court finds that the placement would be unsafe or otherwise detrimental to the child.

414 (c) The juvenile court:

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

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

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

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

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

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

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

429 (b) the juvenile court may order:

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

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

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

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

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

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

439 (c) the child should be placed with a relative under Subsections [~~(6)~~] (8) through [~~(9)~~]  
440 (10); or

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

442 (5) (a) Legal custody of the child is not affected by an order entered under Subsection  
443 (2) or (3).

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

446 (6) Subject to Subsection 80-3-307(12)(b), if siblings are separated at the time of the  
447 shelter hearing, then at the shelter hearing the juvenile court shall:

448 (a) for each child, order sibling visitation unless the court finds that sibling visitation is  
449 not in the best interest of the child;

450 (b) make specific findings regarding the conditions of sibling visitation that are in each  
451 child's best interest; and

452 (c) if sibling visitation is denied, state the facts that justify the denial.

453 (7) At the shelter hearing, if a child is removed from the custody of the child's parent,  
454 the juvenile court shall:

455 (a) make specific findings regarding the conditions of parent-time that are in the child's  
456 best interest and under the least restrictive conditions necessary to ensure the well-being and  
457 safety of the child, including consideration of unsupervised visitation; and

458 (b) if parent-time is denied, state the facts that justify the denial.

459 [~~(6)~~] (8) Subject to Subsection [~~(7)~~] (9), if, at the time of the shelter hearing, a child is  
460 removed from the custody of the child's parent and is not placed in the custody of the child's  
461 other parent, the juvenile court:

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

466 (b) may order the division to conduct a reasonable search to determine whether there  
467 are relatives or friends who are willing and appropriate, in accordance with the requirements of  
468 this chapter, Chapter 2, Child Welfare Services, and Chapter 2a, Removal and Protective  
469 Custody of a Child, for placement of the child;

470 (c) shall order the parents to cooperate with the division, within five working days, to  
471 provide information regarding relatives or friends who may be able and willing to care for the  
472 child; and

473 (d) may order that the child be placed in the temporary custody of the division pending  
474 the determination under Subsection ~~[(7)]~~ (8)(a).

475 ~~[(7)]~~ (9) (a) (i) Subject to Subsections ~~[(7)(b)]~~ (9)(b) through (d) and if the provisions  
476 of this section are satisfied, the division and the juvenile court shall give preferential  
477 consideration to a relative's or a friend's request for placement of the child, if the placement is  
478 in the best interest of the child.

479 (ii) For purposes of the preferential consideration under Subsection ~~[(7)(a)(i)]~~ (9)(a)(i),  
480 there is a rebuttable presumption that placement of the child with a relative is in the best  
481 interest of the child.

482 (b) (i) The preferential consideration that the juvenile court or division initially grants a  
483 relative or friend under Subsection ~~[(7)(a)(i)]~~ (9)(a)(i) expires 120 days after the day on which  
484 the shelter hearing occurs.

485 (ii) After the day on which the time period described in Subsection ~~[(7)]~~ (9)(b)(i)  
486 expires, the division or the juvenile court may not grant preferential consideration to a relative  
487 or friend, who has not obtained custody or asserted an interest in the child.

488 (c) (i) The preferential consideration that the juvenile court initially grants a natural  
489 parent under Subsection (2) is limited after 120 days after the day on which the shelter hearing  
490 occurs.

491 (ii) After the time period described in Subsection ~~[(7)]~~ (9)(c)(i), the juvenile court shall  
492 base the juvenile court's custody decision on the best interest of the child.



493 (d) Before the day on which the time period described in Subsection ~~[(7)]~~ (9)(c)(i)  
494 expires, the following order of preference shall be applied when determining the individual  
495 with whom a child will be placed, provided that the individual is willing and able to care for  
496 the child:

497 (i) a noncustodial parent of the child;

498 (ii) a relative of the child;

499 (iii) subject to Subsection ~~[(7)(e)]~~ (9)(e), a friend if the friend is a licensed foster  
500 parent; and

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

502 (e) In determining whether a friend is a willing, able, and appropriate placement for a  
503 child, the juvenile court or the division:

504 (i) subject to Subsections ~~[(7)(e)(ii)]~~ (9)(e)(ii) through (iv), shall consider the child's  
505 preferences or level of comfort with the friend;

506 (ii) is required to consider no more than one friend designated by each parent of the  
507 child and one friend designated by the child if the child is of sufficient maturity to articulate the  
508 child's wishes in relation to a placement;

509 (iii) may limit the number of designated friends to two, one of whom shall be a friend  
510 designated by the child if the child is of sufficient maturity to articulate the child's wishes in  
511 relation to a placement; and

512 (iv) shall give preference to a friend designated by the child if:

513 (A) the child is of sufficient maturity to articulate the child's wishes; and

514 (B) the basis for removing the child under Section [80-3-301](#) is sexual abuse of the  
515 child.

516 (f) (i) If a parent of the child or the child, if the child is of sufficient maturity to  
517 articulate the child's wishes in relation to a placement, is not able to designate a friend who is a  
518 licensed foster parent for placement of the child, but is able to identify a friend who is willing  
519 to become licensed as a foster parent, the department shall fully cooperate to expedite the  
520 licensing process for the friend.

521 (ii) If the friend described in Subsection ~~[(7)(f)(i)]~~ (9)(f)(i) becomes licensed as a foster  
522 parent within the time frame described in Subsection ~~[(7)]~~ (9)(b), the juvenile court shall  
523 determine whether it is in the best interest of the child to place the child with the friend.

524           ~~[(8)]~~ (10) (a) If a relative or friend who is willing to cooperate with the child's  
525 permanency goal is identified under Subsection ~~[(6)]~~ (8)(a), the juvenile court:  
526           (i) shall make a specific finding regarding:  
527           (A) the fitness of that relative or friend as a placement for the child; and  
528           (B) the safety and appropriateness of placement with the relative or friend; and  
529           (ii) may not consider a request for guardianship or adoption of the child by an  
530 individual who is not a relative of the child, or prevent the division from placing the child in  
531 the custody of a relative of the child in accordance with this part, until after the day on which  
532 the juvenile court makes the findings under Subsection ~~[(8)(a)(i)]~~ (10)(a)(i).  
533           (b) In making the finding described in Subsection ~~[(8)]~~ (10)(a), the juvenile court shall,  
534 at a minimum, order the division to:  
535           (i) if the child may be placed with a relative, conduct a background check that includes:  
536           (A) completion of a nonfingerprint-based, Utah Bureau of Criminal Identification  
537 background check of the relative;  
538           (B) a completed search, relating to the relative, of the Management Information  
539 System; and  
540           (C) a background check that complies with the criminal background check provisions  
541 described in Section 80-3-305, of each nonrelative of the child who resides in the household  
542 where the child may be placed;  
543           (ii) if the child will be placed with a noncustodial parent, complete a background check  
544 that includes:  
545           (A) the background check requirements applicable to an emergency placement with a  
546 noncustodial parent that are described in Subsections 80-2a-301(4) and (6);  
547           (B) a completed search, relating to the noncustodial parent of the child, of the  
548 Management Information System; and  
549           (C) a background check that complies with the criminal background check provisions  
550 described in Section 80-3-305, of each nonrelative of the child who resides in the household  
551 where the child may be placed;  
552           (iii) if the child may be placed with an individual other than a noncustodial parent or a  
553 relative, conduct a criminal background check of the individual, and each adult that resides in  
554 the household where the child may be placed, that complies with the criminal background

555 check provisions described in Section [80-3-305](#);

556 (iv) visit the relative's or friend's home;

557 (v) check the Management Information System for any previous reports of abuse or  
558 neglect regarding the relative or friend at issue;

559 (vi) report the division's findings in writing to the juvenile court; and

560 (vii) provide sufficient information so that the juvenile court may determine whether:

561 (A) the relative or friend has any history of abusive or neglectful behavior toward other  
562 children that may indicate or present a danger to this child;

563 (B) the child is comfortable with the relative or friend;

564 (C) the relative or friend recognizes the parent's history of abuse and is committed to  
565 protect the child;

566 (D) the relative or friend is strong enough to resist inappropriate requests by the parent  
567 for access to the child, in accordance with court orders;

568 (E) the relative or friend is committed to caring for the child as long as necessary; and

569 (F) the relative or friend can provide a secure and stable environment for the child.

