

**CHILD WELFARE AMENDMENTS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Wayne A. Harper**

House Sponsor: \_\_\_\_\_

**LONG TITLE**

**General Description:**

This bill modifies provisions relating to child welfare.

**Highlighted Provisions:**

This bill:

- ▶ modifies definitions;
- ▶ modifies provisions relating to a background check of an individual working in a congregate care program that serves children;
- ▶ deletes provisions requiring the Division of Child and Family Services to conduct certain assessments for in-home family services;
- ▶ modifies provisions relating to the circumstances under which the attorney general is required to represent the Division of Child and Family Services;
- ▶ deletes provisions requiring the Division of Child and Family Services to provide certain services to a delinquent, ungovernable, or runaway child;
- ▶ requires the Division of Juvenile Justice Services to, upon court order, conduct an assessment to determine whether provision of certain youth services to an ungovernable or runaway child is appropriate;
- ▶ modifies provisions relating to the juvenile court's jurisdiction over an ungovernable or runaway child;
- ▶ modifies the circumstances under which a child may be temporarily detained;
- ▶ requires the Division of Child and Family Services to report to the Social Services



- 28 Appropriations Subcommittee regarding reimbursement rates for foster parents;
- 29       ▶ modifies the circumstances under which the Department of Human Services is
- 30 required to investigate reports of abuse or neglect;
- 31       ▶ modifies provisions relating to the order of priority, qualifications, and
- 32 considerations that apply to individuals with whom a child may be placed in an
- 33 emergency placement, foster placement, or adoptive placement;
- 34       ▶ clarifies provisions relating to who may file a legal action to prevent a person from
- 35 engaging in child placing without a license;
- 36       ▶ modifies notice requirements relating to certain information electronically filed with
- 37 the court in an abuse, neglect, or dependency proceeding;
- 38       ▶ clarifies the circumstances under which the court is required to review a placement
- 39 decision for a child in a qualified residential treatment program; and
- 40       ▶ makes technical changes.

41 **Money Appropriated in this Bill:**

42       None

43 **Other Special Clauses:**

44       None

45 **Utah Code Sections Affected:**

46 AMENDS:

- 47       **62A-2-120**, as last amended by Laws of Utah 2019, Chapter 335
- 48       **62A-4a-105**, as last amended by Laws of Utah 2018, Chapter 281
- 49       **62A-4a-113**, as last amended by Laws of Utah 2018, Chapter 359
- 50       **62A-4a-202**, as last amended by Laws of Utah 2017, Chapter 330
- 51       **62A-4a-202.6**, as last amended by Laws of Utah 2019, Chapters 139 and 335
- 52       **62A-4a-209**, as last amended by Laws of Utah 2018, Chapters 235 and 285
- 53       **62A-4a-602**, as last amended by Laws of Utah 2019, Chapters 335 and 354
- 54       **62A-4a-603**, as last amended by Laws of Utah 2019, Chapter 354
- 55       **78A-6-103**, as last amended by Laws of Utah 2019, Chapter 300
- 56       **78A-6-113**, as last amended by Laws of Utah 2018, Chapter 285
- 57       **78A-6-115**, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
- 58       **78A-6-117.5**, as last amended by Laws of Utah 2019, Chapter 162

59 78A-6-307, as last amended by Laws of Utah 2019, Chapter 71

60 78A-6-311.5, as enacted by Laws of Utah 2019, Chapter 335

61 78B-6-117, as last amended by Laws of Utah 2019, Chapter 335

62 REPEALS:

63 62A-4a-250, as last amended by Laws of Utah 2017, Chapter 330

64 78A-6-401, as last amended by Laws of Utah 2017, Chapter 330

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

67 Section 1. Section 62A-2-120 is amended to read:

68 **62A-2-120. Background check -- Direct access to children or vulnerable adults.**

69 (1) As used in this section:

70 (a) (i) "Applicant" means:

71 (A) the same as that term is defined in Section 62A-2-101;

72 (B) an individual who is associated with a licensee and has or will likely have direct  
73 access to a child or a vulnerable adult;

74 (C) an individual who provides respite care to a foster parent or an adoptive parent on  
75 more than one occasion;

76 (D) a department contractor;

77 (E) a guardian submitting an application on behalf of an individual, other than the child  
78 or vulnerable adult who is receiving the service, if the individual is 12 years of age or older and  
79 resides in a home, that is licensed or certified by the office, with the child or vulnerable adult  
80 who is receiving services; or

81 (F) a guardian submitting an application on behalf of an individual, other than the child  
82 or vulnerable adult who is receiving the service, if the individual is 12 years of age or older and  
83 is a person described in Subsection (1)(a)(i)(A), (B), (C), or (D).

84 (ii) "Applicant" does not mean an individual, including an adult, who is in the custody  
85 of the Division of Child and Family Services or the Division of Juvenile Justice Services.

86 (b) "Application" means a background screening application to the office.

87 (c) "Bureau" means the Bureau of Criminal Identification within the Department of  
88 Public Safety, created in Section 53-10-201.

89 (d) "Incidental care" means occasional care, not in excess of five hours per week and

90 never overnight, for a foster child.

91 (e) "Personal identifying information" means:

92 (i) current name, former names, nicknames, and aliases;

93 (ii) date of birth;

94 (iii) physical address and email address;

95 (iv) telephone number;

96 (v) driver license or other government-issued identification;

97 (vi) social security number;

98 (vii) only for applicants who are 18 years of age or older, fingerprints, in a form

99 specified by the office; and

100 (viii) other information specified by the office by rule made in accordance with Title  
101 63G, Chapter 3, Utah Administrative Rulemaking Act.

102 (2) (a) Except as provided in Subsection (13), an applicant shall submit the following  
103 to the office:

104 (i) personal identifying information;

105 (ii) a fee established by the office under Section [63J-1-504](#); and

106 (iii) a form, specified by the office, for consent for:

107 (A) an initial background check upon submission of the information described under  
108 this Subsection (2)(a);

109 (B) a background check at the applicant's annual renewal;

110 (C) a background check when the office determines that reasonable cause exists; and

111 (D) retention of personal identifying information, including fingerprints, for

112 monitoring and notification as described in Subsections (3)(d) and (4).

113 (b) In addition to the requirements described in Subsection (2)(a), if an applicant spent  
114 time outside of the United States and its territories during the five years immediately preceding  
115 the day on which the information described in Subsection (2)(a) is submitted to the office, the  
116 office may require the applicant to submit documentation establishing whether the applicant  
117 was convicted of a crime during the time that the applicant spent outside of the United States or  
118 its territories.

119 (3) The office:

120 (a) shall perform the following duties as part of a background check of an applicant:

121 (i) check state and regional criminal background databases for the applicant's criminal  
122 history by:

123 (A) submitting personal identifying information to the bureau for a search; or

124 (B) using the applicant's personal identifying information to search state and regional  
125 criminal background databases as authorized under Section 53-10-108;

126 (ii) submit the applicant's personal identifying information and fingerprints to the  
127 bureau for a criminal history search of applicable national criminal background databases;

128 (iii) search the Department of Human Services, Division of Child and Family Services'  
129 Licensing Information System described in Section 62A-4a-1006;

130 (iv) search the Department of Human Services, Division of Aging and Adult Services'  
131 vulnerable adult abuse, neglect, or exploitation database described in Section 62A-3-311.1;

132 (v) search the juvenile court records for substantiated findings of severe child abuse or  
133 neglect described in Section 78A-6-323; and

134 (vi) search the juvenile court arrest, adjudication, and disposition records, as provided  
135 under Section 78A-6-209;

136 (b) shall conduct a background check of an applicant for an initial background check  
137 upon submission of the information described under Subsection (2)(a);

138 (c) may conduct all or portions of a background check of an applicant, as provided by  
139 rule, made by the office in accordance with Title 63G, Chapter 3, Utah Administrative  
140 Rulemaking Act:

141 (i) for an annual renewal; or

142 (ii) when the office determines that reasonable cause exists;

143 (d) may submit an applicant's personal identifying information, including fingerprints,  
144 to the bureau for checking, retaining, and monitoring of state and national criminal background  
145 databases and for notifying the office of new criminal activity associated with the applicant;

146 (e) shall track the status of an approved applicant under this section to ensure that an  
147 approved applicant is not required to duplicate the submission of the applicant's fingerprints if  
148 the applicant applies for:

149 (i) more than one license;

150 (ii) direct access to a child or a vulnerable adult in more than one human services  
151 program; or

- 152 (iii) direct access to a child or a vulnerable adult under a contract with the department;
- 153 (f) shall track the status of each license and each individual with direct access to a child
- 154 or a vulnerable adult and notify the bureau when the license has expired or the individual's
- 155 direct access to a child or a vulnerable adult has ceased;
- 156 (g) shall adopt measures to strictly limit access to personal identifying information
- 157 solely to the office employees responsible for processing the applications for background
- 158 checks and to protect the security of the personal identifying information the office reviews
- 159 under this Subsection (3);
- 160 (h) as necessary to comply with the federal requirement to check a state's child abuse
- 161 and neglect registry regarding any individual working in a [~~program under this section~~]
- 162 congregate care setting that serves children, shall:
  - 163 (i) search the Department of Human Services, Division of Child and Family Services'
  - 164 Licensing Information System described in Section [62A-4a-1006](#); and
  - 165 (ii) require the child abuse and neglect registry be checked in each state where an
  - 166 applicant resided at any time during the five years immediately preceding the day on which the
  - 167 applicant submits the information described in Subsection (2)(a) to the office; and
  - 168 (i) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative
  - 169 Rulemaking Act, to implement the provisions of this Subsection (3) relating to background
  - 170 checks.
  - 171 (4) (a) With the personal identifying information the office submits to the bureau under
  - 172 Subsection (3), the bureau shall check against state and regional criminal background databases
  - 173 for the applicant's criminal history.
  - 174 (b) With the personal identifying information and fingerprints the office submits to the
  - 175 bureau under Subsection (3), the bureau shall check against national criminal background
  - 176 databases for the applicant's criminal history.
  - 177 (c) Upon direction from the office, and with the personal identifying information and
  - 178 fingerprints the office submits to the bureau under Subsection (3)(d), the bureau shall:
    - 179 (i) maintain a separate file of the fingerprints for search by future submissions to the
    - 180 local and regional criminal records databases, including latent prints; and
    - 181 (ii) monitor state and regional criminal background databases and identify criminal
    - 182 activity associated with the applicant.

183 (d) The bureau is authorized to submit the fingerprints to the Federal Bureau of  
184 Investigation Next Generation Identification System, to be retained in the Federal Bureau of  
185 Investigation Next Generation Identification System for the purpose of:

186 (i) being searched by future submissions to the national criminal records databases,  
187 including the Federal Bureau of Investigation Next Generation Identification System and latent  
188 prints; and

189 (ii) monitoring national criminal background databases and identifying criminal  
190 activity associated with the applicant.

191 (e) The Bureau shall notify and release to the office all information of criminal activity  
192 associated with the applicant.

193 (f) Upon notice from the office that a license has expired or an individual's direct  
194 access to a child or a vulnerable adult has ceased, the bureau shall:

195 (i) discard and destroy any retained fingerprints; and

196 (ii) notify the Federal Bureau of Investigation when the license has expired or an  
197 individual's direct access to a child or a vulnerable adult has ceased, so that the Federal Bureau  
198 of Investigation will discard and destroy the retained fingerprints from the Federal Bureau of  
199 Investigation Next Generation Identification System.

200 (5) (a) After conducting the background check described in Subsections (3) and (4), the  
201 office shall deny an application to an applicant who, within three years before the day on which  
202 the applicant submits information to the office under Subsection (2) for a background check,  
203 has been convicted of any of the following, regardless of whether the offense is a felony, a  
204 misdemeanor, or an infraction:

205 (i) an offense identified as domestic violence, lewdness, voyeurism, battery, cruelty to  
206 animals, or bestiality;

207 (ii) a violation of any pornography law, including sexual exploitation of a minor;

208 (iii) prostitution;

209 (iv) an offense included in:

210 (A) Title 76, Chapter 5, Offenses Against the Person;

211 (B) Section 76-5b-201, Sexual Exploitation of a Minor; or

212 (C) Title 76, Chapter 7, Offenses Against the Family;

213 (v) aggravated arson, as described in Section 76-6-103;

214 (vi) aggravated burglary, as described in Section [76-6-203](#);  
215 (vii) aggravated robbery, as described in Section [76-6-302](#);  
216 (viii) identity fraud crime, as described in Section [76-6-1102](#); or  
217 (ix) a conviction for a felony or misdemeanor offense committed outside of the state  
218 that, if committed in the state, would constitute a violation of an offense described in  
219 Subsections (5)(a)(i) through (viii).

220 (b) If the office denies an application to an applicant based on a conviction described in  
221 Subsection (5)(a), the applicant is not entitled to a comprehensive review described in  
222 Subsection (6).

