	FOSTER CARE AMENDMENTS
	2024 GENERAL SESSION
	STATE OF UTAH
	Chief Sponsor: Stephanie Gricius
	Senate Sponsor: Wayne A. Harper
LONG '	FITLE
General	Description:
]	This bill addresses licensing related to foster care.
Highlig	hted Provisions:
]	This bill:
,	defines terms;
,	provides that a short-term respite care provider who meets certain requirements is
not requ	ired to be licensed as a human services program;
,	requires the Office of Licensing and the Division of Child and Family Services
(division	n) within the Department of Health and Human Services to cooperate in
taking a	ction on a foster home license when a caseworker from the division
identifie	s a safety concern in the home;
•	prohibits a person who has a human services program license revoked from
obtainin	g certain new licenses for a period of two years;
•	provides that a foster home license is good for three years, with certain conditions;
•	requires that a foster license include the name of all foster parents in the home;
•	amends the administrative inspection requirements for a licensed foster home; and
•	makes technical and conforming changes.
Money 2	Appropriated in this Bill:
1	None
Other S	pecial Clauses:

28	None
29	Utah Code Sections Affected:
30	AMENDS:
31	26B-2-101, as last amended by Laws of Utah 2023, Chapter 305
32	26B-2-104 , as renumbered and amended by Laws of Utah 2023, Chapter 305
33	26B-2-105, as renumbered and amended by Laws of Utah 2023, Chapter 305
34	26B-2-107 , as renumbered and amended by Laws of Utah 2023, Chapter 305
35	26B-2-120, as last amended by Laws of Utah 2023, Chapter 344 and renumbered and
36	amended by Laws of Utah 2023, Chapter 305
37	80-2-301, as last amended by Laws of Utah 2023, Chapter 280
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39	Be it enacted by the Legislature of the state of Utah:
40	Section 1. Section 26B-2-101 is amended to read:
41	26B-2-101. Definitions.
42	As used in this part:
43	(1) "Adoption services" means the same as that term is defined in Section 80-2-801.
44	(2) "Adult day care" means nonresidential care and supervision:
45	(a) for three or more adults for at least four but less than 24 hours a day; and
46	(b) that meets the needs of functionally impaired adults through a comprehensive
47	program that provides a variety of health, social, recreational, and related support services in a
48	protective setting.
49	(3) "Applicant" means a person that applies for an initial license or a license renewal
50	under this part.
51	(4) (a) "Associated with the licensee" means that an individual is:
52	(i) affiliated with a licensee as an owner, director, member of the governing body,
53	employee, agent, provider of care, department contractor, or volunteer; or
54	(ii) applying to become affiliated with a licensee in a capacity described in Subsection
55	(4)(a)(i).
56	(b) "Associated with the licensee" does not include:
57	(i) service on the following bodies, unless that service includes direct access to a child
58	or a vulnerable adult:

59	(A) a local mental health authority described in Section 17-43-301;
60	(B) a local substance abuse authority described in Section 17-43-201; or
61	(C) a board of an organization operating under a contract to provide mental health or
62	substance use programs, or services for the local mental health authority or substance abuse
63	authority; or
64	(ii) a guest or visitor whose access to a child or a vulnerable adult is directly supervised
65	at all times.
66	(5) (a) "Boarding school" means a private school that:
67	(i) uses a regionally accredited education program;
68	(ii) provides a residence to the school's students:
69	(A) for the purpose of enabling the school's students to attend classes at the school; and
70	(B) as an ancillary service to educating the students at the school;
71	(iii) has the primary purpose of providing the school's students with an education, as
72	defined in Subsection (5)(b)(i); and
73	(iv) (A) does not provide the treatment or services described in Subsection (38)(a); or
74	(B) provides the treatment or services described in Subsection (38)(a) on a limited
75	basis, as described in Subsection (5)(b)(ii).
76	(b) (i) For purposes of Subsection (5)(a)(iii), "education" means a course of study for
77	one or more grades from kindergarten through grade 12.
78	(ii) For purposes of Subsection (5)(a)(iv)(B), a private school provides the treatment or
79	services described in Subsection (38)(a) on a limited basis if:
80	(A) the treatment or services described in Subsection (38)(a) are provided only as an
81	incidental service to a student; and
82	(B) the school does not:
83	(I) specifically solicit a student for the purpose of providing the treatment or services
84	described in Subsection (38)(a); or
85	(II) have a primary purpose of providing the treatment or services described in
86	Subsection (38)(a).
87	(c) "Boarding school" does not include a therapeutic school.
88	(6) "Child" means an individual under 18 years old.
89	(7) "Child placing" means receiving, accepting, or providing custody or care for any

90	child, temporarily or permanently, for the purpose of:
91	(a) finding a person to adopt the child;
92	(b) placing the child in a home for adoption; or
93	(c) foster home placement.
94	(8) "Child-placing agency" means a person that engages in child placing.
95	(9) "Client" means an individual who receives or has received services from a licensee.
96	(10) (a) "Congregate care program" means any of the following that provide services to
97	a child:
98	(i) an outdoor youth program;
99	(ii) a residential support program;
100	(iii) a residential treatment program; or
101	(iv) a therapeutic school.
102	(b) "Congregate care program" does not include a human services program that:
103	(i) is licensed to serve adults; and
104	(ii) is approved by the office to service a child for a limited time.
105	(11) "Day treatment" means specialized treatment that is provided to:
106	(a) a client less than 24 hours a day; and
107	(b) four or more persons who:
108	(i) are unrelated to the owner or provider; and
109	(ii) have emotional, psychological, developmental, physical, or behavioral
110	dysfunctions, impairments, or chemical dependencies.
111	(12) "Department contractor" means an individual who:
112	(a) provides services under a contract with the department; and
113	(b) due to the contract with the department, has or will likely have direct access to a
114	child or vulnerable adult.
115	(13) "Direct access" means that an individual has, or likely will have:
116	(a) contact with or access to a child or vulnerable adult that provides the individual
117	with an opportunity for personal communication or touch; or
118	(b) an opportunity to view medical, financial, or other confidential personal identifying
119	information of the child, the child's parents or legal guardians, or the vulnerable adult.
120	(14) "Directly supervised" means that an individual is being supervised under the

121	uninterrupted visual and auditory surveillance of another individual who has a current
122	background screening approval issued by the office.
123	(15) "Director" means the director of the office.
124	(16) "Domestic violence" means the same as that term is defined in Section 77-36-1.
125	(17) "Domestic violence treatment program" means a nonresidential program designed
126	to provide psychological treatment and educational services to perpetrators and victims of
127	domestic violence.
128	(18) "Elder adult" means a person 65 years old or older.
129	(19) "Foster home" means a residence that is licensed or certified by the office for the
130	full-time substitute care of a child.
131	(20) "Health benefit plan" means the same as that term is defined in Section
132	31A-22-634.
133	(21) "Health care provider" means the same as that term is defined in Section
134	78B-3-403.
135	(22) "Health insurer" means the same as that term is defined in Section 31A-22-615.5.
136	(23) (a) "Human services program" means:
137	(i) a foster home;
138	(ii) a therapeutic school;
139	(iii) a youth program;
140	(iv) an outdoor youth program;
141	(v) a residential treatment program;
142	(vi) a residential support program;
143	(vii) a resource family home;
144	(viii) a recovery residence; or
145	(ix) a facility or program that provides:
146	(A) adult day care;
147	(B) day treatment;
148	(C) outpatient treatment;
149	(D) domestic violence treatment;
150	(E) child-placing services;
151	(F) social detoxification; or

152	(G) any other human services that are required by contract with the department to be
153	licensed with the department.
154	(b) "Human services program" does not include:
155	(i) a boarding school; [or]
156	(ii) a residential, vocational and life skills program, as defined in Section 13-53-102[-];
157	<u>or</u>
158	(iii) a short-term respite care provider.
159	(24) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.
160	(25) "Indian country" means the same as that term is defined in 18 U.S.C. Sec. 1151.
161	(26) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.
162	(27) "Intermediate secure treatment" means 24-hour specialized residential treatment or
163	care for an individual who:
164	(a) cannot live independently or in a less restrictive environment; and
165	(b) requires, without the individual's consent or control, the use of locked doors to care
166	for the individual.
167	(28) "Licensee" means an individual or a human services program licensed by the
168	office.
169	(29) "Local government" means a city, town, metro township, or county.
170	(30) "Minor" means child.
171	(31) "Office" means the Office of Licensing within the department.
172	(32) "Outdoor youth program" means a program that provides:
173	(a) services to a child that has:
174	(i) a chemical dependency; or
175	(ii) a dysfunction or impairment that is emotional, psychological, developmental,
176	physical, or behavioral;
177	(b) a 24-hour outdoor group living environment; and
178	(c) (i) regular therapy, including group, individual, or supportive family therapy; or
179	(ii) informal therapy or similar services, including wilderness therapy, adventure
180	therapy, or outdoor behavioral healthcare.
181	(33) "Outpatient treatment" means individual, family, or group therapy or counseling
182	designed to improve and enhance social or psychological functioning for those whose physical