570 (c) The division may determine to conduct, or the juvenile court may order the division  
571 to conduct, any further investigation regarding the safety and appropriateness of the placement  
572 described in Subsection ~~[(8)]~~ [\(10\)](#)(a).

573 (d) The division shall complete and file the division's assessment regarding placement  
574 with a relative or friend under Subsections ~~[(8)]~~ [\(10\)](#)(a) and (b) as soon as practicable, in an  
575 effort to facilitate placement of the child with a relative or friend.

576 ~~[(9)]~~ [\(11\)](#) (a) The juvenile court may place a child described in Subsection (2)(a) in the  
577 temporary custody of the division, pending the division's investigation under Subsection ~~[(8)]~~  
578 [\(10\)](#), and the juvenile court's determination regarding the appropriateness of the placement.

579 (b) The juvenile court shall ultimately base the juvenile court's determination regarding  
580 the appropriateness of a placement with a relative or friend on the best interest of the child.

581 ~~[(10)]~~ [\(12\)](#) If a juvenile court places a child described in Subsection ~~[(6)]~~ [\(8\)](#) with the  
582 child's relative or friend:

583 (a) the juvenile court shall:

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

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

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

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

591 (B) the child should be returned home; or

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

593 (b) the juvenile court may enter an order:

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

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

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

600 [~~(11)~~] (13) No later than 12 months after the day on which the child is removed from  
601 the home, the juvenile court shall schedule a hearing for the purpose of entering a permanent  
602 order in accordance with the best interest of the child.

603 [~~(12)~~] (14) The time limitations described in Section 80-3-406, with regard to  
604 reunification efforts, apply to a child placed with a previously noncustodial parent under  
605 Subsection (2) or with a relative or friend under Subsection [~~(6)~~] (8).

606 [~~(13)~~] (15) (a) If the juvenile court awards temporary custody of a child to the division,  
607 and the division places the child with a relative, the division shall:

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

610 (ii) if the results of the criminal background check described in Subsection [~~(13)~~]  
611 (15)(a)(i) would prohibit the relative from having direct access to the child under Section  
612 62A-2-120, the division shall:

613 (A) take the child into physical custody; and

614 (B) within three days, excluding weekends and holidays, after the day on which the  
615 child is taken into physical custody under Subsection [~~(13)~~] (15)(a)(ii)(A), give written notice  
616 to the juvenile court, and all parties to the proceedings, of the division's action.

617 (b) Subsection ~~[(13)]~~ (15)(a) does not prohibit the division from placing a child with a  
618 relative, pending the results of the background check described in Subsection ~~[(13)]~~ (15)(a) on  
619 the relative.

620 ~~[(14)]~~ (16) If the juvenile court orders that a child be removed from the custody of the  
621 child's parent and does not award custody and guardianship to another parent, relative, or friend  
622 under this section, the juvenile court shall order that the child be placed in the temporary  
623 custody of the division, to proceed to adjudication and disposition and to be provided with care  
624 and services in accordance with this chapter, Chapter 2, Child Welfare Services, and Chapter  
625 2a, Removal and Protective Custody of a Child.

626 ~~[(15)]~~ (17) (a) If a child reenters the temporary custody or the custody of the division  
627 and is placed in foster care, the division shall:

628 (i) notify the child's former foster parents; and

629 (ii) upon a determination of the former foster parents' willingness and ability to safely  
630 and appropriately care for the child, give the former foster parents preference for placement of  
631 the child.

632 (b) If, after the shelter hearing, the child is placed with an individual who is not a  
633 parent, a relative, a friend, or a former foster parent of the child, priority shall be given to a  
634 foster placement with a married couple, unless it is in the best interests of the child to place the  
635 child with a single foster parent.

636 ~~[(16)]~~ (18) In determining the placement of a child, the juvenile court and the division  
637 may not take into account, or discriminate against, the religion of an individual with whom the  
638 child may be placed, unless the purpose of taking religion into account is to place the child  
639 with an individual or family of the same religion as the child.

640 ~~[(17)]~~ (19) If the juvenile court's decision differs from a child's express wishes if the  
641 child is of sufficient maturity to articulate the wishes in relation to the child's placement, the  
642 juvenile court shall make findings explaining why the juvenile court's decision differs from the  
643 child's wishes.

644 ~~[(18)]~~ (20) This section does not guarantee that an identified relative or friend will  
645 receive custody of the child.

646 Section 5. Section **80-3-303** is amended to read:

647 **80-3-303. Post-shelter hearing placement of a child in division's temporary**

648 **custody.**

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

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

653 (a) except as provided in Subsections (2)(b) and (e), shall comply with the applicable  
654 background check provisions described in Section [80-3-302](#);

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

657 (c) shall consider the preferential consideration and rebuttable presumption described  
658 in Subsection [~~80-3-302(7)(a)~~] [80-3-302\(9\)\(a\)](#);

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

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

665 (i) the background check described in Subsection [~~80-3-302(13)(a)~~] [80-3-302\(15\)\(a\)](#);  
666 and

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

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

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

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

676 (b) provide the written findings to the juvenile court and the child's attorney guardian  
677 ad litem.

678 Section 6. Section **80-3-307** is amended to read:

679           **80-3-307. Child and family plan developed by division -- Parent-time and relative**  
680 **visitation.**

681           (1) The division shall develop and finalize a child's child and family plan no more than  
682 45 days after the day on which the child enters the temporary custody of the division.

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

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

687           (i) mental health;

688           (ii) education; or

689           (iii) if appropriate, law enforcement.

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

692           (i) both of the child's natural parents, unless the whereabouts of a parent are unknown;

693           (ii) the child;

694           (iii) the child's foster parents; and

695           (iv) if appropriate, the child's stepparent.

