

SB0163S01 compared with SB0163

~~{deleted text}~~ shows text that was in SB0163 but was deleted in SB0163S01.

inserted text shows text that was not in SB0163 but was inserted into SB0163S01.

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Representative Karianne Lisonbee proposes the following substitute bill:

CHILD WELFARE MODIFICATIONS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: ~~{ }~~ Karianne Lisonbee

LONG TITLE

General Description:

This bill amends provisions regarding the placement of a child.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides that it is the public policy of the state that, with certain conditions:
 - a parent retains the right to have contact with a child when the child is placed outside of the home; and
 - a child has the right to have contact with siblings when the child is placed apart from the child's siblings;

~~{ } requires a juvenile court to order sibling visits except in certain circumstances;~~

~~{ }~~ ▶ directs a juvenile court to make certain findings regarding ~~{parent time}~~ parent-time;

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- ▶ ~~{creates a rebuttable presumption that, at certain times, parent time will be unsupervised and}~~requires that parent-time be under the least restrictive conditions necessary to protect the child;
- ▶ removes a provision related to the primary permanency plan for a child who is three years old or younger; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) The state recognizes that:

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

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

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

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

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

(iii) a child has the right to have contact with the child's sibling when the child is placed outside of the home and apart from the child's sibling, and sibling visits should be ordered by a court unless the contact would be contrary to the safety or well-being of the child.

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

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

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

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

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

(6) In accordance with Subsections 80-2a-302(4) and 80-3-301(12), in cases where sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved, the state has no duty to make reasonable efforts or to, in any other way, attempt to maintain a child in the child's home, provide reunification services, or rehabilitate the offending parent or parents. This Subsection (6) does not exempt the division from providing court-ordered services.

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

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

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

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

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and 80-3-304.

Section 2. Section ~~{80-2a-304}~~; 80-3-307 is amended to read:

~~{~~ ~~80-2a-304.~~ ~~Removal of a child from foster family placement -- Procedural due process.~~

~~_____ (1) (a) The Legislature finds that, except with regard to a child's natural parent or guardian, a foster family has a very limited but recognized interest in the foster family's familial relationship with a foster child who has been in the care and custody of the foster family and in making determinations regarding removal of a child from a foster home, the division may not dismiss the foster family as a mere collection of unrelated individuals:~~

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

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

~~_____ (i) returning the child to the child's natural parent or guardian;~~

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

~~_____ (iii) placing the child with a relative who obtained custody or asserted an interest in the child within the preference period described in Subsection [80-3-302(7)] 80-3-302(9); or~~

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

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

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

~~_____ (i) personal communication with, and a written explanation of the reasons for the removal to, the foster parents before removal of the child; and~~

~~_____ (ii) an opportunity for foster parents to:~~

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

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

~~—— (c) If the division determines that there is a reasonable basis to believe that the child is in danger or that there is a substantial threat of danger to the health or welfare of the child, the division shall place the child in emergency foster care during the pendency of the procedures described in this Subsection (2), instead of making another foster care placement.~~

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

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

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

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

~~—— (a) notification of the requirements of this section;~~

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

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

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

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

~~—— (a) take action, or encourage another to take action, against the license of a foster~~

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~~parent; or~~

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

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

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

~~—— (b) by a preponderance of the evidence that the foster parent is incapable of caring for the foster child, if the alternative foster parent would be another relative of the child.~~

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

~~—— **80-3-301. Shelter hearing -- Court considerations:**~~

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

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

~~—— (b) placement of the child in protective custody;~~

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

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

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

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

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

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

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

~~—— (d) a concise statement regarding:~~

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

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

~~—— (e) a statement that the parent or guardian to whom notice is given, and the child, are~~

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~~entitled to have an attorney present at the shelter hearing, and that if the parent or guardian is an indigent individual and cannot afford an attorney, and desires to be represented by an attorney, one will be provided in accordance with Title 78B, Chapter 22, Indigent Defense Act; and~~

