

CHILD WELFARE AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: Paul Ray

LONG TITLE

General Description:

This bill amends provisions relating to child welfare.

Highlighted Provisions:

This bill:

- ▶ amends and defines terms;
- ▶ prohibits the Department of Human Services from maintaining child pornography and requires the department to transfer specified child pornography to law enforcement;
- ▶ prohibits access to child pornography transferred by the department to law enforcement, subject to certain exceptions;
- ▶ exempts a Department of Human Services employee acting in the employee's professional capacity from criminal and civil liability due to the employee's necessary viewing or transferring of child pornography;
- ▶ removes child pornography from the definition of "record" in the Government Records Access and Management Act;
- ▶ clarifies the requirement for school personnel to report child abuse or neglect, including educational neglect, to the Division of Child and Family Services;
- ▶ makes requirements for how a court, the division, and law enforcement respond when a child who is in the custody of the division is missing, has been abducted, or has run away; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

30 None

31 **Other Special Clauses:**

32 This bill provides a special effective date.

33 **Utah Code Sections Affected:**

34 AMENDS:

35 **26-36a-103**, as last amended by Laws of Utah 2013, Chapter 32

36 **26-36b-103**, as enacted by Laws of Utah 2016, Chapter 279

37 **53E-9-308**, as renumbered and amended by Laws of Utah 2018, Chapter 1

38 **53G-6-202**, as renumbered and amended by Laws of Utah 2018, Chapter 3

39 **62A-4a-206**, as last amended by Laws of Utah 2012, Chapter 214

40 **62A-4a-209**, as last amended by Laws of Utah 2017, Chapter 181

41 **63G-2-103**, as last amended by Laws of Utah 2017, Chapters 196 and 441

42 **63G-2-305**, as last amended by Laws of Utah 2017, Chapters 374, 382, and 415

43 **76-5b-201**, as last amended by Laws of Utah 2016, Chapter 116

44 **77-7a-104**, as last amended by Laws of Utah 2017, Chapter 415

45 **78A-6-105**, as last amended by Laws of Utah 2017, Chapters 181, 330, and 401

46 **78A-6-106**, as renumbered and amended by Laws of Utah 2008, Chapter 3

47 **78A-6-113 (Superseded 07/01/18)**, as last amended by Laws of Utah 2010, Chapter 38

48 **78A-6-113 (Effective 07/01/18)**, as last amended by Laws of Utah 2017, Chapter 330

49 **78A-6-117 (Superseded 07/01/18)**, as last amended by Laws of Utah 2016, Chapter

50 418

51 **78A-6-117 (Effective 07/01/18)**, as last amended by Laws of Utah 2017, Chapter 330

52 **78A-6-307**, as last amended by Laws of Utah 2015, Chapter 142

53 **78A-6-318**, as last amended by Laws of Utah 2008, Chapter 17 and renumbered and

54 amended by Laws of Utah 2008, Chapter 3

55 ENACTS:

56 **53G-9-209**, Utah Code Annotated 1953

57 **62A-1-121**, Utah Code Annotated 1953

58 [62A-4a-206.5](#), Utah Code Annotated 1953

59

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

61 Section 1. Section **26-36a-103** is amended to read:

62 **26-36a-103. Definitions.**

63 As used in this chapter:

64 (1) "Accountable care organization" means a managed care organization, as defined in
65 42 C.F.R. Sec. 438, that contracts with the department under the provisions of Section
66 [26-18-405](#).

67 (2) "Assessment" means the Medicaid hospital provider assessment established by this
68 chapter.

69 (3) "Discharges" means the number of total hospital discharges reported on worksheet
70 S-3 Part I, column 15, lines 12, 14, and 14.01 of the 2552-96 Medicare Cost Report or on
71 Worksheet S-3 Part I, column 15, lines 14, 16, and 17 of the 2552-10 Medicare Cost Report for
72 the applicable assessment year.

73 (4) "Division" means the Division of Health Care Financing of the department.

74 (5) "Hospital":

75 (a) means a privately owned:

76 (i) general acute hospital operating in the state as defined in Section [26-21-2](#); and

77 (ii) specialty hospital operating in the state, which shall include a privately owned
78 hospital whose inpatient admissions are predominantly:

79 (A) rehabilitation;

80 (B) psychiatric;

81 (C) chemical dependency; or

82 (D) long-term acute care services; and

83 (b) does not include:

84 (i) a [~~residential care or treatment facility~~] human services program as defined in
85 Section [62A-2-101](#);

86 (ii) a hospital owned by the federal government, including the Veterans Administration
87 Hospital; or

88 (iii) a hospital that is owned by the state government, a state agency, or a political
89 subdivision of the state, including:

90 (A) a state-owned teaching hospital; and

91 (B) the Utah State Hospital.

92 (6) "Medicare cost report" means CMS-2552-96 or CMS-2552-10, the cost report for
93 electronic filing of hospitals.

94 (7) "State plan amendment" means a change or update to the state Medicaid plan.

95 Section 2. Section **26-36b-103** is amended to read:

96 **26-36b-103. Definitions.**

97 As used in this chapter:

98 (1) "Assessment" means the inpatient hospital assessment established by this chapter.

99 (2) "CMS" means the same as that term is defined in Section [26-18-411](#).

100 (3) "Discharges" means the number of total hospital discharges reported on:

101 (a) Worksheet S-3 Part I, column 15, lines 14, 16, and 17 of the 2552-10 Medicare cost
102 report for the applicable assessment year; or

103 (b) a similar report adopted by the department by administrative rule, if the report
104 under Subsection (3)(a) is no longer available.

105 (4) "Division" means the Division of Health Care Financing within the department.

106 (5) "Medicare cost report" means CMS-2552-10, the cost report for electronic filing of
107 hospitals.

108 (6) "Non-state government hospital":

109 (a) means a hospital owned by a non-state government entity; and

110 (b) does not include:

111 (i) the Utah State Hospital; or

112 (ii) a hospital owned by the federal government, including the Veterans Administration
113 Hospital.

- 114 (7) "Private hospital":
- 115 (a) means:
- 116 (i) a privately owned general acute hospital operating in the state as defined in Section
- 117 [26-21-2](#); and
- 118 (ii) a privately owned specialty hospital operating in the state, which shall include a
- 119 privately owned hospital whose inpatient admissions are predominantly:
- 120 (A) rehabilitation;
- 121 (B) psychiatric;
- 122 (C) chemical dependency; or
- 123 (D) long-term acute care services; and
- 124 (b) does not include a [~~residential care or treatment facility~~] recovery residence or a
- 125 human services program as defined in Section [62A-2-101](#).

126 (8) "State teaching hospital" means a state owned teaching hospital that is part of an

127 institution of higher education.

128 Section 3. Section **53E-9-308** is amended to read:

129 **53E-9-308. Sharing student data -- Prohibition -- Requirements for student data**

130 **manager.**

- 131 (1) An education entity shall comply with this section beginning with the 2017-18
- 132 school year.
- 133 (2) An education entity may not share a student's personally identifiable student data if
- 134 the personally identifiable student data is not shared in accordance with:
- 135 (a) the Family Education Rights and Privacy Act and related provisions under 20
- 136 U.S.C. Secs. 1232g and 1232h; and
- 137 (b) this part.
- 138 (3) A student data manager shall:
- 139 (a) authorize and manage the sharing, outside of the education entity, of personally
- 140 identifiable student data from a cumulative record for the education entity as described in this
- 141 section; and

142 (b) act as the primary local point of contact for the state student data officer described
143 in Section [53E-9-302](#).

144 (4) (a) Except as provided in this section or required by federal law, a student data
145 manager may not share, outside of the education entity, personally identifiable student data
146 from a cumulative record without a data authorization.

147 (b) A student data manager may share the personally identifiable student data of a
148 student with the student and the student's parent.

149 (5) A student data manager may share a student's personally identifiable student data
150 from a cumulative record with:

151 (a) a school official;

152 (b) as described in Subsection (6), an authorized caseworker or other representative of
153 the Department of Human Services; or

154 (c) a person to whom the student data manager's education entity has outsourced a
155 service or function:

156 (i) to research the effectiveness of a program's implementation; or

157 (ii) that the education entity's employees would typically perform.

158 (6) A student data manager may share a student's personally identifiable student data
159 from a cumulative record with a caseworker or representative of the Department of Human
160 Services if:

161 (a) the Department of Human Services is:

162 (i) legally responsible for the care and protection of the student, including the
163 responsibility to investigate a report of educational neglect, as provided in Subsection

164 [62A-4a-409\(5\)](#); or

165 (ii) providing services to the student;

166 (b) the student's personally identifiable student data is not shared with a person who is
167 not authorized:

168 (i) to address the student's education needs; or

169 (ii) by the Department of Human Services to receive the student's personally

170 identifiable student data; and

171 (c) the Department of Human Services maintains and protects the student's personally
172 identifiable student data.

173 (7) The Department of Human Services, a school official, or the Utah Juvenile Court
174 may share education information, including a student's personally identifiable student data, to
175 improve education outcomes for youth:

176 (a) in the custody of, or under the guardianship of, the Department of Human Services;

177 (b) receiving services from the Division of Juvenile Justice Services;

178 (c) in the custody of the Division of Child and Family Services;

179 (d) receiving services from the Division of Services for People with Disabilities; or

180 (e) under the jurisdiction of the Utah Juvenile Court.

181 (8) Subject to Subsection (9), a student data manager may share aggregate data.

182 (9) (a) If a student data manager receives a request to share data for the purpose of
183 external research or evaluation, the student data manager shall:

184 (i) submit the request to the education entity's external research review process; and

185 (ii) fulfill the instructions that result from the review process.

186 (b) A student data manager may not share personally identifiable student data for the
187 purpose of external research or evaluation.

188 (10) (a) A student data manager may share personally identifiable student data in
189 response to a subpoena issued by a court.

190 (b) A person who receives personally identifiable student data under Subsection (10)(a)
191 may not use the personally identifiable student data outside of the use described in the
192 subpoena.

193 (11) (a) In accordance with board rule, a student data manager may share personally
194 identifiable information that is directory information.

195 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
196 board shall make rules to:

197 (i) define directory information; and

198 (ii) determine how a student data manager may share personally identifiable
199 information that is directory information.

200 Section 4. Section 53G-6-202 is amended to read:

201 **53G-6-202. Compulsory education.**

202 (1) For purposes of this section:

203 (a) "Intentionally" is as defined in Section 76-2-103.

204 (b) "Recklessly" is as defined in Section 76-2-103.

205 (c) "Remainder of the school year" means the portion of the school year beginning on
206 the day after the day on which the notice of compulsory education violation described in
207 Subsection (3) is served and ending on the last day of the school year.

208 (d) "School-age child" means a school-age minor under the age of 14.

209 (2) Except as provided in Section 53G-6-204 or 53G-6-702, the parent of a school-age
210 minor shall enroll and send the school-age minor to a public or regularly established private
211 school.

212 (3) A school administrator, a designee of a school administrator, a law enforcement
213 officer acting as a school resource officer, or a truancy specialist may issue a notice of
214 compulsory education violation to a parent of a school-age child if the school-age child is
215 absent without a valid excuse at least five times during the school year.

216 (4) The notice of compulsory education violation, described in Subsection (3):

217 (a) shall direct the parent of the school-age child to:

218 (i) meet with school authorities to discuss the school-age child's school attendance
219 problems; and

220 (ii) cooperate with the school board, local charter board, or school district in securing
221 regular attendance by the school-age child;

222 (b) shall designate the school authorities with whom the parent is required to meet;

223 (c) shall state that it is a class B misdemeanor for the parent of the school-age child to
224 intentionally or recklessly:

225 (i) fail to meet with the designated school authorities to discuss the school-age child's

226 school attendance problems; or

227 (ii) fail to prevent the school-age child from being absent without a valid excuse five or
228 more times during the remainder of the school year;

229 (d) shall be served on the school-age child's parent by personal service or certified
230 mail; and

231 (e) may not be issued unless the school-age child has been truant at least five times
232 during the school year.

233 (5) It is a class B misdemeanor for a parent of a school-age minor to intentionally or
234 recklessly fail to enroll the school-age minor in school, unless the school-age minor is exempt
235 from enrollment under Section 53G-6-204 or 53G-6-702.

236 (6) It is a class B misdemeanor for a parent of a school-age child to, after being served
237 with a notice of compulsory education violation in accordance with Subsections (3) and (4),
238 intentionally or recklessly:

239 (a) fail to meet with the school authorities designated in the notice of compulsory
240 education violation to discuss the school-age child's school attendance problems; or

241 (b) fail to prevent the school-age child from being absent without a valid excuse five or
242 more times during the remainder of the school year.

243 (7) A local school board, local charter board, or school district shall report violations of
244 this section to the appropriate county or district attorney.

245 (8) If school personnel have reason to believe that, after a notice of compulsory
246 education violation is issued, the parent or guardian has failed to make a good faith effort to
247 ensure that the child receives an appropriate education, the issuer of the compulsory education
248 violation shall report to the Division of Child and Family Services:

249 (a) identifying information of the child and the child's parent or guardian who received
250 the notice of compulsory education violation;

251 (b) information regarding the longest number of consecutive school days the
252 school-age minor has been absent from school and the percentage of school days the child has
253 been absent during each relevant school term;

- 254 (c) whether the child has made adequate educational progress;
- 255 (d) whether the requirements of Section 53G-6-206 have been met;
- 256 (e) whether the child is two or more years behind the local public school's age group
- 257 expectations in one or more basic skills; and
- 258 (f) whether the child is receiving special education services or systematic remediation
- 259 efforts.

Section 5. Section 53G-9-209 is enacted to read:

53G-9-209. Child abuse or neglect reporting requirement.

(1) As used in this section:

(a) "Educational neglect" means the same as that term is defined in Section 78A-6-105.

(b) "School personnel" means the same as that term is defined in Section 53G-9-203.

(2) School personnel shall comply with the child abuse and neglect reporting requirements described in Section 62A-4a-403.

(3) When school personnel have reason to believe that a child may be subject to educational neglect, school personnel shall submit the report described in Subsection 53G-6-202(8) to the Division of Child and Family Services.