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

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

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

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

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

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

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

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

715 (5) A child and family plan shall:

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

- 719 (c) be specific to each child and the child's family, rather than general;
- 720 (d) include individualized expectations and contain specific time frames;
- 721 (e) except as provided in Subsection (6), address problems that:

- 722 (i) keep a child in the child's placement; and
- 723 (ii) keep a child from achieving permanence in the child's life;
- 724 (f) be designed to:

- 725 (i) minimize disruption to the normal activities of the child's family, including  
726 employment and school; and
- 727 (ii) as much as practicable, help the child's parent maintain or obtain employment; and

728 (g) set forth, with specificity, at least the following:

- 729 (i) the reason the child entered into protective custody or the division's temporary  
730 custody or custody;
- 731 (ii) documentation of:

732 (A) the reasonable efforts made to prevent placement of the child in protective custody  
733 or the division's temporary custody or custody; or

734 (B) the emergency situation that existed and that prevented the reasonable efforts  
735 described in Subsection (5)(g)(ii)(A), from being made;

736 (iii) the primary permanency plan for the child, as described in Section 80-3-406, and  
737 the reason for selection of the plan;

738 (iv) the concurrent permanency plan for the child, as described in Section 80-3-406,  
739 and the reason for the selection of the plan;

740 (v) if the plan is for the child to return to the child's family:



- 741 (A) specifically what the parents must do in order to enable the child to be returned  
742 home;
- 743 (B) specifically how the requirements described in Subsection (5)(g)(v)(A) may be  
744 accomplished; and
- 745 (C) how the requirements described in Subsection (5)(g)(v)(A) will be measured;
- 746 (vi) the specific services needed to reduce the problems that necessitated placing the  
747 child in protective custody or the division's temporary custody or custody;
- 748 (vii) the name of the individual who will provide for and be responsible for case  
749 management for the division;
- 750 (viii) subject to Subsection (10), a parent-time schedule between the natural parent and  
751 the child;
- 752 (ix) subject to Subsection (7), the health and mental health care to be provided to  
753 address any known or diagnosed mental health needs of the child;
- 754 (x) if residential treatment rather than a foster home is the proposed placement, a  
755 requirement for a specialized assessment of the child's health needs including an assessment of  
756 mental illness and behavior and conduct disorders;
- 757 (xi) social summaries that include case history information pertinent to case planning;  
758 and
- 759 (xii) subject to Subsection (12), a sibling visitation schedule.
- 760 (6) For purposes of Subsection (5)(e), a child and family plan may only include  
761 requirements that:
- 762 (a) address findings made by the court; or
- 763 (b) (i) are requested or consented to by a parent or guardian of the child; and  
764 (ii) are agreed to by the division and the guardian ad litem.
- 765 (7) (a) Subject to Subsection (7)(b), in addition to the information required under  
766 Subsection (5)(g)(ix), a child and family plan shall include a specialized assessment of the  
767 medical and mental health needs of a child, if the child:
- 768 (i) is placed in residential treatment; and  
769 (ii) has medical or mental health issues that need to be addressed.
- 770 (b) Notwithstanding Subsection (7)(a), a parent shall retain the right to seek a separate  
771 medical or mental health diagnosis of the parent's child from a licensed practitioner of the

772 parent's choice.

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

775 (i) federal mandates; and

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

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

780 (9) [~~(a) Except as provided in Subsection (9)(b), with regard to a child who is three~~  
781 ~~years old or younger, if the child and family plan is not to return the child home, the primary~~  
782 ~~permanency plan described in Section 80-3-406 for the child shall be adoption. (b)~~

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

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

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

792 (i) protect the physical safety of the child;

793 (ii) protect the life of the child; or

794 (iii) consistent with Subsection (10)(c), prevent the child from being traumatized by  
795 contact with the parent.

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

799 (i) the child's fear of the parent; and

800 (ii) the nature of the alleged abuse or neglect.

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

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

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

811 to provide sibling visitation if:

- 812 (i) siblings are separated due to foster care or adoptive placement;
- 813 (ii) the sibling visitation is in the best interest of the child for whom the child and
- 814 family plan is developed; and
- 815 (iii) the division has consent for sibling visitation from the guardian of the sibling.

816 (b) The division shall obtain consent for sibling visitation from the sibling's guardian if

817 the criteria of Subsections (12)(a)(i) and (ii) are met.

818 Section 7. Section **80-3-402** is amended to read:

819 **80-3-402. Adjudication hearing -- Dispositional hearing time deadlines --**

820 **Scheduling of review and permanency hearing.**

821 (1) If, at the adjudication hearing, the juvenile court finds, by clear and convincing

822 evidence, that the allegations contained in the abuse, neglect, or dependency petition are true,

823 the juvenile court shall conduct a dispositional hearing.

824 (2) (a) If, at the adjudication hearing, a child remains in an out-of-home placement, the

825 juvenile court shall:

- 826 (i) make specific findings regarding the conditions of parent-time that are in the child's
- 827 best interest; and
- 828 (ii) if parent-time is denied, state the facts that justify the denial.

829 (b) There is a rebuttable presumption that parent-time will be unsupervised and under

830 the least restrictive conditions necessary to:

- 831 (i) protect the physical safety of the child; or
- 832 (ii) prevent the child from being traumatized by contact with the parent due to the
- 833 child's fear of the parent in light of the nature of the alleged abuse or neglect.

834 (c) To overcome the presumption described in Subsection (2)(b), a party must  
835 establish, by a preponderance of the evidence, that unsupervised parent-time would:

836 (i) create a risk to the physical safety of the child; or

837 (ii) cause the child to be traumatized by contact with the parent due to the child's fear  
838 of the parent in light of the nature of the alleged abuse or neglect.

839 (d) (i) The division or the person designated by the division or a court to supervise a  
840 parent-time session may deny parent-time for the session if the division or the supervising  
841 person determines that, based on the parent's condition, it is necessary to deny parent-time to:

842 (A) protect the physical safety of the child;

843 (B) protect the life of the child; or

844 (C) consistent with Subsection (2)(d)(ii), prevent the child from being traumatized by  
845 contact with the parent.

846 (ii) In determining whether the condition of the parent described in Subsection (2)(d)(i)  
847 will traumatize a child, the division or the person supervising the parent-time session shall  
848 consider the impact that the parent's condition will have on the child in light of:

849 (A) the child's fear of the parent; and

850 (B) the nature of the alleged abuse or neglect.

851 ~~[(2)]~~ (3) The dispositional hearing may be held on the same date as the adjudication  
852 hearing, but shall be held no later than 30 calendar days after the day on which the adjudication  
853 hearing is held.

854 ~~[(3)]~~ (4) At the adjudication hearing or the dispositional hearing, the juvenile court  
855 shall schedule dates and times for:

856 (a) the six-month periodic review; and

857 (b) the permanency hearing.

858 ~~[(4)]~~ (5) If an abuse, neglect, or dependency petition is filed under this chapter and a  
859 petition for termination of parental rights is filed under Section 80-4-201, before the day on  
860 which a dispositional hearing is held on the abuse, neglect, or dependency petition, a party may  
861 request a hearing on whether reunification services are appropriate in accordance with the  
862 factors described in Subsections 80-3-406(5) and (7).

863 Section 8. Section 80-3-405 is amended to read:

864 **80-3-405. Dispositions after adjudication.**

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

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

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

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

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

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

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

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

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

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

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

887 (c) The juvenile court may order:

888 (i) protective supervision;

889 (ii) family preservation;

890 (iii) sibling visitation; or

891 (iv) other services.

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

895 (ii) If a juvenile court enters an order of permanent custody and guardianship with an

896 individual or relative of a minor under Subsection (2)(d)(i), the juvenile court may, in  
897 accordance with Section 78A-6-356, enter an order for child support on behalf of the minor  
898 against the natural parents of the minor.