183	and emotional status allows them to continue functioning in their usual living environment.
184	(34) "Practice group" or "group practice" means two or more health care providers
185	legally organized as a partnership, professional corporation, or similar association, for which:
186	(a) substantially all of the services of the health care providers who are members of the
187	group are provided through the group and are billed in the name of the group and amounts
188	received are treated as receipts of the group; and
189	(b) the overhead expenses of and the income from the practice are distributed in
190	accordance with methods previously determined by members of the group.
191	(35) "Private-placement child" means a child whose parent or guardian enters into a
192	contract with a congregate care program for the child to receive services.
193	(36) (a) "Recovery residence" means a home, residence, or facility that meets at least
194	two of the following requirements:
195	(i) provides a supervised living environment for individuals recovering from a
196	substance use disorder;
197	(ii) provides a living environment in which more than half of the individuals in the
198	residence are recovering from a substance use disorder;
199	(iii) provides or arranges for residents to receive services related to the resident's
200	recovery from a substance use disorder, either on or off site;
201	(iv) is held out as a living environment in which individuals recovering from substance
202	abuse disorders live together to encourage continued sobriety; or
203	(v) (A) receives public funding; or
204	(B) is run as a business venture, either for-profit or not-for-profit.
205	(b) "Recovery residence" does not mean:
206	(i) a residential treatment program;
207	(ii) residential support program; or
208	(iii) a home, residence, or facility, in which:
209	(A) residents, by a majority vote of the residents, establish, implement, and enforce
210	policies governing the living environment, including the manner in which applications for
211	residence are approved and the manner in which residents are expelled;
212	(B) residents equitably share rent and housing-related expenses; and
213	(C) a landlord, owner, or operator does not receive compensation, other than fair

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214	market rental income, for establishing, implementing, or enforcing policies governing the
215	living environment.
216	(37) "Regular business hours" means:
217	(a) the hours during which services of any kind are provided to a client; or
218	(b) the hours during which a client is present at the facility of a licensee.
219	(38) (a) "Residential support program" means a program that arranges for or provides
220	the necessities of life as a protective service to individuals or families who have a disability or
221	who are experiencing a dislocation or emergency that prevents them from providing these
222	services for themselves or their families.
223	(b) "Residential support program" includes a program that provides a supervised living
224	environment for individuals with dysfunctions or impairments that are:
225	(i) emotional;
226	(ii) psychological;
227	(iii) developmental; or
228	(iv) behavioral.
229	(c) Treatment is not a necessary component of a residential support program.
230	(d) "Residential support program" does not include:
231	(i) a recovery residence; or
232	(ii) a program that provides residential services that are performed:
233	(A) exclusively under contract with the department and provided to individuals through
234	the Division of Services for People with Disabilities; or
235	(B) in a facility that serves fewer than four individuals.
236	(39) (a) "Residential treatment" means a 24-hour group living environment for four or
237	more individuals unrelated to the owner or provider that offers room or board and specialized
238	treatment, behavior modification, rehabilitation, discipline, emotional growth, or habilitation
239	services for persons with emotional, psychological, developmental, or behavioral dysfunctions,
240	impairments, or chemical dependencies.
241	(b) "Residential treatment" does not include a:
242	(i) boarding school;
243	(ii) foster home; or
244	(iii) recovery residence.

245	(40) "Residential treatment program" means a program or facility that provides:
246	(a) residential treatment; or
247	(b) intermediate secure treatment.
248	(41) "Seclusion" means the involuntary confinement of an individual in a room or an
249	area:
250	(a) away from the individual's peers; and
251	(b) in a manner that physically prevents the individual from leaving the room or area.
252	(42) "Short-term respite care provider" means an individual who:
253	(a) provides respite care to a foster parent:
254	(i) for less than six consecutive nights; and
255	(ii) in the provider's home;
256	(b) is an immediate family member or relative, as those terms are defined in Section
257	80-3-102, of the foster parent or the foster child;
258	(c) is in compliance with the requirements in Section 26B-2-120; and
259	(d) has been approved to provide short-term respite care by the Division of Child and
260	Family Services.
261	[(42)] (43) "Social detoxification" means short-term residential services for persons
262	who are experiencing or have recently experienced drug or alcohol intoxication, that are
263	provided outside of a health care facility licensed under Part 2, Health Care Facility Licensing
264	and Inspection, and that include:
265	(a) room and board for persons who are unrelated to the owner or manager of the
266	facility;
267	(b) specialized rehabilitation to acquire sobriety; and
268	(c) aftercare services.
269	[(43)] (44) "Substance abuse disorder" or "substance use disorder" mean the same as
270	"substance use disorder" is defined in Section 26B-5-501.
271	[(44)] (45) "Substance abuse treatment program" or "substance use disorder treatment
272	program" means a program:
273	(a) designed to provide:
274	(i) specialized drug or alcohol treatment;
275	(ii) rehabilitation; or

276	(iii) habilitation services; and
277	(b) that provides the treatment or services described in Subsection $[(44)(a)]$ (45)(a) to
278	persons with:
279	(i) a diagnosed substance use disorder; or
280	(ii) chemical dependency disorder.
281	[(45)] (46) "Therapeutic school" means a residential group living facility:
282	(a) for four or more individuals that are not related to:
283	(i) the owner of the facility; or
284	(ii) the primary service provider of the facility;
285	(b) that serves students who have a history of failing to function:
286	(i) at home;
287	(ii) in a public school; or
288	(iii) in a nonresidential private school; and
289	(c) that offers:
290	(i) room and board; and
291	(ii) an academic education integrated with:
292	(A) specialized structure and supervision; or
293	(B) services or treatment related to:
294	(I) a disability;
295	(II) emotional development;
296	(III) behavioral development;
297	(IV) familial development; or
298	(V) social development.
299	[(46)] (47) "Unrelated persons" means persons other than parents, legal guardians,
300	grandparents, brothers, sisters, uncles, or aunts.
301	[(47)] (48) "Vulnerable adult" means an elder adult or an adult who has a temporary or
302	permanent mental or physical impairment that substantially affects the person's ability to:
303	(a) provide personal protection;
304	(b) provide necessities such as food, shelter, clothing, or mental or other health care;
305	(c) obtain services necessary for health, safety, or welfare;
306	(d) carry out the activities of daily living;

307	(e) manage the adult's own resources; or
308	(f) comprehend the nature and consequences of remaining in a situation of abuse,
309	neglect, or exploitation.
310	[(48)] (49) (a) "Youth program" means a program designed to provide behavioral,
311	substance use, or mental health services to minors that:
312	(i) serves adjudicated or nonadjudicated youth;
313	(ii) charges a fee for the program's services;
314	(iii) may provide host homes or other arrangements for overnight accommodation of
315	the youth;
316	(iv) may provide all or part of the program's services in the outdoors;
317	(v) may limit or censor access to parents or guardians; and
318	(vi) prohibits or restricts a minor's ability to leave the program at any time of the
319	minor's own free will.
320	(b) "Youth program" does not include recreational programs such as Boy Scouts, Girl
321	Scouts, 4-H, and other such organizations.
322	[(49)] (50) (a) "Youth transportation company" means any person that transports a
323	child for payment to or from a congregate care program in Utah.
324	(b) "Youth transportation company" does not include:
325	(i) a relative of the child;
326	(ii) a state agency; or
327	(iii) a congregate care program's employee who transports the child from the
328	congregate care program that employs the employee and returns the child to the same
329	congregate care program.
330	Section 2. Section 26B-2-104 is amended to read:
331	26B-2-104. Office responsibilities.
332	(1) Subject to the requirements of federal and state law, the office shall:
333	(a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
334	Rulemaking Act, to establish:
335	(i) except as provided in Subsection (1)(a)(ii), basic health and safety standards for
336	licensees, that shall be limited to:
337	(A) fire safety;