(4) When school personnel have reason to believe that a child is subject to both educational neglect and another form of neglect or abuse, school personnel may not wait to report the other form of neglect or abuse pending preparation of a report regarding educational neglect.

(5) School personnel shall cooperate with the Division of Child and Family Services and share all information with the division that is relevant to the division's investigation of an allegation of abuse or neglect.

Section 6. Section 62A-1-121 is enacted to read:

62A-1-121. Child pornography.

(1) "Child pornography" means the same as that term is defined in Section 76-5b-103.

(2) The department or a division within the department may not retain child pornography longer than is necessary to comply with the requirements of this section.

282 (3) When the department or a division within the department obtains child
283 pornography as a result of an employee unlawfully viewing child pornography, the department
284 or division shall consult with and follow the guidance of the Department of Human Resource
285 Management and local law enforcement regarding retention of the child pornography.

286 (4) When the department or a division within the department obtains child
287 pornography as a result of a report or an investigation, the department or division shall:

288 (a) document a written description of the child pornography in the appropriate case file;
289 and

290 (b) securely transfer the child pornography to the law enforcement office that has
291 jurisdiction over the area where the division's case is located.

292 (5) When the department or a division within the department transfers child
293 pornography to law enforcement, the law enforcement office shall:

294 (a) seize and retain the child pornography as evidence, in accordance with Section
295 [24-2-103](#);

296 (b) prohibit the distribution, release, or display of the child pornography, except to the
297 following:

298 (i) an individual to whom a court has granted access by court order, as described in
299 Subsection (6);

300 (ii) a department or division investigator, a supervisor of a department, or division
301 investigator or an investigator authorized under Section [62A-4a-202.6](#), if necessary for the
302 investigation;

303 (iii) an administrative law judge employed by the Department of Human Services, if
304 necessary for an adjudication;

305 (iv) an office of the city attorney, county attorney, district attorney, or attorney general,
306 if necessary for prosecution;

307 (v) a law enforcement agency, if necessary for an investigation; or

308 (vi) the guardian ad litem for the child who is the subject of the child pornography; and

309 (c) when the department determines that the child pornography no longer needs to be

310 held as evidence, dispose of the child pornography under Subsection 24-3-103(6)(a)(iii).

311 (6) A court order described in Subsection (5)(b)(i):

312 (a) shall describe with particularity the individual to whom the child pornography may
313 be released; and

314 (b) may impose reasonable restrictions on access to the child pornography to protect
315 the privacy of the child victim.

316 Section 7. Section **62A-4a-206** is amended to read:

317 **62A-4a-206. Process for removal of a child from foster family -- Procedural due**
318 **process.**

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

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

328 (c) For the reasons described in Subsections (1)(a) and (b), the division shall provide
329 procedural due process for a foster family prior to removal of a foster child from their home,
330 regardless of the length of time the child has been in that home, unless removal is for the
331 purpose of:

332 (i) returning the child to the child's natural parent or legal guardian;

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

334 (iii) placing the child with a relative, as defined in Subsection 78A-6-307(1)[(e)], who
335 obtained custody or asserted an interest in the child within the preference period described in
336 Subsection 78A-6-307(18)(a); or

337 (iv) placing an Indian child in accordance with preplacement preferences and other

338 requirements described in the Indian Child Welfare Act, 25 U.S.C. Sec. 1915.

339 (2) (a) The division shall maintain and utilize due process procedures for removal of a
340 foster child from a foster home, in accordance with the procedures and requirements of Title
341 63G, Chapter 4, Administrative Procedures Act.

342 (b) Those procedures shall include requirements for:

343 (i) personal communication with, and a written explanation of the reasons for the
344 removal to, the foster parents prior to removal of the child; and

345 (ii) an opportunity for foster parents to present their information and concerns to the
346 division and to:

347 (A) request a review, to be held before removal of the child, by a third party neutral
348 fact finder; or

349 (B) if the child has been placed with the foster parents for a period of at least two years,
350 request a review, to be held before removal of the child, by:

351 (I) the juvenile court judge currently assigned to the child's case; or

352 (II) if the juvenile court judge currently assigned to the child's case is not available,
353 another juvenile court judge.

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

358 (3) If the division removes a child from a foster home based upon the child's statement
359 alone, the division shall initiate and expedite the processes described in Subsection (2). The
360 division may take no formal action with regard to that foster parent's license until after those
361 processes, in addition to any other procedure or hearing required by law, have been completed.

362 (4) When a complaint is made to the division by a foster child against a foster parent,
363 the division shall, within 30 business days, provide the foster parent with information regarding
364 the specific nature of the complaint, the time and place of the alleged incident, and who was
365 alleged to have been involved.

366 (5) Whenever the division places a child in a foster home, it shall provide the foster
367 parents with:

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

369 (b) a written description of the procedures enacted by the division pursuant to
370 Subsection (2) and how to access those processes; and

371 (c) written notification of the foster parents' ability to petition the juvenile court
372 directly for review of a decision to remove a foster child who has been in their custody for 12
373 months or longer, in accordance with the limitations and requirements of Section 78A-6-318.

374 (6) The requirements of this section do not apply to the removal of a child based on a
375 foster parent's request for that removal.

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

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

380 (b) remove a child from a foster home before the child has been placed with the foster
381 parents for two years.

382 (8) The division may not remove a foster child from a foster parent who is a relative, as
383 defined in Subsection 78A-6-307(1)(~~e~~), of the child on the basis of the age or health of the
384 foster parent without determining by:

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

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

389 Section 8. Section 62A-4a-206.5 is enacted to read:

390 **62A-4a-206.5. Child missing from state custody.**

391 (1) When the division receives information that a child in the custody of the division is
392 missing, has been abducted, or has run away, the division shall:

393 (a) within 24 hours after the time when the division has reason to believe that the

394 information is accurate, notify the National Center for Missing and Exploited Children; and
 395 (b) pursue a warrant under Subsection 78A-6-106(6).
 396 (2) When the division locates a child described in Subsection (1), the division shall:
 397 (a) determine the primary factors that caused or contributed to the child's absence from
 398 care;
 399 (b) determine the child's experiences while absent from care, including screening the
 400 child to determine if the child is a sex trafficking victim;
 401 (c) to the extent possible, select a placement for the child that accommodates the
 402 child's needs and takes into consideration the factors and experiences described in Subsections
 403 (2)(a) and (b); and
 404 (d) follow the requirements in Section 78A-6-307.5 for determining an ongoing
 405 placement of the child.

406 Section 9. Section **62A-4a-209** is amended to read:

407 **62A-4a-209. Emergency placement.**

408 (1) As used in this section:

- 409 (a) "Friend" means the same as that term is defined in Subsection 78A-6-307(1)[~~(a)~~].
- 410 (b) "Nonrelative" means an individual, other than a noncustodial parent or a relative.
- 411 (c) "Relative" means the same as that term is defined in Subsection 78A-6-307(1)[~~(c)~~].

412 (2) The division may use an emergency placement under Subsection
 413 62A-4a-202.1(4)(b)(ii) when:

- 414 (a) the case worker has made the determination that:
 - 415 (i) the child's home is unsafe;
 - 416 (ii) removal is necessary under the provisions of Section 62A-4a-202.1; and
 - 417 (iii) the child's custodial parent or guardian will agree to not remove the child from the
 - 418 home of the person that serves as the placement and not have any contact with the child until
 - 419 after the shelter hearing required by Section 78A-6-306;
- 420 (b) a person, with preference being given in accordance with Subsection (4), can be
- 421 identified who has the ability and is willing to provide care for the child who would otherwise

422 be placed in shelter care, including:

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

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

426 (c) the person described in Subsection (2)(b) agrees to care for the child on an
427 emergency basis under the following conditions:

428 (i) the person meets the criteria for an emergency placement under Subsection (3);

429 (ii) the person agrees to not allow the custodial parent or guardian to have any contact
430 with the child until after the shelter hearing unless authorized by the division in writing;

431 (iii) the person agrees to contact law enforcement and the division if the custodial
432 parent or guardian attempts to make unauthorized contact with the child;

433 (iv) the person agrees to allow the division and the child's guardian ad litem to have
434 access to the child;

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

437 (vi) the person is willing to assist the custodial parent or guardian in reunification
438 efforts at the request of the division, and to follow all court orders; and

439 (vii) the child is comfortable with the person.

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

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

444 (i) would the person identified as a reference place a child in the home of the
445 emergency placement; and

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

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

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

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

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

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

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

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

462 (ii) a relative of the child;

463 (iii) subject to Subsection (4)(b), a friend designated by the custodial parent or
464 guardian of the child; and

465 (iv) a shelter facility, former foster placement, or other foster placement designated by
466 the division.

467 (b) Unless the division agrees otherwise, the custodial parent or guardian described in
468 Subsection (4)(a)(iii) may designate up to two friends as a potential emergency placement.

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

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

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

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

478 (b) Either before or after making an emergency placement with the noncustodial parent
479 of the child, the division may conduct the investigation described in Subsection (3)(a) in
480 relation to the noncustodial parent.

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

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

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

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

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

490 (b) complete all removal paperwork, including the notice provided to the custodial
491 parents and guardians under Section [78A-6-306](#);

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

493 (d) complete the placement procedures required in Section [78A-6-307](#); and

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

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

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

498 (ii) a search of the Management Information System described in Section
499 [62A-4a-1003](#).

500 (b) The division shall determine whether a person passes the background check
501 described in this Subsection (7) pursuant to the provisions of Subsection [62A-2-120\(14\)](#).

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

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

- 506 (i) a name-based, Utah Bureau of Criminal Identification background check;
- 507 (ii) a federal name-based criminal background check; and
- 508 (iii) a search of the Management Information System described in Section
- 509 [62A-4a-1003](#).
- 510 (b) The division shall determine whether a person passes the background checks
- 511 described in this Subsection (8) pursuant to the provisions of Subsection [62A-2-120](#).
- 512 (c) If the division denies placement of a child as a result of a name-based criminal
- 513 background check described in Subsection (8)(a), and the person contests that denial, the
- 514 person shall submit a complete set of fingerprints with written permission to the Utah Bureau
- 515 of Criminal Identification for submission to the Federal Bureau of Investigation for a
- 516 fingerprint-based criminal background check.
- 517 (d) (i) Within 15 calendar days of the name-based background checks, the division
- 518 shall require a person to provide a complete set of fingerprints with written permission to the
- 519 Utah Bureau of Criminal Identification for submission to the Federal Bureau of Investigation
- 520 for a fingerprint-based criminal background check.
- 521 (ii) If a person fails to provide the fingerprints and written permission described in
- 522 Subsection (8)(d)(i), the child shall immediately be removed from the home.

523 Section 10. Section **63G-2-103** is amended to read:

524 **63G-2-103. Definitions.**

525 As used in this chapter:

- 526 (1) "Audit" means:
- 527 (a) a systematic examination of financial, management, program, and related records
- 528 for the purpose of determining the fair presentation of financial statements, adequacy of
- 529 internal controls, or compliance with laws and regulations; or
- 530 (b) a systematic examination of program procedures and operations for the purpose of
- 531 determining their effectiveness, economy, efficiency, and compliance with statutes and
- 532 regulations.
- 533 (2) "Chronological logs" mean the regular and customary summary records of law

534 enforcement agencies and other public safety agencies that show:

535 (a) the time and general nature of police, fire, and paramedic calls made to the agency;
536 and

537 (b) any arrests or jail bookings made by the agency.

538 (3) "Classification," "classify," and their derivative forms mean determining whether a
539 record series, record, or information within a record is public, private, controlled, protected, or
540 exempt from disclosure under Subsection [63G-2-201\(3\)\(b\)](#).

541 (4) (a) "Computer program" means:

542 (i) a series of instructions or statements that permit the functioning of a computer
543 system in a manner designed to provide storage, retrieval, and manipulation of data from the
544 computer system; and

545 (ii) any associated documentation and source material that explain how to operate the
546 computer program.

547 (b) "Computer program" does not mean:

548 (i) the original data, including numbers, text, voice, graphics, and images;

549 (ii) analysis, compilation, and other manipulated forms of the original data produced by
550 use of the program; or

551 (iii) the mathematical or statistical formulas, excluding the underlying mathematical
552 algorithms contained in the program, that would be used if the manipulated forms of the
553 original data were to be produced manually.

554 (5) (a) "Contractor" means:

555 (i) any person who contracts with a governmental entity to provide goods or services
556 directly to a governmental entity; or

557 (ii) any private, nonprofit organization that receives funds from a governmental entity.

558 (b) "Contractor" does not mean a private provider.

559 (6) "Controlled record" means a record containing data on individuals that is controlled
560 as provided by Section [63G-2-304](#).

561 (7) "Designation," "designate," and their derivative forms mean indicating, based on a

562 governmental entity's familiarity with a record series or based on a governmental entity's
563 review of a reasonable sample of a record series, the primary classification that a majority of
564 records in a record series would be given if classified and the classification that other records
565 typically present in the record series would be given if classified.

566 (8) "Elected official" means each person elected to a state office, county office,
567 municipal office, school board or school district office, local district office, or special service
568 district office, but does not include judges.

569 (9) "Explosive" means a chemical compound, device, or mixture:

570 (a) commonly used or intended for the purpose of producing an explosion; and

571 (b) that contains oxidizing or combustive units or other ingredients in proportions,
572 quantities, or packing so that:

573 (i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the
574 compound or mixture may cause a sudden generation of highly heated gases; and

575 (ii) the resultant gaseous pressures are capable of:

576 (A) producing destructive effects on contiguous objects; or

577 (B) causing death or serious bodily injury.

578 (10) "Government audit agency" means any governmental entity that conducts an audit.

579 (11) (a) "Governmental entity" means:

580 (i) executive department agencies of the state, the offices of the governor, lieutenant
581 governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole,
582 the Board of Examiners, the National Guard, the Career Service Review Office, the State
583 Board of Education, the State Board of Regents, and the State Archives;

584 (ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal
585 Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative
586 committees, except any political party, group, caucus, or rules or sifting committee of the
587 Legislature;

588 (iii) courts, the Judicial Council, the Office of the Court Administrator, and similar
589 administrative units in the judicial branch;

590 (iv) any state-funded institution of higher education or public education; or
591 (v) any political subdivision of the state, but, if a political subdivision has adopted an
592 ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this
593 chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or
594 as specified in any other section of this chapter that specifically refers to political subdivisions.

