

FAMILY TERMINOLOGY AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Elizabeth Weight

Senate Sponsor: Wayne A. Harper

6	Cosponsors:	Suzanne Harrison	Doug Owens
7	Cheryl K. Acton	Sandra Hollins	Judy Weeks Rohner
8	Gay Lynn Bennion	Brian S. King	Angela Romero
9	Joel K. Briscoe	Karen Kwan	Steve Waldrip
10	Clare Collard	Rosemary T. Lesser	
11	Jennifer Dailey-Provost	Carol Spackman Moss	
	Stephen G. Handy		

12

13 **LONG TITLE**

14 **General Description:**

15 This bill amends provisions regarding legitimacy and familial relationships.

16 **Highlighted Provisions:**

17 This bill:

- 18 ▶ amends phrases using the terms, "legitimate," "illegitimate," and "illegitimacy," in
19 regards to familial relationships;
- 20 ▶ clarifies a statute regarding the legitimacy of a child born or conceived in a marriage
21 that is void because a party is not divorced or has a living spouse; and
- 22 ▶ makes technical and conforming changes.

23 **Money Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **30-1-1**, as last amended by Laws of Utah 2019, Chapter 317

30 **76-7-102**, as last amended by Laws of Utah 2009, Chapter 84

31 **80-1-102**, as last amended by Laws of Utah 2021, First Special Session, Chapter 2

32 REPEALS AND REENACTS:

33 **30-1-3**, as last amended by Laws of Utah 2019, Chapter 317



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

36 Section 1. Section **30-1-1** is amended to read:

37 **30-1-1. Incestuous marriages void.**

38 (1) The following marriages are incestuous and void from the beginning, [~~whether the~~
39 ~~relationship is legitimate or illegitimate~~] regardless of whether the relationship is legally
40 recognized:

- 41 (a) marriages between parents and children;
- 42 (b) marriages between ancestors and descendants of every degree;
- 43 (c) marriages between siblings of the half as well as the whole blood;
- 44 (d) marriages between:
 - 45 (i) uncles and nieces or nephews; or
 - 46 (ii) aunts and nieces or nephews;
- 47 (e) marriages between first cousins, except as provided in Subsection (2); or
- 48 (f) marriages between any individuals related to each other within and not including the
49 fifth degree of consanguinity computed according to the rules of the civil law, except as
50 provided in Subsection (2).

51 (2) First cousins may marry under the following circumstances:

- 52 (a) both parties are 65 years of age or older; or
- 53 (b) if both parties are 55 years of age or older, upon a finding by the district court,
54 located in the district in which either party resides, that either party is unable to reproduce.

55 Section 2. Section **30-1-3** is repealed and reenacted to read:

56 **30-1-3. Legal recognition of a child when marriage is void.**

57 When a marriage is void under Subsection 30-1-2(1)(a) and the parties entered into the
58 marriage in good faith, a child of the marriage, who is born or conceived before the parties had
59 actual knowledge that the marriage was void, shall be legally recognized as the child of the
60 parties.

61 Section 3. Section **76-7-102** is amended to read:

62 **76-7-102. Incest -- Definitions -- Penalty.**

63 (1) As used in this section:

64 (a) "Provider" means a person who provides or makes available his seminal fluid or her
65 human egg.

66 (b) "Related person" means a person related to the provider or actor as an ancestor,
67 descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin, and includes:

68 (i) blood relationships of the whole or half blood [~~without regard to legitimacy~~],
69 regardless of whether the relationship is legally recognized;

70 (ii) the relationship of parent and child by adoption; and

71 (iii) the relationship of stepparent and stepchild while the marriage creating the
72 relationship of a stepparent and stepchild exists.

73 (2) (a) An actor is guilty of incest when, under circumstances not amounting to rape,
74 rape of a child, or aggravated sexual assault, the actor knowingly and intentionally:

75 (i) engages in conduct under Subsection (2)(b)(i), (ii), (iii), or (iv); or

76 (ii) provides a human egg or seminal fluid under Subsection (2)(b)(v).