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

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

~~—— (a) the appropriate guardian ad litem; and~~

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

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

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

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

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

~~—— (d) the child's guardian ad litem;~~

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

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

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

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

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

~~—— (B) any other individual with relevant knowledge;~~

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

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

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- ~~—— (b) The juvenile court:~~
- ~~—— (i) may consider all relevant evidence, in accordance with the Utah Rules of Juvenile Procedure;~~
- ~~—— (ii) shall hear relevant evidence presented by the child, the child's parent or guardian, the requesting party, or the requesting party's counsel; and~~
- ~~—— (iii) may in the juvenile court's discretion limit testimony and evidence to only that which goes to the issues of removal and the child's need for continued protection.~~
- ~~—— (6) If the child is in protective custody, the division shall report to the juvenile court:~~
 - ~~—— (a) the reason why the child was removed from the parent's or guardian's custody;~~
 - ~~—— (b) any services provided to the child and the child's family in an effort to prevent removal;~~
 - ~~—— (c) the need, if any, for continued shelter;~~
 - ~~—— (d) the available services that could facilitate the return of the child to the custody of the child's parent or guardian; and~~
 - ~~—— (e) subject to Subsections [80-3-302(7)(c)] 80-3-302(9)(c) through (e), whether any relatives of the child or friends of the child's parents may be able and willing to accept temporary placement of the child.~~
- ~~—— (7) The juvenile court shall consider all relevant evidence provided by an individual or entity authorized to present relevant evidence under this section.~~
- ~~—— (8) (a) If necessary to protect the child, preserve the rights of a party, or for other good cause shown, the juvenile court may grant no more than one continuance, not to exceed five judicial days.~~
 - ~~—— (b) A juvenile court shall honor, as nearly as practicable, the request by a parent or guardian for a continuance under Subsection (8)(a):~~
 - ~~—— (c) Notwithstanding Subsection (8)(a), if the division fails to provide the notice described in Subsection (2) within the time described in Subsection (3), the juvenile court may grant the request of a parent or guardian for a continuance, not to exceed five judicial days.~~
- ~~—— (9) (a) If the child is in protective custody, the juvenile court shall order that the child be returned to the custody of the parent or guardian unless the juvenile court finds, by a preponderance of the evidence, consistent with the protections and requirements provided in Subsection 80-2a-201(1), that any one of the following exists:~~

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- ~~—— (i) subject to Subsection (9)(b)(i), there is a serious danger to the physical health or safety of the child and the child's physical health or safety may not be protected without removing the child from the custody of the child's parent;~~
- ~~—— (ii) (A) the child is suffering emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;~~
- ~~—— (B) the parent or guardian is unwilling or unable to make reasonable changes that would sufficiently prevent future damage; and~~
- ~~—— (C) there are no reasonable means available by which the child's emotional health may be protected without removing the child from the custody of the child's parent or guardian;~~
- ~~—— (iii) there is a substantial risk that the child will suffer abuse or neglect if the child is not removed from the custody of the child's parent or guardian;~~
- ~~—— (iv) subject to Subsection (9)(b)(ii), the child or a minor residing in the same household has been, or is considered to be at substantial risk of being, physically abused, sexually abused, or sexually exploited by:~~
 - ~~—— (A) a parent or guardian;~~
 - ~~—— (B) a member of the parent's household or the guardian's household; or~~
 - ~~—— (C) an individual known to the parent or guardian;~~
- ~~—— (v) the parent or guardian is unwilling to have physical custody of the child;~~
- ~~—— (vi) the parent or guardian is unable to have physical custody of the child;~~
- ~~—— (vii) the child is without any provision for the child's support;~~
- ~~—— (viii) a parent who is incarcerated or institutionalized has not or cannot arrange for safe and appropriate care for the child;~~
- ~~—— (ix) (A) a relative or other adult custodian with whom the child is left by the parent or guardian is unwilling or unable to provide care or support for the child;~~
- ~~—— (B) the whereabouts of the parent or guardian are unknown; and~~
- ~~—— (C) reasonable efforts to locate the parent or guardian are unsuccessful;~~
- ~~—— (x) subject to Subsection 80-1-102(58)(b)(i) and Sections 80-3-109 and 80-3-304, the child is in immediate need of medical care;~~
- ~~—— (xi) (A) the physical environment or the fact that the child is left unattended beyond a reasonable period of time poses a threat to the child's health or safety; and~~
- ~~—— (B) the parent or guardian is unwilling or unable to make reasonable changes that~~