223 (6) (a) The office shall conduct a comprehensive review of an applicant's background  
224 check if the applicant:

225 (i) has a conviction for any felony offense, not described in Subsection (5)(a),  
226 regardless of the date of the conviction;

227 (ii) has a conviction for a misdemeanor offense, not described in Subsection (5)(a), and  
228 designated by the office, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative  
229 Rulemaking Act, if the conviction is within five years before the day on which the applicant  
230 submits information to the office under Subsection (2) for a background check;

231 (iii) has a conviction for any offense described in Subsection (5)(a) that occurred more  
232 than three years before the day on which the applicant submitted information under Subsection  
233 (2)(a);

234 (iv) is currently subject to a plea in abeyance or diversion agreement for any offense  
235 described in Subsection (5)(a);

236 (v) has a listing in the Department of Human Services, Division of Child and Family  
237 Services' Licensing Information System described in Section [62A-4a-1006](#);

238 (vi) has a listing in the Department of Human Services, Division of Aging and Adult  
239 Services' vulnerable adult abuse, neglect, or exploitation database described in Section  
240 [62A-3-311.1](#);

241 (vii) has a record in the juvenile court of a substantiated finding of severe child abuse  
242 or neglect described in Section [78A-6-323](#);

243 (viii) has a record of an adjudication in juvenile court for an act that, if committed by  
244 an adult, would be a felony or misdemeanor, if the applicant is:



245 (A) under 28 years of age; or  
246 (B) 28 years of age or older and has been convicted of, has pleaded no contest to, or is  
247 currently subject to a plea in abeyance or diversion agreement for a felony or a misdemeanor  
248 offense described in Subsection (5)(a); or  
249 (ix) has a pending charge for an offense described in Subsection (5)(a).  
250 (b) The comprehensive review described in Subsection (6)(a) shall include an  
251 examination of:  
252 (i) the date of the offense or incident;  
253 (ii) the nature and seriousness of the offense or incident;  
254 (iii) the circumstances under which the offense or incident occurred;  
255 (iv) the age of the perpetrator when the offense or incident occurred;  
256 (v) whether the offense or incident was an isolated or repeated incident;  
257 (vi) whether the offense or incident directly relates to abuse of a child or vulnerable  
258 adult, including:  
259 (A) actual or threatened, nonaccidental physical or mental harm;  
260 (B) sexual abuse;  
261 (C) sexual exploitation; or  
262 (D) negligent treatment;  
263 (vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric  
264 treatment received, or additional academic or vocational schooling completed; and  
265 (viii) any other pertinent information.  
266 (c) At the conclusion of the comprehensive review described in Subsection (6)(a), the  
267 office shall deny an application to an applicant if the office finds that approval would likely  
268 create a risk of harm to a child or a vulnerable adult.  
269 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
270 office may make rules, consistent with this chapter, to establish procedures for the  
271 comprehensive review described in this Subsection (6).  
272 (7) Subject to Subsection (10), the office shall approve an application to an applicant  
273 who is not denied under Subsection (5), (6), or (13).  
274 (8) (a) The office may conditionally approve an application of an applicant, for a  
275 maximum of 60 days after the day on which the office sends written notice to the applicant

276 under Subsection (12), without requiring that the applicant be directly supervised, if the office:

277 (i) is awaiting the results of the criminal history search of national criminal background  
278 databases; and

279 (ii) would otherwise approve an application of the applicant under Subsection (7).

280 (b) Upon receiving the results of the criminal history search of national criminal  
281 background databases, the office shall approve or deny the application of the applicant in  
282 accordance with Subsections (5) through (7).

283 (9) A licensee or department contractor may not permit an individual to have direct  
284 access to a child or a vulnerable adult unless, subject to Subsection (10):

285 (a) the individual is associated with the licensee or department contractor and:

286 (i) the individual's application is approved by the office under this section;

287 (ii) the individual's application is conditionally approved by the office under

288 Subsection (8); or

289 (iii) (A) the individual has submitted the background check information described in  
290 Subsection (2) to the office;

291 (B) the office has not determined whether to approve the applicant's application; and

292 (C) the individual is directly supervised by an individual who has a current background  
293 screening approval issued by the office under this section and is associated with the licensee or  
294 department contractor;

295 (b) (i) the individual is associated with the licensee or department contractor;

296 (ii) the individual has a current background screening approval issued by the office  
297 under this section;

298 (iii) one of the following circumstances, that the office has not yet reviewed under  
299 Subsection (6), applies to the individual:

300 (A) the individual was charged with an offense described in Subsection (5)(a);

301 (B) the individual is listed in the Licensing Information System, described in Section  
302 [62A-4a-1006](#);

303 (C) the individual is listed in the vulnerable adult abuse, neglect, or exploitation  
304 database, described in Section [62A-3-311.1](#);

305 (D) the individual has a record in the juvenile court of a substantiated finding of severe  
306 child abuse or neglect, described in Section [78A-6-323](#); or

307 (E) the individual has a record of an adjudication in juvenile court for an act that, if  
308 committed by an adult, would be a felony or a misdemeanor; and

309 (iv) the individual is directly supervised by an individual who:

310 (A) has a current background screening approval issued by the office under this  
311 section; and

312 (B) is associated with the licensee or department contractor;

313 (c) the individual:

314 (i) is not associated with the licensee or department contractor; and

315 (ii) is directly supervised by an individual who:

316 (A) has a current background screening approval issued by the office under this  
317 section; and

318 (B) is associated with the licensee or department contractor;

319 (d) the individual is the parent or guardian of the child, or the guardian of the  
320 vulnerable adult;

321 (e) the individual is approved by the parent or guardian of the child, or the guardian of  
322 the vulnerable adult, to have direct access to the child or the vulnerable adult;

323 (f) the individual is only permitted to have direct access to a vulnerable adult who  
324 voluntarily invites the individual to visit; or

325 (g) the individual only provides incidental care for a foster child on behalf of a foster  
326 parent who has used reasonable and prudent judgment to select the individual to provide the  
327 incidental care for the foster child.

328 (10) An individual may not have direct access to a child or a vulnerable adult if the  
329 individual is prohibited by court order from having that access.

330 (11) Notwithstanding any other provision of this section, an individual for whom the  
331 office denies an application may not have supervised or unsupervised direct access to a child or  
332 vulnerable adult unless the office approves a subsequent application by the individual.

333 (12) (a) Within 30 days after the day on which the office receives the background  
334 check information for an applicant, the office shall give written notice to:

335 (i) the applicant, and the licensee or department contractor, of the office's decision  
336 regarding the background check and findings; and

337 (ii) the applicant of any convictions and potentially disqualifying charges and

338 adjudications found in the search.

339 (b) With the notice described in Subsection (12)(a), the office shall also give the  
340 applicant the details of any comprehensive review conducted under Subsection (6).

341 (c) If the notice under Subsection (12)(a) states that the applicant's application is  
342 denied, the notice shall further advise the applicant that the applicant may, under Subsection  
343 62A-2-111(2), request a hearing in the department's Office of Administrative Hearings, to  
344 challenge the office's decision.

345 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
346 office shall make rules, consistent with this chapter:

347 (i) defining procedures for the challenge of [~~its~~] the office's background check decision  
348 described in Subsection (12)(c); and

349 (ii) expediting the process for renewal of a license under the requirements of this  
350 section and other applicable sections.

351 (13) An individual or a department contractor who provides services in an adults only  
352 substance use disorder program, as defined by rule, is exempt from this section. This  
353 exemption does not extend to a program director or a member, as defined by Section  
354 62A-2-108, of the program.

355 (14) (a) Except as provided in Subsection (14)(b), in addition to the other requirements  
356 of this section, if the background check of an applicant is being conducted for the purpose of  
357 licensing a prospective foster home or approving a prospective adoptive placement of a child in  
358 state custody, the office shall:

359 (i) check the child abuse and neglect registry in each state where each applicant resided  
360 in the five years immediately preceding the day on which the applicant applied to be a foster  
361 parent or adoptive parent, to determine whether the prospective foster parent or prospective  
362 adoptive parent is listed in the registry as having a substantiated or supported finding of child  
363 abuse or neglect; and

364 (ii) check the child abuse and neglect registry in each state where each adult living in  
365 the home of the applicant described in Subsection (14)(a)(i) resided in the five years  
366 immediately preceding the day on which the applicant applied to be a foster parent or adoptive  
367 parent, to determine whether the adult is listed in the registry as having a substantiated or  
368 supported finding of child abuse or neglect.

369 (b) The requirements described in Subsection (14)(a) do not apply to the extent that:

370 (i) federal law or rule permits otherwise; or

371 (ii) the requirements would prohibit the Division of Child and Family Services or a  
372 court from placing a child with:

373 (A) a noncustodial parent under Section 62A-4a-209, 78A-6-307, or 78A-6-307.5; or

374 (B) a relative, other than a noncustodial parent, under Section 62A-4a-209, 78A-6-307,  
375 or 78A-6-307.5, pending completion of the background check described in Subsection (5).

376 (c) Notwithstanding Subsections (5) through (9), the office shall deny a license or a  
377 license renewal to a prospective foster parent or a prospective adoptive parent if the applicant  
378 has been convicted of:

379 (i) a felony involving conduct that constitutes any of the following:

380 (A) child abuse, as described in Section 76-5-109;

381 (B) commission of domestic violence in the presence of a child, as described in Section  
382 76-5-109.1;

383 (C) abuse or neglect of a child with a disability, as described in Section 76-5-110;

384 (D) endangerment of a child or vulnerable adult, as described in Section 76-5-112.5;

385 (E) aggravated murder, as described in Section 76-5-202;

386 (F) murder, as described in Section 76-5-203;

387 (G) manslaughter, as described in Section 76-5-205;

388 (H) child abuse homicide, as described in Section 76-5-208;

389 (I) homicide by assault, as described in Section 76-5-209;

390 (J) kidnapping, as described in Section 76-5-301;

391 (K) child kidnapping, as described in Section 76-5-301.1;

392 (L) aggravated kidnapping, as described in Section 76-5-302;

393 (M) human trafficking of a child, as described in Section 76-5-308.5;

394 (N) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;

395 (O) sexual exploitation of a minor, as described in Section 76-5b-201;

396 (P) aggravated arson, as described in Section 76-6-103;

397 (Q) aggravated burglary, as described in Section 76-6-203;

398 (R) aggravated robbery, as described in Section 76-6-302; or

399 (S) domestic violence, as described in Section 77-36-1; or

400 (ii) an offense committed outside the state that, if committed in the state, would  
401 constitute a violation of an offense described in Subsection (14)(c)(i).

402 (d) Notwithstanding Subsections (5) through (9), the office shall deny a license or  
403 license renewal to a prospective foster parent or a prospective adoptive parent if, within the  
404 five years immediately preceding the day on which the individual's application or license would  
405 otherwise be approved, the applicant was convicted of a felony involving conduct that  
406 constitutes a violation of any of the following:

407 (i) aggravated assault, as described in Section 76-5-103;  
408 (ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;  
409 (iii) mayhem, as described in Section 76-5-105;  
410 (iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;  
411 (v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;  
412 (vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances  
413 Act;

414 (vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance  
415 Precursor Act; or

416 (viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.

417 (e) In addition to the circumstances described in Subsection (6)(a), the office shall  
418 conduct the comprehensive review of an applicant's background check pursuant to this section  
419 if the registry check described in Subsection (14)(a) indicates that the individual is listed in a  
420 child abuse and neglect registry of another state as having a substantiated or supported finding  
421 of a severe type of child abuse or neglect as defined in Section 62A-4a-1002.