77 (b) Conduct referred to under Subsection (2)(a) is:

78 (i) sexual intercourse between the actor and a person the actor knows has kinship to the
79 actor as a related person;

80 (ii) the insertion or placement of the provider's seminal fluid into the vagina, cervix, or
81 uterus of a related person by means other than sexual intercourse;

82 (iii) providing or making available his seminal fluid for the purpose of insertion or
83 placement of the fluid into the vagina, cervix, or uterus of a related person by means other than

84 sexual intercourse;

85 (iv) a woman 18 years of age or older who:

86 (A) knowingly allows the insertion of the seminal fluid of a provider into her vagina,
87 cervix, or uterus by means other than sexual intercourse; and

88 (B) knows that the seminal fluid is that of a person with whom she has kinship as a
89 related person; or

90 (v) providing the actor's sperm or human egg that is used to conduct in vitro
91 fertilization, or any other means of fertilization, with the human egg or sperm of a person who
92 is a related person.

93 (c) This Subsection (2) does not prohibit providing a fertilized human egg if the
94 provider of the fertilizing sperm is not a related person regarding the person providing the egg.

95 (3) Incest is a third degree felony.

96 (4) A provider under this section is not a donor under Section [78B-15-702](#).

97 Section 4. Section **80-1-102** is amended to read:

98 **80-1-102. Juvenile code definitions.**

99 As used in this title:

100 (1) (a) "Abuse" means:

101 (i) (A) nonaccidental harm of a child;

102 (B) threatened harm of a child;

103 (C) sexual exploitation;

104 (D) sexual abuse; or

105 (E) human trafficking of a child in violation of Section [76-5-308.5](#); or

106 (ii) that a child's natural parent:

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

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

111 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or

112 recklessly causing the death of another parent of the child.

113 (b) "Abuse" does not include:

114 (i) reasonable discipline or management of a child, including withholding privileges;

115 (ii) conduct described in Section 76-2-401; or

116 (iii) the use of reasonable and necessary physical restraint or force on a child:

117 (A) in self-defense;

118 (B) in defense of others;

119 (C) to protect the child; or

120 (D) to remove a weapon in the possession of a child for any of the reasons described in

121 Subsections (1)(b)(iii)(A) through (C).

122 (2) "Abused child" means a child who has been subjected to abuse.

123 (3) (a) "Adjudication" means a finding by the court, incorporated in a decree, that the
124 facts alleged in the petition have been proved.

125 (b) "Adjudication" does not mean a finding of not competent to proceed in accordance
126 with Section 80-6-402.

127 (4) (a) "Adult" means an individual who is 18 years old or older.

128 (b) "Adult" does not include an individual:

129 (i) who is 18 years old or older; and

130 (ii) who is a minor.

131 (5) "Attorney guardian ad litem" means the same as that term is defined in Section
132 78A-2-801.

133 (6) "Board" means the Board of Juvenile Court Judges.

134 (7) "Child" means an individual who is under 18 years old.

135 (8) "Child and family plan" means a written agreement between a child's parents or
136 guardian and the Division of Child and Family Services as described in Section 62A-4a-205.

137 (9) "Child placement agency" means:

138 (a) a private agency licensed to receive a child for placement or adoption under this
139 code; or

140 (b) a private agency that receives a child for placement or adoption in another state,
141 which is licensed or approved where such license or approval is required by law.

142 (10) "Clandestine laboratory operation" means the same as that term is defined in
143 Section 58-37d-3.

144 (11) "Commit" or "committed" means, unless specified otherwise:

145 (a) with respect to a child, to transfer legal custody; and

146 (b) with respect to a minor who is at least 18 years old, to transfer custody.

147 (12) "Community-based program" means a nonsecure residential or nonresidential
148 program, designated to supervise and rehabilitate juvenile offenders, that prioritizes the least
149 restrictive setting, consistent with public safety, and operated by or under contract with the
150 Division of Juvenile Justice Services.