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would remove the threat;

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

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

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

~~—— (xiv) (A) the child's welfare is substantially endangered; and~~

~~—— (B) the parent or guardian is unwilling or unable to make reasonable changes that would remove the danger; or~~

~~—— (xv) the child's natural parent:~~

~~—— (A) intentionally, knowingly, or recklessly causes the death of another parent of the child;~~

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

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

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

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

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

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

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

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removal:

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

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

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

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

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

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

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

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

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

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

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

~~—— Section 4. Section ~~80-3-302~~ is amended to read:~~

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

~~(1) As used in this section:~~

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

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

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

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

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

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

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

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

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

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

~~(c) The juvenile court:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~— (c) if sibling visitation is denied, state the facts that justify the denial:~~

~~— (7) At the shelter hearing, if a child is removed from the custody of the child's parent,~~

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~~the juvenile court shall:~~

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

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

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

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

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

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

~~—— (d) may order that the child be placed in the temporary custody of the division pending the determination under Subsection [(6)] (8)(a):~~

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

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

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

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

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

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

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

~~—— (i) a noncustodial parent of the child;~~

~~—— (ii) a relative of the child;~~

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

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

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

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

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

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

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

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

~~—— (B) the basis for removing the child under Section 80-3-301 is sexual abuse of the child.~~

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

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

~~—— [(8)] (10) (a) If a relative or friend who is willing to cooperate with the child's permanency goal is identified under Subsection [(6)] (8)(a), the juvenile court:~~

~~—— (i) shall make a specific finding regarding:~~

~~—— (A) the fitness of that relative or friend as a placement for the child; and~~

~~—— (B) the safety and appropriateness of placement with the relative or friend; and~~

~~—— (ii) may not consider a request for guardianship or adoption of the child by an individual who is not a relative of the child, or prevent the division from placing the child in the custody of a relative of the child in accordance with this part, until after the day on which the juvenile court makes the findings under Subsection [(8)(a)(i)] (10)(a)(i).~~

~~—— (b) In making the finding described in Subsection [(8)] (10)(a), the juvenile court shall, at a minimum, order the division to:~~

~~—— (i) if the child may be placed with a relative, conduct a background check that includes:~~

~~—— (A) completion of a nonfingerprint-based, Utah Bureau of Criminal Identification background check of the relative;~~

~~—— (B) a completed search, relating to the relative, of the Management Information System; and~~

~~—— (C) a background check that complies with the criminal background check provisions described in Section 80-3-305, of each nonrelative of the child who resides in the household where the child may be placed;~~

~~—— (ii) if the child will be placed with a noncustodial parent, complete a background check that includes:~~

~~—— (A) the background check requirements applicable to an emergency placement with a noncustodial parent that are described in Subsections 80-2a-301(4) and (6);~~

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~~—— (B) a completed search, relating to the noncustodial parent of the child, of the Management Information System; and~~

~~—— (C) a background check that complies with the criminal background check provisions described in Section 80-3-305, of each nonrelative of the child who resides in the household where the child may be placed;~~

~~—— (iii) if the child may be placed with an individual other than a noncustodial parent or a relative, conduct a criminal background check of the individual, and each adult that resides in the household where the child may be placed, that complies with the criminal background check provisions described in Section 80-3-305;~~

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

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

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

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

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

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

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

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

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

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

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

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

~~—— [(9)](11) (a) The juvenile court may place a child described in Subsection (2)(a) in the temporary custody of the division, pending the division's investigation under Subsection [(8)]~~

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~~(10), and the juvenile court's determination regarding the appropriateness of the placement.~~

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

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

~~—— (a) the juvenile court shall:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

~~—— (i) conduct a criminal background check of the relative that complies with the criminal~~

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~~background check provisions described in Section 80-3-305; and~~

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

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

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

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

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

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

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

~~—— (ii) upon a determination of the former foster parents' willingness and ability to safely and appropriately care for the child, give the former foster parents preference for placement of the child:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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Subsections (3)(a)(i) and (iii).