595 (b) "Governmental entity" also means:

596 (i) every office, agency, board, bureau, committee, department, advisory board, or
597 commission of an entity listed in Subsection (11)(a) that is funded or established by the
598 government to carry out the public's business;

599 (ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative
600 undertaking;

601 (iii) as defined in Section 11-13a-102, a governmental nonprofit corporation; and

602 (iv) an association as defined in Section 53A-1-1601.

603 (c) "Governmental entity" does not include the Utah Educational Savings Plan created
604 in Section 53B-8a-103.

605 (12) "Gross compensation" means every form of remuneration payable for a given
606 period to an individual for services provided including salaries, commissions, vacation pay,
607 severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any
608 similar benefit received from the individual's employer.

609 (13) "Individual" means a human being.

610 (14) (a) "Initial contact report" means an initial written or recorded report, however
611 titled, prepared by peace officers engaged in public patrol or response duties describing official
612 actions initially taken in response to either a public complaint about or the discovery of an
613 apparent violation of law, which report may describe:

614 (i) the date, time, location, and nature of the complaint, the incident, or offense;

615 (ii) names of victims;

616 (iii) the nature or general scope of the agency's initial actions taken in response to the
617 incident;

618 (iv) the general nature of any injuries or estimate of damages sustained in the incident;

619 (v) the name, address, and other identifying information about any person arrested or
620 charged in connection with the incident; or

621 (vi) the identity of the public safety personnel, except undercover personnel, or
622 prosecuting attorney involved in responding to the initial incident.

623 (b) Initial contact reports do not include follow-up or investigative reports prepared
624 after the initial contact report. However, if the information specified in Subsection (14)(a)
625 appears in follow-up or investigative reports, it may only be treated confidentially if it is
626 private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

627 (15) "Legislative body" means the Legislature.

628 (16) "Notice of compliance" means a statement confirming that a governmental entity
629 has complied with a records committee order.

630 (17) "Person" means:

631 (a) an individual;

632 (b) a nonprofit or profit corporation;

633 (c) a partnership;

634 (d) a sole proprietorship;

635 (e) other type of business organization; or

636 (f) any combination acting in concert with one another.

637 (18) "Private provider" means any person who contracts with a governmental entity to
638 provide services directly to the public.

639 (19) "Private record" means a record containing data on individuals that is private as
640 provided by Section 63G-2-302.

641 (20) "Protected record" means a record that is classified protected as provided by
642 Section 63G-2-305.

643 (21) "Public record" means a record that is not private, controlled, or protected and that
644 is not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).

645 (22) (a) "Record" means a book, letter, document, paper, map, plan, photograph, film,

646 card, tape, recording, electronic data, or other documentary material regardless of physical form
647 or characteristics:

648 (i) that is prepared, owned, received, or retained by a governmental entity or political
649 subdivision; and

650 (ii) where all of the information in the original is reproducible by photocopy or other
651 mechanical or electronic means.

652 (b) "Record" does not mean:

653 (i) a personal note or personal communication prepared or received by an employee or
654 officer of a governmental entity:

655 (A) in a capacity other than the employee's or officer's governmental capacity; or

656 (B) that is unrelated to the conduct of the public's business;

657 (ii) a temporary draft or similar material prepared for the originator's personal use or
658 prepared by the originator for the personal use of an individual for whom the originator is
659 working;

660 (iii) material that is legally owned by an individual in the individual's private capacity;

661 (iv) material to which access is limited by the laws of copyright or patent unless the
662 copyright or patent is owned by a governmental entity or political subdivision;

663 (v) proprietary software;

664 (vi) junk mail or a commercial publication received by a governmental entity or an
665 official or employee of a governmental entity;

666 (vii) a book that is cataloged, indexed, or inventoried and contained in the collections
667 of a library open to the public;

668 (viii) material that is cataloged, indexed, or inventoried and contained in the collections
669 of a library open to the public, regardless of physical form or characteristics of the material;

670 (ix) a daily calendar or other personal note prepared by the originator for the
671 originator's personal use or for the personal use of an individual for whom the originator is
672 working;

673 (x) a computer program that is developed or purchased by or for any governmental

674 entity for its own use;

675 (xi) a note or internal memorandum prepared as part of the deliberative process by:

676 (A) a member of the judiciary;

677 (B) an administrative law judge;

678 (C) a member of the Board of Pardons and Parole; or

679 (D) a member of any other body, other than an association or appeals panel as defined

680 in Section [53A-1-1601](#), charged by law with performing a quasi-judicial function;

681 (xii) a telephone number or similar code used to access a mobile communication

682 device that is used by an employee or officer of a governmental entity, provided that the

683 employee or officer of the governmental entity has designated at least one business telephone

684 number that is a public record as provided in Section [63G-2-301](#);

685 (xiii) information provided by the Public Employees' Benefit and Insurance Program,

686 created in Section [49-20-103](#), to a county to enable the county to calculate the amount to be

687 paid to a health care provider under Subsection [17-50-319\(2\)\(e\)\(ii\)](#);

688 (xiv) information that an owner of unimproved property provides to a local entity as

689 provided in Section [11-42-205](#); [~~or~~]

690 (xv) a video or audio recording of an interview, or a transcript of the video or audio

691 recording, that is conducted at a Children's Justice Center established under Section

692 [67-5b-102](#)[~~;~~]; or

693 (xvi) child pornography, as defined by Section [76-5b-103](#).

694 (23) "Record series" means a group of records that may be treated as a unit for

695 purposes of designation, description, management, or disposition.

696 (24) "Records committee" means the State Records Committee created in Section

697 [63G-2-501](#).

698 (25) "Records officer" means the individual appointed by the chief administrative

699 officer of each governmental entity, or the political subdivision to work with state archives in

700 the care, maintenance, scheduling, designation, classification, disposal, and preservation of

701 records.

702 (26) "Schedule," "scheduling," and their derivative forms mean the process of
703 specifying the length of time each record series should be retained by a governmental entity for
704 administrative, legal, fiscal, or historical purposes and when each record series should be
705 transferred to the state archives or destroyed.

706 (27) "Sponsored research" means research, training, and other sponsored activities as
707 defined by the federal Executive Office of the President, Office of Management and Budget:

708 (a) conducted:

709 (i) by an institution within the state system of higher education defined in Section
710 [53B-1-102](#); and

711 (ii) through an office responsible for sponsored projects or programs; and

712 (b) funded or otherwise supported by an external:

713 (i) person that is not created or controlled by the institution within the state system of
714 higher education; or

715 (ii) federal, state, or local governmental entity.

716 (28) "State archives" means the Division of Archives and Records Service created in
717 Section [63A-12-101](#).

718 (29) "State archivist" means the director of the state archives.

719 (30) "Summary data" means statistical records and compilations that contain data
720 derived from private, controlled, or protected information but that do not disclose private,
721 controlled, or protected information.

722 Section 11. Section **63G-2-305** is amended to read:

723 **63G-2-305. Protected records.**

724 The following records are protected if properly classified by a governmental entity:

725 (1) trade secrets as defined in Section [13-24-2](#) if the person submitting the trade secret
726 has provided the governmental entity with the information specified in Section [63G-2-309](#);

727 (2) commercial information or nonindividual financial information obtained from a
728 person if:

729 (a) disclosure of the information could reasonably be expected to result in unfair

730 competitive injury to the person submitting the information or would impair the ability of the
731 governmental entity to obtain necessary information in the future;

732 (b) the person submitting the information has a greater interest in prohibiting access
733 than the public in obtaining access; and

734 (c) the person submitting the information has provided the governmental entity with
735 the information specified in Section [63G-2-309](#);

736 (3) commercial or financial information acquired or prepared by a governmental entity
737 to the extent that disclosure would lead to financial speculations in currencies, securities, or
738 commodities that will interfere with a planned transaction by the governmental entity or cause
739 substantial financial injury to the governmental entity or state economy;

740 (4) records, the disclosure of which could cause commercial injury to, or confer a
741 competitive advantage upon a potential or actual competitor of, a commercial project entity as
742 defined in Subsection [11-13-103\(4\)](#);

743 (5) test questions and answers to be used in future license, certification, registration,
744 employment, or academic examinations;

745 (6) records, the disclosure of which would impair governmental procurement
746 proceedings or give an unfair advantage to any person proposing to enter into a contract or
747 agreement with a governmental entity, except, subject to Subsections (1) and (2), that this
748 Subsection (6) does not restrict the right of a person to have access to, after the contract or
749 grant has been awarded and signed by all parties, a bid, proposal, application, or other
750 information submitted to or by a governmental entity in response to:

751 (a) an invitation for bids;

752 (b) a request for proposals;

753 (c) a request for quotes;

754 (d) a grant; or

755 (e) other similar document;

756 (7) information submitted to or by a governmental entity in response to a request for
757 information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict

758 the right of a person to have access to the information, after:

759 (a) a contract directly relating to the subject of the request for information has been
760 awarded and signed by all parties; or

761 (b) (i) a final determination is made not to enter into a contract that relates to the
762 subject of the request for information; and

763 (ii) at least two years have passed after the day on which the request for information is
764 issued;

765 (8) records that would identify real property or the appraisal or estimated value of real
766 or personal property, including intellectual property, under consideration for public acquisition
767 before any rights to the property are acquired unless:

768 (a) public interest in obtaining access to the information is greater than or equal to the
769 governmental entity's need to acquire the property on the best terms possible;

770 (b) the information has already been disclosed to persons not employed by or under a
771 duty of confidentiality to the entity;

772 (c) in the case of records that would identify property, potential sellers of the described
773 property have already learned of the governmental entity's plans to acquire the property;

774 (d) in the case of records that would identify the appraisal or estimated value of
775 property, the potential sellers have already learned of the governmental entity's estimated value
776 of the property; or

777 (e) the property under consideration for public acquisition is a single family residence
778 and the governmental entity seeking to acquire the property has initiated negotiations to acquire
779 the property as required under Section [78B-6-505](#);

780 (9) records prepared in contemplation of sale, exchange, lease, rental, or other
781 compensated transaction of real or personal property including intellectual property, which, if
782 disclosed prior to completion of the transaction, would reveal the appraisal or estimated value
783 of the subject property, unless:

784 (a) the public interest in access is greater than or equal to the interests in restricting
785 access, including the governmental entity's interest in maximizing the financial benefit of the

786 transaction; or

787 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of
788 the value of the subject property have already been disclosed to persons not employed by or
789 under a duty of confidentiality to the entity;

790 (10) records created or maintained for civil, criminal, or administrative enforcement
791 purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if
792 release of the records:

793 (a) reasonably could be expected to interfere with investigations undertaken for
794 enforcement, discipline, licensing, certification, or registration purposes;

795 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement
796 proceedings;

797 (c) would create a danger of depriving a person of a right to a fair trial or impartial
798 hearing;

799 (d) reasonably could be expected to disclose the identity of a source who is not
800 generally known outside of government and, in the case of a record compiled in the course of
801 an investigation, disclose information furnished by a source not generally known outside of
802 government if disclosure would compromise the source; or

803 (e) reasonably could be expected to disclose investigative or audit techniques,
804 procedures, policies, or orders not generally known outside of government if disclosure would
805 interfere with enforcement or audit efforts;

806 (11) records the disclosure of which would jeopardize the life or safety of an
807 individual;

808 (12) records the disclosure of which would jeopardize the security of governmental
809 property, governmental programs, or governmental recordkeeping systems from damage, theft,
810 or other appropriation or use contrary to law or public policy;

811 (13) records that, if disclosed, would jeopardize the security or safety of a correctional
812 facility, or records relating to incarceration, treatment, probation, or parole, that would interfere
813 with the control and supervision of an offender's incarceration, treatment, probation, or parole;

814 (14) records that, if disclosed, would reveal recommendations made to the Board of
815 Pardons and Parole by an employee of or contractor for the Department of Corrections, the
816 Board of Pardons and Parole, or the Department of Human Services that are based on the
817 employee's or contractor's supervision, diagnosis, or treatment of any person within the board's
818 jurisdiction;

819 (15) records and audit workpapers that identify audit, collection, and operational
820 procedures and methods used by the State Tax Commission, if disclosure would interfere with
821 audits or collections;

822 (16) records of a governmental audit agency relating to an ongoing or planned audit
823 until the final audit is released;

824 (17) records that are subject to the attorney client privilege;

825 (18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer,
826 employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial,
827 quasi-judicial, or administrative proceeding;

828 (19) (a) (i) personal files of a state legislator, including personal correspondence to or
829 from a member of the Legislature; and

830 (ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of
831 legislative action or policy may not be classified as protected under this section; and

832 (b) (i) an internal communication that is part of the deliberative process in connection
833 with the preparation of legislation between:

834 (A) members of a legislative body;

835 (B) a member of a legislative body and a member of the legislative body's staff; or

836 (C) members of a legislative body's staff; and

837 (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of
838 legislative action or policy may not be classified as protected under this section;

839 (20) (a) records in the custody or control of the Office of Legislative Research and
840 General Counsel, that, if disclosed, would reveal a particular legislator's contemplated
841 legislation or contemplated course of action before the legislator has elected to support the

842 legislation or course of action, or made the legislation or course of action public; and
843 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the
844 Office of Legislative Research and General Counsel is a public document unless a legislator
845 asks that the records requesting the legislation be maintained as protected records until such
846 time as the legislator elects to make the legislation or course of action public;

847 (21) research requests from legislators to the Office of Legislative Research and
848 General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared
849 in response to these requests;

850 (22) drafts, unless otherwise classified as public;

851 (23) records concerning a governmental entity's strategy about:

852 (a) collective bargaining; or

853 (b) imminent or pending litigation;

854 (24) records of investigations of loss occurrences and analyses of loss occurrences that
855 may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the
856 Uninsured Employers' Fund, or similar divisions in other governmental entities;