338	(B) food safety;
339	(C) sanitation;
340	(D) infectious disease control;
341	(E) safety of the:
342	(I) physical facility and grounds; and
343	(II) area and community surrounding the physical facility;
344	(F) transportation safety;
345	(G) emergency preparedness and response;
346	(H) the administration of medical standards and procedures, consistent with the related
347	provisions of this title;
348	(I) staff and client safety and protection;
349	(J) the administration and maintenance of client and service records;
350	(K) staff qualifications and training, including standards for permitting experience to
351	be substituted for education, unless prohibited by law;
352	(L) staff to client ratios;
353	(M) access to firearms; and
354	(N) the prevention of abuse, neglect, exploitation, harm, mistreatment, or fraud;
355	(ii) basic health and safety standards for therapeutic schools, that shall be limited to:
356	(A) fire safety, except that the standards are limited to those required by law or rule
357	under Title 53, Chapter 7, Part 2, Fire Prevention and Fireworks Act;
358	(B) food safety;
359	(C) sanitation;
360	(D) infectious disease control, except that the standards are limited to:
361	(I) those required by law or rule under this title, or Title 26A, Local Health Authorities;
362	and
363	(II) requiring a separate room for clients who are sick;
364	(E) safety of the physical facility and grounds, except that the standards are limited to
365	those required by law or rule under Title 53, Chapter 7, Part 2, Fire Prevention and Fireworks
366	Act;
367	(F) transportation safety;
368	(G) emergency preparedness and response;

369	(H) access to appropriate medical care, including:
370	(I) subject to the requirements of law, designation of a person who is authorized to
371	dispense medication; and
372	(II) storing, tracking, and securing medication;
373	(I) staff and client safety and protection that permits the school to provide for the direct
374	supervision of clients at all times;
375	(J) the administration and maintenance of client and service records;
376	(K) staff qualifications and training, including standards for permitting experience to
377	be substituted for education, unless prohibited by law;
378	(L) staff to client ratios;
379	(M) access to firearms; and
380	(N) the prevention of abuse, neglect, exploitation, harm, mistreatment, or fraud;
381	(iii) procedures and standards for permitting a licensee to:
382	(A) provide in the same facility and under the same conditions as children, residential
383	treatment services to a person 18 years old or older who:
384	(I) begins to reside at the licensee's residential treatment facility before the person's
385	18th birthday;
386	(II) has resided at the licensee's residential treatment facility continuously since the
387	time described in Subsection (1)(a)(iii)(A)(I);
388	(III) has not completed the course of treatment for which the person began residing at
389	the licensee's residential treatment facility; and
390	(IV) voluntarily consents to complete the course of treatment described in Subsection
391	(1)(a)(iii)(A)(III); or
392	(B) (I) provide residential treatment services to a child who is:
393	(Aa) at least 12 years old or, as approved by the office, younger than 12 years old; and
394	(Bb) under the custody of the department, or one of its divisions; and
395	(II) provide, in the same facility as a child described in Subsection (1)(a)(iii)(B)(I),
396	residential treatment services to a person who is:
397	(Aa) at least 18 years old, but younger than 21 years old; and
398	(Bb) under the custody of the department, or one of its divisions;
399	(iv) minimum administration and financial requirements for licensees;

400	(v) guidelines for variances from rules established under this Subsection (1);
401	(vi) ethical standards, as described in Subsection 78B-6-106(3), and minimum
402	responsibilities of a child-placing agency that provides adoption services and that is licensed
403	under this part;
404	(vii) what constitutes an "outpatient treatment program" for purposes of this part;
405	(viii) a procedure requiring a licensee to provide an insurer the licensee's records
406	related to any services or supplies billed to the insurer, and a procedure allowing the licensee
407	and the insurer to contact the Insurance Department to resolve any disputes;
408	(ix) a protocol for the office to investigate and process complaints about licensees;
409	(x) a procedure for a licensee to:
410	(A) report the use of a restraint or seclusion within one business day after the day on
411	which the use of the restraint or seclusion occurs; and
412	(B) report a critical incident within one business day after the day on which the
413	incident occurs;
414	(xi) guidelines for the policies and procedures described in Sections 26B-2-109 and
415	26B-2-123;
416	(xii) a procedure for the office to review and approve the policies and procedures
417	described in Sections 26B-2-109 and 26B-2-123; and
418	(xiii) a requirement that each human services program publicly post information that
419	informs an individual how to submit a complaint about a human services program to the office;
420	(b) enforce rules relating to the office;
421	(c) issue licenses in accordance with this part;
422	(d) if the United States Department of State executes an agreement with the office that
423	designates the office to act as an accrediting entity in accordance with the Intercountry
424	Adoption Act of 2000, Pub. L. No. 106-279, accredit one or more agencies and persons to
425	provide intercountry adoption services pursuant to:
426	(i) the Intercountry Adoption Act of 2000, Pub. L. No. 106-279; and
427	(ii) the implementing regulations for the Intercountry Adoption Act of 2000, Pub. L.
428	No. 106-279;
429	(e) make rules to implement the provisions of Subsection (1)(d);
430	(f) conduct surveys and inspections of licensees and facilities in accordance with

431	Section 26B-2-107;
432	(g) collect licensure fees;
433	(h) notify licensees of the name of a person within the department to contact when
434	filing a complaint;
435	(i) investigate complaints regarding any licensee or human services program;
436	(j) have access to all records, correspondence, and financial data required to be
437	maintained by a licensee;
438	(k) have authority to interview any client, family member of a client, employee, or
439	officer of a licensee;
440	(1) have authority to deny, condition, revoke, suspend, or extend any license issued by
441	the department under this part by following the procedures and requirements of Title 63G,
442	Chapter 4, Administrative Procedures Act;
443	(m) cooperate with the Division of Child and Family Services to condition, revoke, or
444	suspend the license of a foster home when a child welfare caseworker from the Division of
445	Child and Family Services identifies a safety concern with the foster home;
446	[(m)] (n) electronically post notices of agency action issued to a human services
447	program, with the exception of a foster home, on the office's website, in accordance with Title
448	63G, Chapter 2, Government Records Access and Management Act; and
449	[(n)] (o) upon receiving a local government's request under Section 26B-2-118, notify
450	the local government of new human services program license applications, except for foster
451	homes, for human services programs located within the local government's jurisdiction.
452	(2) In establishing rules under Subsection $(1)(a)(ii)(G)$, the office shall require a
453	licensee to establish and comply with an emergency response plan that requires clients and staff
454	to:
455	(a) immediately report to law enforcement any significant criminal activity, as defined
456	by rule, committed:
457	(i) on the premises where the licensee operates its human services program;
458	(ii) by or against its clients; or
459	(iii) by or against a staff member while the staff member is on duty;
460	(b) immediately report to emergency medical services any medical emergency, as
461	defined by rule:

462	(i) on the premises where the licensee operates its human services program;
462	(i) on the premises where the neensee operates its numan services program,(ii) involving its clients; or
464	(iii) involving a staff member while the staff member is on duty; and
465	(c) immediately report other emergencies that occur on the premises where the licensee
466	operates its human services program to the appropriate emergency services agency.
467	Section 3. Section 26B-2-105 is amended to read:
468	26B-2-105. Licensure requirements Expiration Renewal.
469	(1) Except as provided in Section 26B-2-115, an individual, agency, firm, corporation,
470	association, or governmental unit acting severally or jointly with any other individual, agency,
471	firm, corporation, association, or governmental unit may not establish, conduct, or maintain a
472	human services program in this state without a valid and current license issued by and under
473	the authority of the office as provided by this part and the rules under the authority of this part.
474	(2) (a) For purposes of this Subsection (2), "member" means a person or entity that is
475	associated with another person or entity:
476	(i) as a member;
477	(ii) as a partner;
478	(iii) as a shareholder; or
479	(iv) as a person or entity involved in the ownership or management of a human
480	services program owned or managed by the other person or entity.
481	(b) A license issued under this part may not be assigned or transferred.
482	(c) An application for a license under this part shall be treated as an application for
483	reinstatement of a revoked license if:
484	(i) (A) the person or entity applying for the license had a license revoked under this
485	part; and
486	(B) the revoked license described in Subsection (2)(c)(i)(A) is not reinstated before the
487	application described in this Subsection (2)(c) is made; or
488	(ii) a member of an entity applying for the license:
489	(A) (I) had a license revoked under this part; and
490	(II) the revoked license described in Subsection (2)(c)(ii)(A)(I) is not reinstated before
491	the application described in this Subsection (2)(c) is made; or
492	(B) (I) was a member of an entity that had a license revoked under this part at any time