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

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

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

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

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

(a) the guardian ad litem;

(b) the child's natural parents; and

(c) the child's foster parents.

(5) A child and family plan shall:

(a) specifically provide for the safety of the child, in accordance with federal law;

(b) clearly define what actions or precautions will, or may be, necessary to provide for the health, safety, protection, and welfare of the child;

(c) be specific to each child and the child's family, rather than general;

(d) include individualized expectations and contain specific time frames;

(e) except as provided in Subsection (6), address problems that:

(i) keep a child in the child's placement; and

(ii) keep a child from achieving permanence in the child's life;

(f) be designed to:

(i) minimize disruption to the normal activities of the child's family, including employment and school; and

(ii) as much as practicable, help the child's parent maintain or obtain employment; and

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

(i) the reason the child entered into protective custody or the division's temporary custody or custody;

(ii) documentation of:

(A) the reasonable efforts made to prevent placement of the child in protective custody

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or the division's temporary custody or custody; or

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

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

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

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

(A) specifically what the parents must do in order to enable the child to be returned home;

(B) specifically how the requirements described in Subsection (5)(g)(v)(A) may be accomplished; and

(C) how the requirements described in Subsection (5)(g)(v)(A) will be measured;

(vi) the specific services needed to reduce the problems that necessitated placing the child in protective custody or the division's temporary custody or custody;

(vii) the name of the individual who will provide for and be responsible for case management for the division;

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

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

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

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

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

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

(a) address findings made by the court; or

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

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

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

(i) is placed in residential treatment; and

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

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

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

(i) federal mandates; and

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

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

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

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

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

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

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

(i) protect the physical safety of the child;

(ii) protect the life of the child; or

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

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

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

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

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

(12) (a) The division shall incorporate into the child and family plan reasonable efforts to provide sibling visitation if:

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

(b) The division shall obtain consent for sibling visitation from the sibling's guardian if the criteria of Subsections (12)(a)(i) and (ii) are met.

Section ~~77~~3. Section **80-3-402** is amended to read:

80-3-402. Adjudication hearing -- Dispositional hearing time deadlines -- Scheduling of review and permanency hearing.

(1) If, at the adjudication hearing, the juvenile court finds, by clear and convincing evidence, that the allegations contained in the abuse, neglect, or dependency petition are true, the juvenile court shall conduct a dispositional hearing.

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

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juvenile court shall:

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

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

(b) ~~{There is a rebuttable presumption that parent-time will}~~ Parent-time shall be ~~{~~ unsupervised and} under the least restrictive conditions necessary to:

~~{~~ (i) protect the physical safety of the child; or

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

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

~~‡~~ (i) ~~{create a risk to}~~ protect the physical safety of the child; or

(ii) ~~{cause}~~ prevent the child ~~{to be}~~ from being traumatized by contact with the parent due to the child's fear of the parent in light of the nature of the alleged abuse or neglect.

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

(A) protect the physical safety of the child;

(B) protect the life of the child; or

(C) consistent with Subsection (2)(~~{d}~~ c)(ii), prevent the child from being traumatized by contact with the parent.

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

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

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

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

~~{3}~~ (4) At the adjudication hearing or the dispositional hearing, the juvenile court shall schedule dates and times for:

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- (a) the six-month periodic review; and
- (b) the permanency hearing.

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

Section ~~80-3-404~~ 4. Section **80-3-405** is amended to read:

80-3-405. Dispositions after adjudication.

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

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

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

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

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

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

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

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

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

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

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

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(c) The juvenile court may order:

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

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

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

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

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

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

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

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

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

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

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(B) receive other special care.