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

900 (A) shall remain in effect until the minor is 18 years old;

901 (B) is not subject to review under Section 78A-6-358; and

902 (C) may be modified by petition or motion as provided in Section 78A-6-357.

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

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

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

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

916 (A) be examined or treated by a mental health therapist, as described in Section  
917 80-3-109; or

918 (B) receive other special care.

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

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

924 (A) the desires of the minor;

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

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

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

933 (3) (a) At the dispositional hearing, if a child remains in an out-of-home placement, the  
934 juvenile court shall:

935 (i) make specific findings regarding the conditions of parent-time that are in the child's  
936 best interest; and

937 (ii) if parent-time is denied, state the facts that justify the denial.

938 (b) There is a rebuttable presumption that parent-time will be unsupervised and under  
939 the least restrictive conditions necessary to:

940 (i) protect the physical safety of the child; or

941 (ii) prevent the child from being traumatized by contact with the parent due to the  
942 child's fear of the parent in light of the nature of the alleged abuse or neglect.

943 (c) To overcome the presumption described in Subsection (3)(b), a party must  
944 establish, by a preponderance of the evidence, that unsupervised parent-time would:

945 (i) create a risk to the physical safety of the child; or

946 (ii) cause the child to be traumatized by contact with the parent due to the child's fear  
947 of the parent in light of the nature of the alleged abuse or neglect.

948 (d) (i) The division or the person designated by the division or a court to supervise a  
949 parent-time session may deny parent-time for the session if the division or the supervising  
950 person determines that, based on the parent's condition, it is necessary to deny parent-time to:

951 (A) protect the physical safety of the child;

952 (B) protect the life of the child; or

953 (C) consistent with Subsection (3)(d)(ii), prevent the child from being traumatized by  
954 contact with the parent.

955 (ii) In determining whether the condition of the parent described in Subsection (3)(d)(i)  
956 will traumatize a child, the division or the person supervising the parent-time session shall  
957 consider the impact that the parent's condition will have on the child in light of:

958 (A) the child's fear of the parent; and

959 (B) the nature of the alleged abuse or neglect.

960 (4) Subject to Subsection 80-3-307(12)(b), if siblings remain separated at the time of  
961 the dispositional hearing, then at the dispositional hearing the juvenile court shall:

962 (a) for each child, order sibling visitation unless the court finds that sibling visitation is  
963 not in the best interest of the child;

964 (b) make specific findings regarding the conditions of sibling visitation that are in each  
965 child's best interest; and

966 (c) if sibling visitation is denied, state the facts that justify the denial.

967 [~~3~~] (5) Upon an adjudication under this chapter, the juvenile court may not:

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

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

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

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

976 (ii) based on the assessment described in Subsection [~~3~~](~~c~~)(~~i~~) (5)(c)(i), determines  
977 that vesting custody of the minor in the division is the least restrictive intervention for the  
978 minor that meets the minor's needs; and

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

980 [~~4~~] (6) The juvenile court may combine the dispositions listed in Subsection (2) if  
981 combining the dispositions is permissible and the dispositions are compatible.

982 Section 9. Section **80-3-406** is amended to read:

983 **80-3-406. Permanency plan -- Reunification services.**

984 (1) If the juvenile court orders continued removal at the dispositional hearing under  
985 Section **80-3-402**, and that the minor remain in the custody of the division, the juvenile court  
986 shall first:

987 (a) establish a primary permanency plan and a concurrent permanency plan for the  
988 minor in accordance with this section; and



989 (b) determine whether, in view of the primary permanency plan, reunification services  
990 are appropriate for the minor and the minor's family under Subsections (5) through (8).

991 (2) (a) The concurrent permanency plan shall include:

992 (i) a representative list of the conditions under which the primary permanency plan will  
993 be abandoned in favor of the concurrent permanency plan; and

994 (ii) an explanation of the effect of abandoning or modifying the primary permanency  
995 plan.

996 (b) In determining the primary permanency plan and concurrent permanency plan, the  
997 juvenile court shall consider:

998 (i) the preference for kinship placement over nonkinship placement, including the  
999 rebuttable presumption described in Subsection [~~80-3-302(7)(a)~~] 80-3-302(9)(a);

1000 (ii) the potential for a guardianship placement if parental rights are terminated and no  
1001 appropriate adoption placement is available; and

1002 (iii) the use of an individualized permanency plan, only as a last resort.

1003 (3) (a) The juvenile court may amend a minor's primary permanency plan before the  
1004 establishment of a final permanency plan under Section 80-3-409.

1005 (b) The juvenile court is not limited to the terms of the concurrent permanency plan in  
1006 the event that the primary permanency plan is abandoned.

1007 (c) If, at any time, the juvenile court determines that reunification is no longer a minor's  
1008 primary permanency plan, the juvenile court shall conduct a permanency hearing in accordance  
1009 with Section 80-3-409 on or before the earlier of:

1010 (i) 30 days after the day on which the juvenile court makes the determination described  
1011 in this Subsection (3)(c); or

1012 (ii) the day on which the provision of reunification services, described in Section  
1013 80-3-409, ends.

1014 (4) (a) Because of the state's interest in and responsibility to protect and provide  
1015 permanency for minors who are abused, neglected, or dependent, the Legislature finds that a  
1016 parent's interest in receiving reunification services is limited.

1017 (b) The juvenile court may determine that:

1018 (i) efforts to reunify a minor with the minor's family are not reasonable or appropriate,  
1019 based on the individual circumstances; and

1020 (ii) reunification services should not be provided.

1021 (c) In determining reasonable efforts to be made with respect to a minor, and in making  
1022 reasonable efforts, the juvenile court and the division shall consider the minor's health, safety,  
1023 and welfare as the paramount concern.

1024 (5) There is a presumption that reunification services should not be provided to a  
1025 parent if the juvenile court finds, by clear and convincing evidence, that any of the following  
1026 circumstances exist:

1027 (a) the whereabouts of the parents are unknown, based on a verified affidavit indicating  
1028 that a reasonably diligent search has failed to locate the parent;

1029 (b) subject to Subsection (6)(a), the parent is suffering from a mental illness of such  
1030 magnitude that the mental illness renders the parent incapable of utilizing reunification  
1031 services;

1032 (c) the minor was previously adjudicated as an abused child due to physical abuse,  
1033 sexual abuse, or sexual exploitation, and following the adjudication the child:

1034 (i) was removed from the custody of the minor's parent;

1035 (ii) was subsequently returned to the custody of the parent; and

1036 (iii) is being removed due to additional physical abuse, sexual abuse, or sexual  
1037 exploitation;

1038 (d) the parent:

1039 (i) caused the death of another minor through abuse or neglect;

1040 (ii) committed, aided, abetted, attempted, conspired, or solicited to commit:

1041 (A) murder or manslaughter of a minor; or

1042 (B) child abuse homicide;

1043 (iii) committed sexual abuse against the minor;

1044 (iv) is a registered sex offender or required to register as a sex offender; or

1045 (v) (A) intentionally, knowingly, or recklessly causes the death of another parent of the  
1046 minor;

1047 (B) is identified by a law enforcement agency as the primary suspect in an investigation  
1048 for intentionally, knowingly, or recklessly causing the death of another parent of the minor; or

1049 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or  
1050 recklessly causing the death of another parent of the minor;

1051 (e) the minor suffered severe abuse by the parent or by any individual known by the  
1052 parent if the parent knew or reasonably should have known that the individual was abusing the  
1053 minor;