493	before the license was revoked; and
494	(II) the revoked license described in Subsection (2)(c)(ii)(B)(I) is not reinstated before
495	the application described in this Subsection (2)(c) is made.
496	(d) An applicant who has a license revoked under this part may not be issued a license
497	that would allow a minor to reside at a home, including a license for a foster home or proctor
498	care, within two years after the day on which the applicant's license is revoked.
499	(3) A current license shall at all times be posted in the facility where each human
500	services program is operated, in a place that is visible and readily accessible to the public.
501	(4) (a) Except as provided in [Subsection] Subsections (4)(c) and (d), each license
502	issued under this part expires at midnight on the last day of the same month the license was
503	issued, one year following the date of issuance unless the license has been:
504	(i) previously revoked by the office;
505	(ii) voluntarily returned to the office by the licensee; or
506	(iii) extended by the office.
507	(b) A license shall be renewed upon application and payment of the applicable fee,
508	unless the office finds that the licensee:
509	(i) is not in compliance with the:
510	(A) provisions of this part; or
511	(B) rules made under this part;
512	(ii) has engaged in a pattern of noncompliance with the:
513	(A) provisions of this part; or
514	(B) rules made under this part;
515	(iii) has engaged in conduct that is grounds for denying a license under Section
516	26B-2-112; or
517	(iv) has engaged in conduct that poses a substantial risk of harm to any person.
518	(c) The office may issue a renewal license that expires at midnight on the last day of
519	the same month the license was issued, two years following the date of issuance, if:
520	(i) the licensee has maintained a human services license for at least 24 months before
521	the day on which the licensee applies for the renewal; and
522	(ii) the licensee has not violated this part or a rule made under this part.
523	(d) (i) A foster home license issued on or after May 1, 2023, expires at midnight on the

524	last day of the same month the license was issued, three years following the date of issuance:
525	(A) unless the license is revoked by the office or voluntarily returned to the office by
526	the licensee; and
527	(B) if the licensee has not violated this part or a rule made under this part.
528	(ii) A foster home licensee shall comply with the requirements in Section 26B-2-120
529	each year.
530	(5) Any licensee that is in operation at the time rules are made in accordance with this
531	part shall be given a reasonable time for compliance as determined by the rule.
532	(6) (a) A license for a human services program issued under this section shall apply to
533	a specific human services program site.
534	(b) A human services program shall obtain a separate license for each site where the
535	human services program is operated.
536	(c) If there is more than one foster parent in a licensed foster home, the foster home
537	license shall include the names of all foster parents in the home.
538	Section 4. Section 26B-2-107 is amended to read:
539	26B-2-107. Administrative inspections.
540	(1) (a) Subject to [Subsection] Subsections (1)(b) and (2), the office may, for the
540	(1) (a) Subject to [Subsection] <u>Subsections</u> (1) (b) <u>and (2)</u> , the office may, for the
541	purpose of ascertaining compliance with this part, enter and inspect on a routine basis the
541	purpose of ascertaining compliance with this part, enter and inspect on a routine basis the
541 542	purpose of ascertaining compliance with this part, enter and inspect on a routine basis the facility of a licensee.
541 542 543	purpose of ascertaining compliance with this part, enter and inspect on a routine basis the facility of a licensee.(b) (i) The office shall enter and inspect a congregate care program at least once each
541 542 543 544	purpose of ascertaining compliance with this part, enter and inspect on a routine basis the facility of a licensee. (b) (i) The office shall enter and inspect a congregate care program at least once each calendar quarter.
541 542 543 544 545	 purpose of ascertaining compliance with this part, enter and inspect on a routine basis the facility of a licensee. (b) (i) The office shall enter and inspect a congregate care program at least once each calendar quarter. (ii) At least two of the inspections described in Subsection (1)(b)(i) shall be
541 542 543 544 545 546	 purpose of ascertaining compliance with this part, enter and inspect on a routine basis the facility of a licensee. (b) (i) The office shall enter and inspect a congregate care program at least once each calendar quarter. (ii) At least two of the inspections described in Subsection (1)(b)(i) shall be unannounced.
 541 542 543 544 545 546 547 	purpose of ascertaining compliance with this part, enter and inspect on a routine basis the facility of a licensee. (b) (i) The office shall enter and inspect a congregate care program at least once each calendar quarter. (ii) At least two of the inspections described in Subsection (1)(b)(i) shall be unannounced. (c) If another government entity conducts an inspection that is substantially similar to
541 542 543 544 545 546 547 548	 purpose of ascertaining compliance with this part, enter and inspect on a routine basis the facility of a licensee. (b) (i) The office shall enter and inspect a congregate care program at least once each calendar quarter. (ii) At least two of the inspections described in Subsection (1)(b)(i) shall be unannounced. (c) If another government entity conducts an inspection that is substantially similar to an inspection conducted by the office, the office may conclude the inspection satisfies an
541 542 543 544 545 546 547 548 549	 purpose of ascertaining compliance with this part, enter and inspect on a routine basis the facility of a licensee. (b) (i) The office shall enter and inspect a congregate care program at least once each calendar quarter. (ii) At least two of the inspections described in Subsection (1)(b)(i) shall be unannounced. (c) If another government entity conducts an inspection that is substantially similar to an inspection conducted by the office, the office may conclude the inspection satisfies an inspection described in Subsection (1)(b).
541 542 543 544 545 546 547 548 549 550	 purpose of ascertaining compliance with this part, enter and inspect on a routine basis the facility of a licensee. (b) (i) The office shall enter and inspect a congregate care program at least once each calendar quarter. (ii) At least two of the inspections described in Subsection (1)(b)(i) shall be unannounced. (c) If another government entity conducts an inspection that is substantially similar to an inspection conducted by the office, the office may conclude the inspection satisfies an inspection described in Subsection (1)(b). (2) (a) Except as provided in Subsection (2)(b):
541 542 543 544 545 546 547 548 549 550 551	 purpose of ascertaining compliance with this part, enter and inspect on a routine basis the facility of a licensee. (b) (i) The office shall enter and inspect a congregate care program at least once each calendar quarter. (ii) At least two of the inspections described in Subsection (1)(b)(i) shall be unannounced. (c) If another government entity conducts an inspection that is substantially similar to an inspection conducted by the office, the office may conclude the inspection satisfies an inspection described in Subsection (1)(b). (2) (a) Except as provided in Subsection (2)(b): (i) for a foster home, the office shall enter and inspect the facility once every three

554 not enter and inspect the facility until three years after the date of the last inspection.

555 (b) (i) If a foster home has not had a placement for more than 12 months after the date 556 of the office's last inspection, the office shall enter and inspect the foster home within 30 days 557 after the date on which the foster home receives a new placement. 558 (ii) If there is a material change to a foster home: (A) the foster parent shall immediately notify the office of the material change; and 559 560 (B) the office shall inspect the foster home as soon as practicable after receiving notice 561 of the material change. 562 (iii) If a child welfare caseworker from the Division of Child and Family Services 563 reports a foster home safety concern to the office: 564 (A) the office may inspect the foster home; and 565 (B) if the child welfare caseworker and the office agree that a reported safety concern is 566 severe, the office may conduct an unannounced inspection of the foster home. 567 (c) Except as provided in Subsection (2)(b)(iii)(B), an inspection of a foster home shall 568 be during regular business hours and shall be announced. 569 [(2)] (3) Before conducting an inspection under [Subsection (1)] Subsection (1) or (2). 570 the office shall, after identifying the person in charge: 571 (a) give proper identification; 572 (b) request to see the applicable license: 573 (c) describe the nature and purpose of the inspection; and 574 (d) if necessary, explain the authority of the office to conduct the inspection and the 575 penalty for refusing to permit the inspection as provided in Section 26B-2-113. 576 [(3)] (4) In conducting an inspection under [Subsection (1)] Subsection (1) or (2), the 577 office may, after meeting the requirements of Subsection [(2)] (3): 578 (a) inspect the physical facilities: 579 (b) inspect and copy records and documents; 580 (c) interview officers, employees, clients, family members of clients, and others; and 581 (d) observe the licensee in operation. $\left[\frac{4}{2}\right]$ (5) An inspection conducted under Subsection (1) shall be during regular business 582 583 hours and may be announced or unannounced. 584 $\left[\frac{(5)}{(5)}\right]$ (6) The licensee shall make copies of inspection reports available to the public 585 upon request.