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

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

(A) the desires of the minor;

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

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

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

(3) (a) At the dispositional hearing ~~described in Subsection 80-3-402(3)~~, if a child remains in an out-of-home placement, the juvenile court shall:

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

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

(b) ~~{There is a rebuttable presumption that parent-time will}~~ ~~Parent-time shall be~~ ~~unsupervised and}~~ ~~under the least restrictive conditions necessary to:~~

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

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

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

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

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

~~{~~ ~~(d)}~~ ~~(c) (i) The division or the person designated by the division or a court to supervise~~

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a parent-time session may deny parent-time for the session if the division or the supervising person determines that, based on the parent's condition, it is necessary to deny parent-time to:

(A) protect the physical safety of the child;

(B) protect the life of the child; or

(C) consistent with Subsection (3)(~~f~~~~d~~)~~c~~(ii), prevent the child from being traumatized

by contact with the parent.

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

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

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

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

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

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

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

~~‡ [(3)] (~~f~~~~5~~~~4~~)~~ Upon an adjudication under this chapter, the juvenile court may not:

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

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

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

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

(ii) based on the assessment described in Subsection [(3)(~~c~~)~~(i)~~] (~~f~~~~5~~~~4~~)(~~c~~)(i), determines that vesting custody of the minor in the division is the least restrictive intervention for the minor that meets the minor's needs; and

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

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~~[(4)]~~ ~~(~~6~~)~~5 The juvenile court may combine the dispositions listed in Subsection (2) if combining the dispositions is permissible and the dispositions are compatible.

Section ~~(9)~~5. Section **80-3-406** is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) 30 days after the day on which the juvenile court makes the determination described

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in this Subsection (3)(c); or

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

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

(b) The juvenile court may determine that:

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

(ii) reunification services should not be provided.

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

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

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

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

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

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

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

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

(d) the parent:

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

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

(A) murder or manslaughter of a minor; or

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(B) child abuse homicide;

(iii) committed sexual abuse against the minor;

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

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

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

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

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

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

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

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

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

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

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

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

(6) (a) The juvenile court shall base the finding under Subsection (5)(b) on competent

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evidence from at least two medical or mental health professionals, who are not associates, establishing that, even with the provision of services, the parent is not likely to be capable of adequately caring for the minor within 12 months after the day on which the juvenile court finding is made.

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

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

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

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

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

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

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

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

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

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

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

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

(i) protect the physical safety of the minor;

(ii) protect the life of the minor; or

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

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

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

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

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

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

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

~~(e) To overcome the presumption described in Subsection (9)(d), a party must establish, by a preponderance of the evidence, that unsupervised parent-time would create a risk to the physical safety of the child.~~

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

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

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

~~(C) consistent with Subsection (9)(f) (e) (ii), prevent the child from being traumatized by contact with the parent.~~

~~(ii) In determining whether the condition of the parent described in Subsection (9)(f) (e) (i) will traumatize a child, the division or the person supervising the parent-time session shall consider the impact that the parent's condition will have on the child in light of:~~

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

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

(10) (a) If the juvenile court determines that reunification services are appropriate, the juvenile court shall order that the division make reasonable efforts to provide services to the minor and the minor's parent for the purpose of facilitating reunification of the family, for a specified period of time.

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(b) In providing the services described in Subsection (10)(a), the juvenile court and the division shall consider the minor's health, safety, and welfare as the paramount concern.

(11) In cases where sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved:

(a) the juvenile court does not have any duty to order reunification services; and

(b) the division does not have a duty to make reasonable efforts to or in any other way attempt to provide reunification services or attempt to rehabilitate the offending parent or parents.

(12) (a) The juvenile court shall:

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

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

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

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

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

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

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

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

(14) (a) If reunification services are ordered, the juvenile court may terminate those

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services at any time.

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

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

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

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

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

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

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

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

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

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

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

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

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

(20) (a) If a parent is incarcerated or institutionalized, the juvenile court shall order

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reasonable services unless the juvenile court determines that those services would be detrimental to the minor.