1054 (f) the minor is adjudicated as an abused minor as a result of severe abuse by the  
1055 parent, and the juvenile court finds that it would not benefit the minor to pursue reunification  
1056 services with the offending parent;

1057 (g) the parent's rights are terminated with regard to any other minor;

1058 (h) the minor was removed from the minor's home on at least two previous occasions  
1059 and reunification services were offered or provided to the family at those times;

1060 (i) the parent has abandoned the minor for a period of six months or longer;

1061 (j) the parent permitted the minor to reside, on a permanent or temporary basis, at a  
1062 location where the parent knew or should have known that a clandestine laboratory operation  
1063 was located;

1064 (k) except as provided in Subsection (6)(b), with respect to a parent who is the minor's  
1065 birth mother, the minor has fetal alcohol syndrome, fetal alcohol spectrum disorder, or was  
1066 exposed to an illegal or prescription drug that was abused by the minor's mother while the  
1067 minor was in utero, if the minor was taken into division custody for that reason, unless the  
1068 mother agrees to enroll in, is currently enrolled in, or has recently and successfully completed a  
1069 substance use disorder treatment program approved by the department; or

1070 (l) any other circumstance that the juvenile court determines should preclude  
1071 reunification efforts or services.

1072 (6) (a) The juvenile court shall base the finding under Subsection (5)(b) on competent  
1073 evidence from at least two medical or mental health professionals, who are not associates,  
1074 establishing that, even with the provision of services, the parent is not likely to be capable of  
1075 adequately caring for the minor within 12 months after the day on which the juvenile court  
1076 finding is made.

1077 (b) The juvenile court may disregard the provisions of Subsection (5)(k) if the juvenile  
1078 court finds, under the circumstances of the case, that the substance use disorder treatment  
1079 described in Subsection (5)(k) is not warranted.

1080 (7) In determining whether reunification services are appropriate, the juvenile court  
1081 shall take into consideration:

1082 (a) failure of the parent to respond to previous services or comply with a previous child  
1083 and family plan;

1084 (b) the fact that the minor was abused while the parent was under the influence of  
1085 drugs or alcohol;

1086 (c) any history of violent behavior directed at the minor or an immediate family  
1087 member;

1088 (d) whether a parent continues to live with an individual who abused the minor;

1089 (e) any patterns of the parent's behavior that have exposed the minor to repeated abuse;

1090 (f) testimony by a competent professional that the parent's behavior is unlikely to be  
1091 successful; and

1092 (g) whether the parent has expressed an interest in reunification with the minor.

1093 (8) If, under Subsections (5)(b) through (l), the juvenile court does not order  
1094 reunification services, a permanency hearing shall be conducted within 30 days in accordance  
1095 with Section 80-3-409.

1096 (9) (a) Subject to Subsections (9)(b) [~~and (c)~~] through (f), if the juvenile court  
1097 determines that reunification services are appropriate for the minor and the minor's family, the  
1098 juvenile court shall provide for reasonable parent-time with the parent or parents from whose  
1099 custody the minor was removed, unless parent-time is not in the best interest of the minor.

1100 (b) Parent-time is in the best interests of a minor unless the juvenile court makes a  
1101 finding that it is necessary to deny parent-time in order to:

1102 (i) protect the physical safety of the minor;

1103 (ii) protect the life of the minor; or

1104 (iii) prevent the minor from being traumatized by contact with the parent due to the  
1105 minor's fear of the parent in light of the nature of the alleged abuse or neglect.

1106 (c) Notwithstanding Subsection (9)(a), a juvenile court may not deny parent-time based  
1107 solely on a parent's failure to:

1108 (i) prove that the parent has not used legal or illegal substances; or

1109 (ii) comply with an aspect of the child and family plan that is ordered by the juvenile  
1110 court.

1111 (d) There is a rebuttable presumption that parent-time will be unsupervised and under  
1112 the least restrictive conditions necessary to:

- 1113 (i) protect the physical safety of the child; or  
1114 (ii) prevent the child from being traumatized by contact with the parent due to the  
1115 minor's fear of the parent in light of the nature of the alleged abuse or neglect.
- 1116 (e) To overcome the presumption described in Subsection (9)(d), a party must  
1117 establish, by a preponderance of the evidence, that unsupervised parent-time would create a  
1118 risk to the physical safety of the child.
- 1119 (f) (i) The division or the person designated by the division or a court to supervise a  
1120 parent-time session may deny parent-time for the session if the division or the supervising  
1121 person determines that, based on the parent's condition, it is necessary to deny parent-time to:
- 1122 (A) protect the physical safety of the child;  
1123 (B) protect the life of the child; or  
1124 (C) consistent with Subsection (9)(f)(ii), prevent the child from being traumatized by  
1125 contact with the parent.
- 1126 (ii) In determining whether the condition of the parent described in Subsection (9)(f)(i)  
1127 will traumatize a child, the division or the person supervising the parent-time session shall  
1128 consider the impact that the parent's condition will have on the child in light of:
- 1129 (A) the child's fear of the parent; and  
1130 (B) the nature of the alleged abuse or neglect.
- 1131 (10) (a) If the juvenile court determines that reunification services are appropriate, the  
1132 juvenile court shall order that the division make reasonable efforts to provide services to the  
1133 minor and the minor's parent for the purpose of facilitating reunification of the family, for a  
1134 specified period of time.
- 1135 (b) In providing the services described in Subsection (10)(a), the juvenile court and the  
1136 division shall consider the minor's health, safety, and welfare as the paramount concern.
- 1137 (11) In cases where sexual abuse, sexual exploitation, abandonment, severe abuse, or  
1138 severe neglect are involved:
- 1139 (a) the juvenile court does not have any duty to order reunification services; and  
1140 (b) the division does not have a duty to make reasonable efforts to or in any other way  
1141 attempt to provide reunification services or attempt to rehabilitate the offending parent or  
1142 parents.
- 1143 (12) (a) The juvenile court shall:

1144 (i) determine whether the services offered or provided by the division under the child  
1145 and family plan constitute reasonable efforts on the part of the division;

1146 (ii) determine and define the responsibilities of the parent under the child and family  
1147 plan in accordance with Subsection 80-3-307(5)(g)(iii); and

1148 (iii) identify verbally on the record, or in a written document provided to the parties,  
1149 the responsibilities described in Subsection (12)(a)(ii), for the purpose of assisting in any future  
1150 determination regarding the provision of reasonable efforts, in accordance with state and  
1151 federal law.

1152 (b) If the parent is in a substance use disorder treatment program, other than a certified  
1153 drug court program, the juvenile court may order the parent:

1154 (i) to submit to supplementary drug or alcohol testing, in accordance with Subsection  
1155 80-3-110(6), in addition to the testing recommended by the parent's substance use disorder  
1156 program based on a finding of reasonable suspicion that the parent is abusing drugs or alcohol;  
1157 and

1158 (ii) to provide the results of drug or alcohol testing recommended by the substance use  
1159 disorder program to the juvenile court or division.

1160 (13) (a) The time period for reunification services may not exceed 12 months from the  
1161 day on which the minor was initially removed from the minor's home, unless the time period is  
1162 extended under Subsection 80-3-409(7).

1163 (b) This section does not entitle any parent to an entire 12 months of reunification  
1164 services.