586	[(6)] (7) The provisions of this section apply to on-site inspections and do not restrict
587	the office from contacting family members, neighbors, or other individuals, or from seeking
588	information from other sources to determine compliance with this part.
589	Section 5. Section 26B-2-120 is amended to read:
590	26B-2-120. Background check Direct access to children or vulnerable adults.
591	(1) As used in this section:
592	(a) (i) "Applicant" means, notwithstanding Section 26B-2-101:
593	(A) an individual who applies for an initial license or certification or a license or
594	certification renewal under this part;
595	(B) an individual who is associated with a licensee and has or will likely have direct
596	access to a child or a vulnerable adult;
597	(C) an individual who provides respite care to a foster parent or an adoptive parent on
598	more than one occasion;
599	(D) a department contractor;
600	(E) an individual who transports a child for a youth transportation company;
601	(F) a guardian submitting an application on behalf of an individual, other than the child
602	or vulnerable adult who is receiving the service, if the individual is 12 years old or older and
603	resides in a home, that is licensed or certified by the office; [or]
604	(G) a guardian submitting an application on behalf of an individual, other than the
605	child or vulnerable adult who is receiving the service, if the individual is 12 years old or older
606	and is a person described in Subsection (1)(a)(i)(A), (B), (C), or (D)[-];
607	(H) a foster home licensee that submits an application for an annual background
608	screening as required by Subsection 26B-2-105(4)(d)(ii); or
609	(I) a short-term respite care provider.
610	(ii) "Applicant" does not include:
611	(A) an individual who is in the custody of the Division of Child and Family Services or
612	the Division of Juvenile Justice Services; or
613	(B) an individual who applies for employment with, or is employed by, the Department
614	of Health and Human Services.
615	(b) "Application" means a background screening application to the office.
616	(c) "Bureau" means the Bureau of Criminal Identification within the Department of

617	Public Safety, created in Section 53-10-201.
618	(d) "Certified peer support specialist" means the same as that term is defined in Section
619	26B-5-610.
620	(e) "Criminal finding" means a record of:
621	(i) an arrest or a warrant for an arrest;
622	(ii) charges for a criminal offense; or
623	(iii) a criminal conviction.
624	(f) "Incidental care" means occasional care, not in excess of five hours per week and
625	never overnight, for a foster child.
626	(g) "Mental health professional" means an individual who:
627	(i) is licensed under Title 58, Chapter 60, Mental Health Professional Practice Act; and
628	(ii) engaged in the practice of mental health therapy.
629	(h) "Non-criminal finding" means a record maintained in:
630	(i) the Division of Child and Family Services' Management Information System
631	described in Section 80-2-1001;
632	(ii) the Division of Child and Family Services' Licensing Information System described
633	in Section 80-2-1002;
634	(iii) the Division of Aging and Adult Services' vulnerable adult abuse, neglect, or
635	exploitation database described in Section 26B-6-210;
636	(iv) the Sex and Kidnap Offender Registry described in Title 77, Chapter 41, Sex and
637	Kidnap Offender Registry, or a national sex offender registry; or
638	(v) a state child abuse or neglect registry.
639	(i) (i) "Peer support specialist" means an individual who:
640	(A) has a disability or a family member with a disability, or is in recovery from a
641	mental illness or a substance use disorder; and
642	(B) uses personal experience to provide support, guidance, or services to promote
643	resiliency and recovery.
644	(ii) "Peer support specialist" includes a certified peer support specialist.
645	(iii) "Peer support specialist" does not include a mental health professional.
646	(j) "Personal identifying information" means:
647	(i) current name, former names, nicknames, and aliases;

648	(ii) date of birth;
649	(iii) physical address and email address;
650	(iv) telephone number;
651	(v) driver license or other government-issued identification;
652	(vi) social security number;
653	(vii) only for applicants who are 18 years old or older, fingerprints, in a form specified
654	by the office; and
655	(viii) other information specified by the office by rule made in accordance with Title
656	63G, Chapter 3, Utah Administrative Rulemaking Act.
657	(k) "Practice of mental health therapy" means the same as that term is defined in
658	Section 58-60-102.
659	(2) Except as provided in Subsection (12), an applicant or a representative shall submit
660	the following to the office:
661	(a) personal identifying information;
662	(b) a fee established by the office under Section $63J-1-504$; and
663	(c) a disclosure form, specified by the office, for consent for:
664	(i) an initial background check upon submission of the information described in this
665	Subsection (2);
666	(ii) ongoing monitoring of fingerprints and registries until no longer associated with a
667	licensee for 90 days;
668	(iii) a background check when the office determines that reasonable cause exists; and
669	(iv) retention of personal identifying information, including fingerprints, for
670	monitoring and notification as described in Subsections (3)(d) and (4); and
671	(d) if an applicant resided outside of the United States and its territories during the five
672	years immediately preceding the day on which the information described in Subsections (2)(a)
673	through (c) is submitted to the office, documentation establishing whether the applicant was
674	convicted of a crime during the time that the applicant resided outside of the United States or
675	its territories.
676	(3) The office:
677	(a) shall perform the following duties as part of a background check of an applicant:
678	(i) check state and regional criminal background databases for the applicant's criminal

679	history by:
680	(A) submitting personal identifying information to the bureau for a search; or
681	(B) using the applicant's personal identifying information to search state and regional
682	criminal background databases as authorized under Section 53-10-108;
683	(ii) submit the applicant's personal identifying information and fingerprints to the
684	bureau for a criminal history search of applicable national criminal background databases;
685	(iii) search the Division of Child and Family Services' Licensing Information System
686	described in Section 80-2-1002;
687	(iv) if the applicant is applying to become a prospective foster or adoptive parent,
688	search the Division of Child and Family Services' Management Information System described
689	in Section 80-2-1001 for:
690	(A) the applicant; and
691	(B) any adult living in the applicant's home;
692	(v) for an applicant described in Subsection (1)(a)(i)(F), search the Division of Child
693	and Family Services' Management Information System described in Section 80-2-1001;
694	(vi) search the Division of Aging and Adult Services' vulnerable adult abuse, neglect,
695	or exploitation database described in Section 26B-6-210;
696	(vii) search the juvenile court records for substantiated findings of severe child abuse
697	or neglect described in Section 80-3-404; and
698	(viii) search the juvenile court arrest, adjudication, and disposition records, as provided
699	under Section 78A-6-209;
700	(b) shall conduct a background check of an applicant for an initial background check
701	upon submission of the information described in Subsection (2);
702	(c) may conduct all or portions of a background check of an applicant, as provided by
703	rule, made by the office in accordance with Title 63G, Chapter 3, Utah Administrative
704	Rulemaking Act:
705	(i) for an annual renewal; or
706	(ii) when the office determines that reasonable cause exists;
707	(d) may submit an applicant's personal identifying information, including fingerprints,
708	to the bureau for checking, retaining, and monitoring of state and national criminal background
709	databases and for notifying the office of new criminal activity associated with the applicant;

710 (e) shall track the status of an applicant under this section to ensure that the applicant is 711 not required to duplicate the submission of the applicant's fingerprints if the applicant applies 712 for: 713 (i) more than one license; 714 (ii) direct access to a child or a vulnerable adult in more than one human services 715 program; or 716 (iii) direct access to a child or a vulnerable adult under a contract with the department; 717 (f) shall track the status of each individual with direct access to a child or a vulnerable 718 adult and notify the bureau within 90 days after the day on which the license expires or the 719 individual's direct access to a child or a vulnerable adult ceases; 720 (g) shall adopt measures to strictly limit access to personal identifying information 721 solely to the individuals responsible for processing and entering the applications for 722 background checks and to protect the security of the personal identifying information the office 723 reviews under this Subsection (3); 724 (h) as necessary to comply with the federal requirement to check a state's child abuse 725 and neglect registry regarding any individual working in a congregate care program, shall: 726 (i) search the Division of Child and Family Services' Licensing Information System 727 described in Section 80-2-1002; and 728 (ii) require the child abuse and neglect registry be checked in each state where an 729 applicant resided at any time during the five years immediately preceding the day on which the 730 applicant submits the information described in Subsection (2) to the office; and 731 (i) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative 732 Rulemaking Act, to implement the provisions of this Subsection (3) relating to background 733 checks. 734 (4) (a) With the personal identifying information the office submits to the bureau under 735 Subsection (3), the bureau shall check against state and regional criminal background databases 736 for the applicant's criminal history. 737 (b) With the personal identifying information and fingerprints the office submits to the 738 bureau under Subsection (3), the bureau shall check against national criminal background 739 databases for the applicant's criminal history. 740 (c) Upon direction from the office, and with the personal identifying information and