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

- (i) the age of the minor;
- (ii) the degree of parent-child bonding;
- (iii) the length of the sentence;
- (iv) the nature of the treatment;
- (v) the nature of the crime or illness;
- (vi) the degree of detriment to the minor if services are not offered;
- (vii) for a minor who is 10 years old or older, the minor's attitude toward the implementation of family reunification services; and
- (viii) any other appropriate factors.

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

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

Section ~~10~~6. Section **80-3-407** is amended to read:

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

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

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

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

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

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

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

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

(b) ~~{There is a rebuttable presumption that parent-time will}~~ **Parent-time shall be** ~~**un**supervised and~~}~~ under the least restrictive conditions necessary to:~~

~~{~~ ~~(i) protect the physical safety of the child; or~~

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

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

~~{~~ ~~(i) ~~{create a risk to}~~ **protect** the physical safety of the child; or~~

~~(ii) ~~{cause}~~ **prevent** the child ~~{to be}~~ **from being** traumatized by contact with the parent due to the child's fear of the parent in light of the nature of the alleged abuse or neglect.~~

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

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

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

~~(C) consistent with Subsection (2)(~~{d}~~**c**)(ii), prevent the child from being traumatized by contact with the parent.~~

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

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

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

Section ~~{H}~~**7**. Section **80-3-409** is amended to read:

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

(1) (a) If reunification services are ordered under Section 80-3-406, with regard to a

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minor who is in the custody of the division, the juvenile court shall hold a permanency hearing no later than 12 months after the day on which the minor is initially removed from the minor's home.

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

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

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

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

(i) the parent or guardian fails to:

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

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

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

(ii) the minor's natural parent:

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

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

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

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

(a) review and consider:

(i) the report prepared by the division;

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

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

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- (iv) any evidence regarding the efforts or progress demonstrated by the parent; and
- (v) the extent to which the parent cooperated and used the services provided; and
- (b) attempt to keep the minor's sibling group together if keeping the sibling group

together is:

- (i) practicable; and
- (ii) in accordance with the best interest of the minor.

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

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

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

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

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

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

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

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

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

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

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

- (i) there has been substantial compliance with the child and family plan;
- (ii) reunification is probable within that 90-day period; and
- (iii) the extension is in the best interest of the minor.

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

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

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

- (i) the juvenile court finds, by clear and convincing evidence, that:
 - (A) the parent has substantially complied with the child and family plan;
 - (B) it is likely that reunification will occur within the additional 90-day period; and
 - (C) the extension is in the best interest of the minor;

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

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

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

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

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

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

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

(b) ~~{There is a rebuttable presumption that parent-time will}~~ Parent-time shall be ~~{~~ unsupervised and} under the least restrictive conditions necessary to:

~~{~~ (i) protect the physical safety of the child; or

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

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

~~‡~~ (i) ~~{create a risk to}~~ protect the physical safety of the child; or

(ii) ~~{cause}~~ prevent the child ~~{to be}~~ from being traumatized by contact with the parent due to the child's fear of the parent in light of the nature of the alleged abuse or neglect.

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

(A) protect the physical safety of the child;

(B) protect the life of the child; or

(C) consistent with Subsection (8)(~~f)(c)~~(ii), prevent the child from being traumatized by contact with the parent.

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

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

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

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

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

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

~~[(9)] (10) (a) If the final plan for the minor is to proceed toward termination of parental rights, the petition for termination of parental rights shall be filed, and a pretrial held, within 45~~

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calendar days after the day on which the permanency hearing is held.

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

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

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

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

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

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

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

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

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

~~[(12)]~~ (13) (a) Subject to Subsection ~~[(12)(b)]~~ (13)(b), if a petition for termination of parental rights is filed before the date scheduled for a permanency hearing, the juvenile court may consolidate the hearing on termination of parental rights with the permanency hearing.