422 Section 2. Section 62A-4a-105 is amended to read:

423 **62A-4a-105. Division responsibilities.**

424 (1) The division shall:

425 (a) administer services to minors and families, including:

426 (i) child welfare services;

427 (ii) domestic violence services; and

428 (iii) all other responsibilities that the Legislature or the executive director may assign  
429 to the division;

430 (b) provide the following services:

- 431 (i) financial and other assistance to an individual adopting a child with special needs  
432 under Part 9, Adoption Assistance, not to exceed the amount the division would provide for the  
433 child as a legal ward of the state;
- 434 (ii) non-custodial and in-home services, including:  
435 (A) services designed to prevent family break-up; and  
436 (B) family preservation services;
- 437 (iii) reunification services to families whose children are in substitute care in  
438 accordance with the requirements of this chapter and Title 78A, Chapter 6, Juvenile Court Act;
- 439 (iv) protective supervision of a family, upon court order, in an effort to eliminate abuse  
440 or neglect of a child in that family;
- 441 (v) shelter care in accordance with the requirements of this chapter and Title 78A,  
442 Chapter 6, Juvenile Court Act;
- 443 (vi) domestic violence services, in accordance with the requirements of federal law;
- 444 (vii) protective services to victims of domestic violence, as defined in Section 77-36-1,  
445 and their children, in accordance with the provisions of this chapter and Title 78A, Chapter 6,  
446 Part 3, Abuse, Neglect, and Dependency Proceedings;
- 447 (viii) substitute care for dependent, abused, and neglected[, ~~and delinquent~~] children;
- 448 (ix) services for minors who are victims of human trafficking or human smuggling as  
449 described in Sections 76-5-308 through 76-5-310 or who have engaged in prostitution or sexual  
450 solicitation as defined in Section 76-10-1302; and
- 451 (x) training for staff and providers involved in the administration and delivery of  
452 services offered by the division in accordance with this chapter;
- 453 (c) establish standards for all:
- 454 (i) contract providers of out-of-home care for minors and families;
- 455 (ii) facilities that provide substitute care for dependent, abused, and neglected[, ~~and~~  
456 ~~delinquent~~] children placed in the custody of the division; and
- 457 (iii) direct or contract providers of domestic violence services described in Subsection  
458 (1)(b)(vi);
- 459 (d) have authority to:
- 460 (i) contract with a private, nonprofit organization to recruit and train foster care  
461 families and child welfare volunteers in accordance with Section 62A-4a-107.5; and

462 (ii) approve facilities that meet the standards established under Subsection (1)(c) to  
463 provide substitute care for dependent, abused, and neglected~~[, and delinquent]~~ children placed  
464 in the custody of the division;

465 (e) cooperate with the federal government in the administration of child welfare and  
466 domestic violence programs and other human service activities assigned by the department;

467 (f) if there is a privacy agreement with an Indian tribe to protect the confidentiality of  
468 division records to the same extent that the division is required to protect division records,  
469 cooperate with and share all appropriate information in the division's possession regarding an  
470 Indian child, the Indian child's parent or guardian, or a proposed placement for the Indian child  
471 with the Indian tribe that is affiliated with the Indian child;

472 (g) in accordance with Subsection (2)(a), promote and enforce state and federal laws  
473 enacted for the protection of abused, neglected, and dependent~~[, delinquent, ungovernable, and  
474 runaway children, and status offenders]~~ children, in accordance with the requirements of this  
475 chapter, unless administration is expressly vested in another division or department of the state;

476 (h) cooperate with the Workforce Development Division ~~[in]~~ within the Department of  
477 Workforce Services in meeting the social and economic needs of an individual who is eligible  
478 for public assistance;

479 (i) compile relevant information, statistics, and reports on child and family service  
480 matters in the state;

481 (j) prepare and submit to the department, the governor, and the Legislature reports of  
482 the operation and administration of the division in accordance with the requirements of  
483 Sections [62A-4a-117](#) and [62A-4a-118](#);

484 ~~[(k) provide social studies and reports for the juvenile court in accordance with Section  
485 [78A-6-605](#);~~

486 ~~[(+)]~~ (k) within appropriations from the Legislature, provide or contract for a variety of  
487 domestic violence services and treatment methods;

488 ~~[(m)]~~ (l) ensure regular, periodic publication, including electronic publication,  
489 regarding the number of children in the custody of the division who:

490 (i) have a permanency goal of adoption; or

491 (ii) have a final plan of termination of parental rights, pursuant to Section [78A-6-314](#),  
492 and promote adoption of those children;



493           ~~(n)~~ (m) subject to Subsection (2)(b), refer an individual receiving services from the  
494 division to the local substance abuse authority or other private or public resource for a  
495 court-ordered drug screening test; ~~and~~

496           (n) report before November 30, 2020, and every third year thereafter, to the Social  
497 Services Appropriations Subcommittee regarding:

498           (i) the type of services for which a licensed foster parent may receive financial  
499 reimbursement;

500           (ii) the daily reimbursement rate for each type of service identified under Subsection  
501 (1)(n)(i);

502           (iii) the total financial reimbursement provided to licensed foster parents in the state  
503 during the previous fiscal year; and

504           (iv) any recommended changes to the division's budget to support the financial  
505 reimbursement rates described in Subsection (1)(n)(iii); and

506           (o) perform other duties and functions required by law.

507           (2) (a) In carrying out the requirements of Subsection (1)(g), the division shall:

508           (i) cooperate with the juvenile courts, the Division of Juvenile Justice Services, and  
509 with all public and private licensed child welfare agencies and institutions to develop and  
510 administer a broad range of services and support;

511           (ii) take the initiative in all matters involving the protection of abused or neglected  
512 children, if adequate provisions have not been made or are not likely to be made; and

513           (iii) make expenditures necessary for the care and protection of the children described  
514 in this Subsection (2)(a), within the division's budget.

515           (b) When an individual is referred to a local substance abuse authority or other private  
516 or public resource for court-ordered drug screening under Subsection (1)~~(n)~~(m), the court  
517 shall order the individual to pay all costs of the tests unless:

518           (i) the cost of the drug screening is specifically funded or provided for by other federal  
519 or state programs;

520           (ii) the individual is a participant in a drug court; or

521           (iii) the court finds that the individual is impecunious.

522           (3) Except to the extent provided by rule, the division is not responsible for  
523 investigating domestic violence in the presence of a child, as described in Section 76-5-109.1.

524 (4) The division may not require a parent who has a child in the custody of the division  
525 to pay for some or all of the cost of any drug testing the parent is required to undergo.

526 Section 3. Section **62A-4a-113** is amended to read:

527 **62A-4a-113. Division's enforcement authority -- Responsibility of attorney**  
528 **general to represent division.**

529 (1) The division shall take legal action that is necessary to enforce the provisions of  
530 this chapter.

531 (2) (a) Subject to Section [67-5-17](#) and the attorney general's prosecutorial discretion in  
532 civil enforcement actions, the attorney general shall enforce all provisions of this chapter, in  
533 addition to the requirements of Title 78A, Chapter 6, Juvenile Court Act of 1996, relating to  
534 protection, custody, and parental rights termination for abused, neglected, or dependent minors.

535 (b) The attorney general may contract with the local county attorney to enforce the  
536 provisions of this chapter and Title 78A, Chapter 6, Juvenile Court Act of 1996.

537 ~~(b)~~ (c) It is the responsibility of the attorney general's office to:

538 (i) advise the division regarding decisions to remove a minor from the minor's home;

539 (ii) represent the division in all court and administrative proceedings related to abuse,  
540 neglect, and dependency including, but not limited to, shelter hearings, dispositional hearings,  
541 dispositional review hearings, periodic review hearings, and petitions for termination of  
542 parental rights; and

543 (iii) be available to and advise caseworkers on an ongoing basis.

544 ~~(c)~~ (d) (i) The attorney general shall designate no less than 16 full-time attorneys to  
545 advise and represent the division in abuse, neglect, and dependency proceedings, including  
546 petitions for termination of parental rights. ~~Those~~

547 (ii) The attorneys described in Subsection (2)(d)(i) shall devote their full time and  
548 attention to ~~that~~ the representation described in Subsection (2)(d)(i) and, insofar as it is  
549 practicable, shall be housed in or near various offices of the division statewide.

550 (3) (a) ~~[As of July 1, 1998, the]~~ The attorney general's office shall represent the  
551 division with regard to actions involving minors who have not been adjudicated as abused or  
552 neglected, but who are otherwise committed to the custody of the division by the juvenile  
553 court, and who are ~~[classified in the division's management information system as having been]~~  
554 placed in custody of the division primarily on the basis of delinquent behavior or a status

555 offense.

556 (b) Nothing in this section may be construed to affect the responsibility of the county  
557 attorney or district attorney to represent the state in [~~those matters,~~] the matters described in  
558 Subsection (3)(a) in accordance with Section 78A-6-115.

559 Section 4. Section **62A-4a-202** is amended to read:

560 **62A-4a-202. In-home services for the preservation of families.**

561 (1) (a) Within appropriations from the Legislature and money obtained under  
562 Subsection (5), the division shall provide in-home services for the purpose of family  
563 preservation to any family with a child whose health and safety is not immediately endangered,  
564 when:

565 (i) (A) the child is at risk of being removed from the home; or

566 (B) the family is in crisis; and

567 (ii) the division determines that [~~it is~~] in-home services are reasonable and appropriate.

568 (b) In determining whether in-home services are reasonable and appropriate, in keeping  
569 with Subsection 62A-4a-201(1), the child's health, safety, and welfare shall be the paramount  
570 concern.

571 (c) The division shall consider whether the services described in Subsection (1)(b):

572 (i) will be effective within a six-month period; and

573 (ii) are likely to prevent continued abuse or neglect of the child.

574 (2) (a) The division shall maintain a statewide inventory of in-home services available  
575 through public and private agencies or individuals for use by caseworkers.

576 (b) The inventory described in Subsection (2)(a) shall include:

577 (i) the method of accessing each service;

578 (ii) eligibility requirements for each service;

579 (iii) the geographic areas and the number of families that can be served by each  
580 service; and

581 (iv) information regarding waiting lists for each service.

582 (3) (a) As part of [~~its~~] the division's in-home services for the preservation of families,  
583 the division shall provide in-home services in varying degrees of intensity and contact that are  
584 specific to the needs of each individual family.

585 (b) As part of [~~its~~] the division's in-home services, the division shall:

- 586 (i) provide customized assistance;
- 587 (ii) provide support or interventions that are tailored to the needs of the family;
- 588 (iii) discuss the family's needs with the parent;
- 589 (iv) discuss an assistance plan for the family with the parent; and
- 590 (v) address:
  - 591 (A) the safety of children;
  - 592 (B) the needs of the family; and
  - 593 (C) services necessary to aid in the preservation of the family and a child's ability to
  - 594 remain in the home.

595 (c) In-home services shall be, as practicable, provided within the region that the family  
 596 resides, using existing division staff.

597 (4) (a) The division may use specially trained caseworkers, private providers, or other  
 598 persons to provide the in-home services described in Subsection (3).

599 (b) The division shall allow a caseworker to be flexible in responding to the needs of  
 600 each individual family, including:

- 601 (i) limiting the number of families assigned; and
- 602 (ii) being available to respond to assigned families within 24 hours.

603 (5) To provide, expand, and improve the delivery of in-home services to prevent the  
 604 removal of children from their homes and promote the preservation of families, the division  
 605 shall make substantial effort to obtain funding, including:

- 606 (a) federal grants;
- 607 (b) federal waivers; and
- 608 (c) private money.

609 ~~[(6) The division shall provide in-home family services pursuant to an order under~~  
 610 ~~Section 78A-6-117.5.]~~

611 Section 5. Section **62A-4a-202.6** is amended to read:

612 **62A-4a-202.6. Conflict child protective services investigations -- Authority of**  
 613 **investigators.**

614 (1) (a) The department, through the Office of Quality and Design, shall conduct an  
 615 independent child protective service investigation to investigate reports of abuse or neglect ~~[of~~  
 616 ~~a child that occur]~~ if:

617 (i) the report occurs while the child is in the custody of the division[-]; or  
618 (ii) the executive director determines that, if the division conducts the investigation, the  
619 division would have an actual or potential conflict of interest in the results of the investigation.

620 (b) When a report is made that a child is abused or neglected while in the custody of  
621 the division:

622 (i) the attorney general may, in accordance with Section 67-5-16, and with the consent  
623 of the [~~division~~] department, employ a child protective services investigator to conduct a  
624 conflict investigation of the report; or

625 (ii) a law enforcement officer, as defined in Section 53-13-103, may, with the consent  
626 of the [~~division~~] department, conduct a conflict investigation of the report.

627 (c) Subsection (1)(b)(ii) does not prevent a law enforcement officer from, without the  
628 consent of the [~~division~~] department, conducting a criminal investigation of abuse or neglect  
629 under Title 53, Public Safety Code.

630 (2) The investigators described in [~~Subsections (1)(b) and (c)~~] Subsection (1) may also  
631 investigate allegations of abuse or neglect of a child by a department employee or a licensed  
632 substitute care provider.

633 (3) The investigators described in Subsection (1), if not law enforcement officers, shall  
634 have the same rights, duties, and authority of a child protective services investigator employed  
635 by the division to:

636 (a) make a thorough investigation upon receiving either an oral or written report of  
637 alleged abuse or neglect of a child, with the primary purpose of that investigation being the  
638 protection of the child;

639 (b) make an inquiry into the child's home environment, emotional, or mental health, the  
640 nature and extent of the child's injuries, and the child's physical safety;

641 (c) make a written report of their investigation, including determination regarding  
642 whether the alleged abuse or neglect was supported, unsupported, or without merit, and  
643 forward a copy of that report to the division within the time mandates for investigations  
644 established by the division; and

645 (d) immediately consult with school authorities to verify the child's status in  
646 accordance with Sections 53G-6-201 through 53G-6-206 when a report is based upon or  
647 includes an allegation of educational neglect.