1165 (14) (a) If reunification services are ordered, the juvenile court may terminate those  
1166 services at any time.

1167 (b) If, at any time, continuation of reasonable efforts to reunify a minor is determined  
1168 to be inconsistent with the final permanency plan for the minor established under Section  
1169 80-3-409, then measures shall be taken, in a timely manner, to:

1170 (i) place the minor in accordance with the final permanency plan; and

1171 (ii) complete whatever steps are necessary to finalize the permanent placement of the  
1172 minor.

1173 (15) Any physical custody of the minor by the parent or a relative during the period  
1174 described in Subsections (10) through (14) does not interrupt the running of the period.

1175 (16) (a) If reunification services are ordered, the juvenile court shall conduct a  
1176 permanency hearing in accordance with Section 80-3-409 before the day on which the time  
1177 period for reunification services expires.

1178 (b) The permanency hearing shall be held no later than 12 months after the original  
1179 removal of the minor.

1180 (c) If reunification services are not ordered, a permanency hearing shall be conducted  
1181 within 30 days in accordance with Section 80-3-409.

1182 (17) With regard to a minor in the custody of the division whose parent or parents are  
1183 ordered to receive reunification services but who have abandoned that minor for a period of six  
1184 months from the day on which reunification services are ordered:

1185 (a) the juvenile court shall terminate reunification services; and

1186 (b) the division shall petition the juvenile court for termination of parental rights.

1187 (18) When a minor is under the custody of the division and has been separated from a  
1188 sibling due to foster care or adoptive placement, a juvenile court may order sibling visitation,  
1189 subject to the division obtaining consent from the sibling's guardian, according to the juvenile  
1190 court's determination of the best interests of the minor for whom the hearing is held.

1191 (19) (a) If reunification services are not ordered under this section, and the  
1192 whereabouts of a parent becomes known within six months after the day on which the  
1193 out-of-home placement of the minor is made, the juvenile court may order the division to  
1194 provide reunification services.

1195 (b) The time limits described in this section are not tolled by the parent's absence.

1196 (20) (a) If a parent is incarcerated or institutionalized, the juvenile court shall order  
1197 reasonable services unless the juvenile court determines that those services would be  
1198 detrimental to the minor.

1199 (b) In making the determination described in Subsection (20)(a), the juvenile court  
1200 shall consider:

1201 (i) the age of the minor;

1202 (ii) the degree of parent-child bonding;

1203 (iii) the length of the sentence;

1204 (iv) the nature of the treatment;

1205 (v) the nature of the crime or illness;

- 1206 (vi) the degree of detriment to the minor if services are not offered;
- 1207 (vii) for a minor who is 10 years old or older, the minor's attitude toward the
- 1208 implementation of family reunification services; and
- 1209 (viii) any other appropriate factors.

1210 (c) Reunification services for an incarcerated parent are subject to the time limitations  
1211 imposed in this section.

1212 (d) Reunification services for an institutionalized parent are subject to the time  
1213 limitations imposed in this section, unless the juvenile court determines that continued  
1214 reunification services would be in the minor's best interest.

1215 Section 10. Section **80-3-407** is amended to read:

1216 **80-3-407. Six-month review hearing -- Findings regarding reasonable efforts by**  
1217 **division -- Findings regarding child and family plan compliance.**

1218 (1) If reunification efforts have been ordered by the juvenile court under Section  
1219 80-3-406, the juvenile court shall hold a hearing no more than six months after the day on  
1220 which the minor is initially removed from the minor's home, in order for the juvenile court to  
1221 determine whether:

1222 [~~1~~] (a) the division has provided and is providing reasonable efforts to reunify the  
1223 family in accordance with the child and family plan;

1224 [~~2~~] (b) the parent has fulfilled or is fulfilling identified duties and responsibilities in  
1225 order to comply with the requirements of the child and family plan; and

1226 [~~3~~] (c) the division considered the preferential consideration and rebuttable  
1227 presumption described in Subsections [~~80-3-302(7)(a)~~] 80-3-302(9)(a) and 80-3-303(2)(c).

1228 (2) (a) At the hearing described in Subsection (1), if a child remains in an out-of-home  
1229 placement, the juvenile court shall:

1230 (i) make specific findings regarding the conditions of parent-time that are in the child's  
1231 best interest; and

1232 (ii) if parent-time is denied, state the facts that justify the denial.

1233 (b) There is a rebuttable presumption that parent-time will be unsupervised and under  
1234 the least restrictive conditions necessary to:

1235 (i) protect the physical safety of the child; or

1236 (ii) prevent the child from being traumatized by contact with the parent due to the



1237 child's fear of the parent in light of the nature of the alleged abuse or neglect.

1238 (c) To overcome the presumption described in Subsection (2)(b), a party must  
1239 establish, by a preponderance of the evidence, that unsupervised parent-time would:

1240 (i) create a risk to the physical safety of the child; or

1241 (ii) cause the child to be traumatized by contact with the parent due to the child's fear  
1242 of the parent in light of the nature of the alleged abuse or neglect.

1243 (d) (i) The division or the person designated by the division or a court to supervise a  
1244 parent-time session may deny parent-time for the session if the division or the supervising  
1245 person determines that, based on the parent's condition, it is necessary to deny parent-time to:

1246 (A) protect the physical safety of the child;

1247 (B) protect the life of the child; or

1248 (C) consistent with Subsection (2)(d)(ii), prevent the child from being traumatized by  
1249 contact with the parent.

1250 (ii) In determining whether the condition of the parent described in Subsection (2)(d)(i)  
1251 will traumatize a child, the division or the person supervising the parent-time session shall  
1252 consider the impact that the parent's condition will have on the child in light of:

1253 (A) the child's fear of the parent; and

1254 (B) the nature of the alleged abuse or neglect.

1255 Section 11. Section **80-3-409** is amended to read:

1256 **80-3-409. Permanency hearing -- Final plan -- Petition for termination of**  
1257 **parental rights filed -- Hearing on termination of parental rights.**

1258 (1) (a) If reunification services are ordered under Section **80-3-406**, with regard to a  
1259 minor who is in the custody of the division, the juvenile court shall hold a permanency hearing  
1260 no later than 12 months after the day on which the minor is initially removed from the minor's  
1261 home.

1262 (b) If reunification services are not ordered at the dispositional hearing, the juvenile  
1263 court shall hold a permanency hearing within 30 days after the day on which the dispositional  
1264 hearing ends.

1265 (2) (a) If reunification services are ordered in accordance with Section **80-3-406**, the  
1266 juvenile court shall, at the permanency hearing, determine, consistent with Subsection (3),  
1267 whether the minor may safely be returned to the custody of the minor's parent.

1268 (b) If the juvenile court finds, by a preponderance of the evidence, that return of the  
1269 minor to the minor's parent would create a substantial risk of detriment to the minor's physical  
1270 or emotional well-being, the minor may not be returned to the custody of the minor's parent.

1271 (c) Prima facie evidence that return of the minor to a parent or guardian would create a  
1272 substantial risk of detriment to the minor is established if:

1273 (i) the parent or guardian fails to:

1274 (A) participate in a court approved child and family plan;

1275 (B) comply with a court approved child and family plan in whole or in part; or

1276 (C) meet the goals of a court approved child and family plan; or

1277 (ii) the minor's natural parent:

1278 (A) intentionally, knowingly, or recklessly causes the death of another parent of the  
1279 minor;

1280 (B) is identified by a law enforcement agency as the primary suspect in an investigation  
1281 for intentionally, knowingly, or recklessly causing the death of another parent of the minor; or

1282 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or  
1283 recklessly causing the death of another parent of the minor.