151 (13) "Community placement" means placement of a minor in a community-based
152 program described in Section 80-5-402.

153 (14) "Correctional facility" means:

154 (a) a county jail; or

155 (b) a secure correctional facility as defined in Section 64-13-1.

156 (15) "Criminogenic risk factors" means evidence-based factors that are associated with
157 a minor's likelihood of reoffending.

158 (16) "Department" means the Department of Human Services created in Section
159 62A-1-102.

160 (17) "Dependent child" or "dependency" means a child who is without proper care
161 through no fault of the child's parent, guardian, or custodian.

162 (18) "Deprivation of custody" means transfer of legal custody by the juvenile court
163 from a parent or a previous custodian to another person, agency, or institution.

164 (19) "Detention" means home detention or secure detention.

165 (20) "Detention risk assessment tool" means an evidence-based tool established under
166 Section 80-5-203 that:

167 (a) assesses a minor's risk of failing to appear in court or reoffending before

168 adjudication; and

169 (b) is designed to assist in making a determination of whether a minor shall be held in
170 detention.

171 (21) "Developmental immaturity" means incomplete development in one or more
172 domains that manifests as a functional limitation in the minor's present ability to:

173 (a) consult with counsel with a reasonable degree of rational understanding; and

174 (b) have a rational as well as factual understanding of the proceedings.

175 (22) "Disposition" means an order by a juvenile court, after the adjudication of a
176 minor, under Section 80-3-405 or 80-4-305 or Chapter 6, Part 7, Adjudication and Disposition.

177 (23) "Educational neglect" means that, after receiving a notice of compulsory education
178 violation under Section 53G-6-202, the parent or guardian fails to make a good faith effort to
179 ensure that the child receives an appropriate education.

180 (24) "Educational series" means an evidence-based instructional series:

181 (a) obtained at a substance abuse program that is approved by the Division of
182 Substance Abuse and Mental Health in accordance with Section 62A-15-105; and

183 (b) designed to prevent substance use or the onset of a mental health disorder.

184 (25) "Emancipated" means the same as that term is defined in Section 80-7-102.

185 (26) "Evidence-based" means a program or practice that has had multiple randomized
186 control studies or a meta-analysis demonstrating that the program or practice is effective for a
187 specific population or has been rated as effective by a standardized program evaluation tool.

188 (27) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.

189 (28) "Formal probation" means a minor is:

190 (a) supervised in the community by, and reports to, a juvenile probation officer or an
191 agency designated by the juvenile court; and

192 (b) subject to return to the juvenile court in accordance with Section 80-6-607.

193 (29) "Group rehabilitation therapy" means psychological and social counseling of one
194 or more individuals in the group, depending upon the recommendation of the therapist.

195 (30) "Guardian" means a person appointed by a court to make decisions regarding a

196 minor, including the authority to consent to:

197 (a) marriage;

198 (b) enlistment in the armed forces;

199 (c) major medical, surgical, or psychiatric treatment; or

200 (d) legal custody, if legal custody is not vested in another individual, agency, or
201 institution.

202 (31) "Guardian ad litem" means the same as that term is defined in Section [78A-2-801](#).

203 (32) "Harm" means:

204 (a) physical or developmental injury or damage;

205 (b) emotional damage that results in a serious impairment in the child's growth,
206 development, behavior, or psychological functioning;

207 (c) sexual abuse; or

208 (d) sexual exploitation.

209 (33) "Home detention" means placement of a minor:

210 (a) if prior to a disposition, in the minor's home, or in a surrogate home with the
211 consent of the minor's parent, guardian, or custodian, under terms and conditions established by
212 the Division of Juvenile Justice Services or the juvenile court; or

213 (b) if after a disposition, and in accordance with Section [78A-6-353](#) or [80-6-704](#), in the
214 minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or
215 custodian, under terms and conditions established by the Division of Juvenile Justice Services
216 or the juvenile court.