648 Section 6. Section **62A-4a-209** is amended to read:

649 **62A-4a-209. Emergency placement.**

650 (1) As used in this section:

651 (a) "Friend" means the same as that term is defined in Subsection [78A-6-307\(1\)](#).

652 (b) "Nonrelative" means an individual, other than a noncustodial parent or a relative.

653 (c) "Relative" means the same as that term is defined in Subsection [78A-6-307\(1\)](#).

654 (2) The division may use an emergency placement under Subsection

655 [62A-4a-202.1\(4\)\(b\)\(ii\)](#) when:

656 (a) the case worker has made the determination that:

657 (i) the child's home is unsafe;

658 (ii) removal is necessary under the provisions of Section [62A-4a-202.1](#); and

659 (iii) the child's custodial parent or guardian will agree to not remove the child from the  
660 home of the ~~[person]~~ individual that serves as the placement and not have any contact with the  
661 child until after the shelter hearing required by Section [78A-6-306](#);

662 (b) ~~[a person]~~ an individual, with preference being given in accordance with  
663 Subsection (4), can be identified who has the ability and is willing to provide care for the child  
664 who would otherwise be placed in shelter care, including:

665 (i) taking the child to medical, mental health, dental, and educational appointments at  
666 the request of the division; and

667 (ii) making the child available to division services and the guardian ad litem; and

668 (c) the ~~[person]~~ individual described in Subsection (2)(b) agrees to care for the child on  
669 an emergency basis under the following conditions:

670 (i) the ~~[person]~~ individual meets the criteria for an emergency placement under  
671 Subsection (3);

672 (ii) the ~~[person]~~ individual agrees to not allow the custodial parent or guardian to have  
673 any contact with the child until after the shelter hearing unless authorized by the division in  
674 writing;

675 (iii) the ~~[person]~~ individual agrees to contact law enforcement and the division if the  
676 custodial parent or guardian attempts to make unauthorized contact with the child;

677 (iv) the ~~[person]~~ individual agrees to allow the division and the child's guardian ad  
678 litem to have access to the child;

679 (v) the [person] individual has been informed and understands that the division may  
680 continue to search for other possible placements for long-term care, if needed;

681 (vi) the [person] individual is willing to assist the custodial parent or guardian in  
682 reunification efforts at the request of the division, and to follow all court orders; and

683 (vii) the child is comfortable with the [person] individual.

684 (3) Except as otherwise provided in Subsection (5), before the division places a child  
685 in an emergency placement, the division:

686 (a) may request the name of a reference and may contact the reference to determine the  
687 answer to the following questions:

688 (i) would the [person] individual identified as a reference place a child in the home of  
689 the emergency placement; and

690 (ii) are there any other relatives or friends to consider as a possible emergency or  
691 long-term placement for the child;

692 (b) shall have the custodial parent or guardian sign an emergency placement agreement  
693 form during the investigation;

694 (c) (i) if the emergency placement will be with a relative, shall comply with the  
695 background check provisions described in Subsection (7); or

696 (ii) if the emergency placement will be with ~~a person~~ an individual other than a  
697 noncustodial parent or a relative, shall comply with the background check provisions described  
698 in Subsection (8) for adults living in the household where the child will be placed;

699 (d) shall complete a limited home inspection of the home where the emergency  
700 placement is made; and

701 (e) shall have the emergency placement approved by a family service specialist.

702 (4) (a) The following order of preference shall be applied when determining the  
703 [person] individual with whom a child will be placed in an emergency placement described in  
704 this section, provided that the [person] individual is willing, and has the ability, to care for the  
705 child:

706 (i) a noncustodial parent of the child in accordance with Section [78A-6-307](#);

707 (ii) a relative;

708 (iii) subject to Subsection (4)(b), a friend designated by the custodial parent, guardian,  
709 or the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a

710 placement; ~~and~~

711 (iv) a former foster placement designated by the division;

712 (v) a foster placement, that is not a former foster placement, designated by the division;

713 and

714 ~~[(iv)]~~ (vi) a shelter facility~~[, former foster placement, or other foster placement]~~

715 designated by the division.

716 (b) In determining whether a friend is a willing and appropriate temporary emergency  
717 placement for a child, the division:

718 (i) subject to Subsections (4)(b)(ii) through (iv), shall consider the child's preferences or  
719 level of comfort with the friend;

720 ~~[(i)]~~ (ii) is required to consider no more than one friend designated by each parent or  
721 legal guardian of the child and one friend designated by the child, if the child is of sufficient  
722 maturity to articulate the child's wishes in relation to a placement;

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

726 ~~[(iii)]~~ (iv) shall give preference to a friend designated by the child, if:

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

728 (B) the division's basis for removing the child under Section [62A-4a-202.1](#) is sexual  
729 abuse of the child.

730 (5) (a) The division may, pending the outcome of the investigation described in  
731 Subsections (5)(b) and (c), place a child in emergency placement with the child's noncustodial  
732 parent if, based on a limited investigation, prior to making the emergency placement, the  
733 division:

734 (i) determines that the noncustodial parent has regular, unsupervised visitation with the  
735 child that is not prohibited by law or court order;

736 (ii) determines that there is not reason to believe that the child's health or safety will be  
737 endangered during the emergency placement; and

738 (iii) has the custodial parent or guardian sign an emergency placement agreement.

739 (b) Either before or after making an emergency placement with the noncustodial parent  
740 of the child, the division may conduct the investigation described in Subsection (3)(a) in



741 relation to the noncustodial parent.

742 (c) Before, or within one day, excluding weekends and holidays, after a child is placed  
743 in an emergency placement with the noncustodial parent of the child, the division shall conduct  
744 a limited:

745 (i) background check of the noncustodial parent, pursuant to Subsection (7); and

746 (ii) inspection of the home where the emergency placement is made.

747 (6) After an emergency placement, the division caseworker must:

748 (a) respond to the emergency placement's calls within one hour if the custodial parents  
749 or guardians attempt to make unauthorized contact with the child or attempt to remove the  
750 child;

751 (b) complete all removal paperwork, including the notice provided to the custodial  
752 parents and guardians under Section 78A-6-306;

753 (c) contact the attorney general to schedule a shelter hearing;

754 (d) complete the placement procedures required in Section 78A-6-307; and

755 (e) continue to search for other relatives as a possible long-term placement, if needed.

756 (7) (a) The background check described in Subsection (3)(c)(i) shall include  
757 completion of:

758 (i) a name-based, Utah Bureau of Criminal Identification background check; and

759 (ii) a search of the Management Information System described in Section  
760 62A-4a-1003.

761 (b) The division shall determine whether [~~a person~~] an individual passes the  
762 background check described in this Subsection (7) pursuant to the provisions of Subsection  
763 62A-2-120(14).

764 (c) Notwithstanding Subsection (7)(b), the division may not place a child with an  
765 individual who is prohibited by court order from having access to that child.

766 (8) (a) The background check described in Subsection (3)(c)(ii) shall include  
767 completion of:

768 (i) a name-based, Utah Bureau of Criminal Identification background check;

769 (ii) a federal name-based criminal background check; and

770 (iii) a search of the Management Information System described in Section  
771 62A-4a-1003.

772 (b) The division shall determine whether [~~a person~~] an individual passes the  
773 background checks described in this Subsection (8) pursuant to the provisions of Subsection  
774 [62A-2-120](#).

775 (c) If the division denies placement of a child as a result of a name-based criminal  
776 background check described in Subsection (8)(a), and the [~~person~~] individual contests that  
777 denial, the [~~person~~] individual shall submit a complete set of fingerprints with written  
778 permission to the Utah Bureau of Criminal Identification for submission to the Federal Bureau  
779 of Investigation for a fingerprint-based criminal background check.

780 (d) (i) Within 15 calendar days of the name-based background checks, the division  
781 shall require [~~a person~~] an individual to provide a complete set of fingerprints with written  
782 permission to the Utah Bureau of Criminal Identification for submission to the Federal Bureau  
783 of Investigation for a fingerprint-based criminal background check.

784 (ii) If [~~a person~~] an individual fails to provide the fingerprints and written permission  
785 described in Subsection (8)(d)(i), the child shall immediately be removed from the home.

786 Section 7. Section **62A-4a-602** is amended to read:

787 **62A-4a-602. Licensure requirements -- Prohibited acts.**

788 (1) As used in this section:

789 (a) (i) "Advertisement" means any written, oral, or graphic statement or representation  
790 made in connection with a solicitation of business.

791 (ii) "Advertisement" includes a statement or representation described in Subsection  
792 (1)(a)(i) by a noncable television system, radio, printed brochure, newspaper, leaflet, flyer,  
793 circular, billboard, banner, Internet website, social media, or sign.

794 (b) "Clearly and conspicuously disclose" means the same as that term is defined in  
795 Section [13-11a-2](#).

796 [~~(b)~~] (c) (i) "Matching advertisement" means any written, oral, or graphic statement or  
797 representation made in connection with a solicitation of business to provide the assistance  
798 described in Subsection (3)(a)(i), regardless of whether there is or will be an exchange  
799 described in Subsection (3)(a)(ii).

800 (ii) "Matching advertisement" includes a statement or representation described in  
801 Subsection (1)[~~(b)~~](c)(i) by a noncable television system, radio, printed brochure, newspaper,  
802 leaflet, flyer, circular, billboard, banner, Internet website, social media, or sign.

803           ~~[(c) "Clearly and conspicuously disclose" means the same as that term is defined in~~  
804 ~~Section 13-11a-2.]~~

805           (2) (a) A person may not engage in child placing, or solicit money or other assistance  
806 for child placing, without a valid license issued by the Office of Licensing, in accordance with  
807 Chapter 2, Licensure of Programs and Facilities.

808           (b) When a child-placing agency's license is suspended or revoked in accordance with  
809 that chapter, the care, control, or custody of any child who has been in the care, control, or  
810 custody of that agency shall be transferred to the division.

811           (3) (a) (i) An attorney, physician, or other person may assist a parent in identifying or  
812 locating a person interested in adopting the parent's child, or in identifying or locating a child to  
813 be adopted.

814           (ii) No payment, charge, fee, reimbursement of expense, or exchange of value of any  
815 kind, or promise or agreement to make the same, may be made for the assistance described in  
816 Subsection (3)(a)(i).

817           (b) An attorney, physician, or other person may not:

818           (i) issue or cause to be issued to any person a card, sign, or device indicating that the  
819 attorney, physician, or other person is available to provide the assistance described in  
820 Subsection (3)(a)(i);

821           (ii) cause, permit, or allow any sign or marking indicating that the attorney, physician,  
822 or other person is available to provide the assistance described in Subsection (3)(a)(i), on or in  
823 any building or structure;

824           (iii) announce, cause, permit, or allow an announcement indicating that the attorney,  
825 physician, or other person is available to provide the assistance described in Subsection  
826 (3)(a)(i), to appear in any newspaper, magazine, directory, on radio or television, or an Internet  
827 website relating to a business;

828           (iv) announce, cause, permit, or allow a matching advertisement; or

829           (v) announce, cause, permit, or allow an advertisement that indicates or implies the  
830 attorney, physician, or other person is available to provide the assistance described in  
831 Subsection (3)(a)(i) as part of, or related to, other adoption-related services by using any of the  
832 following terms:

833           (A) "comprehensive";

- 834 (B) "complete";
- 835 (C) "one-stop";
- 836 (D) "all-inclusive"; or
- 837 (E) any other term similar to the terms described in Subsections (3)(b)(v)(A) through
- 838 (D).

839 (c) An attorney, physician, or other person who is not licensed by the Office of  
840 Licensing within the department shall clearly and conspicuously disclose in any print media  
841 advertisement or written contract regarding adoption services or adoption-related services that  
842 the attorney, physician, or other person is not licensed to provide adoption services by the  
843 Office of Licensing within the department.

844 (4) Nothing in this part:

845 (a) precludes payment of fees for medical, legal, or other lawful services rendered in  
846 connection with the care of a mother, delivery and care of a child, or lawful adoption  
847 proceedings; or

848 (b) abrogates the right of procedures for independent adoption as provided by law.

849 (5) In accordance with federal law, only agents or employees of the division and of  
850 licensed child placing agencies may certify to the United States Immigration and Naturalization  
851 Service that a family meets the division's preadoption requirements.

852 (6) (a) Neither a licensed child-placing agency nor any attorney practicing in this state  
853 may place a child for adoption, either temporarily or permanently, with any individual or  
854 individuals that would not be qualified for adoptive placement pursuant to the provisions of  
855 Sections [78B-6-117](#), [78B-6-102](#), and [78B-6-137](#).

856 (b) The division, as a licensed child-placing agency, may not place a child in foster care  
857 with any individual or individuals that would not be qualified for adoptive placement pursuant  
858 to the provisions of Sections [78B-6-117](#), [78B-6-102](#), and [78B-6-137](#). However, nothing in this  
859 Subsection (6)(b) limits the placement of a child in foster care with the child's biological or  
860 adoptive parent, a relative, or in accordance with the Indian Child Welfare Act, 25 U.S.C. Sec.  
861 1901 et seq.