857 (25) records, other than personnel evaluations, that contain a personal recommendation
858 concerning an individual if disclosure would constitute a clearly unwarranted invasion of
859 personal privacy, or disclosure is not in the public interest;

860 (26) records that reveal the location of historic, prehistoric, paleontological, or
861 biological resources that if known would jeopardize the security of those resources or of
862 valuable historic, scientific, educational, or cultural information;

863 (27) records of independent state agencies if the disclosure of the records would
864 conflict with the fiduciary obligations of the agency;

865 (28) records of an institution within the state system of higher education defined in
866 Section [53B-1-102](#) regarding tenure evaluations, appointments, applications for admissions,
867 retention decisions, and promotions, which could be properly discussed in a meeting closed in
868 accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of
869 the final decisions about tenure, appointments, retention, promotions, or those students

870 admitted, may not be classified as protected under this section;

871 (29) records of the governor's office, including budget recommendations, legislative
872 proposals, and policy statements, that if disclosed would reveal the governor's contemplated
873 policies or contemplated courses of action before the governor has implemented or rejected
874 those policies or courses of action or made them public;

875 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,
876 revenue estimates, and fiscal notes of proposed legislation before issuance of the final
877 recommendations in these areas;

878 (31) records provided by the United States or by a government entity outside the state
879 that are given to the governmental entity with a requirement that they be managed as protected
880 records if the providing entity certifies that the record would not be subject to public disclosure
881 if retained by it;

882 (32) transcripts, minutes, or reports of the closed portion of a meeting of a public body
883 except as provided in Section [52-4-206](#);

884 (33) records that would reveal the contents of settlement negotiations but not including
885 final settlements or empirical data to the extent that they are not otherwise exempt from
886 disclosure;

887 (34) memoranda prepared by staff and used in the decision-making process by an
888 administrative law judge, a member of the Board of Pardons and Parole, or a member of any
889 other body charged by law with performing a quasi-judicial function;

890 (35) records that would reveal negotiations regarding assistance or incentives offered
891 by or requested from a governmental entity for the purpose of encouraging a person to expand
892 or locate a business in Utah, but only if disclosure would result in actual economic harm to the
893 person or place the governmental entity at a competitive disadvantage, but this section may not
894 be used to restrict access to a record evidencing a final contract;

895 (36) materials to which access must be limited for purposes of securing or maintaining
896 the governmental entity's proprietary protection of intellectual property rights including patents,
897 copyrights, and trade secrets;

898 (37) the name of a donor or a prospective donor to a governmental entity, including an
899 institution within the state system of higher education defined in Section 53B-1-102, and other
900 information concerning the donation that could reasonably be expected to reveal the identity of
901 the donor, provided that:

- 902 (a) the donor requests anonymity in writing;
- 903 (b) any terms, conditions, restrictions, or privileges relating to the donation may not be
904 classified protected by the governmental entity under this Subsection (37); and
- 905 (c) except for an institution within the state system of higher education defined in
906 Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged
907 in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority
908 over the donor, a member of the donor's immediate family, or any entity owned or controlled
909 by the donor or the donor's immediate family;

910 (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and
911 73-18-13;

912 (39) a notification of workers' compensation insurance coverage described in Section
913 34A-2-205;

914 (40) (a) the following records of an institution within the state system of higher
915 education defined in Section 53B-1-102, which have been developed, discovered, disclosed to,
916 or received by or on behalf of faculty, staff, employees, or students of the institution:

- 917 (i) unpublished lecture notes;
- 918 (ii) unpublished notes, data, and information:
 - 919 (A) relating to research; and
 - 920 (B) of:
 - 921 (I) the institution within the state system of higher education defined in Section
922 53B-1-102; or
 - 923 (II) a sponsor of sponsored research;
 - 924 (iii) unpublished manuscripts;
 - 925 (iv) creative works in process;

- 926 (v) scholarly correspondence; and
- 927 (vi) confidential information contained in research proposals;
- 928 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public
929 information required pursuant to Subsection 53B-16-302(2)(a) or (b); and
- 930 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;
- 931 (41) (a) records in the custody or control of the Office of Legislative Auditor General
932 that would reveal the name of a particular legislator who requests a legislative audit prior to the
933 date that audit is completed and made public; and
- 934 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the
935 Office of the Legislative Auditor General is a public document unless the legislator asks that
936 the records in the custody or control of the Office of Legislative Auditor General that would
937 reveal the name of a particular legislator who requests a legislative audit be maintained as
938 protected records until the audit is completed and made public;
- 939 (42) records that provide detail as to the location of an explosive, including a map or
940 other document that indicates the location of:
- 941 (a) a production facility; or
- 942 (b) a magazine;
- 943 (43) information:
- 944 (a) contained in the statewide database of the Division of Aging and Adult Services
945 created by Section 62A-3-311.1; or
- 946 (b) received or maintained in relation to the Identity Theft Reporting Information
947 System (IRIS) established under Section 67-5-22;
- 948 (44) information contained in the Management Information System and Licensing
949 Information System described in Title 62A, Chapter 4a, Child and Family Services;
- 950 (45) information regarding National Guard operations or activities in support of the
951 National Guard's federal mission;
- 952 (46) records provided by any pawn or secondhand business to a law enforcement
953 agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and

954 Secondhand Merchandise Transaction Information Act;

955 (47) information regarding food security, risk, and vulnerability assessments performed

956 by the Department of Agriculture and Food;

957 (48) except to the extent that the record is exempt from this chapter pursuant to Section

958 [63G-2-106](#), records related to an emergency plan or program, a copy of which is provided to or

959 prepared or maintained by the Division of Emergency Management, and the disclosure of

960 which would jeopardize:

961 (a) the safety of the general public; or

962 (b) the security of:

963 (i) governmental property;

964 (ii) governmental programs; or

965 (iii) the property of a private person who provides the Division of Emergency

966 Management information;

967 (49) records of the Department of Agriculture and Food that provides for the

968 identification, tracing, or control of livestock diseases, including any program established under

969 Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control

970 of Animal Disease;

971 (50) as provided in Section [26-39-501](#):

972 (a) information or records held by the Department of Health related to a complaint

973 regarding a child care program or residential child care which the department is unable to

974 substantiate; and

975 (b) information or records related to a complaint received by the Department of Health

976 from an anonymous complainant regarding a child care program or residential child care;

977 (51) unless otherwise classified as public under Section [63G-2-301](#) and except as

978 provided under Section [41-1a-116](#), an individual's home address, home telephone number, or

979 personal mobile phone number, if:

980 (a) the individual is required to provide the information in order to comply with a law,

981 ordinance, rule, or order of a government entity; and

982 (b) the subject of the record has a reasonable expectation that this information will be
983 kept confidential due to:

984 (i) the nature of the law, ordinance, rule, or order; and

985 (ii) the individual complying with the law, ordinance, rule, or order;

986 (52) the name, home address, work addresses, and telephone numbers of an individual
987 that is engaged in, or that provides goods or services for, medical or scientific research that is:

988 (a) conducted within the state system of higher education, as defined in Section
989 [53B-1-102](#); and

990 (b) conducted using animals;

991 (53) an initial proposal under Title 63N, Chapter 13, Part 2, Government Procurement
992 Private Proposal Program, to the extent not made public by rules made under that chapter;

993 (54) in accordance with Section [78A-12-203](#), any record of the Judicial Performance
994 Evaluation Commission concerning an individual commissioner's vote on whether or not to
995 recommend that the voters retain a judge including information disclosed under Subsection
996 [78A-12-203\(5\)\(e\)](#);

997 (55) information collected and a report prepared by the Judicial Performance
998 Evaluation Commission concerning a judge, unless Section [20A-7-702](#) or Title 78A, Chapter
999 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public,
1000 the information or report;

1001 (56) records contained in the Management Information System created in Section
1002 [62A-4a-1003](#);

1003 (57) records provided or received by the Public Lands Policy Coordinating Office in
1004 furtherance of any contract or other agreement made in accordance with Section [63J-4-603](#);

1005 (58) information requested by and provided to the 911 Division under Section
1006 [63H-7a-302](#);

1007 (59) in accordance with Section [73-10-33](#):

1008 (a) a management plan for a water conveyance facility in the possession of the Division
1009 of Water Resources or the Board of Water Resources; or

1010 (b) an outline of an emergency response plan in possession of the state or a county or
1011 municipality;

1012 (60) the following records in the custody or control of the Office of Inspector General
1013 of Medicaid Services, created in Section 63A-13-201:

1014 (a) records that would disclose information relating to allegations of personal
1015 misconduct, gross mismanagement, or illegal activity of a person if the information or
1016 allegation cannot be corroborated by the Office of Inspector General of Medicaid Services
1017 through other documents or evidence, and the records relating to the allegation are not relied
1018 upon by the Office of Inspector General of Medicaid Services in preparing a final investigation
1019 report or final audit report;

1020 (b) records and audit workpapers to the extent they would disclose the identity of a
1021 person who, during the course of an investigation or audit, communicated the existence of any
1022 Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or
1023 regulation adopted under the laws of this state, a political subdivision of the state, or any
1024 recognized entity of the United States, if the information was disclosed on the condition that
1025 the identity of the person be protected;

1026 (c) before the time that an investigation or audit is completed and the final
1027 investigation or final audit report is released, records or drafts circulated to a person who is not
1028 an employee or head of a governmental entity for the person's response or information;

1029 (d) records that would disclose an outline or part of any investigation, audit survey
1030 plan, or audit program; or

1031 (e) requests for an investigation or audit, if disclosure would risk circumvention of an
1032 investigation or audit;

1033 (61) records that reveal methods used by the Office of Inspector General of Medicaid
1034 Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or
1035 abuse;

1036 (62) information provided to the Department of Health or the Division of Occupational
1037 and Professional Licensing under Subsection 58-68-304(3) or (4);

- 1038 (63) a record described in Section 63G-12-210;
- 1039 (64) captured plate data that is obtained through an automatic license plate reader
- 1040 system used by a governmental entity as authorized in Section 41-6a-2003;
- 1041 (65) any record in the custody of the Utah Office for Victims of Crime relating to a
- 1042 victim, including:
- 1043 (a) a victim's application or request for benefits;
- 1044 (b) a victim's receipt or denial of benefits; and
- 1045 (c) any administrative notes or records made or created for the purpose of, or used to,
- 1046 evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim
- 1047 Reparations Fund;
- 1048 (66) an audio or video recording created by a body-worn camera, as that term is
- 1049 defined in Section 77-7a-103, that records sound or images inside a hospital or health care
- 1050 facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care
- 1051 provider, as that term is defined in Section 78B-3-403, or inside a human service program as
- 1052 that term is defined in Subsection 62A-2-101[(19)(a)(vi)](20), except for recordings that:
- 1053 (a) depict the commission of an alleged crime;
- 1054 (b) record any encounter between a law enforcement officer and a person that results in
- 1055 death or bodily injury, or includes an instance when an officer fires a weapon;
- 1056 (c) record any encounter that is the subject of a complaint or a legal proceeding against
- 1057 a law enforcement officer or law enforcement agency;
- 1058 (d) contain an officer involved critical incident as defined in Subsection
- 1059 76-2-408(1)(d); or
- 1060 (e) have been requested for reclassification as a public record by a subject or
- 1061 authorized agent of a subject featured in the recording; and
- 1062 (67) a record pertaining to the search process for a president of an institution of higher
- 1063 education described in Section 53B-2-102, except for application materials for a publicly
- 1064 announced finalist.
- 1065 Section 12. Section 76-5b-201 is amended to read:

- 1066 **76-5b-201. Sexual exploitation of a minor -- Offenses.**
- 1067 (1) A person is guilty of sexual exploitation of a minor:
- 1068 (a) when the person:
- 1069 (i) knowingly produces, possesses, or possesses with intent to distribute child
- 1070 pornography; or
- 1071 (ii) intentionally distributes or views child pornography; or
- 1072 (b) if the person is a minor's parent or legal guardian and knowingly consents to or
- 1073 permits the minor to be sexually exploited as described in Subsection (1)(a).
- 1074 (2) Sexual exploitation of a minor is a second degree felony.
- 1075 (3) It is a separate offense under this section:
- 1076 (a) for each minor depicted in the child pornography; and
- 1077 (b) for each time the same minor is depicted in different child pornography.
- 1078 (4) It is an affirmative defense to a charge of violating this section that no person under
- 1079 18 years of age was actually depicted in the visual depiction or used in producing or advertising
- 1080 the visual depiction.
- 1081 (5) In proving a violation of this section in relation to an identifiable minor, proof of
- 1082 the actual identity of the identifiable minor is not required.
- 1083 (6) This section may not be construed to impose criminal or civil liability on:
- 1084 (a) [~~any~~] an entity or an employee, director, officer, or agent of an entity when acting
- 1085 within the scope of employment, for the good faith performance of:
- 1086 (i) reporting or data preservation duties required under any federal or state law; or
- 1087 (ii) implementing a policy of attempting to prevent the presence of child pornography
- 1088 on any tangible or intangible property, or of detecting and reporting the presence of child
- 1089 pornography on the property;
- 1090 (b) [~~any~~] a law enforcement officer acting within the scope of a criminal investigation;
- 1091 (c) [~~any~~] an employee of a court who may be required to view child pornography
- 1092 during the course of and within the scope of the employee's employment;
- 1093 (d) [~~any~~] a juror who may be required to view child pornography during the course of

1094 the ~~person's~~ individual's service as a juror; ~~or~~

1095 (e) ~~any~~ an attorney or employee of an attorney who is required to view child
1096 pornography during the course of a judicial process and while acting within the scope of
1097 employment[-];

1098 (f) an employee of the Department of Human Services who is required to view child
1099 pornography within the scope of the employee's employment; or

1100 (g) an attorney who is required to view child pornography within the scope of the
1101 attorney's responsibility to represent the Department of Human Services, including the
1102 divisions and offices within the Department of Human Services.

1103 Section 13. Section **77-7a-104** is amended to read:

1104 **77-7a-104. Activation and use of body-worn cameras.**

1105 (1) An officer using a body-worn camera shall verify that the equipment is properly
1106 functioning as is reasonably within the officer's ability.