217 (34) (a) "Incest" means engaging in sexual intercourse with an individual whom the
218 perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt,
219 nephew, niece, or first cousin.

220 (b) "Incest" includes:

221 (i) blood relationships of the whole or half blood, [~~without regard to legitimacy~~]
222 regardless of whether the relationship is legally recognized;

223 (ii) relationships of parent and child by adoption; and

- 224 (iii) relationships of stepparent and stepchild while the marriage creating the
225 relationship of a stepparent and stepchild exists.
- 226 (35) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.
- 227 (36) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.
- 228 (37) "Indigent defense service provider" means the same as that term is defined in
229 Section [78B-22-102](#).
- 230 (38) "Indigent defense services" means the same as that term is defined in Section
231 [78B-22-102](#).
- 232 (39) "Indigent individual" means the same as that term is defined in Section
233 [78B-22-102](#).
- 234 (40) (a) "Intake probation" means a minor is:
235 (i) monitored by a juvenile probation officer; and
236 (ii) subject to return to the juvenile court in accordance with Section [80-6-607](#).
- 237 (b) "Intake probation" does not include formal probation.
- 238 (41) "Intellectual disability" means a significant subaverage general intellectual
239 functioning existing concurrently with deficits in adaptive behavior that constitutes a
240 substantial limitation to the individual's ability to function in society.
- 241 (42) "Juvenile offender" means:
242 (a) a serious youth offender; or
243 (b) a youth offender.
- 244 (43) "Juvenile probation officer" means a probation officer appointed under Section
245 [78A-6-205](#).
- 246 (44) "Juvenile receiving center" means a nonsecure, nonresidential program established
247 by the Division of Juvenile Justice Services, or under contract with the Division of Juvenile
248 Justice Services, that is responsible for minors taken into temporary custody under Section
249 [80-6-201](#).
- 250 (45) "Legal custody" means a relationship embodying:
251 (a) the right to physical custody of the minor;

- 252 (b) the right and duty to protect, train, and discipline the minor;
- 253 (c) the duty to provide the minor with food, clothing, shelter, education, and ordinary
254 medical care;
- 255 (d) the right to determine where and with whom the minor shall live; and
- 256 (e) the right, in an emergency, to authorize surgery or other extraordinary care.
- 257 (46) "Mental illness" means:
 - 258 (a) a psychiatric disorder that substantially impairs an individual's mental, emotional,
259 behavioral, or related functioning; or
 - 260 (b) the same as that term is defined in:
 - 261 (i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders
262 published by the American Psychiatric Association; or
 - 263 (ii) the current edition of the International Statistical Classification of Diseases and
264 Related Health Problems.
 - 265 (47) "Minor" means, except as provided in Sections [80-6-501](#), [80-6-901](#), and [80-7-102](#):
 - 266 (a) a child; or
 - 267 (b) an individual:
 - 268 (i) (A) who is at least 18 years old and younger than 21 years old; and
 - 269 (B) for whom the Division of Child and Family Services has been specifically ordered
270 by the juvenile court to provide services because the individual was an abused, neglected, or
271 dependent child or because the individual was adjudicated for an offense; or
 - 272 (ii) (A) who is at least 18 years old and younger than 25 years old; and
 - 273 (B) whose case is under the continuing jurisdiction of the juvenile court under Chapter
274 6, Juvenile Justice.
 - 275 (48) "Mobile crisis outreach team" means the same as that term is defined in Section
276 [62A-15-102](#).
 - 277 (49) "Molestation" means that an individual, with the intent to arouse or gratify the
278 sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child,
279 or the breast of a female child, or takes indecent liberties with a child as defined in Section

280 76-5-416.

281 (50) (a) "Natural parent" means a minor's biological or adoptive parent.

282 (b) "Natural parent" includes the minor's noncustodial parent.