862 (c) With regard to children who are in the custody of the state, the division shall  
863 establish a rule providing that priority for placement shall be provided to families in which  
864 [~~both a man and a woman are~~] a couple is legally married under the laws of this state.

865 However, nothing in this Subsection (6)(c) limits the placement of a child with the child's  
866 biological or adoptive parent, a relative, or in accordance with the Indian Child Welfare Act, 25  
867 U.S.C. Sec. 1901 et seq.

868 Section 8. Section **62A-4a-603** is amended to read:

869 **62A-4a-603. Injunction -- Enforcement by county attorney or attorney general.**

870 (1) The [~~division,~~] Office of Licensing within the department[;] or any interested  
871 person may commence an action in district court to enjoin any person, agency, firm,  
872 corporation, or association violating Section [62A-4a-602](#).

873 (2) The Office of Licensing shall:

874 (a) solicit information from the public relating to violations of Section [62A-4a-602](#);

875 and

876 (b) upon identifying a violation of Section [62A-4a-602](#):

877 (i) send a written notice to the person who violated Section [62A-4a-602](#) that describes  
878 the alleged violation; and

879 (ii) notify the following persons of the alleged violation:

880 (A) the local county attorney; and

881 (B) the Division of Occupational and Professional Licensing.

882 (3) (a) A county attorney or the attorney general shall institute legal action as necessary  
883 to enforce the provisions of Section [62A-4a-602](#) after being informed of an alleged violation.

884 (b) If a county attorney does not take action within 30 days after the day on which the  
885 county attorney is informed of an alleged violation of Section [62A-4a-602](#), the attorney general  
886 may be requested to take action, and shall then institute legal proceedings in place of the county  
887 attorney.

888 (4) (a) In addition to the remedies provided in Subsections (1) and (3), any person,  
889 agency, firm, corporation, or association found to be in violation of Section [62A-4a-602](#) shall  
890 forfeit all proceeds identified as resulting from the transaction, and may also be assessed a civil  
891 penalty of not more than \$10,000 for each violation.

892 (b) Each act in violation of Section [62A-4a-602](#), including each placement or  
893 attempted placement of a child, is a separate violation.

894 (5) (a) All amounts recovered as penalties under Subsection (4) shall be placed in the  
895 General Fund of the prosecuting county, or in the state General Fund if the attorney general

896 prosecutes.

897 (b) If two or more governmental entities are involved in the prosecution, the penalty  
898 amounts recovered shall be apportioned by the court among the entities, according to their  
899 involvement.

900 (6) A judgment ordering the payment of any penalty or forfeiture under Subsection (4)  
901 is a lien when recorded in the judgment docket, and has the same effect and is subject to the  
902 same rules as a judgment for money in a civil action.

903 Section 9. Section 78A-6-103 is amended to read:

904 **78A-6-103. Jurisdiction of juvenile court -- Original -- Exclusive.**

905 (1) Except as otherwise provided by law, the juvenile court has exclusive original  
906 jurisdiction in proceedings concerning:

907 (a) a child who has violated any federal, state, or local law or municipal ordinance or [a  
908 ~~person~~] an individual younger than 21 years of age who has violated any law or ordinance  
909 before becoming 18 years of age, regardless of where the violation occurred, excluding  
910 offenses:

911 (i) in Section 53G-8-211 until such time that the child is referred to the courts under  
912 Section 53G-8-211; and

913 (ii) in Subsection 78A-7-106(2);

914 (b) a child who is an abused child, neglected child, or dependent child, as those terms  
915 are defined in Section 78A-6-105;

916 (c) a protective order for a child pursuant to Title 78B, Chapter 7, Part 2, Child  
917 Protective Orders, which the juvenile court may transfer to the district court if the juvenile  
918 court has entered an ex parte protective order and finds that:

919 (i) the petitioner and the respondent are the natural parent, adoptive parent, or step  
920 parent of the child who is the object of the petition;

921 (ii) the district court has a petition pending or an order related to custody or parent-time  
922 entered under Title 30, Chapter 3, Divorce, Title 78B, Chapter 7, Part 1, Cohabitant Abuse Act,  
923 or Title 78B, Chapter 15, Utah Uniform Parentage Act, in which the petitioner and the  
924 respondent are parties; and

925 (iii) the best interests of the child will be better served in the district court;

926 (d) appointment of a guardian of the person or other guardian of a minor who comes

927 within the court's jurisdiction under other provisions of this section;

928 (e) the emancipation of a minor in accordance with Part 8, Emancipation;

929 (f) the termination of the legal parent-child relationship in accordance with Part 5,  
930 Termination of Parental Rights Act, including termination of residual parental rights and  
931 duties;

932 (g) the treatment or commitment of a minor who has an intellectual disability;

933 (h) the judicial consent to the marriage of a minor 16 or 17 years old upon a  
934 determination of voluntariness or where otherwise required by law;

935 (i) any parent or parents of a child committed to a secure youth facility, to order, at the  
936 discretion of the court and on the recommendation of a secure facility, the parent or parents of a  
937 child committed to a secure facility for a custodial term, to undergo group rehabilitation  
938 therapy under the direction of a secure facility therapist, who has supervision of that parent's or  
939 parents' child, or any other therapist the court may direct, for a period directed by the court as  
940 recommended by a secure facility;

941 (j) a minor under Title 55, Chapter 12, Interstate Compact for Juveniles;

942 (k) subject to Subsection (8), the treatment or commitment of a child with a mental  
943 illness;

944 (l) the commitment of a child to a secure drug or alcohol facility in accordance with  
945 Section [62A-15-301](#);

946 (m) a minor found not competent to proceed pursuant to Section [78A-6-1301](#);

947 (n) de novo review of final agency actions resulting from an informal adjudicative  
948 proceeding as provided in Section [63G-4-402](#); and

949 (o) adoptions conducted in accordance with the procedures described in Title 78B,  
950 Chapter 6, Part 1, Utah Adoption Act, when the juvenile court has previously entered an order  
951 terminating the rights of a parent and finds that adoption is in the best interest of the child.

952 (2) (a) Notwithstanding Section [78A-7-106](#) and Subsection [78A-5-102\(9\)](#), the juvenile  
953 court has exclusive jurisdiction over the following offenses committed by a child:

954 (i) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

955 (ii) Section [73-18-12](#), reckless operation; and

956 (iii) class B and C misdemeanors, infractions, or violations of ordinances that are part  
957 of a single criminal episode filed in a petition that contains an offense over which the court has

958 jurisdiction.

959 (b) A juvenile court may only order substance use disorder treatment or an educational  
960 series if the minor has an assessed need for the intervention on the basis of the results of a  
961 validated assessment.

962 (3) The juvenile court has jurisdiction over an ungovernable or runaway child who is  
963 referred to ~~[it]~~ the juvenile court by the Division of ~~[Child and Family]~~ Juvenile Justice  
964 Services or by public or private agencies that contract with the ~~[division]~~ Division of Juvenile  
965 Justice Services to provide services to that child when, despite earnest and persistent efforts by  
966 the ~~[division]~~ Division of Juvenile Justice Services or agency, the child has demonstrated that  
967 the child:

968 (a) is beyond the control of the child's parent, guardian, or lawful custodian to the  
969 extent that the child's behavior or condition endangers the child's own welfare or the welfare of  
970 others; or

971 (b) has run away from home.

972 (4) This section does not restrict the right of access to the juvenile court by private  
973 agencies or other persons.

974 (5) The juvenile court has jurisdiction of all magistrate functions relative to cases  
975 arising under Section [78A-6-702](#).

976 (6) The juvenile court has jurisdiction to make a finding of substantiated,  
977 unsubstantiated, or without merit, in accordance with Section [78A-6-323](#).

978 (7) The juvenile court has jurisdiction of matters transferred to it by another trial court  
979 pursuant to Subsection [78A-7-106\(5\)](#) and subject to Section [53G-8-211](#).

980 (8) The court may commit a child to the physical custody of a local mental health  
981 authority in accordance with Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age  
982 18 to Division of Substance Abuse and Mental Health, but not directly to the Utah State  
983 Hospital.

984 Section 10. Section [78A-6-113](#) is amended to read:

985 **[78A-6-113. Placement of minor in detention or shelter facility -- Grounds --](#)**  
986 **[Detention hearings -- Period of detention -- Notice -- Confinement for criminal](#)**  
987 **[proceedings -- Bail laws inapplicable -- Exception.](#)**

988 (1) (a) A minor may not be placed or kept in a secure detention facility pending court



989 proceedings except in accordance with Section 78A-6-112.

990 (b) A child may not be placed or kept in a shelter facility pending court proceedings  
991 unless it is unsafe to leave the child with the child's parents, guardian, or custodian.

992 ~~[(c) (i) A court may temporarily place in a detention facility, as provided in Subsection~~  
993 ~~(4), a child who is taken into custody based upon a warrant issued under Subsection~~  
994 ~~78A-6-106(6), if the court finds that detention is the least restrictive placement available to~~  
995 ~~ensure the immediate safety of the child.]~~

996 ~~[(ii) A child placed in detention under Subsection (1)(c)(i) may not be held in detention~~  
997 ~~longer than is necessary for the division to identify a less restrictive, available, and appropriate~~  
998 ~~placement for the child.]~~

999 (2) After admission of a child to a detention facility pursuant to Section 78A-6-112 and  
1000 immediate investigation by an authorized officer of the court, the judge or the officer shall  
1001 order the release of the child to the child's parents, guardian, or custodian if it is found the child  
1002 can be safely returned to their care, either upon written promise to bring the child to the court at  
1003 a time set or without restriction.

1004 (a) If a child's parent, guardian, or custodian fails to retrieve the child from a facility  
1005 within 24 hours after notification of release, the parent, guardian, or custodian is responsible  
1006 for the cost of care for the time the child remains in the facility.

1007 (b) The facility shall determine the cost of care.

1008 (c) Any money collected under this Subsection (2) shall be retained by the Division of  
1009 Juvenile Justice Services to recover the cost of care for the time the child remains in the  
1010 facility.

1011 (3) (a) When a child is detained in a detention or shelter facility, the parents or  
1012 guardian shall be informed by the person in charge of the facility that the parent's or guardian's  
1013 child has the right to a prompt hearing in court to determine whether the child is to be further  
1014 detained or released.

1015 (b) When a minor is detained in a detention facility, the minor shall be informed by the  
1016 person in charge of the facility that the minor has the right to a prompt hearing in court to  
1017 determine whether the minor is to be further detained or released.

1018 (c) Detention hearings shall be held by the judge or by a commissioner.

1019 (d) The court may, at any time, order the release of the minor, whether a detention

1020 hearing is held or not.

1021 (e) If a child is released, and the child remains in the facility, because the parents,  
1022 guardian, or custodian fails to retrieve the child, the parents, guardian, or custodian shall be  
1023 responsible for the cost of care as provided in Subsections (2)(a), (b), and (c).

1024 (4) (a) A minor may not be held in a detention facility longer than 48 hours before a  
1025 detention hearing, excluding weekends and holidays, unless the court has entered an order for  
1026 continued detention.

1027 (b) A child may not be held in a shelter facility longer than 48 hours before a shelter  
1028 hearing, excluding weekends and holidays, unless a court order for extended shelter has been  
1029 entered by the court after notice to all parties described in Section 78A-6-306.

1030 (c) A hearing for detention or shelter may not be waived. Detention staff shall provide  
1031 the court with all information received from the person who brought the minor to the detention  
1032 facility.

1033 (d) The judge or commissioner may only order a minor to be held in the facility or be  
1034 placed in another appropriate facility, subject to further order of the court, if the court finds at a  
1035 detention hearing that:

1036 (i) releasing the minor to the minor's parent, guardian, or custodian presents an  
1037 unreasonable risk to public safety;

1038 (ii) less restrictive nonresidential alternatives to detention have been considered and,  
1039 where appropriate, attempted; and

1040 (iii) the minor is eligible for detention under the division guidelines for detention  
1041 admissions established by the Division of Juvenile Justice Services, under Section 62A-7-202  
1042 and under Section 78A-6-112.

1043 (e) (i) After a detention hearing has been held, only the court may release a minor from  
1044 detention. If a minor remains in a detention facility, periodic reviews shall be held pursuant to  
1045 the Utah State Juvenile Court Rules of Practice and Procedure to ensure that continued  
1046 detention is necessary.

1047 (ii) After a detention hearing for a violent felony, as defined in Section 76-3-203.5, or  
1048 an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the court shall direct that  
1049 notice of its decision, including any disposition, order, or no contact orders, be provided to  
1050 designated persons in the appropriate local law enforcement agency and district superintendent

1051 or the school or transferee school, if applicable, that the minor attends. The designated persons  
1052 may receive the information for purposes of the minor's supervision and student safety.