741	fingerprints the office submits to the bureau under Subsection (3)(d), the bureau shall:
742	(i) maintain a separate file of the fingerprints for search by future submissions to the
743	local and regional criminal records databases, including latent prints; and
744	(ii) monitor state and regional criminal background databases and identify criminal
745	activity associated with the applicant.
746	(d) The bureau is authorized to submit the fingerprints to the Federal Bureau of
747	Investigation Next Generation Identification System, to be retained in the Federal Bureau of
748	Investigation Next Generation Identification System for the purpose of:
749	(i) being searched by future submissions to the national criminal records databases,
750	including the Federal Bureau of Investigation Next Generation Identification System and latent
751	prints; and
752	(ii) monitoring national criminal background databases and identifying criminal
753	activity associated with the applicant.
754	(e) The Bureau shall notify and release to the office all information of criminal activity
755	associated with the applicant.
756	(f) Upon notice that an individual's direct access to a child or a vulnerable adult has
757	ceased for 90 days, the bureau shall:
758	(i) discard and destroy any retained fingerprints; and
759	(ii) notify the Federal Bureau of Investigation when the license has expired or an
760	individual's direct access to a child or a vulnerable adult has ceased, so that the Federal Bureau
761	of Investigation will discard and destroy the retained fingerprints from the Federal Bureau of
762	Investigation Next Generation Identification System.
763	(5) (a) Except as provided in Subsection (5)(b), after conducting the background check
764	described in Subsections (3) and (4), the office shall deny an application to an applicant who,
765	within three years before the day on which the applicant submits information to the office
766	under Subsection (2) for a background check, has been convicted of:
767	(i) a felony or misdemeanor involving conduct that constitutes any of the following:
768	(A) an offense identified as domestic violence, lewdness, voyeurism, battery, cruelty to
769	animals, or bestiality;
770	(B) a violation of any pornography law, including sexual exploitation of a minor or
771	aggravated sexual exploitation of a minor;

772	(C) sexual solicitation;
773	(D) an offense included in Title 76, Chapter 5, Offenses Against the Individual, Title
774	76, Chapter 5b, Sexual Exploitation Act, Title 76, Chapter 4, Part 4, Enticement of a Minor, or
775	Title 76, Chapter 7, Offenses Against the Family;
776	(E) aggravated arson, as described in Section 76-6-103;
777	(F) aggravated burglary, as described in Section 76-6-203;
778	(G) aggravated robbery, as described in Section 76-6-302;
779	(H) identity fraud crime, as described in Section 76-6-1102;
780	(I) sexual battery, as described in Section 76-9-702.1; or
781	(J) a violent offense committed in the presence of a child, as described in Section
782	76-3-203.10; or
783	(ii) a felony or misdemeanor offense committed outside of the state that, if committed
784	in the state, would constitute a violation of an offense described in Subsection (5)(a)(i).
785	(b) (i) Subsection (5)(a) does not apply to an applicant who is seeking a position as a
786	peer support provider, a mental health professional, or in a program that serves only adults with
787	a primary mental health diagnosis, with or without a co-occurring substance use disorder.
788	(ii) The office shall conduct a comprehensive review of an applicant described in
789	Subsection (5)(b)(i) in accordance with Subsection (6).
790	(6) The office shall conduct a comprehensive review of an applicant's background
791	check if the applicant:
792	(a) has a felony or class A misdemeanor conviction for an offense described in
793	Subsection (5) with a date of conviction that is more than three years before the date on which
794	the applicant submits the information described in Subsection (2);
795	(b) has a felony charge or conviction for an offense not described in Subsection (5)
796	with a date of charge or conviction that is no more than 10 years before the date on which the
797	applicant submits the application under Subsection (2) and no criminal findings or
798	non-criminal findings after the date of conviction;
799	(c) has a class B misdemeanor or class C misdemeanor conviction for an offense
800	described in Subsection (5) with a date of conviction that is more than three years after, and no
801	more than 10 years before, the date on which the applicant submits the information described
802	in Subsection (2) and no criminal findings or non-criminal findings after the date of conviction;

803	(d) has a misdemeanor conviction for an offense not described in Subsection (5) with a
804	date of conviction that is no more than three years before the date on which the applicant
805	submits information described in Subsection (2) and no criminal findings or non-criminal
806	findings after the date of conviction;
807	(e) is currently subject to a plea in abeyance or diversion agreement for an offense
808	described in Subsection (5);
809	(f) appears on the Sex and Kidnap Offender Registry described in Title 77, Chapter 41,
810	Sex and Kidnap Offender Registry, or a national sex offender registry;
811	(g) has a record of an adjudication in juvenile court for an act that, if committed by an
812	adult, would be a felony or misdemeanor, if the applicant is:
813	(i) under 28 years old; or
814	(ii) 28 years old or older and has been convicted of, has pleaded no contest to, or is
815	currently subject to a plea in abeyance or diversion agreement for a felony or a misdemeanor
816	offense described in Subsection (5);
817	(h) has a pending charge for an offense described in Subsection (5);
818	(i) has a listing in the Division of Child and Family Services' Licensing Information
819	System described in Section 80-2-1002 that occurred no more than 15 years before the date on
820	which the applicant submits the information described in Subsection (2) and no criminal
821	findings or non-criminal findings dated after the date of the listing;
822	(j) has a listing in the Division of Aging and Adult Services' vulnerable adult abuse,
823	neglect, or exploitation database described in Section 26B-6-210 that occurred no more than 15
824	years before the date on which the applicant submits the information described in Subsection
825	(2) and no criminal findings or non-criminal findings dated after the date of the listing;
826	(k) has a substantiated finding of severe child abuse or neglect under Section 80-3-404
827	or 80-3-504 that occurred no more than 15 years before the date on which the applicant submits
828	the information described in Subsection (2) and no criminal findings or non-criminal findings
829	dated after the date of the finding;
830	(l) (i) is seeking a position:
831	(A) as a peer support provider;
832	(B) as a mental health professional; or
833	(C) in a program that serves only adults with a primary mental health diagnosis, with or

834	without a co-occurring substance use disorder; and
835	(ii) within three years before the day on which the applicant submits the information
836	described in Subsection (2):
837	(A) has a felony or misdemeanor charge or conviction;
838	(B) has a listing in the Division of Child and Family Services' Licensing Information
839	System described in Section 80-2-1002;
840	(C) has a listing in the Division of Aging and Adult Services' vulnerable adult abuse,
841	neglect, or exploitation database described in Section 26B-6-210; or
842	(D) has a substantiated finding of severe child abuse or neglect under Section 80-3-404
843	or 80-3-504;
844	(m) (i) (A) is seeking a position in a congregate care program;
845	(B) is seeking to become a prospective foster or adoptive parent; or
846	(C) is an applicant described in Subsection $(1)(a)(i)(F)$; and
847	(ii) (A) has an infraction conviction for conduct that constitutes an offense or violation
848	described in Subsection (5)(a)(i)(A) or (B);
849	(B) has a listing in the Division of Child and Family Services' Licensing Information
850	System described in Section 80-2-1002;
851	(C) has a listing in the Division of Aging and Adult Services' vulnerable adult abuse,
852	neglect, or exploitation database described in Section 26B-6-210;
853	(D) has a substantiated finding of severe child abuse or neglect under Section 80-3-404
854	or 80-3-504; or
855	(E) has a listing on the registry check described in Subsection (13)(a) as having a
856	substantiated or supported finding of a severe type of child abuse or neglect as defined in
857	Section 80-1-102; or
858	(n) is seeking to become a prospective foster or adoptive parent and has, or has an adult
859	living with the applicant who has, a conviction, finding, or listing described in Subsection
860	(6)(m)(ii).
861	(7) (a) The comprehensive review shall include an examination of:
862	(i) the date of the offense or incident;
863	(ii) the nature and seriousness of the offense or incident;
864	(iii) the circumstances under which the offense or incident occurred;

865	(iv) the age of the perpetrator when the offense or incident occurred;
866	(v) whether the offense or incident was an isolated or repeated incident;
867	(vi) whether the offense or incident directly relates to abuse of a child or vulnerable
868	adult, including:
869	(A) actual or threatened, nonaccidental physical, mental, or financial harm;
870	(B) sexual abuse;
871	(C) sexual exploitation; or
872	(D) negligent treatment;
873	(vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric
874	treatment received, or additional academic or vocational schooling completed; and
875	(viii) the applicant's risk of harm to clientele in the program or in the capacity for
876	which the applicant is applying.
877	(b) At the conclusion of the comprehensive review, the office shall deny an application
878	to an applicant if the office finds:
879	(i) that approval would likely create a risk of harm to a child or a vulnerable adult; or
880	(ii) an individual is prohibited from having direct access to a child or vulnerable adult
881	by court order.
882	(8) The office shall approve an application to an applicant who is not denied under this
883	section.
884	(9) (a) The office may conditionally approve an application of an applicant, for a
885	maximum of 60 days after the day on which the office sends written notice to the applicant
886	under Subsection (11), without requiring that the applicant be directly supervised, if the office:
887	(i) is awaiting the results of the criminal history search of national criminal background
888	databases; and
889	(ii) would otherwise approve an application of the applicant under this section.
890	(b) The office may conditionally approve an application of an applicant, for a
891	maximum of one year after the day on which the office sends written notice to the applicant
892	under Subsection (11), without requiring that the applicant be directly supervised if the office:
893	(i) is awaiting the results of an out-of-state registry for providers other than foster and
894	adoptive parents; and
895	(ii) would otherwise approve an application of the applicant under this section.