283 (51) (a) "Neglect" means action or inaction causing:

284 (i) abandonment of a child, except as provided in Title 62A, Chapter 4a, Part 8, Safe
285 Relinquishment of a Newborn Child;

286 (ii) lack of proper parental care of a child by reason of the fault or habits of the parent,
287 guardian, or custodian;

288 (iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary
289 subsistence or medical care, or any other care necessary for the child's health, safety, morals, or
290 well-being;

291 (iv) a child to be at risk of being neglected or abused because another child in the same
292 home is neglected or abused;

293 (v) abandonment of a child through an unregulated custody transfer; or

294 (vi) educational neglect.

295 (b) "Neglect" does not include:

296 (i) a parent or guardian legitimately practicing religious beliefs and who, for that
297 reason, does not provide specified medical treatment for a child;

298 (ii) a health care decision made for a child by the child's parent or guardian, unless the
299 state or other party to a proceeding shows, by clear and convincing evidence, that the health
300 care decision is not reasonable and informed;

301 (iii) a parent or guardian exercising the right described in Section 80-3-304; or

302 (iv) permitting a child, whose basic needs are met and who is of sufficient age and
303 maturity to avoid harm or unreasonable risk of harm, to engage in independent activities,
304 including:

305 (A) traveling to and from school, including by walking, running, or bicycling;

306 (B) traveling to and from nearby commercial or recreational facilities;

307 (C) engaging in outdoor play;

308 (D) remaining in a vehicle unattended, except under the conditions described in
309 Subsection 76-10-2202(2);

310 (E) remaining at home unattended; or

311 (F) engaging in a similar independent activity.

312 (52) "Neglected child" means a child who has been subjected to neglect.

313 (53) "Nonjudicial adjustment" means closure of the case by the assigned juvenile
314 probation officer, without an adjudication of the minor's case under Section 80-6-701, upon the
315 consent in writing of:

316 (a) the assigned juvenile probation officer; and

317 (b) (i) the minor; or

318 (ii) the minor and the minor's parent, legal guardian, or custodian.

319 (54) "Not competent to proceed" means that a minor, due to a mental illness,
320 intellectual disability or related condition, or developmental immaturity, lacks the ability to:

321 (a) understand the nature of the proceedings against the minor or of the potential
322 disposition for the offense charged; or

323 (b) consult with counsel and participate in the proceedings against the minor with a
324 reasonable degree of rational understanding.

325 (55) "Parole" means a conditional release of a juvenile offender from residency in
326 secure care to live outside of secure care under the supervision of the Division of Juvenile
327 Justice Services, or another person designated by the Division of Juvenile Justice Services.

328 (56) "Physical abuse" means abuse that results in physical injury or damage to a child.

329 (57) (a) "Probation" means a legal status created by court order, following an
330 adjudication under Section 80-6-701, whereby the minor is permitted to remain in the minor's
331 home under prescribed conditions.

332 (b) "Probation" includes intake probation or formal probation.

333 (58) "Prosecuting attorney" means:

334 (a) the attorney general and any assistant attorney general;

335 (b) any district attorney or deputy district attorney;

- 336 (c) any county attorney or assistant county attorney; and
- 337 (d) any other attorney authorized to commence an action on behalf of the state.
- 338 (59) "Protective custody" means the shelter of a child by the Division of Child and
- 339 Family Services from the time the child is removed from the home until the earlier of:
- 340 (a) the day on which the shelter hearing is held under Section 80-3-301; or
- 341 (b) the day on which the child is returned home.
- 342 (60) "Protective supervision" means a legal status created by court order, following an
- 343 adjudication on the ground of abuse, neglect, or dependency, whereby:
- 344 (a) the minor is permitted to remain in the minor's home; and
- 345 (b) supervision and assistance to correct the abuse, neglect, or dependency is provided
- 346 by an agency designated by the juvenile court.
- 347 (61) (a) "Related condition" means a condition that:
- 348 (i) is found to be closely related to intellectual disability;
- 349 (ii) results in impairment of general intellectual functioning or adaptive behavior
- 350 similar to that of an intellectually disabled individual;
- 351 (iii) is likely to continue indefinitely; and
- 352 (iv) constitutes a substantial limitation to the individual's ability to function in society.
- 353 (b) "Related condition" does not include mental illness, psychiatric impairment, or
- 354 serious emotional or behavioral disturbance.
- 355 (62) (a) "Residual parental rights and duties" means the rights and duties remaining
- 356 with a parent after legal custody or guardianship, or both, have been vested in another person or
- 357 agency, including:
- 358 (i) the responsibility for support;
- 359 (ii) the right to consent to adoption;
- 360 (iii) the right to determine the child's religious affiliation; and
- 361 (iv) the right to reasonable parent-time unless restricted by the court.
- 362 (b) If no guardian has been appointed, "residual parental rights and duties" includes the
- 363 right to consent to:

- 364 (i) marriage;
- 365 (ii) enlistment; and
- 366 (iii) major medical, surgical, or psychiatric treatment.
- 367 (63) "Runaway" means a child, other than an emancipated child, who willfully leaves
- 368 the home of the child's parent or guardian, or the lawfully prescribed residence of the child,
- 369 without permission.
- 370 (64) "Secure care" means placement of a minor, who is committed to the Division of
- 371 Juvenile Justice Services for rehabilitation, in a facility operated by, or under contract with, the
- 372 Division of Juvenile Justice Services, that provides 24-hour supervision and confinement of the
- 373 minor.
- 374 (65) "Secure care facility" means a facility, established in accordance with Section
- 375 [80-5-503](#), for juvenile offenders in secure care.
- 376 (66) "Secure detention" means temporary care of a minor who requires secure custody
- 377 in a physically restricting facility operated by, or under contract with, the Division of Juvenile
- 378 Justice Services:
- 379 (a) before disposition of an offense that is alleged to have been committed by the
- 380 minor; or
- 381 (b) under Section [80-6-704](#).
- 382 (67) "Serious youth offender" means an individual who:
- 383 (a) is at least 14 years old, but under 25 years old;
- 384 (b) committed a felony listed in Subsection [80-6-503](#)(1) and the continuing jurisdiction
- 385 of the juvenile court was extended over the individual's case until the individual was 25 years
- 386 old in accordance with Section [80-6-605](#); and
- 387 (c) is committed by the juvenile court to the Division of Juvenile Justice Services for
- 388 secure care under Sections [80-6-703](#) and [80-6-705](#).
- 389 (68) "Severe abuse" means abuse that causes or threatens to cause serious harm to a
- 390 child.
- 391 (69) "Severe neglect" means neglect that causes or threatens to cause serious harm to a

392 child.

393 (70) "Sexual abuse" means:

394 (a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an
395 adult directed towards a child;

396 (b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation
397 committed by a child towards another child if:

398 (i) there is an indication of force or coercion;

399 (ii) the children are related, as described in Subsection (34), including siblings by
400 marriage while the marriage exists or by adoption;

401 (iii) there have been repeated incidents of sexual contact between the two children,
402 unless the children are 14 years old or older; or

403 (iv) there is a disparity in chronological age of four or more years between the two
404 children;

405 (c) engaging in any conduct with a child that would constitute an offense under any of
406 the following, regardless of whether the individual who engages in the conduct is actually
407 charged with, or convicted of, the offense:

408 (i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the
409 alleged perpetrator of an offense described in Section 76-5-401 is a minor;

410 (ii) child bigamy, Section 76-7-101.5;

411 (iii) incest, Section 76-7-102;

412 (iv) lewdness, Section 76-9-702;

413 (v) sexual battery, Section 76-9-702.1;

414 (vi) lewdness involving a child, Section 76-9-702.5; or

415 (vii) voyeurism, Section 76-9-702.7; or

416 (d) subjecting a child to participate in or threatening to subject a child to participate in
417 a sexual relationship, regardless of whether that sexual relationship is part of a legal or cultural
418 marriage.