1053 (iii) Any employee of the local law enforcement agency, school district, and the school  
1054 that the minor attends who discloses the court's order of probation is not:

1055 (A) civilly liable except when the disclosure constitutes fraud or willful misconduct as  
1056 provided in Section 63G-7-202; and

1057 (B) civilly or criminally liable except when disclosure constitutes a knowing violation  
1058 of Section 63G-2-801.

1059 (5) A minor may not be held in a detention facility, following a dispositional order of  
1060 the court for nonsecure substitute care as defined in Section 62A-4a-101, or for  
1061 community-based placement under Section 62A-7-101.

1062 (6) (a) Except as otherwise provided in this section, a minor may not be held in a  
1063 detention facility following a disposition order of the court for longer than 72 hours, excluding  
1064 weekends and holidays.

1065 (b) The period of detention may be extended by the court for a cumulative total of  
1066 seven calendar days if:

1067 (i) the Division of Juvenile Justice Services or another agency responsible for  
1068 placement files a written petition with the court requesting the extension and setting forth good  
1069 cause; and

1070 (ii) the court enters a written finding that it is in the best interests of both the minor and  
1071 the community to extend the period of detention.

1072 (c) The court may extend the period of detention beyond the seven calendar days if the  
1073 court finds by clear and convincing evidence that:

1074 (i) the Division of Juvenile Justice Services or another agency responsible for  
1075 placement does not have space for the minor; and

1076 (ii) the safety of the minor and community requires an extension of the period of  
1077 detention.

1078 (d) The Division of Juvenile Justice Services shall report to the court every 48 hours,  
1079 excluding weekends and holidays, regarding the status of whether the Division of Juvenile  
1080 Justice Services or another agency responsible for placement has space for the minor.

1081 (7) The agency requesting an extension shall promptly notify the detention facility that

1082 a written petition has been filed.

1083 (8) The court shall promptly notify the detention facility regarding its initial disposition  
1084 and any ruling on a petition for an extension, whether granted or denied.

1085 (9) (a) A child under 16 years of age may not be held in a jail, lockup, or other place  
1086 for adult detention except as provided by Section 62A-7-201 or unless certified as an adult  
1087 pursuant to Section 78A-6-703. Section 62A-7-201 regarding confinement facilities applies to  
1088 this Subsection (9).

1089 (b) A child 16 years of age or older whose conduct or condition endangers the safety or  
1090 welfare of others in the detention facility for children may, by court order that specifies the  
1091 reasons, be detained in another place of confinement considered appropriate by the court,  
1092 including a jail or other place of confinement for adults. However, a secure facility is not an  
1093 appropriate place of confinement for detention purposes under this section.

1094 (10) A sheriff, warden, or other official in charge of a jail or other facility for the  
1095 detention of adult offenders or persons charged with crime shall immediately notify the  
1096 juvenile court when a person who is or appears to be under 18 years of age is received at the  
1097 facility and shall make arrangements for the transfer of the person to a detention facility, unless  
1098 otherwise ordered by the juvenile court.

1099 (11) This section does not apply to a minor who is brought to the adult facility under  
1100 charges pursuant to Section 78A-6-701 or by order of the juvenile court to be held for criminal  
1101 proceedings in the district court under Section 78A-6-702 or 78A-6-703.

1102 (12) A minor held for criminal proceedings under Section 78A-6-701, 78A-6-702, or  
1103 78A-6-703 may be detained in a jail or other place of detention used for adults charged with  
1104 crime.

1105 (13) Provisions of law regarding bail are not applicable to minors detained or taken  
1106 into custody under this chapter, except that bail may be allowed:

1107 (a) if a minor who need not be detained lives outside this state; or

1108 (b) when a minor who need not be detained comes within one of the classes in  
1109 Subsection 78A-6-603(11).

1110 (14) Section 76-8-418 is applicable to a child who willfully and intentionally commits  
1111 an act against a jail or other place of confinement, including a Division of Juvenile Justice  
1112 Services detention, shelter, or secure confinement facility which would be a third degree felony

1113 if committed by an adult.

1114 Section 11. Section **78A-6-115** is amended to read:

1115 **78A-6-115. Hearings -- Record -- County attorney or district attorney**  
1116 **responsibilities -- Attorney general responsibilities -- Disclosure -- Admissibility of**  
1117 **evidence -- Medical cannabis.**

1118 (1) (a) A verbatim record of the proceedings shall be taken in all cases that might result  
1119 in deprivation of custody as defined in this chapter. In all other cases a verbatim record shall  
1120 also be made unless dispensed with by the court.

1121 (b) (i) Notwithstanding any other provision, including Title 63G, Chapter 2,  
1122 Government Records Access and Management Act, a record of a proceeding made under  
1123 Subsection (1)(a) shall be released by the court to any person upon a finding on the record for  
1124 good cause.

1125 (ii) Following a petition for a record of a proceeding made under Subsection (1)(a), the  
1126 court shall:

1127 (A) provide notice to all subjects of the record that a request for release of the record  
1128 has been made; and

1129 (B) allow sufficient time for the subjects of the record to respond before making a  
1130 finding on the petition.

1131 (iii) A record of a proceeding may not be released under this Subsection (1)(b) if the  
1132 court's jurisdiction over the subjects of the proceeding ended more than 12 months before the  
1133 request.

1134 (iv) For purposes of this Subsection (1)(b):

1135 (A) "record of a proceeding" does not include documentary materials of any type  
1136 submitted to the court as part of the proceeding, including items submitted under Subsection  
1137 (4)(a); and

1138 (B) "subjects of the record" includes the child's guardian ad litem, the child's legal  
1139 guardian, the Division of Child and Family Services, and any other party to the proceeding.

1140 (2) (a) Except as provided in Subsection (2)(b), the county attorney or, if within a  
1141 prosecution district, the district attorney shall represent the state in any proceeding in a minor's  
1142 case.

1143 (b) Subject to the attorney general's prosecutorial discretion in civil enforcement

1144 actions, the attorney general shall enforce all provisions of Title 62A, Chapter 4a, Child and  
1145 Family Services, and this chapter, relating to:

- 1146 (i) protection or custody of an abused, neglected, or dependent child; and
- 1147 (ii) petitions for termination of parental rights.

1148 ~~[(c) The attorney general shall represent the Division of Child and Family Services in~~  
1149 ~~actions involving a minor who is not adjudicated as abused or neglected, but who is receiving~~  
1150 ~~in-home family services under Section 78A-6-117.5. Nothing in this Subsection (2)(c) may be~~  
1151 ~~construed to affect the responsibility of the county attorney or district attorney to represent the~~  
1152 ~~state in those matters, in accordance with Subsection (2)(a).]~~

1153 (3) The board may adopt special rules of procedure to govern proceedings involving  
1154 violations of traffic laws or ordinances, wildlife laws, and boating laws. However, proceedings  
1155 involving offenses under Section 78A-6-606 are governed by that section regarding suspension  
1156 of driving privileges.

1157 (4) (a) For the purposes of determining proper disposition of the minor in dispositional  
1158 hearings and establishing the fact of abuse, neglect, or dependency in adjudication hearings and  
1159 in hearings upon petitions for termination of parental rights, written reports and other material  
1160 relating to the minor's mental, physical, and social history and condition may be received in  
1161 evidence and may be considered by the court along with other evidence. The court may require  
1162 that the person who wrote the report or prepared the material appear as a witness if the person  
1163 is reasonably available.

1164 (b) For the purpose of determining proper disposition of a minor alleged to be or  
1165 adjudicated as abused, neglected, or dependent, dispositional reports prepared by the division  
1166 under Section 78A-6-315 may be received in evidence and may be considered by the court  
1167 along with other evidence. The court may require any person who participated in preparing the  
1168 dispositional report to appear as a witness, if the person is reasonably available.

1169 (5) (a) ~~[In]~~ Except as provided in Subsections (5)(c) through (e), in an abuse, neglect,  
1170 or dependency proceeding occurring after the commencement of a shelter hearing under  
1171 Section 78A-6-306 or the filing of a petition under Section 78A-6-304, each party to the  
1172 proceeding shall provide in writing to the other parties or their counsel any information which  
1173 the party:

- 1174 (i) plans to report to the court at the proceeding; or

- 1175 (ii) could reasonably expect would be requested of the party by the court at the  
 1176 proceeding.
- 1177 (b) The disclosure required under Subsection (5)(a) shall be made:
- 1178 (i) for dispositional hearings under Sections 78A-6-311 and 78A-6-312, no less than  
 1179 five days before the proceeding;
- 1180 (ii) for proceedings under Chapter 6, Part 5, Termination of Parental Rights Act, in  
 1181 accordance with Utah Rules of Civil Procedure; and
- 1182 (iii) for all other proceedings, no less than five days before the proceeding.
- 1183 (c) A party is not required to provide the information described in Subsection (5)(a) to  
 1184 each party to the proceeding if:
- 1185 (i) the information is electronically filed with the court; and
- 1186 (ii) each party to the proceeding has access to the electronically filed information.
- 1187 ~~[(c)]~~ (d) If a party to a proceeding obtains information after the deadline in Subsection  
 1188 (5)(b), the information is exempt from the disclosure required under Subsection (5)(a) if the  
 1189 party certifies to the court that the information was obtained after the deadline.
- 1190 ~~[(d)]~~ (e) Subsection (5)(a) does not apply to:
- 1191 (i) pretrial hearings; and
- 1192 (ii) the frequent, periodic review hearings held in a dependency drug court case to  
 1193 assess and promote the parent's progress in substance use disorder treatment.
- 1194 (6) For the purpose of establishing the fact of abuse, neglect, or dependency, the court  
 1195 may, in ~~[its]~~ the court's discretion, consider evidence of statements made by a child under eight  
 1196 years of age to ~~[a person]~~ an individual in a trust relationship.
- 1197 (7) (a) As used in this Subsection (7):
- 1198 (i) "Cannabis product" means the same as that term is defined in Section 26-61a-102.
- 1199 (ii) "Dosing parameters" means the same as that term is defined in Section 26-61a-102.
- 1200 (iii) "Medical cannabis" means the same as that term is defined in Section 26-61a-102.
- 1201 (iv) "Medical cannabis cardholder" means the same as that term is defined in Section  
 1202 26-61a-102.
- 1203 (v) "Qualified medical provider" means the same as that term is defined in Section  
 1204 26-61a-102.
- 1205 (b) In any child welfare proceeding in which the court makes a finding, determination,

1206 or otherwise considers an individual's possession or use of medical cannabis, a cannabis  
1207 product, or a medical cannabis device, the court may not consider or treat the individual's  
1208 possession or use any differently than the lawful possession or use of any prescribed controlled  
1209 substance if the individual's use or possession complies with:

1210 (i) Title 4, Chapter 41a, Cannabis Production Establishments;  
1211 (ii) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or  
1212 (iii) (A) the individual's possession or use complies with Title 26, Chapter 61a, Utah  
1213 Medical Cannabis Act; and

1214 (B) the individual reasonably complies with the dosing parameters determined by the  
1215 individual's qualified medical provider or through a consultation described in Subsection  
1216 26-61a-502(4) or (5).

1217 (c) A parent's or guardian's use of medical cannabis or a cannabis product is not abuse  
1218 or neglect of a child under Section 78A-6-105, nor is it contrary to the best interests of a child,  
1219 if:

1220 (i) (A) for a medical cannabis cardholder after January 1, 2021, the parent's or  
1221 guardian's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act,  
1222 and there is no evidence that the parent's or guardian's use of medical cannabis unreasonably  
1223 deviates from the dosing parameters determined by the parent's or guardian's qualified medical  
1224 provider or through a consultation described in Subsection 26-61a-502(4) or (5); or

1225 (B) before January 1, 2021, the parent's or guardian's possession or use complies with  
1226 Subsection 58-37-3.7(2) or (3); and

1227 (ii) (A) there is no evidence showing that the child has inhaled, ingested, or otherwise  
1228 had cannabis introduced to the child's body; or

1229 (B) there is no evidence showing a nexus between the parent's or guardian's use of  
1230 medical cannabis or a cannabis product and behavior that would separately constitute abuse or  
1231 neglect of the child.

1232 Section 12. Section 78A-6-117.5 is amended to read:

1233 **78A-6-117.5. Custody in Division of Child and Family Services or in the Division**  
1234 **of Juvenile Justice Services -- Assessment of an ungovernable or runaway youth for**  
1235 **services.**

1236 (1) Notwithstanding Subsections 78A-6-117(2)(c) and (d), the court may not vest



1237 custody in the Division of Child and Family Services except pursuant to Title 78A, Chapter 6,  
1238 Part 3, Abuse, Neglect, and Dependency Proceedings.