1284 (3) In making a determination under Subsection (2)(a), the juvenile court shall:

1285 (a) review and consider:

1286 (i) the report prepared by the division;

1287 (ii) in accordance with the Utah Rules of Evidence, any admissible evidence offered by  
1288 the minor's attorney guardian ad litem;

1289 (iii) any report submitted by the division under Subsection [80-3-408\(3\)\(a\)\(i\)](#);

1290 (iv) any evidence regarding the efforts or progress demonstrated by the parent; and

1291 (v) the extent to which the parent cooperated and used the services provided; and

1292 (b) attempt to keep the minor's sibling group together if keeping the sibling group  
1293 together is:

1294 (i) practicable; and

1295 (ii) in accordance with the best interest of the minor.

1296 (4) With regard to a case where reunification services are ordered by the juvenile court,  
1297 if a minor is not returned to the minor's parent or guardian at the permanency hearing, the  
1298 juvenile court shall, unless the time for the provision of reunification services is extended

1299 under Subsection (7):

1300 (a) order termination of reunification services to the parent;

1301 (b) make a final determination regarding whether termination of parental rights,  
1302 adoption, or permanent custody and guardianship is the most appropriate final plan for the  
1303 minor, taking into account the minor's primary permanency plan established by the juvenile  
1304 court under Section 80-3-406; and

1305 (c) in accordance with Subsection 80-3-406(2), establish a concurrent permanency plan  
1306 that identifies the second most appropriate final plan for the minor, if appropriate.

1307 (5) The juvenile court may order another planned permanent living arrangement other  
1308 than reunification for a minor who is 16 years old or older upon entering the following  
1309 findings:

1310 (a) the division has documented intensive, ongoing, and unsuccessful efforts to reunify  
1311 the minor with the minor's parent or parents, or to secure a placement for the minor with a  
1312 guardian, an adoptive parent, or an individual described in Subsection 80-3-301(6)(e);

1313 (b) the division has demonstrated that the division has made efforts to normalize the  
1314 life of the minor while in the division's custody, in accordance with Section 80-2-308;

1315 (c) the minor prefers another planned permanent living arrangement; and

1316 (d) there is a compelling reason why reunification or a placement described in  
1317 Subsection (5)(a) is not in the minor's best interest.

1318 (6) Except as provided in Subsection (7), the juvenile court may not extend  
1319 reunification services beyond 12 months after the day on which the minor is initially removed  
1320 from the minor's home, in accordance with the provisions of Section 80-3-406.

1321 (7) (a) Subject to Subsection (7)(b), the juvenile court may extend reunification  
1322 services for no more than 90 days if the juvenile court finds, beyond a preponderance of the  
1323 evidence, that:

1324 (i) there has been substantial compliance with the child and family plan;

1325 (ii) reunification is probable within that 90-day period; and

1326 (iii) the extension is in the best interest of the minor.

1327 (b) (i) Except as provided in Subsection (7)(c), the juvenile court may not extend any  
1328 reunification services beyond 15 months after the day on which the minor is initially removed  
1329 from the minor's home.

1330 (ii) Delay or failure of a parent to establish paternity or seek custody does not provide a  
1331 basis for the juvenile court to extend services for the parent beyond the 12-month period  
1332 described in Subsection (6).

1333 (c) In accordance with Subsection (7)(d), the juvenile court may extend reunification  
1334 services for one additional 90-day period, beyond the 90-day period described in Subsection  
1335 (7)(a), if:

1336 (i) the juvenile court finds, by clear and convincing evidence, that:

1337 (A) the parent has substantially complied with the child and family plan;

1338 (B) it is likely that reunification will occur within the additional 90-day period; and

1339 (C) the extension is in the best interest of the minor;

1340 (ii) the juvenile court specifies the facts upon which the findings described in  
1341 Subsection (7)(c)(i) are based; and

1342 (iii) the juvenile court specifies the time period in which it is likely that reunification  
1343 will occur.

1344 (d) A juvenile court may not extend the time period for reunification services without  
1345 complying with the requirements of this Subsection (7) before the extension.

1346 (e) In determining whether to extend reunification services for a minor, a juvenile court  
1347 shall take into consideration the status of the minor siblings of the minor.

1348 (8) (a) At the permanency hearing, if a child remains in an out-of-home placement, the  
1349 juvenile court shall:

1350 (i) make specific findings regarding the conditions of parent-time that are in the child's  
1351 best interest; and

1352 (ii) if parent-time is denied, state the facts that justify the denial.

1353 (b) There is a rebuttable presumption that parent-time will be unsupervised and under  
1354 the least restrictive conditions necessary to:

1355 (i) protect the physical safety of the child; or

1356 (ii) prevent the child from being traumatized by contact with the parent due to the  
1357 child's fear of the parent in light of the nature of the alleged abuse or neglect.

1358 (c) To overcome the presumption described in Subsection (8)(b), a party must  
1359 establish, by a preponderance of the evidence, that unsupervised parent-time would:

1360 (i) create a risk to the physical safety of the child; or

1361 (ii) cause the child to be traumatized by contact with the parent due to the child's fear  
1362 of the parent in light of the nature of the alleged abuse or neglect.

1363 (d) (i) The division or the person designated by the division or a court to supervise a  
1364 parent-time session may deny parent-time for the session if the division or the supervising  
1365 person determines that, based on the parent's condition, it is necessary to deny parent-time to:

1366 (A) protect the physical safety of the child;

1367 (B) protect the life of the child; or

1368 (C) consistent with Subsection (8)(d)(ii), prevent the child from being traumatized by  
1369 contact with the parent.

1370 (ii) In determining whether the condition of the parent described in Subsection (8)(d)(i)  
1371 will traumatize a child, the division or the person supervising the parent-time session shall  
1372 consider the impact that the parent's condition will have on the child in light of:

1373 (A) the child's fear of the parent; and

1374 (B) the nature of the alleged abuse or neglect.

1375 (9) The juvenile court may, in the juvenile court's discretion:

1376 (a) enter any additional order that the juvenile court determines to be in the best  
1377 interest of the minor, so long as that order does not conflict with the requirements and  
1378 provisions of Subsections (4) through ~~[(7)]~~ (8); or

1379 (b) order the division to provide protective supervision or other services to a minor and  
1380 the minor's family after the division's custody of a minor is terminated.

1381 ~~[(9)]~~ (10) (a) If the final plan for the minor is to proceed toward termination of parental  
1382 rights, the petition for termination of parental rights shall be filed, and a pretrial held, within 45  
1383 calendar days after the day on which the permanency hearing is held.

1384 (b) If the division opposes the plan to terminate parental rights, the juvenile court may  
1385 not require the division to file a petition for the termination of parental rights, except as  
1386 required under Subsection 80-4-203(2).

1387 ~~[(10)]~~ (11) (a) Any party to an action may, at any time, petition the juvenile court for an  
1388 expedited permanency hearing on the basis that continuation of reunification efforts are  
1389 inconsistent with the permanency needs of the minor.