419 (71) "Sexual exploitation" means knowingly:

- 420 (a) employing, using, persuading, inducing, enticing, or coercing any child to:
- 421 (i) pose in the nude for the purpose of sexual arousal of any individual; or
- 422 (ii) engage in any sexual or simulated sexual conduct for the purpose of photographing,
- 423 filming, recording, or displaying in any way the sexual or simulated sexual conduct;
- 424 (b) displaying, distributing, possessing for the purpose of distribution, or selling
- 425 material depicting a child:
- 426 (i) in the nude, for the purpose of sexual arousal of any individual; or
- 427 (ii) engaging in sexual or simulated sexual conduct; or
- 428 (c) engaging in any conduct that would constitute an offense under Section [76-5b-201](#),
- 429 sexual exploitation of a minor, regardless of whether the individual who engages in the conduct
- 430 is actually charged with, or convicted of, the offense.
- 431 (72) "Shelter" means the temporary care of a child in a physically unrestricted facility
- 432 pending a disposition or transfer to another jurisdiction.
- 433 (73) "Shelter facility" means the same as that term is defined in Section [62A-4a-101](#).
- 434 (74) "Single criminal episode" means the same as that term is defined in Section
- 435 [76-1-401](#).
- 436 (75) "Status offense" means an offense that would not be an offense but for the age of
- 437 the offender.
- 438 (76) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or
- 439 substances.
- 440 (77) "Substantiated" means the same as that term is defined in Section [62A-4a-101](#).
- 441 (78) "Supported" means the same as that term is defined in Section [62A-4a-101](#).
- 442 (79) "Termination of parental rights" means the permanent elimination of all parental
- 443 rights and duties, including residual parental rights and duties, by court order.
- 444 (80) "Therapist" means:
- 445 (a) an individual employed by a state division or agency for the purpose of conducting
- 446 psychological treatment and counseling of a minor in the division's or agency's custody; or
- 447 (b) any other individual licensed or approved by the state for the purpose of conducting

448 psychological treatment and counseling.

449 (81) "Threatened harm" means actions, inactions, or credible verbal threats, indicating
450 that the child is at an unreasonable risk of harm or neglect.

451 (82) "Ungovernable" means a child in conflict with a parent or guardian, and the
452 conflict:

453 (a) results in behavior that is beyond the control or ability of the child, or the parent or
454 guardian, to manage effectively;

455 (b) poses a threat to the safety or well-being of the child, the child's family, or others;

456 or

457 (c) results in the situations described in Subsections (82)(a) and (b).

458 (83) "Unregulated custody transfer" means the placement of a child:

459 (a) with an individual who is not the child's parent, step-parent, grandparent, adult
460 sibling, adult uncle or aunt, or legal guardian, or a friend of the family who is an adult and with
461 whom the child is familiar, or a member of the child's federally recognized tribe;

462 (b) with the intent of severing the child's existing parent-child or guardian-child
463 relationship; and

464 (c) without taking:

465 (i) reasonable steps to ensure the safety of the child and permanency of the placement;

466 and

467 (ii) the necessary steps to transfer the legal rights and responsibilities of parenthood or
468 guardianship to the individual taking custody of the child.

469 (84) "Unsupported" means the same as that term is defined in Section [62A-4a-101](#).

470 (85) "Unsubstantiated" means the same as that term is defined in Section [62A-4a-101](#).

471 (86) "Validated risk and needs assessment" means an evidence-based tool that assesses
472 a minor's risk of reoffending and a minor's criminogenic needs.

473 (87) "Without merit" means the same as that term is defined in Section [62A-4a-101](#).

474 (88) "Youth offender" means an individual who is:

475 (a) at least 12 years old, but under 21 years old; and

476 (b) committed by the juvenile court to the Division of Juvenile Justice Services for
477 secure care under Sections [80-6-703](#) and [80-6-705](#).