1239 ~~[(2) If the court finds that a child is at risk of being removed from the home or that the~~  
1240 ~~family is in crisis, the court may order the Division of Child and Family Services to conduct an~~  
1241 ~~assessment to determine if provision of in-home family preservation services is appropriate. If~~  
1242 ~~considered appropriate by the Division of Child and Family Services, services shall be~~  
1243 ~~provided pursuant to Section 62A-4a-202.]~~

1244 [(3)] (2) Notwithstanding Section 78A-6-117, a court may not place a minor on a  
1245 ranch, forestry camp, or other residential work program for care or work.

1246 [(4)] (3) Notwithstanding Section 78A-6-117, a court may not commit a minor to the  
1247 temporary custody of the Division of Juvenile Justice Services for residential observation and  
1248 evaluation or residential observation and assessment.

1249 (4) (a) If the court finds that a child is ungovernable or a runaway, as those terms are  
1250 defined in Section 62A-7-101, or that the family is in crisis, the court may order the Division of  
1251 Juvenile Justice Services to conduct an assessment to determine if provision of prevention and  
1252 early intervention youth services, as described in Section 62A-7-601, is appropriate.

1253 (b) If the Division of Juvenile Justice Services determines that provision of prevention  
1254 and early intervention youth services is appropriate under Subsection (4)(a), the Division of  
1255 Juvenile Justice Services shall provide the services to the ungovernable or runaway child.

1256 Section 13. Section 78A-6-307 is amended to read:

1257 **78A-6-307. Shelter hearing -- Placement -- DCFS custody.**

1258 (1) As used in this section:

1259 (a) "Friend" means an adult ~~[the child knows and is comfortable with but who is not a~~  
1260 ~~natural parent or relative.]~~ who:

1261 (i) has an established relationship with the child or a family member of the child; and  
1262 (ii) is not a natural parent of the child.

1263 (b) (i) "Natural parent," notwithstanding Section 78A-6-105, means:

1264 (A) a biological or adoptive mother of the child;

1265 (B) an adoptive father of the child; or

1266 (C) a biological father of the child who:

1267 (I) was married to the child's biological mother at the time the child was conceived or

1268 born; or

1269 (II) has strictly complied with Sections 78B-6-120 through 78B-6-122, before removal  
1270 of the child or voluntary surrender of the child by the custodial parent.

1271 (ii) The definition of "natural parent" described in Subsection (1)(b)(i) applies  
1272 regardless of whether the child has been or will be placed with adoptive parents or whether  
1273 adoption has been or will be considered as a long-term goal for the child.

1274 (c) "Relative" means:

1275 (i) an adult who is the child's grandparent, great grandparent, aunt, great aunt, uncle,  
1276 great uncle, brother-in-law, sister-in-law, stepparent, first cousin, stepsibling, or sibling;

1277 (ii) a first cousin of the child's parent;

1278 (iii) an adult who is an adoptive parent of the child's sibling; or

1279 (iv) in the case of a child defined as an "Indian" under the Indian Child Welfare Act, 25  
1280 U.S.C. Sec. 1903, "relative" also means an "extended family member" as defined by that  
1281 statute.

1282 (2) (a) At the shelter hearing, when the court orders that a child be removed from the  
1283 custody of the child's parent in accordance with the requirements of Section 78A-6-306, the  
1284 court shall first determine whether there is another natural parent with whom the child was not  
1285 residing at the time the events or conditions that brought the child within the court's jurisdiction  
1286 occurred, who desires to assume custody of the child.

1287 (b) If another natural parent requests custody under Subsection (2)(a), the court shall  
1288 place the child with that parent unless [it] the court finds that the placement would be unsafe or  
1289 otherwise detrimental to the child.

1290 (c) This Subsection (2) is limited by Subsection (18)(b).

1291 (d) (i) The court shall make a specific finding regarding the fitness of the parent  
1292 described in Subsection (2)(b) to assume custody, and the safety and appropriateness of the  
1293 placement.

1294 (ii) The court shall, at a minimum, order the division to visit the parent's home, comply  
1295 with the criminal background check provisions described in Section 78A-6-308, and check the  
1296 division's management information system for any previous reports of abuse or neglect  
1297 received by the division regarding the parent at issue.

1298 (iii) The court may order the division to conduct any further investigation regarding the

1299 safety and appropriateness of the placement.

1300 (iv) The division shall report [~~its~~] the division's findings in writing to the court.

1301 (v) The court may place the child in the temporary custody of the division, pending  
1302 [~~its~~] the court's determination regarding that placement.

1303 (3) If the court orders placement with a parent under Subsection (2):

1304 (a) the child and the parent are under the continuing jurisdiction of the court;

1305 (b) the court may order:

1306 (i) that the parent assume custody subject to the supervision of the court; and

1307 (ii) that services be provided to the parent from whose custody the child was removed,  
1308 the parent who has assumed custody, or both; and

1309 (c) the court shall order reasonable parent-time with the parent from whose custody the  
1310 child was removed, unless parent-time is not in the best interest of the child.

1311 (4) The court shall periodically review an order described in Subsection (3) to  
1312 determine whether:

1313 (a) placement with the parent continues to be in the child's best interest;

1314 (b) the child should be returned to the original custodial parent;

1315 (c) the child should be placed in the custody of a relative, pursuant to Subsections (7)  
1316 through (12); or

1317 (d) the child should be placed in the custody of the division.

1318 (5) The time limitations described in Section [78A-6-312](#) with regard to reunification  
1319 efforts apply to children placed with a previously noncustodial parent in accordance with  
1320 Subsection (2).

1321 (6) Legal custody of the child is not affected by an order entered under Subsection (2)  
1322 or (3). To affect a previous court order regarding legal custody, the party shall petition that  
1323 court for modification of the order.

1324 (7) If, at the time of the shelter hearing, a child is removed from the custody of the  
1325 child's parent and is not placed in the custody of the child's other parent, the court:

1326 (a) shall, at that time, determine whether, subject to Subsections (18)(c) through (e),  
1327 there is a relative or a friend who is able and willing to care for the child, which may include  
1328 asking a child, who is of sufficient maturity to articulate the child's wishes in relation to a  
1329 placement, if there is a relative or friend with whom the child would prefer to reside;

1330 (b) may order the division to conduct a reasonable search to determine whether, subject  
1331 to Subsections (18)(c) through (e), there are relatives or friends who are willing and  
1332 appropriate, in accordance with the requirements of this part and Title 62A, Chapter 4a, Part 2,  
1333 Child Welfare Services, for placement of the child;

1334 (c) shall order the parents to cooperate with the division, within five working days, to,  
1335 subject to Subsections (18)(c) through (e), provide information regarding relatives or friends  
1336 who may be able and willing to care for the child; and

1337 (d) may order that the child be placed in the custody of the division pending the  
1338 determination under Subsection (7)(a).

1339 (8) This section may not be construed as a guarantee that an identified relative or friend  
1340 will receive custody of the child.

1341 (9) Subject to Subsections (18)(c) through (e), preferential consideration shall be given  
1342 to a relative's or a friend's request for placement of the child, if it is in the best interest of the  
1343 child, and the provisions of this section are satisfied.

1344 (10) (a) If a willing relative or friend is identified under Subsection (7)(a), the court  
1345 shall make a specific finding regarding:

1346 (i) the fitness of that relative or friend as a placement for the child; and

1347 (ii) the safety and appropriateness of placement with that relative or friend.

1348 (b) To be considered a "willing relative or friend" under this section, the relative or  
1349 friend shall be willing to cooperate with the child's permanency goal.

1350 (11) (a) In making the finding described in Subsection (10)(a), the court shall, at a  
1351 minimum, order the division to:

1352 (i) if the child may be placed with a relative, conduct a background check that includes:

1353 (A) completion of a nonfingerprint-based, Utah Bureau of Criminal Identification  
1354 background check of the relative;

1355 (B) a completed search, relating to the relative, of the Management Information System  
1356 described in Section [62A-4a-1003](#); and

1357 (C) a background check that complies with the criminal background check provisions  
1358 described in Section [78A-6-308](#), of each nonrelative, as defined in Section [62A-4a-209](#), of the  
1359 child who resides in the household where the child may be placed;

1360 (ii) if the child will be placed with a noncustodial parent, complete a background check

1361 that includes:

1362 (A) the background check requirements applicable to an emergency placement with a  
1363 noncustodial parent that are described in Subsections 62A-4a-209(5) and (7);

1364 (B) a completed search, relating to the noncustodial parent of the child, of the  
1365 Management Information System described in Section 62A-4a-1003; and

1366 (C) a background check that complies with the criminal background check provisions  
1367 described in Section 78A-6-308, of each nonrelative, as defined in Section 62A-4a-209, of the  
1368 child who resides in the household where the child may be placed;

1369 (iii) if the child may be placed with an individual other than a noncustodial parent or a  
1370 relative, conduct a criminal background check of the individual, and each adult that resides in  
1371 the household where the child may be placed, that complies with the criminal background  
1372 check provisions described in Section 78A-6-308;

1373 (iv) visit the relative's or friend's home;

1374 (v) check the division's management information system for any previous reports of  
1375 abuse or neglect regarding the relative or friend at issue;

1376 (vi) report the division's findings in writing to the court; and

1377 (vii) provide sufficient information so that the court may determine whether:

1378 (A) the relative or friend has any history of abusive or neglectful behavior toward other  
1379 children that may indicate or present a danger to this child;

1380 (B) the child is comfortable with the relative or friend;

1381 (C) the relative or friend recognizes the parent's history of abuse and is committed to  
1382 protect the child;

1383 (D) the relative or friend is strong enough to resist inappropriate requests by the parent  
1384 for access to the child, in accordance with court orders;

1385 (E) the relative or friend is committed to caring for the child as long as necessary; and

1386 (F) the relative or friend can provide a secure and stable environment for the child.

1387 (b) The division may determine to conduct, or the court may order the division to  
1388 conduct, any further investigation regarding the safety and appropriateness of the placement.

1389 (c) The division shall complete and file [its] the division's assessment regarding  
1390 placement with a relative or friend as soon as practicable, in an effort to facilitate placement of  
1391 the child with a relative or friend.

1392 (12) (a) The court may place a child described in Subsection (2)(a) in the temporary  
1393 custody of the division, pending the division's investigation pursuant to Subsections (10) and  
1394 (11), and the court's determination regarding the appropriateness of that placement.

1395 (b) The court shall ultimately base ~~[its]~~ the court's determination regarding the  
1396 appropriateness of a placement with a relative or friend on the best interest of the child.

1397 (13) When a court places a child described in Subsection (7) in the custody of the  
1398 child's relative or friend:

1399 (a) the court:

1400 (i) shall order the relative or friend assume custody, subject to the continuing  
1401 supervision of the court; and

1402 (ii) may order the division provide necessary services to the child and the child's  
1403 relative or friend, including the monitoring of the child's safety and well-being;

1404 (b) the child and the relative or friend in whose custody the child is placed are under  
1405 the continuing jurisdiction of the court;

1406 (c) the court may enter any order that it considers necessary for the protection and best  
1407 interest of the child;

1408 (d) the court shall provide for reasonable parent-time with the parent or parents from  
1409 whose custody the child was removed, unless parent-time is not in the best interest of the child;  
1410 and

1411 (e) the court shall conduct a periodic review no less often than every six months, to  
1412 determine whether:

1413 (i) placement with the relative or friend continues to be in the child's best interest;

1414 (ii) the child should be returned home; or

1415 (iii) the child should be placed in the custody of the division.

1416 (14) No later than 12 months after placement with a relative or friend, the court shall  
1417 schedule a hearing for the purpose of entering a permanent order in accordance with the best  
1418 interest of the child.

1419 (15) The time limitations described in Section [78A-6-312](#), with regard to reunification  
1420 efforts, apply to children placed with a relative or friend pursuant to Subsection (7).

1421 (16) (a) If the court awards custody of a child to the division, and the division places  
1422 the child with a relative, the division shall:

1423 (i) conduct a criminal background check of the relative that complies with the criminal  
1424 background check provisions described in Section 78A-6-308; and

1425 (ii) if the results of the criminal background check described in Subsection (16)(a)(i)  
1426 would prohibit the relative from having direct access to the child under Section 62A-2-120, the  
1427 division shall:

1428 (A) take the child into physical custody; and

1429 (B) within three days, excluding weekends and holidays, after taking the child into  
1430 physical custody under Subsection (16)(a)(ii)(A), give written notice to the court, and all  
1431 parties to the proceedings, of the division's action.

1432 (b) Nothing in Subsection (16)(a) prohibits the division from placing a child with a  
1433 relative, pending the results of the background check described in Subsection (16)(a) on the  
1434 relative.