1107 (2) An officer shall report any malfunctioning equipment to the officer's supervisor if:

1108 (a) the body-worn camera issued to the officer is not functioning properly upon initial
1109 inspection; or

1110 (b) an officer determines that the officer's body-worn camera is not functioning
1111 properly at any time while the officer is on duty.

1112 (3) An officer shall wear the body-worn camera so that it is clearly visible to the person
1113 being recorded.

1114 (4) An officer shall activate the body-worn camera prior to any law enforcement
1115 encounter, or as soon as reasonably possible.

1116 (5) An officer shall record in an uninterrupted manner until after the conclusion of a
1117 law enforcement encounter, except as an interruption of a recording is allowed under this
1118 section.

1119 (6) When going on duty and off duty, an officer who is issued a body-worn camera
1120 shall record the officer's name, identification number, and the current time and date, unless the
1121 information is already available due to the functionality of the body-worn camera.

1122 (7) If a body-worn camera was present during a law enforcement encounter, the officer
1123 shall document the presence of the body-worn camera in any report or other official record of a
1124 contact.

1125 (8) When a body-worn camera has been activated, the officer may not deactivate the
1126 body-worn camera until the officer's direct participation in the law enforcement encounter is
1127 complete, except as provided in Subsection (9).

1128 (9) An officer may deactivate a body-worn camera:

1129 (a) to consult with a supervisor or another officer;

1130 (b) during a significant period of inactivity; and

1131 (c) during a conversation with a sensitive victim of crime, a witness of a crime, or an
1132 individual who wishes to report or discuss criminal activity if:

1133 (i) the individual who is the subject of the recording requests that the officer deactivate
1134 the officer's body-worn camera; and

1135 (ii) the officer believes that the value of the information outweighs the value of the
1136 potential recording and records the request by the individual to deactivate the body-worn
1137 camera.

1138 (10) If an officer deactivates a body-worn camera, the officer shall document the
1139 reason for deactivating a body-worn camera in a written report.

1140 (11) (a) For purposes of this Subsection (11):

1141 (i) "Health care facility" means the same as that term is defined in Section 78B-3-403.

1142 (ii) "Health care provider" means the same as that term is defined in Section
1143 78B-3-403.

1144 (iii) "Hospital" means the same as that term is defined in Section 78B-3-403.

1145 (iv) "Human service program" means the same as that term is defined in [Subsection]
1146 Section 62A-2-101[(20)(a)(vi)].

1147 (b) An officer may not activate a body-worn camera in a hospital, health care facility,
1148 human service program, or the clinic of a health care provider, except during a law
1149 enforcement encounter, and with notice under Section 77-7a-105.

1150 Section 14. Section **78A-6-105** is amended to read:

1151 **78A-6-105. Definitions.**

1152 As used in this chapter:

1153 (1) (a) "Abuse" means:

1154 (i) (A) nonaccidental harm of a child;

1155 (B) threatened harm of a child;

1156 (C) sexual exploitation;

1157 (D) sexual abuse; or

1158 (E) human trafficking of a child in violation of Section [76-5-308.5](#); or

1159 (ii) that a child's natural parent:

1160 (A) intentionally, knowingly, or recklessly causes the death of another parent of the
1161 child;

1162 (B) is identified by a law enforcement agency as the primary suspect in an investigation
1163 for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

1164 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or
1165 recklessly causing the death of another parent of the child.

1166 (b) "Abuse" does not include:

1167 (i) reasonable discipline or management of a child, including withholding privileges;

1168 (ii) conduct described in Section [76-2-401](#); or

1169 (iii) the use of reasonable and necessary physical restraint or force on a child:

1170 (A) in self-defense;

1171 (B) in defense of others;

1172 (C) to protect the child; or

1173 (D) to remove a weapon in the possession of a child for any of the reasons described in

1174 Subsections (1)(b)(iii)(A) through (C).

1175 (2) "Abused child" means a child who has been subjected to abuse.

1176 (3) "Adjudication" means a finding by the court, incorporated in a decree, that the facts
1177 alleged in the petition have been proved. A finding of not competent to proceed pursuant to

1178 Section 78A-6-1302 is not an adjudication.

1179 (4) "Adult" means a person 18 years of age or over, except that a person 18 years or
1180 over under the continuing jurisdiction of the juvenile court pursuant to Section 78A-6-120 shall
1181 be referred to as a minor.

1182 (5) "Board" means the Board of Juvenile Court Judges.

1183 (6) "Child" means a person under 18 years of age.

1184 (7) "Child placement agency" means:

1185 (a) a private agency licensed to receive a child for placement or adoption under this
1186 code; or

1187 (b) a private agency that receives a child for placement or adoption in another state,
1188 which agency is licensed or approved where such license or approval is required by law.

1189 (8) "Clandestine laboratory operation" means the same as that term is defined in
1190 Section 58-37d-3.

1191 (9) "Commit" means, unless specified otherwise:

1192 (a) with respect to a child, to transfer legal custody; and

1193 (b) with respect to a minor who is at least 18 years of age, to transfer custody.

1194 (10) "Court" means the juvenile court.

1195 (11) "Criminogenic risk factors" means evidence-based factors that are associated with
1196 a minor's likelihood of reoffending.

1197 (12) "Delinquent act" means an act that would constitute a felony or misdemeanor if
1198 committed by an adult.

1199 (13) "Dependent child" includes a child who is homeless or without proper care
1200 through no fault of the child's parent, guardian, or custodian.

1201 (14) "Deprivation of custody" means transfer of legal custody by the court from a
1202 parent or the parents or a previous legal custodian to another person, agency, or institution.

1203 (15) "Detention" means home detention and secure detention as defined in Section
1204 62A-7-101 for the temporary care of a minor who requires secure custody in a physically
1205 restricting facility:

- 1206 (a) pending court disposition or transfer to another jurisdiction; or
1207 (b) while under the continuing jurisdiction of the court.
- 1208 (16) "Detention risk assessment tool" means an evidence-based tool established under
1209 Section [78A-6-124](#), on and after July 1, 2018, that assesses a minor's risk of failing to appear in
1210 court or reoffending pre-adjudication and designed to assist in making detention
1211 determinations.
- 1212 (17) "Division" means the Division of Child and Family Services.
- 1213 (18) "Educational neglect" means that, after receiving a notice of compulsory education
1214 violation under Section [53G-6-202](#), the parent or guardian fails to make a good faith effort to
1215 ensure that the child receives an appropriate education.
- 1216 [~~(18)~~] (19) "Evidence-based" means a program or practice that has had multiple
1217 randomized control studies or a meta-analysis demonstrating that the program or practice is
1218 effective for a specific population or has been rated as effective by a standardized program
1219 evaluation tool.
- 1220 [~~(19)~~] (20) "Formal probation" means a minor is under field supervision by the
1221 probation department or other agency designated by the court and subject to return to the court
1222 in accordance with Section [78A-6-123](#) on and after July 1, 2018.
- 1223 [~~(20)~~] (21) "Formal referral" means a written report from a peace officer or other
1224 person informing the court that a minor is or appears to be within the court's jurisdiction and
1225 that a case must be reviewed.
- 1226 [~~(21)~~] (22) "Group rehabilitation therapy" means psychological and social counseling
1227 of one or more persons in the group, depending upon the recommendation of the therapist.
- 1228 [~~(22)~~] (23) "Guardianship of the person" includes the authority to consent to:
1229 (a) marriage;
1230 (b) enlistment in the armed forces;
1231 (c) major medical, surgical, or psychiatric treatment; or
1232 (d) legal custody, if legal custody is not vested in another person, agency, or institution.
- 1233 [~~(23)~~] (24) "Habitual truant" means the same as that term is defined in Section

1234 53A-11-101.

1235 [~~(24)~~] (25) "Harm" means:

1236 (a) physical or developmental injury or damage;

1237 (b) emotional damage that results in a serious impairment in the child's growth,
1238 development, behavior, or psychological functioning;

1239 (c) sexual abuse; or

1240 (d) sexual exploitation.

1241 [~~(25)~~] (26) (a) "Incest" means engaging in sexual intercourse with a person whom the
1242 perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt,
1243 nephew, niece, or first cousin.

1244 (b) The relationships described in Subsection [~~(25)~~] (26)(a) include:

1245 (i) blood relationships of the whole or half blood, without regard to legitimacy;

1246 (ii) relationships of parent and child by adoption; and

1247 (iii) relationships of stepparent and stepchild while the marriage creating the
1248 relationship of a stepparent and stepchild exists.

1249 [~~(26)~~] (27) "Intake probation" means a period of court monitoring that does not include
1250 field supervision, but is overseen by a juvenile probation officer, during which a minor is
1251 subject to return to the court in accordance with Section 78A-6-123 on and after July 1, 2018.

1252 [~~(27)~~] (28) "Intellectual disability" means:

1253 (a) significantly subaverage intellectual functioning, an IQ of approximately 70 or
1254 below on an individually administered IQ test, for infants, a clinical judgment of significantly
1255 subaverage intellectual functioning;

1256 (b) concurrent deficits or impairments in present adaptive functioning, the person's
1257 effectiveness in meeting the standards expected for the person's age by the person's cultural
1258 group, in at least two of the following areas: communication, self-care, home living,
1259 social/interpersonal skills, use of community resources, self-direction, functional academic
1260 skills, work, leisure, health, and safety; and

1261 (c) the onset is before the person reaches the age of 18 years.

1262 [~~(28)~~] (29) "Legal custody" means a relationship embodying the following rights and
1263 duties:

- 1264 (a) the right to physical custody of the minor;
- 1265 (b) the right and duty to protect, train, and discipline the minor;
- 1266 (c) the duty to provide the minor with food, clothing, shelter, education, and ordinary
1267 medical care;
- 1268 (d) the right to determine where and with whom the minor shall live; and
- 1269 (e) the right, in an emergency, to authorize surgery or other extraordinary care.

1270 [~~(29)~~] (30) "Material loss" means an uninsured:

- 1271 (a) property loss;
- 1272 (b) out-of-pocket monetary loss;
- 1273 (c) lost wages; or
- 1274 (d) medical expenses.

1275 [~~(30)~~] (31) "Mental disorder" means a serious emotional and mental disturbance that
1276 severely limits a minor's development and welfare over a significant period of time.

1277 [~~(31)~~] (32) "Minor" means:

- 1278 (a) a child; or
- 1279 (b) a person who is:
 - 1280 (i) at least 18 years of age and younger than 21 years of age; and
 - 1281 (ii) under the jurisdiction of the juvenile court.

1282 [~~(32)~~] (33) "Mobile crisis outreach team" means a crisis intervention service for minors
1283 or families of minors experiencing behavioral health or psychiatric emergencies.

1284 [~~(33)~~] (34) "Molestation" means that a person, with the intent to arouse or gratify the
1285 sexual desire of any person:

- 1286 (a) touches the anus or any part of the genitals of a child;
- 1287 (b) takes indecent liberties with a child; or
- 1288 (c) causes a child to take indecent liberties with the perpetrator or another.

1289 [~~(34)~~] (35) "Natural parent" means a minor's biological or adoptive parent, and

1290 includes the minor's noncustodial parent.

1291 ~~[(35)]~~ (36) (a) "Neglect" means action or inaction causing:

1292 (i) abandonment of a child, except as provided in Title 62A, Chapter 4a, Part 8, Safe
1293 Relinquishment of a Newborn Child;

1294 (ii) lack of proper parental care of a child by reason of the fault or habits of the parent,
1295 guardian, or custodian;

1296 (iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary
1297 subsistence~~[, education,]~~ or medical care, or any other care necessary for the child's health,
1298 safety, morals, or well-being;

1299 (iv) a child to be at risk of being neglected or abused because another child in the same
1300 home is neglected or abused; ~~[or]~~

1301 (v) abandonment of a child through an unregulated custody transfer~~[-];~~ or

1302 (vi) educational neglect.

1303 ~~[(b) The aspect of neglect relating to education, described in Subsection (35)(a)(iii),
1304 means that, after receiving a notice of compulsory education violation under Section
1305 53A-11-101.5, the parent or guardian fails to make a good faith effort to ensure that the child
1306 receives an appropriate education.]~~

1307 ~~[(e)]~~ (b) A parent or guardian legitimately practicing religious beliefs and who, for that
1308 reason, does not provide specified medical treatment for a child, is not guilty of neglect.

1309 ~~[(d)]~~ (c) (i) Notwithstanding Subsection ~~[(35)]~~ (36)(a), a health care decision made for
1310 a child by the child's parent or guardian does not constitute neglect unless the state or other
1311 party to the proceeding shows, by clear and convincing evidence, that the health care decision
1312 is not reasonable and informed.

1313 (ii) Nothing in Subsection ~~[(35)(d)]~~ (36)(c)(i) may prohibit a parent or guardian from
1314 exercising the right to obtain a second health care opinion and from pursuing care and
1315 treatment pursuant to the second health care opinion, as described in Section 78A-6-301.5.

1316 ~~[(36)]~~ (37) "Neglected child" means a child who has been subjected to neglect.

1317 ~~[(37)]~~ (38) "Nonjudicial adjustment" means closure of the case by the assigned

1318 probation officer without judicial determination upon the consent in writing of:

1319 (a) the assigned probation officer; and

1320 (b) (i) the minor; or

1321 (ii) the minor and the minor's parent, legal guardian, or custodian.

1322 ~~[(38)]~~ (39) "Not competent to proceed" means that a minor, due to a mental disorder,
1323 intellectual disability, or related condition as defined, lacks the ability to:

1324 (a) understand the nature of the proceedings against them or of the potential disposition
1325 for the offense charged; or

1326 (b) consult with counsel and participate in the proceedings against them with a
1327 reasonable degree of rational understanding.

1328 ~~[(39)]~~ (40) "Physical abuse" means abuse that results in physical injury or damage to a
1329 child.

1330 ~~[(40)]~~ (41) "Probation" means a legal status created by court order following an
1331 adjudication on the ground of a violation of law or under Section [78A-6-103](#), whereby the
1332 minor is permitted to remain in the minor's home under prescribed conditions.