- (c) Upon receiving the results of the criminal history search of a national criminal
 background database, the office shall approve or deny the application of the applicant in
 accordance with this section.
- (10) (a) A licensee or department contractor may not permit an individual to have
 direct access to a child or a vulnerable adult without being directly supervised unless:
- 901 (i) the individual is associated with the licensee or department contractor and the902 department conducts a background screening in accordance with this section;
- 903 (ii) the individual is the parent or guardian of the child, or the guardian of the904 vulnerable adult;
- (iii) the individual is approved by the parent or guardian of the child, or the guardian ofthe vulnerable adult, to have direct access to the child or the vulnerable adult;
- 907 (iv) the individual is only permitted to have direct access to a vulnerable adult who908 voluntarily invites the individual to visit; or
- (v) the individual only provides incidental care for a foster child on behalf of a foster
 parent who has used reasonable and prudent judgment to select the individual to provide the
 incidental care for the foster child.
- (b) Notwithstanding any other provision of this section, an individual for whom the
 office denies an application may not have direct access to a child or vulnerable adult unless the
 office approves a subsequent application by the individual.
- 915 (11) (a) Within 30 days after the day on which the applicant submits the information
 916 described in Subsection (2), the office shall notify the applicant of any potentially disqualifying
 917 criminal findings or non-criminal findings.
- (b) If the notice under Subsection (11)(a) states that the applicant's application is
 denied, the notice shall further advise the applicant that the applicant may, under Subsection
 26B-2-111(2), request a hearing in the department's Office of Administrative Hearings, to
 challenge the office's decision.
- 922 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the923 office shall make rules, consistent with this part:
- (i) defining procedures for the challenge of the office's background check decisiondescribed in Subsection (11)(b); and
- 926 (ii)
- (ii) expediting the process for renewal of a license under the requirements of this

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927 section and other applicable sections.

- 928 (12) (a) An individual or a department contractor who provides services in an adults
 929 only substance use disorder program, as defined by rule made in accordance with Title 63G,
 930 Chapter 3, Utah Administrative Rulemaking Act, is exempt from this section.
- (b) The exemption described in Subsection (12)(a) does not extend to a program
 director or a member, as defined by Section 26B-2-105, of the program.
- (13) (a) Except as provided in Subsection (13)(b), in addition to the other requirements
 of this section, if the background check of an applicant is being conducted for the purpose of
 giving clearance status to an applicant seeking a position in a congregate care program or an
 applicant seeking to become a prospective foster or adoptive parent, the office shall:
- (i) check the child abuse and neglect registry in each state where each applicant resided
 in the five years immediately preceding the day on which the applicant applied to be a foster or
 adoptive parent, to determine whether the prospective foster or adoptive parent is listed in the
 registry as having a substantiated or supported finding of child abuse or neglect; and
- (ii) check the child abuse and neglect registry in each state where each adult living in
 the home of the applicant described in Subsection (13)(a)(i) resided in the five years
 immediately preceding the day on which the applicant applied to be a foster or adoptive parent,
 to determine whether the adult is listed in the registry as having a substantiated or supported
 finding of child abuse or neglect.
- 946
- (b) The requirements described in Subsection (13)(a) do not apply to the extent that:
- 947
- (i) federal law or rule permits otherwise; or
- 948 (ii) the requirements would prohibit the Division of Child and Family Services or a949 court from placing a child with:
- 950

(A) a noncustodial parent under Section 80-2a-301, 80-3-302, or 80-3-303; or

- (B) a relative, other than a noncustodial parent, under Section 80-2a-301, 80-3-302, or
 80-3-303, pending completion of the background check described in Subsection (5).
- 953 (c) Notwithstanding Subsections (5) through (10), the office shall deny a clearance to 954 an applicant seeking a position in a congregate care program or an applicant to become a 955 prospective foster or adoptive parent if the applicant has been convicted of:
- 956
- (i) a felony involving conduct that constitutes any of the following:
- 957 (A) child abuse, as described in Sections 76-5-109, 76-5-109.2, and 76-5-109.3;

958	(B) commission of domestic violence in the presence of a child, as described in Section
959	76-5-114;
960	(C) abuse or neglect of a child with a disability, as described in Section 76-5-110;
961	(D) endangerment of a child or vulnerable adult, as described in Section 76-5-112.5;
962	(E) aggravated murder, as described in Section 76-5-202;
963	(F) murder, as described in Section 76-5-203;
964	(G) manslaughter, as described in Section 76-5-205;
965	(H) child abuse homicide, as described in Section 76-5-208;
966	(I) homicide by assault, as described in Section 76-5-209;
967	(J) kidnapping, as described in Section 76-5-301;
968	(K) child kidnapping, as described in Section 76-5-301.1;
969	(L) aggravated kidnapping, as described in Section 76-5-302;
970	(M) human trafficking of a child, as described in Section 76-5-308.5;
971	(N) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;
972	(O) sexual exploitation of a minor, as described in Title 76, Chapter 5b, Sexual
973	Exploitation Act;
974	(P) aggravated exploitation of a minor, as described in Section 76-5b-201.1;
975	(Q) aggravated arson, as described in Section 76-6-103;
976	(R) aggravated burglary, as described in Section 76-6-203;
977	(S) aggravated robbery, as described in Section 76-6-302;
978	(T) lewdness involving a child, as described in Section 76-9-702.5;
979	(U) incest, as described in Section 76-7-102; or
980	(V) domestic violence, as described in Section 77-36-1; or
981	(ii) an offense committed outside the state that, if committed in the state, would
982	constitute a violation of an offense described in Subsection (13)(c)(i).
983	(d) Notwithstanding Subsections (5) through (10), the office shall deny a license or
984	license renewal to an individual seeking a position in a congregate care program or a
985	prospective foster or adoptive parent if, within the five years immediately preceding the day on
986	which the individual's application or license would otherwise be approved, the individual was
987	convicted of a felony involving conduct that constitutes a violation of any of the following:
988	(i) aggravated assault, as described in Section 76-5-103;

989	(ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;
990	(iii) mayhem, as described in Section 76-5-105;
991	(iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;
992	(v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
993	(vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances
994	Act;
995	(vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance
996	Precursor Act; or
997	(viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.
998	(e) In addition to the circumstances described in Subsection (6), the office shall
999	conduct the comprehensive review of an applicant's background check under this section if the
1000	registry check described in Subsection (13)(a) indicates that the individual is listed in a child
1001	abuse and neglect registry of another state as having a substantiated or supported finding of a
1002	severe type of child abuse or neglect as defined in Section 80-1-102.
1003	(14) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
1004	the office may make rules, consistent with this part, to:
1005	(a) establish procedures for, and information to be examined in, the comprehensive
1006	review described in Subsections (6) and (7); and
1007	(b) determine whether to consider an offense or incident that occurred while an
1008	individual was in the custody of the Division of Child and Family Services or the Division of
1009	Juvenile Justice Services for purposes of approval or denial of an application for a prospective
1010	foster or adoptive parent.
1011	Section 6. Section 80-2-301 is amended to read:
1012	80-2-301. Division responsibilities.
1013	(1) The division is the child, youth, and family services authority of the state.
1014	(2) The division shall:
1015	(a) administer services to minors and families, including:
1016	(i) child welfare services;
1017	(ii) domestic violence services; and
1018	(iii) all other responsibilities that the Legislature or the executive director of the
1019	department may assign to the division;