1435 (17) When the court orders that a child be removed from the custody of the child's  
1436 parent and does not award custody and guardianship to another parent, relative, or friend under  
1437 this section, the court shall order that the child be placed in the temporary custody of the  
1438 division, to proceed to adjudication and disposition and to be provided with care and services  
1439 in accordance with this chapter and Title 62A, Chapter 4a, Child and Family Services.

1440 (18) (a) Any preferential consideration that a relative or friend is initially granted  
1441 pursuant to Subsection (9) expires 120 days from the date of the shelter hearing. After that time  
1442 period has expired, a relative or friend who has not obtained custody or asserted an interest in a  
1443 child, may not be granted preferential consideration by the division or the court.

1444 (b) When the time period described in Subsection (18)(a) has expired, the preferential  
1445 consideration, which is initially granted to a natural parent in accordance with Subsection (2),  
1446 is limited. After that time, the court shall base [its] the court's custody decision on the best  
1447 interest of the child.

1448 (c) Before the expiration of the 120-day period described in Subsection (18)(a), the  
1449 following order of preference shall be applied when determining the individual with whom a  
1450 child will be placed, provided that the individual is willing, and has the ability, to care for the  
1451 child:

1452 (i) a noncustodial parent of the child;

1453 (ii) a relative of the child;

1454 (iii) subject to Subsection (18)(d), a friend, if the friend is a licensed foster parent; and  
1455 (iv) other placements that are consistent with the requirements of law.

1456 (d) [(†)] In determining whether a friend is a willing and appropriate placement for a  
1457 child, [~~neither~~] the court[~~, nor~~] or the division[~~;~~];

1458 (i) subject to Subsections (18)(d)(ii) through (iv), shall consider the child's preferences  
1459 or level of comfort with the friend; and

1460 (ii) is required to consider no more than one friend designated by each parent of the  
1461 child and one friend designated by the child, if the child is of sufficient maturity to articulate  
1462 the child's wishes in relation to a placement[~~;~~];

1463 [~~(ii) The court or the division~~]

1464 (iii) may limit the number of designated friends to two, one of whom shall be a friend  
1465 designated by the child, if the child is of sufficient maturity to articulate the child's wishes in  
1466 relation to a placement[~~;~~]; and

1467 [~~(iii) The court and the division~~]

1468 (iv) shall give preference to a friend designated by the child, if:

1469 (A) the child is of sufficient maturity to articulate the child's wishes; and

1470 (B) the basis for removing the child under Section 78A-6-306 is sexual abuse of the  
1471 child.

1472 (e) If a parent of the child or the child, if the child is of sufficient maturity to articulate  
1473 the child's wishes in relation to a placement, is not able to designate a friend who is a licensed  
1474 foster parent for placement of the child, but is able to identify a friend who is willing to become  
1475 licensed as a foster parent:

1476 (i) the department shall fully cooperate to expedite the licensing process for the friend;  
1477 and

1478 (ii) if the friend becomes licensed as a foster parent within the time frame described in  
1479 Subsection (18)(a), the court shall determine whether it is in the best interests of the child to  
1480 place the child with the friend.

1481 (19) If, following the shelter hearing, the child is placed with an individual who is not a  
1482 parent, a relative, a friend, or a former foster parent of the child, priority shall be given to a  
1483 foster placement with a [~~man and a woman who are married to each other~~] married couple,  
1484 unless it is in the best interests of the child to place the child with a single foster parent.



1485 (20) In determining the placement of a child, neither the court, nor the division, may  
1486 take into account, or discriminate against, the religion of an individual with whom the child  
1487 may be placed, unless the purpose of taking religion into account is to place the child with an  
1488 individual or family of the same religion as the child.

1489 (21) If the court's decision differs from a child's express wishes if the child is of  
1490 sufficient maturity to articulate the wishes in relation to the child's placement, the court shall  
1491 make findings explaining why the court's decision differs from the child's wishes.

1492 Section 14. Section **78A-6-311.5** is amended to read:

1493 **78A-6-311.5. Placement in a qualified residential treatment program -- Review**  
1494 **hearings.**

1495 (1) As used in this section:

1496 (a) "Qualified individual" means the same as that term is defined in 42 U.S.C. Sec.  
1497 675a.

1498 (b) "Qualified residential treatment program" means the same as that term is defined in  
1499 42 U.S.C. Sec. 672.

1500 (2) Within 60 days of the date when a child is placed in a qualified residential  
1501 treatment program, the court shall:

1502 (a) review the assessment, determination, and documentation made by a qualified  
1503 individual regarding the child;

1504 (b) determine whether the needs of the child can be met through placement in a foster  
1505 home;

1506 (c) if the child's needs cannot be met through placement in a foster home, determine  
1507 whether:

1508 (i) placement of the child in a qualified residential treatment program provides the  
1509 most effective and appropriate level of care for the child in the least restrictive environment;  
1510 and

1511 (ii) placement in a qualified residential treatment program is consistent with the  
1512 short-term and long-term goals for the child, as specified in the permanency plan for the child;  
1513 and

1514 (d) approve or disapprove of the child's placement in a qualified residential treatment  
1515 program.

1516 (3) As long as a child remains placed in a qualified residential treatment program, the  
1517 court shall review the placement decision at each subsequent review and permanency hearing  
1518 held with respect to the child.

1519 (4) When the court conducts a review described in Subsection (3), the court shall  
1520 review evidence submitted by the custodial division to:

1521 (a) demonstrate an ongoing assessment of the strengths and needs of the child such that  
1522 the child's needs cannot be met through placement in a foster home;

1523 (b) demonstrate that placement in a qualified residential treatment program provides  
1524 the most effective and appropriate level of care for the child in the least restrictive  
1525 environment;

1526 (c) demonstrate that placement in the qualified residential treatment program is  
1527 consistent with the short-term and long-term goals for the child, as specified by the permanency  
1528 plan for the child;

1529 (d) document the specific treatment or service needs that will be met for the child in  
1530 the placement;

1531 (e) document the length of time the child is expected to need the treatment or services;  
1532 and

1533 (f) document the efforts made by the custodial division to prepare the child to return  
1534 home or transition to another setting, such as with a relative, with a friend of the child, with a  
1535 legal guardian, with an adoptive parent, a foster home, or independent living.

1536 Section 15. Section **78B-6-117** is amended to read:

1537 **78B-6-117. Who may adopt -- Adoption of minor.**

1538 (1) A minor child may be adopted by an adult [~~person~~] individual, in accordance with  
1539 this section and this part.

1540 (2) A child may be adopted by:

1541 (a) adults who are legally married to each other in accordance with the laws of this  
1542 state, including adoption by a stepparent; or

1543 (b) subject to Subsections (3) and (4), a single adult.

1544 (3) A child may not be adopted by [~~a person~~] an individual who is cohabiting in a  
1545 relationship that is not a legally valid and binding marriage under the laws of this state unless  
1546 the [~~person~~] individual is a relative of the child or a recognized placement under the Indian

1547 Child Welfare Act, 25 U.S.C. Sec. 1901 et seq.

1548 (4) To provide a child who is in the custody of the division with the most beneficial  
1549 family structure, when a child in the custody of the division is placed for adoption, the division  
1550 or child-placing agency shall place the child with a [~~man and a woman who are married to each~~  
1551 ~~other~~] married couple, unless:

1552 (a) there are no qualified married couples who:

1553 (i) have applied to adopt a child;

1554 (ii) are willing to adopt the child; and

1555 (iii) are an appropriate placement for the child;

1556 (b) the child is placed with a relative of the child;

1557 (c) the child is placed with [~~a person~~] an individual who has already developed a  
1558 substantial relationship with the child;

1559 (d) the child is placed with [~~a person~~] an individual who:

1560 (i) is selected by a parent or former parent of the child, if the parent or former parent  
1561 consented to the adoption of the child; and

1562 (ii) the parent or former parent described in Subsection (4)(d)(i):

1563 (A) knew the [~~person~~] individual with whom the child is placed before the parent  
1564 consented to the adoption; or

1565 (B) became aware of the [~~person~~] individual with whom the child is placed through a  
1566 source other than the division or the child-placing agency that assists with the adoption of the  
1567 child; or

1568 (e) it is in the best interests of the child to place the child with a single adult.

1569 (5) Except as provided in Subsection (6), an adult may not adopt a child if, before  
1570 adoption is finalized, the adult has been convicted of, pleaded guilty to, or pleaded no contest  
1571 to a felony or attempted felony involving conduct that constitutes any of the following:

1572 (a) child abuse, as described in Section [76-5-109](#);

1573 (b) child abuse homicide, as described in Section [76-5-208](#);

1574 (c) child kidnapping, as described in Section [76-5-301.1](#);

1575 (d) human trafficking of a child, as described in Section [76-5-308.5](#);

1576 (e) sexual abuse of a minor, as described in Section [76-5-401.1](#);

1577 (f) rape of a child, as described in Section [76-5-402.1](#);

- 1578 (g) object rape of a child, as described in Section 76-5-402.3;
- 1579 (h) sodomy on a child, as described in Section 76-5-403.1;
- 1580 (i) sexual abuse of a child or aggravated sexual abuse of a child, as described in
- 1581 Section 76-5-404.1;
- 1582 (j) sexual exploitation of a minor, as described in Section 76-5b-201; or
- 1583 (k) an offense in another state that, if committed in this state, would constitute an
- 1584 offense described in this Subsection (5).
- 1585 (6) (a) For purpose of this Subsection (6), "disqualifying offense" means an offense
- 1586 listed in Subsection (5) that prevents a court from considering ~~[a person]~~ an individual for
- 1587 adoption of a child except as provided in this Subsection (6).
- 1588 (b) ~~[A person]~~ An individual described in Subsection (5) may only be considered for
- 1589 adoption of a child if the following criteria are met by clear and convincing evidence:
- 1590 (i) at least 10 years have elapsed from the day on which the ~~[person]~~ individual is
- 1591 successfully released from prison, jail, parole, or probation related to a disqualifying offense;
- 1592 (ii) during the 10 years before the day on which the ~~[person]~~ individual files a petition
- 1593 with the court seeking adoption, the ~~[person]~~ individual has not been convicted, pleaded guilty,
- 1594 or pleaded no contest to an offense greater than an infraction or traffic violation that would
- 1595 likely impact the health, safety, or well-being of the child;
- 1596 (iii) the ~~[person]~~ individual can provide evidence of successful treatment or
- 1597 rehabilitation directly related to the disqualifying offense;
- 1598 (iv) the court determines that the risk related to the disqualifying offense is unlikely to
- 1599 cause harm, as defined in Section 78A-6-105, or potential harm to the child currently or at any
- 1600 time in the future when considering all of the following:
- 1601 (A) the child's age;
- 1602 (B) the child's gender;
- 1603 (C) the child's development;
- 1604 (D) the nature and seriousness of the disqualifying offense;
- 1605 (E) the preferences of a child 12 years of age or older;
- 1606 (F) any available assessments, including custody evaluations, home studies,
- 1607 pre-placement adoptive evaluations, parenting assessments, psychological or mental health
- 1608 assessments, and bonding assessments; and

- 1609 (G) any other relevant information;
- 1610 (v) the ~~[person]~~ individual can provide evidence of all of the following:
- 1611 (A) the relationship with the child is of long duration;
- 1612 (B) that an emotional bond exists with the child; and
- 1613 (C) that adoption by the ~~[person]~~ individual who has committed the disqualifying
- 1614 offense ensures the best interests of the child are met; and
- 1615 (vi) the adoption is by:
- 1616 (A) a stepparent whose spouse is the adoptee's parent and consents to the adoption; or
- 1617 (B) subject to Subsection (6)(d), a relative of the child as defined in Section 78A-6-307
- 1618 and there is not another relative without a disqualifying offense filing an adoption petition.
- 1619 (c) The ~~[person]~~ individual with the disqualifying offense bears the burden of proof
- 1620 regarding why adoption with that ~~[person]~~ individual is in the best interest of the child over
- 1621 another responsible relative or equally situated ~~[person]~~ individual who does not have a
- 1622 disqualifying offense.
- 1623 (d) If there is an alternative responsible relative who does not have a disqualifying
- 1624 offense filing an adoption petition, the following applies:
- 1625 (i) preference for adoption shall be given to a relative who does not have a
- 1626 disqualifying offense; and
- 1627 (ii) before the court may grant adoption to the ~~[person]~~ individual who has the
- 1628 disqualifying offense over another responsible, willing, and able relative:
- 1629 (A) an impartial custody evaluation shall be completed; and
- 1630 (B) a guardian ad litem shall be assigned.
- 1631 (7) Subsections (5) and (6) apply to a case pending on March 25, 2017, for which a
- 1632 final decision on adoption has not been made and to a case filed on or after March 25, 2017.
- 1633 **Section 16. Repealer.**
- 1634 This bill repeals:
- 1635 Section 62A-4a-250, **Attorney general responsibility.**
- 1636 Section 78A-6-401, **Attorney general responsibility.**