1390 (b) If the juvenile court so determines, the juvenile court shall order, in accordance  
1391 with federal law, that:

- 1392 (i) the minor be placed in accordance with the permanency plan; and
- 1393 (ii) whatever steps are necessary to finalize the permanent placement of the minor be
- 1394 completed as quickly as possible.

1395 ~~[(11)]~~ (12) Nothing in this section may be construed to:

- 1396 (a) entitle any parent to reunification services for any specified period of time;
- 1397 (b) limit a juvenile court's ability to terminate reunification services at any time before
- 1398 a permanency hearing; or

1399 (c) limit or prohibit the filing of a petition for termination of parental rights by any

1400 party, or a hearing on termination of parental rights, at any time before a permanency hearing

1401 provided that relative placement and custody options have been fairly considered in accordance

1402 with Sections [80-2a-201](#) and [80-4-104](#).

1403 ~~[(12)]~~ (13) (a) Subject to Subsection ~~[(12)(b)]~~ (13)(b), if a petition for termination of

1404 parental rights is filed before the date scheduled for a permanency hearing, the juvenile court

1405 may consolidate the hearing on termination of parental rights with the permanency hearing.

1406 (b) For purposes of Subsection ~~[(12)(a)]~~ (13)(a), if the juvenile court consolidates the

1407 hearing on termination of parental rights with the permanency hearing:

1408 (i) the juvenile court shall first make a finding regarding whether reasonable efforts

1409 have been made by the division to finalize the permanency plan for the minor; and

1410 (ii) any reunification services shall be terminated in accordance with the time lines

1411 described in Section [80-3-406](#).

1412 (c) The juvenile court shall make a decision on a petition for termination of parental

1413 rights within 18 months after the day on which the minor is initially removed from the minor's

1414 home.

1415 ~~[(13)]~~ (14) (a) If a juvenile court determines that a minor will not be returned to a

1416 parent of the minor, the juvenile court shall consider appropriate placement options inside and

1417 outside of the state.

1418 (b) In considering appropriate placement options under Subsection ~~[(13)(a)]~~ (14)(a),

1419 the juvenile court shall provide preferential consideration to a relative's request for placement

1420 of the minor.

1421 ~~[(14)]~~ (15) (a) In accordance with Section [80-3-108](#), if a minor 14 years old or older

1422 desires an opportunity to address the juvenile court or testify regarding permanency or

1423 placement, the juvenile court shall give the minor's wishes added weight, but may not treat the  
1424 minor's wishes as the single controlling factor under this section.

1425 (b) If the juvenile court's decision under this section differs from a minor's express  
1426 wishes if the minor is of sufficient maturity to articulate the wishes in relation to permanency  
1427 or the minor's placement, the juvenile court shall make findings explaining why the juvenile  
1428 court's decision differs from the minor's wishes.

1429 Section 12. Section **80-3-502** is amended to read:

1430 **80-3-502. Review of foster care removal -- Foster parent's standing.**

1431 (1) With regard to a minor in the custody of the division who is the subject of a petition  
1432 alleging abuse, neglect, or dependency, and who has been placed in foster care with a foster  
1433 family, the Legislature finds that:

1434 (a) except with regard to the minor's natural parents, a foster family has a very limited  
1435 but recognized interest in its familial relationship with the minor; and

1436 (b) minors in the custody of the division are experiencing multiple changes in foster  
1437 care placements with little or no documentation, and that numerous studies of child growth and  
1438 development emphasize the importance of stability in foster care living arrangements.

1439 (2) For the reasons described in Subsection (1), the Legislature finds that, except with  
1440 regard to the minor's natural parents, procedural due process protections must be provided to a  
1441 foster family prior to removal of a foster minor from the foster home.

1442 (3) (a) A foster parent who has had a foster minor in the foster parent's home for 12  
1443 months or longer may petition the juvenile court for a review and determination of the  
1444 appropriateness of a decision by the division to remove the minor from the foster home, unless  
1445 the removal was for the purpose of:

1446 (i) returning the minor to the minor's natural parent or legal guardian;

1447 (ii) immediately placing the minor in an approved adoptive home;

1448 (iii) placing the minor with a relative who obtained custody or asserted an interest in  
1449 the minor within the preference period described in Subsection [~~80-3-302(8)~~] 80-3-302(9); or

1450 (iv) placing an Indian child in accordance with placement preferences and other  
1451 requirements described in the Indian Child Welfare Act, 25 U.S.C. Sec. 1915.

1452 (b) The foster parent may petition the juvenile court under this section without  
1453 exhausting administrative remedies within the division.

1454 (c) The juvenile court may order the division to place the minor in a specified home,  
1455 and shall base the juvenile court's determination on the best interest of the minor.

1456 (4) The requirements of this section do not apply to the removal of a minor based on a  
1457 foster parent's request for that removal.

1458 Section 13. Section **80-4-305** is amended to read:

1459 **80-4-305. Court disposition of child upon termination of parental rights --**  
1460 **Posttermination reunification.**

1461 (1) Except as provided in Subsection (7), as used in this section, "relative" means:

1462 (a) an adult who is a grandparent, great-grandparent, aunt, great aunt, uncle, great  
1463 uncle, brother-in-law, sister-in-law, stepparent, first cousin, sibling, or stepsibling of a child;  
1464 and

1465 (b) in the case of a child who is an Indian child, an extended family member as defined  
1466 in the Indian Child Welfare Act, 25 U.S.C. Sec. 1903.

1467 (2) Upon entry of an order under this chapter, the juvenile court may:

1468 (a) place the child in the legal custody and guardianship of a child-placing agency or  
1469 the division for adoption; or

1470 (b) make any other disposition of the child authorized under Section [80-3-405](#).

1471 (3) Subject to Subsections (4) and (6), the division shall place all adoptable children  
1472 placed in the custody of the division for adoption.

1473 (4) If the parental rights of all parents of an adoptable child placed in the custody of the  
1474 division are terminated and a suitable adoptive placement is not already available, the juvenile  
1475 court:

1476 (a) shall determine whether there is a relative who desires to adopt the child;

1477 (b) may order the division to conduct a reasonable search to determine whether there is  
1478 a relative who is willing to adopt the child; and

1479 (c) shall, if a relative desires to adopt the child:

1480 (i) make a specific finding regarding the fitness of the relative to adopt the child; and

1481 (ii) place the child for adoption with the relative unless the juvenile court finds that  
1482 adoption by the relative is not in the best interest of the child.

1483 (5) If an individual who is not a relative of the child desires to adopt the child, the  
1484 juvenile court shall, before entering an order for adoption of the child, determine whether due



1485 weight was given to the relative's preferential consideration under Subsection

1486 [~~80-3-302(7)(a)(i)~~] 80-3-302(9)(a)(i).

1487 (6) This section does not guarantee that a relative will be permitted to adopt the child.

1488 (7) A parent whose rights are terminated under this chapter, or a relative of the child, as

1489 defined by Section 80-3-102, may petition for guardianship of the child if:

1490 (a) (i) following an adoptive placement, the child's adoptive parent returns the child to  
1491 the custody of the division; or

1492 (ii) the child is in the custody of the division for one year following the day on which  
1493 the parent's rights were terminated, and no permanent placement has been found or is likely to  
1494 be found; and

1495 (b) reunification with the child's parent, or guardianship by the child's relative, is in the  
1496 best interest of the child.