1333 ~~[(41)]~~ (42) "Protective supervision" means a legal status created by court order
1334 following an adjudication on the ground of abuse, neglect, or dependency, whereby the minor
1335 is permitted to remain in the minor's home, and supervision and assistance to correct the abuse,
1336 neglect, or dependency is provided by the probation department or other agency designated by
1337 the court.

1338 ~~[(42)]~~ (43) "Related condition" means a condition closely related to intellectual
1339 disability in accordance with 42 C.F.R. Part 435.1010 and further defined in Rule R539-1-3,
1340 Utah Administrative Code.

1341 ~~[(43)]~~ (44) (a) "Residual parental rights and duties" means those rights and duties
1342 remaining with the parent after legal custody or guardianship, or both, have been vested in
1343 another person or agency, including:

1344 (i) the responsibility for support;

1345 (ii) the right to consent to adoption;

- 1346 (iii) the right to determine the child's religious affiliation; and
- 1347 (iv) the right to reasonable parent-time unless restricted by the court.
- 1348 (b) If no guardian has been appointed, "residual parental rights and duties" also include
- 1349 the right to consent to:
 - 1350 (i) marriage;
 - 1351 (ii) enlistment; and
 - 1352 (iii) major medical, surgical, or psychiatric treatment.
- 1353 ~~[(44)]~~ (45) "Secure facility" means any facility operated by or under contract with the
- 1354 Division of Juvenile Justice Services, that provides 24-hour supervision and confinement for
- 1355 youth offenders committed to the division for custody and rehabilitation pursuant to Subsection
- 1356 [78A-6-117\(2\)\(d\)](#).
- 1357 ~~[(45)]~~ (46) "Severe abuse" means abuse that causes or threatens to cause serious harm
- 1358 to a child.
- 1359 ~~[(46)]~~ (47) "Severe neglect" means neglect that causes or threatens to cause serious
- 1360 harm to a child.
- 1361 ~~[(47)]~~ (48) "Sexual abuse" means:
 - 1362 (a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an
 - 1363 adult directed towards a child;
 - 1364 (b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation
 - 1365 committed by a child towards another child if:
 - 1366 (i) there is an indication of force or coercion;
 - 1367 (ii) the children are related, as described in Subsection ~~[(25)]~~ (26);
 - 1368 (iii) there have been repeated incidents of sexual contact between the two children,
 - 1369 unless the children are 14 years of age or older; or
 - 1370 (iv) there is a disparity in chronological age of four or more years between the two
 - 1371 children; or
 - 1372 (c) engaging in any conduct with a child that would constitute an offense under any of
 - 1373 the following, regardless of whether the person who engages in the conduct is actually charged

1374 with, or convicted of, the offense:

1375 (i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the
1376 alleged perpetrator of an offense described in Section 76-5-401 is a minor;

1377 (ii) child bigamy, Section 76-7-101.5;

1378 (iii) incest, Section 76-7-102;

1379 (iv) lewdness, Section 76-9-702;

1380 (v) sexual battery, Section 76-9-702.1;

1381 (vi) lewdness involving a child, Section 76-9-702.5; or

1382 (vii) voyeurism, Section 76-9-702.7.

1383 [~~48~~] (49) "Sexual exploitation" means knowingly:

1384 (a) employing, using, persuading, inducing, enticing, or coercing any child to:

1385 (i) pose in the nude for the purpose of sexual arousal of any person; or

1386 (ii) engage in any sexual or simulated sexual conduct for the purpose of photographing,
1387 filming, recording, or displaying in any way the sexual or simulated sexual conduct;

1388 (b) displaying, distributing, possessing for the purpose of distribution, or selling
1389 material depicting a child:

1390 (i) in the nude, for the purpose of sexual arousal of any person; or

1391 (ii) engaging in sexual or simulated sexual conduct; or

1392 (c) engaging in any conduct that would constitute an offense under Section 76-5b-201,
1393 sexual exploitation of a minor, regardless of whether the person who engages in the conduct is
1394 actually charged with, or convicted of, the offense.

1395 [~~49~~] (50) "Shelter" means the temporary care of a child in a physically unrestricted
1396 facility pending court disposition or transfer to another jurisdiction.

1397 [~~50~~] (51) "Status offense" means a violation of the law that would not be a violation
1398 but for the age of the offender.

1399 [~~51~~] (52) "Substance abuse" means the misuse or excessive use of alcohol or other
1400 drugs or substances.

1401 [~~52~~] (53) "Substantiated" means the same as that term is defined in Section

1402 62A-4a-101.

1403 [~~(53)~~] (54) "Supported" means the same as that term is defined in Section 62A-4a-101.

1404 [~~(54)~~] (55) "Termination of parental rights" means the permanent elimination of all
1405 parental rights and duties, including residual parental rights and duties, by court order.

1406 [~~(55)~~] (56) "Therapist" means:

1407 (a) a person employed by a state division or agency for the purpose of conducting
1408 psychological treatment and counseling of a minor in its custody; or

1409 (b) any other person licensed or approved by the state for the purpose of conducting
1410 psychological treatment and counseling.

1411 [~~(56)~~] (57) "Unregulated custody transfer" means the placement of a child:

1412 (a) with a person who is not the child's parent, step-parent, grandparent, adult sibling,
1413 adult uncle or aunt, or legal guardian, or a friend of the family who is an adult and with whom
1414 the child is familiar, or a member of the child's federally recognized tribe;

1415 (b) with the intent of severing the child's existing parent-child or guardian-child
1416 relationship; and

1417 (c) without taking:

1418 (i) reasonable steps to ensure the safety of the child and permanency of the placement;
1419 and

1420 (ii) the necessary steps to transfer the legal rights and responsibilities of parenthood or
1421 guardianship to the person taking custody of the child.

1422 [~~(57)~~] (58) "Unsubstantiated" means the same as that term is defined in Section
1423 62A-4a-101.

1424 [~~(58)~~] (59) "Validated risk and needs assessment" means an evidence-based tool that
1425 assesses a minor's risk of reoffending and a minor's criminogenic needs.

1426 [~~(59)~~] (60) "Without merit" means the same as that term is defined in Section
1427 62A-4a-101.

1428 Section 15. Section 78A-6-106 is amended to read:

1429 **78A-6-106. Search warrants and subpoenas -- Authority to issue -- Protective**

1430 **custody -- Expedited hearing.**

1431 (1) The court has authority to issue search warrants, subpoenas, or investigative
1432 subpoenas in criminal cases, delinquency, and abuse, neglect, and dependency proceedings for
1433 the same purposes, in the same manner and pursuant to the same procedures set forth in the
1434 code of criminal procedure for the issuance of search warrants, subpoenas, or investigative
1435 subpoenas in other trial courts in the state.

1436 (2) A peace officer or child welfare worker may not enter the home of a child who is
1437 not under the jurisdiction of the court, remove a child from the child's home or school, or take a
1438 child into protective custody unless:

1439 (a) there exist exigent circumstances sufficient to relieve the peace officer or child
1440 welfare worker of the requirement to obtain a warrant;

1441 (b) the peace officer or child welfare worker obtains a search warrant under Subsection
1442 (3) or (6);

1443 (c) the peace officer or child welfare worker obtains a court order after the parent or
1444 guardian of the child is given notice and an opportunity to be heard; or

1445 (d) the peace officer or child welfare worker obtains the consent of the child's parent or
1446 guardian.

1447 (3) (a) The court may issue a warrant authorizing a child protective services worker or
1448 peace officer to search for a child and take the child into protective custody if it appears to the
1449 court upon a verified petition, recorded sworn testimony or an affidavit sworn to by a peace
1450 officer or any other person, and upon the examination of other witnesses, if required by the
1451 judge, that there is probable cause to believe that:

1452 (i) there is a threat of substantial harm to the child's health or safety;

1453 (ii) it is necessary to take the child into protective custody to avoid the harm described
1454 in Subsection (3)(a)(i); and

1455 (iii) it is likely that the child will suffer substantial harm if the parent or guardian of the
1456 child is given notice and an opportunity to be heard before the child is taken into protective
1457 custody.

1458 (b) Pursuant to Section 77-23-210, a peace officer making the search may enter a house
1459 or premises by force, if necessary, in order to remove the child.

1460 (c) The person executing the warrant shall ~~then~~ take the child to the place of shelter
1461 designated by the court or the division.

1462 (4) (a) Consistent with Subsection (5), the court shall hold an expedited hearing to
1463 determine whether a child should be placed in protective custody if:

1464 (i) a person files a petition under Section 78A-6-304;

1465 (ii) a party to the proceeding files a "Motion for Expedited Placement in Temporary
1466 Custody"; and

1467 (iii) notice of the hearing described in this Subsection (4)(a) is served consistent with
1468 the requirements for notice of a shelter hearing under Section 78A-6-306.

1469 (b) The hearing described in Subsection (4)(a):

1470 (i) shall be held within 72 hours, excluding weekends and holidays, of the filing of the
1471 motion described in Subsection (4)(a)(ii); and

1472 (ii) shall be considered a shelter hearing under Section 78A-6-306 and Utah Rules of
1473 Juvenile Procedure, Rule 13.

1474 (5) (a) The hearing and notice described in Subsection (4) are subject to:

1475 (i) Section 78A-6-306;

1476 (ii) Section 78A-6-307; and

1477 (iii) the Utah Rules of Juvenile Procedure.

1478 (b) After the hearing described in Subsection (4), a court may order a child placed in
1479 the temporary custody of the division.

1480 (6) Upon a motion filed for a warrant to search for a child who is missing, has been
1481 abducted, or has run away, a court shall issue a warrant authorizing a child welfare worker or a
1482 peace officer to search for the child and take the child into custody if the court determines that:

1483 (a) the child is in the legal custody of the division; and

1484 (b) the child is missing, has been abducted, or has run away.

1485 (7) When a court issues a warrant under Subsection (6):

1486 (a) the division shall notify the child's parent or guardian who has a right to parent-time
1487 with the child;

1488 (b) the court shall order:

1489 (i) the law enforcement agency that has jurisdiction over the location from which the
1490 child ran away to enter a record of the warrant into the National Crime Information Center
1491 database within 24 hours after the time when the law enforcement agency receives a copy of
1492 the warrant; and

1493 (ii) the division to notify the law enforcement agency described in Subsection (7)(b)(i)
1494 of the order described in Subsection (7)(b)(i); and

1495 (c) the court shall specify the location to which the child welfare worker or peace
1496 officer shall transport the child.

1497 (8) On the sole basis of a child's absence from placement, a court may not hold in
1498 contempt a child who:

1499 (a) is in the legal custody of the division; and

1500 (b) is missing, has been abducted, or has run away.

1501 ~~[(6)]~~ (9) When notice to a parent or guardian is required by this section:

1502 (a) the parent or guardian to be notified must be:

1503 (i) the child's primary caregiver; or

1504 (ii) the parent or guardian who has custody of the child[;] when the order is sought; and

1505 (b) the person required to provide notice shall make a good faith effort to provide
1506 notice to a parent or guardian who:

1507 (i) is not required to be notified under Subsection ~~[(6)]~~ (9)(a); and

1508 (ii) has ~~[the]~~ a right to parent-time with the child.

1509 Section 16. Section **78A-6-113 (Superseded 07/01/18)** is amended to read:

1510 **78A-6-113 (Superseded 07/01/18). Placement of minor in detention or shelter**

1511 **facility -- Grounds -- Detention hearings -- Period of detention -- Notice -- Confinement**

1512 **for criminal proceedings -- Bail laws inapplicable -- Exception.**

1513 (1) (a) A minor may not be placed or kept in a secure detention facility pending court

1514 proceedings unless it is unsafe for the public to leave the minor with the minor's parents,
1515 guardian, or custodian and the minor is detainable based on guidelines promulgated by the
1516 Division of Juvenile Justice Services.

1517 (b) A child who must be taken from the child's home but who does not require physical
1518 restriction shall be given temporary care in a shelter facility and may not be placed in a
1519 detention facility.

1520 (c) A child may not be placed or kept in a shelter facility pending court proceedings
1521 unless it is unsafe to leave the child with the child's parents, guardian, or custodian.

1522 (d) (i) A court may temporarily place in a detention facility, as provided in Subsection
1523 (4), a child who is taken into custody based upon a warrant issued under Subsection
1524 78A-6-106(6), if the court finds that detention is the least restrictive placement available to
1525 ensure the immediate safety of the child.

1526 (ii) A child placed in detention under Subsection (1)(d)(i) may not be held in detention
1527 longer than is necessary for the division to identify a less restrictive, available, and appropriate
1528 placement for the child.

1529 (2) After admission of a child to a detention facility pursuant to the guidelines
1530 established by the Division of Juvenile Justice Services and immediate investigation by an
1531 authorized officer of the court, the judge or the officer shall order the release of the child to the
1532 child's parents, guardian, or custodian if it is found the child can be safely returned to their care,
1533 either upon written promise to bring the child to the court at a time set or without restriction.

1534 (a) If a child's parent, guardian, or custodian fails to retrieve the child from a facility
1535 within 24 hours after notification of release, the parent, guardian, or custodian is responsible
1536 for the cost of care for the time the child remains in the facility.

1537 (b) The facility shall determine the cost of care.

1538 (c) Any money collected under this Subsection (2) shall be retained by the Division of
1539 Juvenile Justice Services to recover the cost of care for the time the child remains in the
1540 facility.

1541 (3) (a) When a child is detained in a detention or shelter facility, the parents or

1542 guardian shall be informed by the person in charge of the facility that they have the right to a
1543 prompt hearing in court to determine whether the child is to be further detained or released.

1544 (b) When a minor is detained in a detention facility, the minor shall be informed by the
1545 person in charge of the facility that the minor has the right to a prompt hearing in court to
1546 determine whether the minor is to be further detained or released.

1547 (c) Detention hearings shall be held by the judge or by a commissioner.

1548 (d) The court may, at any time, order the release of the minor, whether a detention
1549 hearing is held or not.

1550 (e) If a child is released, and the child remains in the facility, because the parents,
1551 guardian, or custodian fails to retrieve the child, the parents, guardian, or custodian shall be
1552 responsible for the cost of care as provided in Subsections (2)(a), (b), and (c).