(b) For purposes of Subsection ~~[(12)(a)]~~ (13)(a), if the juvenile court consolidates the hearing on termination of parental rights with the permanency hearing:

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

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

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

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home.

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

(b) In considering appropriate placement options under Subsection [(13)(a)] (14)(a), the juvenile court shall provide preferential consideration to a relative's request for placement of the minor.

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

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

~~{ Section 12. Section 80-3-502 is amended to read:~~

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

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

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

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

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

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

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~~the removal was for the purpose of:~~

- ~~—— (i) returning the minor to the minor's natural parent or legal guardian;~~
- ~~—— (ii) immediately placing the minor in an approved adoptive home;~~
- ~~—— (iii) placing the minor with a relative who obtained custody or asserted an interest in the minor within the preference period described in Subsection [80-3-302(8)] 80-3-302(9); or~~
- ~~—— (iv) placing an Indian child in accordance with placement preferences and other requirements described in the Indian Child Welfare Act, 25 U.S.C. Sec. 1915.~~
- ~~—— (b) The foster parent may petition the juvenile court under this section without exhausting administrative remedies within the division.~~
- ~~—— (c) The juvenile court may order the division to place the minor in a specified home, and shall base the juvenile court's determination on the best interest of the minor.~~
- ~~—— (4) The requirements of this section do not apply to the removal of a minor based on a foster parent's request for that removal.~~

~~—— Section 13. Section ~~80-4-305~~ is amended to read:~~

~~—— **80-4-305. Court disposition of child upon termination of parental rights = Posttermination reunification.**~~

- ~~—— (1) Except as provided in Subsection (7), as used in this section, "relative" means:~~
 - ~~—— (a) an adult who is a grandparent, great-grandparent, aunt, great aunt, uncle, great uncle, brother-in-law, sister-in-law, stepparent, first cousin, sibling, or stepsibling of a child; and~~
 - ~~—— (b) in the case of a child who is an Indian child, an extended family member as defined in the Indian Child Welfare Act, 25 U.S.C. Sec. 1903.~~
- ~~—— (2) Upon entry of an order under this chapter, the juvenile court may:~~
 - ~~—— (a) place the child in the legal custody and guardianship of a child-placing agency or the division for adoption; or~~
 - ~~—— (b) make any other disposition of the child authorized under Section 80-3-405.~~
- ~~—— (3) Subject to Subsections (4) and (6), the division shall place all adoptable children placed in the custody of the division for adoption.~~
- ~~—— (4) If the parental rights of all parents of an adoptable child placed in the custody of the division are terminated and a suitable adoptive placement is not already available, the juvenile court:~~

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- ~~—— (a) shall determine whether there is a relative who desires to adopt the child;~~
- ~~—— (b) may order the division to conduct a reasonable search to determine whether there is a relative who is willing to adopt the child; and~~
- ~~—— (c) shall, if a relative desires to adopt the child:~~
 - ~~—— (i) make a specific finding regarding the fitness of the relative to adopt the child; and~~
 - ~~—— (ii) place the child for adoption with the relative unless the juvenile court finds that adoption by the relative is not in the best interest of the child.~~
- ~~—— (5) If an individual who is not a relative of the child desires to adopt the child, the juvenile court shall, before entering an order for adoption of the child, determine whether due weight was given to the relative's preferential consideration under Subsection [80-3-302(7)(a)(i)] 80-3-302(9)(a)(i);~~
- ~~—— (6) This section does not guarantee that a relative will be permitted to adopt the child.~~
- ~~—— (7) A parent whose rights are terminated under this chapter, or a relative of the child, as defined by Section 80-3-102, may petition for guardianship of the child if:~~
 - ~~—— (a) (i) following an adoptive placement, the child's adoptive parent returns the child to the custody of the division; or~~
 - ~~—— (ii) the child is in the custody of the division for one year following the day on which the parent's rights were terminated, and no permanent placement has been found or is likely to be found; and~~
 - ~~—— (b) reunification with the child's parent, or guardianship by the child's relative, is in the best interest of the child.~~

‡