1020	(b) provide the following services:
1021	(i) financial and other assistance to an individual adopting a child with special needs
1022	under Sections 80-2-806 through 80-2-809, not to exceed the amount the division would
1023	provide for the child as a legal ward of the state;
1024	(ii) non-custodial and in-home services in accordance with Section 80-2-306,
1025	including:
1026	(A) services designed to prevent family break-up; and
1027	(B) family preservation services;
1028	(iii) reunification services to families whose children are in substitute care in
1029	accordance with this chapter, Chapter 2a, Removal and Protective Custody of a Child, and
1030	Chapter 3, Abuse, Neglect, and Dependency Proceedings;
1031	(iv) protective supervision of a family, upon court order, in an effort to eliminate abuse
1032	or neglect of a child in that family;
1033	(v) shelter care in accordance with this chapter, Chapter 2a, Removal and Protective
1034	Custody of a Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings;
1035	(vi) domestic violence services, in accordance with the requirements of federal law;
1036	(vii) protective services to victims of domestic violence and the victims' children, in
1037	accordance with this chapter, Chapter 2a, Removal and Protective Custody of a Child, and
1038	Chapter 3, Abuse, Neglect, and Dependency Proceedings;
1039	(viii) substitute care for dependent, abused, and neglected children;
1040	(ix) services for minors who are victims of human trafficking or human smuggling, as
1041	described in Sections 76-5-308 through 76-5-310.1, or who have engaged in prostitution or
1042	sexual solicitation, as defined in Sections 76-10-1302 and 76-10-1313; and
1043	(x) training for staff and providers involved in the administration and delivery of
1044	services offered by the division in accordance with this chapter and Chapter 2a, Removal and
1045	Protective Custody of a Child;
1046	(c) establish standards for all:
1047	(i) contract providers of out-of-home care for minors and families;
1048	(ii) facilities that provide substitute care for dependent, abused, or neglected children
1049	placed in the custody of the division; and
1050	(iii) direct or contract providers of domestic violence services described in Subsection

1051	(2)(b)(vi);
1052	(d) have authority to:
1053	(i) contract with a private, nonprofit organization to recruit and train foster care
1054	families and child welfare volunteers in accordance with Section 80-2-405; [and]
1055	(ii) approve facilities that meet the standards established under Subsection (2)(c) to
1056	provide substitute care for dependent, abused, or neglected children placed in the custody of the
1057	division; and
1058	(iii) approve an individual to provide short-term respite care to a foster parent if the
1059	individual:
1060	(A) provides the respite care for less than six consecutive nights;
1061	(B) provides the respite care in the individual's home;
1062	(C) is in compliance with the requirements in Section 26B-2-120; and
1063	(D) is an immediate family member or relative, as those terms are defined in Section
1064	80-3-102, of the foster parent or the foster child;
1065	(e) cooperate with the federal government in the administration of child welfare and
1066	domestic violence programs and other human service activities assigned by the department;
1067	(f) in accordance with Subsection (5)(a), promote and enforce state and federal laws
1068	enacted for the protection of abused, neglected, or dependent children, in accordance with this
1069	chapter and Chapter 2a, Removal and Protective Custody of a Child, unless administration is
1070	expressly vested in another division or department of the state;
1071	(g) cooperate with the Workforce Development Division within the Department of
1072	Workforce Services in meeting the social and economic needs of an individual who is eligible
1073	for public assistance;
1074	(h) compile relevant information, statistics, and reports on child and family service
1075	matters in the state;
1076	(i) prepare and submit to the department, the governor, and the Legislature reports of
1077	the operation and administration of the division in accordance with the requirements of
1078	Sections 80-2-1102 and 80-2-1103;
1079	(j) within appropriations from the Legislature, provide or contract for a variety of
1080	domestic violence services and treatment methods;
1081	(k) enter into contracts for programs designed to reduce the occurrence or recurrence of

1082	abuse and neglect in accordance with Section 80-2-503;
1083	(l) seek reimbursement of funds the division expends on behalf of a child in the
1084	protective custody, temporary custody, or custody of the division, from the child's parent or
1085	guardian in accordance with an order for child support under Section 78A-6-356;
1086	(m) ensure regular, periodic publication, including electronic publication, regarding the
1087	number of children in the custody of the division who:
1088	(i) have a permanency goal of adoption; or
1089	(ii) have a final plan of termination of parental rights, under Section 80-3-409, and
1090	promote adoption of the children;
1091	(n) subject to Subsections (5) and (7), refer an individual receiving services from the
1092	division to the local substance abuse authority or other private or public resource for a
1093	court-ordered drug screening test;
1094	(o) report before November 30, 2020, and every third year thereafter, to the Social
1095	Services Appropriations Subcommittee regarding:
1096	(i) the daily reimbursement rate that is provided to licensed foster parents based on
1097	level of care;
1098	(ii) the amount of money spent on daily reimbursements for licensed foster parents
1099	during the previous fiscal year; and
1100	(iii) any recommended changes to the division's budget to support the daily
1101	reimbursement rates described in Subsection (2)(o)(i); [and]
1102	(p) in cooperation with the Division of Licensing, and by following the procedures and
1103	requirements of Title 63G, Chapter 4, Administrative Procedures Act, have authority to
1104	condition, revoke, or suspend the license of a foster home when a division child welfare
1105	caseworker identifies a safety concern with the foster home; and
1106	$\left[\frac{(p)}{(q)}\right]$ perform other duties and functions required by law.
1107	(3) (a) The division may provide, directly or through contract, services that include the
1108	following:
1109	(i) adoptions;
1110	(ii) day-care services;
1111	(iii) out-of-home placements for minors;
1112	(iv) health-related services;

1113	(v) homemaking services;
1114	(vi) home management services;
1115	(vii) protective services for minors;
1116	(viii) transportation services; or
1117	(ix) domestic violence services.
1118	(b) The division shall monitor services provided directly by the division or through
1119	contract to ensure compliance with applicable law and rules made in accordance with Title
1120	63G, Chapter 3, Utah Administrative Rulemaking Act.
1121	(c) (i) Except as provided in Subsection (3)(c)(ii), if the division provides a service
1122	through a private contract, the division shall post the name of the service provider on the
1123	division's website.
1124	(ii) Subsection $(3)(c)(i)$ does not apply to a foster parent placement.
1125	(4) (a) The division may:
1126	(i) receive gifts, grants, devises, and donations;
1127	(ii) encourage merchants and service providers to:
1128	(A) donate goods or services; or
1129	(B) provide goods or services at a nominal price or below cost;
1130	(iii) distribute goods to applicants or consumers of division services free or for a
1131	nominal charge and tax free; and
1132	(iv) appeal to the public for funds to meet needs of applicants or consumers of division
1133	services that are not otherwise provided by law, including Sub-for-Santa programs, recreational
1134	programs for minors, and requests for household appliances and home repairs.
1135	(b) If requested by the donor and subject to state and federal law, the division shall use
1136	a gift, grant, devise, donation, or proceeds from the gift, grant, devise, or donation for the
1137	purpose requested by the donor.
1138	(5) (a) In carrying out the requirements of Subsection (2)(f), the division shall:
1139	(i) cooperate with the juvenile courts, the Division of Juvenile Justice Services, and
1140	with all public and private licensed child welfare agencies and institutions to develop and
1141	administer a broad range of services and support;
1142	(ii) take the initiative in all matters involving the protection of abused or neglected
1143	children, if adequate provisions have not been made or are not likely to be made; and

1144	(iii) make expenditures necessary for the care and protection of the children described
1145	in Subsection (5)(a)(ii), within the division's budget.
1146	(b) If an individual is referred to a local substance abuse authority or other private or
1147	public resource for court-ordered drug screening under Subsection (2)(n), the court shall order
1148	the individual to pay all costs of the tests unless:
1149	(i) the cost of the drug screening is specifically funded or provided for by other federal
1150	or state programs;
1151	(ii) the individual is a participant in a drug court; or
1152	(iii) the court finds that the individual is an indigent individual.
1153	(6) Except to the extent provided by rules made in accordance with Title 63G, Chapter
1154	3, Utah Administrative Rulemaking Act, the division is not required to investigate domestic
1155	violence in the presence of a child, as described in Section 76-5-114.
1156	(7) (a) Except as provided in Subsection (7)(b), the division may not:
1157	(i) require a parent who has a child in the custody of the division to pay for some or all
1158	of the cost of any drug testing the parent is required to undergo; or
1159	(ii) refer an individual who is receiving services from the division for drug testing by
1160	means of a hair, fingernail, or saliva test that is administered to detect the presence of drugs.
1161	(b) Notwithstanding Subsection (7)(a)(ii), the division may refer an individual who is
1162	receiving services from the division for drug testing by means of a saliva test if:
1163	(i) the individual consents to drug testing by means of a saliva test; or
1164	(ii) the court, based on a finding that a saliva test is necessary in the circumstances,
1165	orders the individual to complete drug testing by means of a saliva test.
1166	Section 7. Effective date.
1167	This bill takes effect on May 1, 2024.