1553 (4) (a) A minor may not be held in a detention facility longer than 48 hours prior to a
1554 detention hearing, excluding weekends and holidays, unless the court has entered an order for
1555 continued detention.

1556 (b) A child may not be held in a shelter facility longer than 48 hours prior to a shelter
1557 hearing, excluding weekends and holidays, unless a court order for extended shelter has been
1558 entered by the court after notice to all parties described in Section [78A-6-306](#).

1559 (c) A hearing for detention or shelter may not be waived. Detention staff shall provide
1560 the court with all information received from the person who brought the minor to the detention
1561 facility.

1562 (d) If the court finds at a detention hearing that it is not safe to release the minor, the
1563 judge or commissioner may order the minor to be held in the facility or be placed in another
1564 appropriate facility, subject to further order of the court.

1565 (e) (i) After a detention hearing has been held, only the court may release a minor from
1566 detention. If a minor remains in a detention facility, periodic reviews shall be held pursuant to
1567 the Utah State Juvenile Court Rules of Practice and Procedure to ensure that continued
1568 detention is necessary.

1569 (ii) After a detention hearing for a violent felony, as defined in Section [76-3-203.5](#), or

1570 an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the court shall direct that
1571 notice of its decision, including any disposition, order, or no contact orders, be provided to
1572 designated persons in the appropriate local law enforcement agency and district superintendent
1573 or the school or transferee school, if applicable, that the minor attends. The designated persons
1574 may receive the information for purposes of the minor's supervision and student safety.

1575 (iii) Any employee of the local law enforcement agency, school district, and the school
1576 that the minor attends who discloses the court's order of probation is not:

1577 (A) civilly liable except when the disclosure constitutes fraud or willful misconduct as
1578 provided in Section 63G-7-202; and

1579 (B) civilly or criminally liable except when disclosure constitutes a knowing violation
1580 of Section 63G-2-801.

1581 (5) A minor may not be held in a detention facility, following a dispositional order of
1582 the court for nonsecure substitute care as defined in Section 62A-4a-101, or for
1583 community-based placement under Section 62A-7-101 for longer than 72 hours, excluding
1584 weekends and holidays. The period of detention may be extended by the court for one period
1585 of seven calendar days if:

1586 (a) the Division of Juvenile Justice Services or another agency responsible for
1587 placement files a written petition with the court requesting the extension and setting forth good
1588 cause; and

1589 (b) the court enters a written finding that it is in the best interests of both the minor and
1590 the community to extend the period of detention.

1591 (6) The agency requesting an extension shall promptly notify the detention facility that
1592 a written petition has been filed.

1593 (7) The court shall promptly notify the detention facility regarding its initial disposition
1594 and any ruling on a petition for an extension, whether granted or denied.

1595 (8) (a) A child under 16 years of age may not be held in a jail, lockup, or other place
1596 for adult detention except as provided by Section 62A-7-201 or unless certified as an adult
1597 pursuant to Section 78A-6-703. The provisions of Section 62A-7-201 regarding confinement

1598 facilities apply to this Subsection (8).

1599 (b) A child 16 years of age or older whose conduct or condition endangers the safety or
1600 welfare of others in the detention facility for children may, by court order that specifies the
1601 reasons, be detained in another place of confinement considered appropriate by the court,
1602 including a jail or other place of confinement for adults. However, a secure youth corrections
1603 facility is not an appropriate place of confinement for detention purposes under this section.

1604 (9) A sheriff, warden, or other official in charge of a jail or other facility for the
1605 detention of adult offenders or persons charged with crime shall immediately notify the
1606 juvenile court when a person who is or appears to be under 18 years of age is received at the
1607 facility and shall make arrangements for the transfer of the person to a detention facility, unless
1608 otherwise ordered by the juvenile court.

1609 (10) This section does not apply to a minor who is brought to the adult facility under
1610 charges pursuant to Section 78A-6-701 or by order of the juvenile court to be held for criminal
1611 proceedings in the district court under Section 78A-6-702 or 78A-6-703.

1612 (11) A minor held for criminal proceedings under Section 78A-6-701, 78A-6-702, or
1613 78A-6-703 may be detained in a jail or other place of detention used for adults charged with
1614 crime.

1615 (12) Provisions of law regarding bail are not applicable to minors detained or taken
1616 into custody under this chapter, except that bail may be allowed:

1617 (a) if a minor who need not be detained lives outside this state; or

1618 (b) when a minor who need not be detained comes within one of the classes in
1619 Subsection 78A-6-603(11).

1620 (13) Section 76-8-418 is applicable to a child who willfully and intentionally commits
1621 an act against a jail or other place of confinement, including a Division of Juvenile Justice
1622 Services detention, shelter, or secure confinement facility which would be a third degree felony
1623 if committed by an adult.

1624 Section 17. Section 78A-6-113 (Effective 07/01/18) is amended to read:

1625 78A-6-113 (Effective 07/01/18). **Placement of minor in detention or shelter facility**

1626 -- Grounds -- Detention hearings -- Period of detention -- Notice -- Confinement for
1627 criminal proceedings -- Bail laws inapplicable -- Exception.

1628 (1) (a) A minor may not be placed or kept in a secure detention facility pending court
1629 proceedings except in accordance with Section [78A-6-112](#).

1630 (b) A child may not be placed or kept in a shelter facility pending court proceedings
1631 unless it is unsafe to leave the child with the child's parents, guardian, or custodian.

1632 (c) (i) A court may temporarily place in a detention facility, as provided in Subsection
1633 (4), a child who is taken into custody based upon a warrant issued under Subsection
1634 [78A-6-106](#)(6), if the court finds that detention is the least restrictive placement available to
1635 ensure the immediate safety of the child.

1636 (ii) A child placed in detention under Subsection (1)(c)(i) may not be held in detention
1637 longer than is necessary for the division to identify a less restrictive, available, and appropriate
1638 placement for the child.

1639 (2) After admission of a child to a detention facility pursuant to Section [78A-6-112](#) and
1640 immediate investigation by an authorized officer of the court, the judge or the officer shall
1641 order the release of the child to the child's parents, guardian, or custodian if it is found the child
1642 can be safely returned to their care, either upon written promise to bring the child to the court at
1643 a time set or without restriction.

1644 (a) If a child's parent, guardian, or custodian fails to retrieve the child from a facility
1645 within 24 hours after notification of release, the parent, guardian, or custodian is responsible
1646 for the cost of care for the time the child remains in the facility.

1647 (b) The facility shall determine the cost of care.

1648 (c) Any money collected under this Subsection (2) shall be retained by the Division of
1649 Juvenile Justice Services to recover the cost of care for the time the child remains in the
1650 facility.

1651 (3) (a) When a child is detained in a detention or shelter facility, the parents or
1652 guardian shall be informed by the person in charge of the facility that the parent's or guardian's
1653 child has the right to a prompt hearing in court to determine whether the child is to be further

1654 detained or released.

1655 (b) When a minor is detained in a detention facility, the minor shall be informed by the
1656 person in charge of the facility that the minor has the right to a prompt hearing in court to
1657 determine whether the minor is to be further detained or released.

1658 (c) Detention hearings shall be held by the judge or by a commissioner.

1659 (d) The court may, at any time, order the release of the minor, whether a detention
1660 hearing is held or not.

1661 (e) If a child is released, and the child remains in the facility, because the parents,
1662 guardian, or custodian fails to retrieve the child, the parents, guardian, or custodian shall be
1663 responsible for the cost of care as provided in Subsections (2)(a), (b), and (c).

1664 (4) (a) A minor may not be held in a detention facility longer than 48 hours before a
1665 detention hearing, excluding weekends and holidays, unless the court has entered an order for
1666 continued detention.

1667 (b) A child may not be held in a shelter facility longer than 48 hours before a shelter
1668 hearing, excluding weekends and holidays, unless a court order for extended shelter has been
1669 entered by the court after notice to all parties described in Section [78A-6-306](#).

1670 (c) A hearing for detention or shelter may not be waived. Detention staff shall provide
1671 the court with all information received from the person who brought the minor to the detention
1672 facility.

1673 (d) The judge or commissioner may only order a minor to be held in the facility or be
1674 placed in another appropriate facility, subject to further order of the court, if the court finds at a
1675 detention hearing that:

1676 (i) releasing the minor to the minor's parent, guardian, or custodian presents an
1677 unreasonable risk to public safety;

1678 (ii) less restrictive nonresidential alternatives to detention have been considered and,
1679 where appropriate, attempted; and

1680 (iii) the minor is eligible for detention under the division guidelines for detention
1681 admissions established by the Division of Juvenile Justice Services, under Section [62A-7-202](#)

1682 and under Section 78A-6-112.

1683 (e) (i) After a detention hearing has been held, only the court may release a minor from
1684 detention. If a minor remains in a detention facility, periodic reviews shall be held pursuant to
1685 the Utah State Juvenile Court Rules of Practice and Procedure to ensure that continued
1686 detention is necessary.

1687 (ii) After a detention hearing for a violent felony, as defined in Section 76-3-203.5, or
1688 an offense in violation of Title 76, Chapter 10, Part 5, Weapons, the court shall direct that
1689 notice of its decision, including any disposition, order, or no contact orders, be provided to
1690 designated persons in the appropriate local law enforcement agency and district superintendent
1691 or the school or transferee school, if applicable, that the minor attends. The designated persons
1692 may receive the information for purposes of the minor's supervision and student safety.

1693 (iii) Any employee of the local law enforcement agency, school district, and the school
1694 that the minor attends who discloses the court's order of probation is not:

1695 (A) civilly liable except when the disclosure constitutes fraud or willful misconduct as
1696 provided in Section 63G-7-202; and

1697 (B) civilly or criminally liable except when disclosure constitutes a knowing violation
1698 of Section 63G-2-801.

1699 (5) A minor may not be held in a detention facility, following a dispositional order of
1700 the court for nonsecure substitute care as defined in Section 62A-4a-101, or for
1701 community-based placement under Section 62A-7-101.

1702 (6) (a) Except as otherwise provided in this section, a minor may not be held in a
1703 detention facility following a disposition order of the court for longer than 72 hours, excluding
1704 weekends and holidays.

1705 (b) The period of detention may be extended by the court for a cumulative total of
1706 seven calendar days if:

1707 (i) the Division of Juvenile Justice Services or another agency responsible for
1708 placement files a written petition with the court requesting the extension and setting forth good
1709 cause; and

1710 (ii) the court enters a written finding that it is in the best interests of both the minor and
1711 the community to extend the period of detention.

1712 (c) The court may extend the period of detention beyond the seven calendar days if the
1713 court finds by clear and convincing evidence that:

1714 (i) the Division of Juvenile Justice Services or another agency responsible for
1715 placement does not have space for the minor; and

1716 (ii) the safety of the minor and community requires an extension of the period of
1717 detention.

1718 (d) The Division of Juvenile Justice Services shall report to the court every 48 hours,
1719 excluding weekends and holidays, regarding the status of whether the Division of Juvenile
1720 Justice Services or another agency responsible for placement has space for the minor.

1721 (7) The agency requesting an extension shall promptly notify the detention facility that
1722 a written petition has been filed.

1723 (8) The court shall promptly notify the detention facility regarding its initial disposition
1724 and any ruling on a petition for an extension, whether granted or denied.

1725 (9) (a) A child under 16 years of age may not be held in a jail, lockup, or other place
1726 for adult detention except as provided by Section 62A-7-201 or unless certified as an adult
1727 pursuant to Section 78A-6-703. Section 62A-7-201 regarding confinement facilities applies to
1728 this Subsection (9).

1729 (b) A child 16 years of age or older whose conduct or condition endangers the safety or
1730 welfare of others in the detention facility for children may, by court order that specifies the
1731 reasons, be detained in another place of confinement considered appropriate by the court,
1732 including a jail or other place of confinement for adults. However, a secure facility is not an
1733 appropriate place of confinement for detention purposes under this section.

1734 (10) A sheriff, warden, or other official in charge of a jail or other facility for the
1735 detention of adult offenders or persons charged with crime shall immediately notify the
1736 juvenile court when a person who is or appears to be under 18 years of age is received at the
1737 facility and shall make arrangements for the transfer of the person to a detention facility, unless

1738 otherwise ordered by the juvenile court.

1739 (11) This section does not apply to a minor who is brought to the adult facility under
1740 charges pursuant to Section 78A-6-701 or by order of the juvenile court to be held for criminal
1741 proceedings in the district court under Section 78A-6-702 or 78A-6-703.

1742 (12) A minor held for criminal proceedings under Section 78A-6-701, 78A-6-702, or
1743 78A-6-703 may be detained in a jail or other place of detention used for adults charged with
1744 crime.

1745 (13) Provisions of law regarding bail are not applicable to minors detained or taken
1746 into custody under this chapter, except that bail may be allowed:

1747 (a) if a minor who need not be detained lives outside this state; or

1748 (b) when a minor who need not be detained comes within one of the classes in
1749 Subsection 78A-6-603(11).

1750 (14) Section 76-8-418 is applicable to a child who willfully and intentionally commits
1751 an act against a jail or other place of confinement, including a Division of Juvenile Justice
1752 Services detention, shelter, or secure confinement facility which would be a third degree felony
1753 if committed by an adult.

1754 Section 18. Section 78A-6-117 (Superseded 07/01/18) is amended to read:

1755 **78A-6-117 (Superseded 07/01/18). Adjudication of jurisdiction of juvenile court --**
1756 **Disposition of cases -- Enumeration of possible court orders -- Considerations of court --**
1757 **Obtaining DNA sample.**

1758 (1) (a) When a minor is found to come within the provisions of Section 78A-6-103, the
1759 court shall so adjudicate. The court shall make a finding of the facts upon which it bases its
1760 jurisdiction over the minor. However, in cases within the provisions of Subsection
1761 78A-6-103(1), findings of fact are not necessary.

1762 (b) If the court adjudicates a minor for a crime of violence or an offense in violation of
1763 Title 76, Chapter 10, Part 5, Weapons, it shall order that notice of the adjudication be provided
1764 to the school superintendent of the district in which the minor resides or attends school. Notice
1765 shall be made to the district superintendent within three days of the adjudication and shall

1766 include:

1767 (i) the specific offenses for which the minor was adjudicated; and

1768 (ii) if available, if the victim:

1769 (A) resides in the same school district as the minor; or

1770 (B) attends the same school as the minor.

1771 (2) Upon adjudication the court may make the following dispositions by court order:

1772 (a) (i) The court may place the minor on probation or under protective supervision in
1773 the minor's own home and upon conditions determined by the court, including compensatory
1774 service as provided in Subsection (2)(m)(iii).

1775 (ii) The court may place the minor in state supervision with the probation department
1776 of the court, under the legal custody of:

1777 (A) the minor's parent or guardian;

1778 (B) the Division of Juvenile Justice Services; or

1779 (C) the Division of Child and Family Services.

1780 (iii) If the court orders probation or state supervision, the court shall direct that notice
1781 of its order be provided to designated persons in the local law enforcement agency and the
1782 school or transferee school, if applicable, that the minor attends. The designated persons may
1783 receive the information for purposes of the minor's supervision and student safety.

1784 (iv) Any employee of the local law enforcement agency and the school that the minor
1785 attends who discloses the court's order of probation is not:

1786 (A) civilly liable except when the disclosure constitutes fraud or willful misconduct as
1787 provided in Section [63G-7-202](#); and

1788 (B) civilly or criminally liable except when the disclosure constitutes a knowing
1789 violation of Section [63G-2-801](#).

1790 (b) The court may place the minor in the legal custody of a relative or other suitable
1791 person, with or without probation or ~~[protective supervision]~~ other court-specified child
1792 welfare services, but the juvenile court may not assume the function of developing foster home
1793 services.

1794 (c) (i) The court may:
1795 (A) vest legal custody of the minor in the Division of Child and Family Services,
1796 Division of Juvenile Justice Services, or the Division of Substance Abuse and Mental Health;
1797 and
1798 (B) order the Department of Human Services to provide dispositional
1799 recommendations and services.
1800 (ii) For minors who may qualify for services from two or more divisions within the
1801 Department of Human Services, the court may vest legal custody with the department.
1802 (iii) (A) A minor who is committed to the custody of the Division of Child and Family
1803 Services on grounds other than abuse or neglect is subject to the provisions of Title 78A,
1804 Chapter 6, Part 4, Minors in Custody on Grounds Other than Abuse or Neglect, and Title 62A,
1805 Chapter 4a, Part 2a, Minors in Custody on Grounds Other than Abuse or Neglect.
1806 (B) Before the court entering an order to place a minor in the custody of the Division of
1807 Child and Family Services on grounds other than abuse or neglect, the court shall provide the
1808 division with notice of the hearing no later than five days before the time specified for the
1809 hearing so the division may attend the hearing.
1810 (C) Before committing a child to the custody of the Division of Child and Family
1811 Services, the court shall make a finding as to what reasonable efforts have been attempted to
1812 prevent the child's removal from the child's home.
1813 (iv) (A) A minor who is 18 years old or older, but younger than 21 years old, may
1814 petition the court to express the minor's desire to be removed from the jurisdiction of the
1815 juvenile court and from the custody of the Division of Child and Family Services if the minor
1816 is in the division's custody on grounds of abuse, neglect, or dependency.
1817 (B) If the minor's parent's rights have not been terminated in accordance with Part 5,
1818 Termination of Parental Rights Act, the minor's petition shall contain a statement from the
1819 minor's parent or guardian agreeing that the minor should be removed from the custody of the
1820 Division of Child and Family Services.
1821 (C) The minor and the minor's parent or guardian shall sign the petition.

1822 (D) The court shall review the petition within 14 days.

1823 (E) The court shall remove the minor from the custody of the Division of Child and
1824 Family Services if the minor and the minor's parent or guardian have met the requirements
1825 described in Subsections (2)(c)(iv)(B) and (C) and if the court finds, based on input from the
1826 Division of Child and Family Services, the minor's guardian ad litem, and the Office of the
1827 Attorney General, that the minor does not pose an imminent threat to self or others.

1828 (F) A minor removed from custody under Subsection (2)(c)(iv)(E) may, within 90 days
1829 of the date of removal, petition the court to re-enter custody of the Division of Child and
1830 Family Services.

1831 (G) Upon receiving a petition under Subsection (2)(c)(iv)(F), the court shall order the
1832 Division of Child and Family Services to take custody of the minor based on the findings the
1833 court entered when the court originally vested custody in the Division of Child and Family
1834 Services.

1835 (d) (i) The court may commit a minor to the Division of Juvenile Justice Services for
1836 secure confinement.

1837 (ii) A minor under the jurisdiction of the court solely on the ground of abuse, neglect,
1838 or dependency under Subsection 78A-6-103(1)(c) may not be committed to the Division of
1839 Juvenile Justice Services.

1840 (e) The court may commit a minor, subject to the court retaining continuing
1841 jurisdiction over the minor, to the temporary custody of the Division of Juvenile Justice
1842 Services for observation and evaluation for a period not to exceed 45 days, which period may
1843 be extended up to 15 days at the request of the director of the Division of Juvenile Justice
1844 Services.

1845 (f) (i) The court may commit a minor to a place of detention or an alternative to
1846 detention for a period not to exceed 30 days subject to the court retaining continuing
1847 jurisdiction over the minor. This commitment may be stayed or suspended upon conditions
1848 ordered by the court.

1849 (ii) This Subsection (2)(f) applies only to a minor adjudicated for:

1850 (A) an act which if committed by an adult would be a criminal offense; or

1851 (B) contempt of court under Section 78A-6-1101.

1852 (g) The court may vest legal custody of an abused, neglected, or dependent minor in
1853 the Division of Child and Family Services or any other appropriate person in accordance with
1854 the requirements and procedures of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and
1855 Dependency Proceedings.

1856 (h) The court may place a minor on a ranch or forestry camp, or similar facility for care
1857 and also for work, if possible, if the person, agency, or association operating the facility has
1858 been approved or has otherwise complied with all applicable state and local laws. A minor
1859 placed in a forestry camp or similar facility may be required to work on fire prevention,
1860 forestation and reforestation, recreational works, forest roads, and on other works on or off the
1861 grounds of the facility and may be paid wages, subject to the approval of and under conditions
1862 set by the court.

1863 (i) (i) The court may order a minor to repair, replace, or otherwise make restitution for
1864 damage or loss caused by the minor's wrongful act, including costs of treatment as stated in
1865 Section 78A-6-321 and impose fines in limited amounts.

1866 (ii) The court may also require a minor to reimburse an individual, entity, or
1867 governmental agency who offered and paid a reward to a person or persons for providing
1868 information resulting in a court adjudication that the minor is within the jurisdiction of the
1869 juvenile court due to the commission of a criminal offense.

1870 (iii) If a minor is returned to this state under the Interstate Compact on Juveniles, the
1871 court may order the minor to make restitution for costs expended by any governmental entity
1872 for the return.

1873 (j) The court may issue orders necessary for the collection of restitution and fines
1874 ordered by the court, including garnishments, wage withholdings, and executions.

1875 (k) (i) The court may through its probation department encourage the development of
1876 employment or work programs to enable minors to fulfill their obligations under Subsection
1877 (2)(i) and for other purposes considered desirable by the court.

1878 (ii) Consistent with the order of the court, the probation officer may permit a minor
1879 found to be within the jurisdiction of the court to participate in a program of work restitution or
1880 compensatory service in lieu of paying part or all of the fine imposed by the court.

1881 (l) (i) In violations of traffic laws within the court's jurisdiction, the court may, in
1882 addition to any other disposition authorized by this section:

1883 (A) restrain the minor from driving for periods of time the court considers necessary;
1884 and

1885 (B) take possession of the minor's driver license.

1886 (ii) The court may enter any other disposition under Subsection (2)(l)(i). However, the
1887 suspension of driving privileges for an offense under Section 78A-6-606 is governed only by
1888 Section 78A-6-606.

1889 (m) (i) When a minor is found within the jurisdiction of the juvenile court under
1890 Section 78A-6-103 because of violating Section 58-37-8, Title 58, Chapter 37a, Utah Drug
1891 Paraphernalia Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, the court
1892 shall, in addition to any fines or fees otherwise imposed, order that the minor perform a
1893 minimum of 20 hours, but no more than 100 hours, of compensatory service. Satisfactory
1894 completion of an approved substance abuse prevention or treatment program may be credited
1895 by the court as compensatory service hours.

1896 (ii) When a minor is found within the jurisdiction of the juvenile court under Section
1897 78A-6-103 because of a violation of Section 32B-4-409 or Subsection 76-9-701(1), the court
1898 may, upon the first adjudication, and shall, upon a second or subsequent adjudication, order
1899 that the minor perform a minimum of 20 hours, but no more than 100 hours of compensatory
1900 service, in addition to any fines or fees otherwise imposed. Satisfactory completion of an
1901 approved substance abuse prevention or treatment program may be credited by the court as
1902 compensatory service hours.

1903 (iii) When a minor is found within the jurisdiction of the juvenile court under Section
1904 78A-6-103 because of a violation of Section 76-6-106 or 76-6-206 using graffiti, the court may
1905 order the minor to clean up graffiti created by the minor or any other person at a time and place

1906 within the jurisdiction of the court. Compensatory service required under this section may be
1907 performed in the presence and under the direct supervision of the minor's parent or legal
1908 guardian. The parent or legal guardian shall report completion of the order to the court. The
1909 minor or the minor's parent or legal guardian, if applicable, shall be responsible for removal
1910 costs as determined under Section 76-6-107, unless waived by the court for good cause. The
1911 court may also require the minor to perform other alternative forms of restitution or repair to
1912 the damaged property pursuant to Subsection 77-18-1(8).

1913 (A) For a first adjudication, the court may require the minor to clean up graffiti for not
1914 less than eight hours.

1915 (B) For a second adjudication, the court may require the minor to clean up graffiti for
1916 not less than 16 hours.

1917 (C) For a third adjudication, the court may require the minor to clean up graffiti for not
1918 less than 24 hours.

1919 (n) (i) Subject to Subsection (2)(n)(iii), the court may order that a minor:

1920 (A) be examined or treated by a physician, surgeon, psychiatrist, or psychologist; or

1921 (B) receive other special care.

1922 (ii) For purposes of receiving the examination, treatment, or care described in
1923 Subsection (2)(n)(i), the court may place the minor in a hospital or other suitable facility.

1924 (iii) In determining whether to order the examination, treatment, or care described in
1925 Subsection (2)(n)(i), the court shall consider:

1926 (A) the desires of the minor;

1927 (B) if the minor is under the age of 18, the desires of the parents or guardian of the
1928 minor; and

1929 (C) whether the potential benefits of the examination, treatment, or care outweigh the
1930 potential risks and side-effects, including behavioral disturbances, suicidal ideation, brain
1931 function impairment, or emotional or physical harm resulting from the compulsory nature of
1932 the examination, treatment, or care.

1933 (iv) The Division of Child and Family Services shall take reasonable measures to

1934 notify a parent or guardian of any non-emergency health treatment or care scheduled for a
1935 child, shall include the parent or guardian as fully as possible in making health care decisions
1936 for the child, and shall defer to the parent's or guardian's reasonable and informed decisions
1937 regarding the child's health care to the extent that the child's health and well being are not
1938 unreasonably compromised by the parent's or guardian's decision.

1939 (v) The Division of Child and Family Services shall notify the parent or guardian of a
1940 child within five business days after a child in the custody of the Division of Child and Family
1941 Services receives emergency health care or treatment.

1942 (vi) The Division of Child and Family Services shall use the least restrictive means to
1943 accomplish a compelling interest in the care and treatment of a child described in this
1944 Subsection (2)(n).

1945 (o) (i) The court may appoint a guardian for the minor if it appears necessary in the
1946 interest of the minor, and may appoint as guardian a public or private institution or agency in
1947 which legal custody of the minor is vested.

1948 (ii) In placing a minor under the guardianship or legal custody of an individual or of a
1949 private agency or institution, the court shall give primary consideration to the welfare of the
1950 minor. When practicable, the court may take into consideration the religious preferences of the
1951 minor and of a child's parents.

1952 (p) (i) In support of a decree under Section 78A-6-103, the court may order reasonable
1953 conditions to be complied with by a minor's parents or guardian, a minor, a minor's custodian,
1954 or any other person who has been made a party to the proceedings. Conditions may include:

- 1955 (A) parent-time by the parents or one parent;
- 1956 (B) restrictions on the minor's associates;
- 1957 (C) restrictions on the minor's occupation and other activities; and
- 1958 (D) requirements to be observed by the parents or custodian.

1959 (ii) A minor whose parents or guardians successfully complete a family or other
1960 counseling program may be credited by the court for detention, confinement, or probation time.

1961 (q) The court may order the child to be committed to the physical custody of a local

1962 mental health authority, in accordance with the procedures and requirements of Title 62A,
1963 Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and
1964 Mental Health.

1965 (r) (i) The court may make an order committing a minor within the court's jurisdiction
1966 to the Utah State Developmental Center if the minor has an intellectual disability in accordance
1967 with the provisions of Title 62A, Chapter 5, Part 3, Admission to an Intermediate Care Facility
1968 for People with an Intellectual Disability.

1969 (ii) The court shall follow the procedure applicable in the district courts with respect to
1970 judicial commitments to the Utah State Developmental Center when ordering a commitment
1971 under Subsection (2)(r)(i).

1972 (s) The court may terminate all parental rights upon a finding of compliance with the
1973 provisions of Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act.

1974 (t) The court may make any other reasonable orders for the best interest of the minor or
1975 as required for the protection of the public, except that a child may not be committed to jail or
1976 prison.

1977 (u) The court may combine the dispositions listed in this section if they are compatible.

1978 (v) Before depriving any parent of custody, the court shall give due consideration to the
1979 rights of parents concerning their child. The court may transfer custody of a minor to another
1980 person, agency, or institution in accordance with the requirements and procedures of Title 78A,
1981 Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

1982 (w) Except as provided in Subsection (2)(y)(i), an order under this section for
1983 probation or placement of a minor with an individual or an agency shall include a date certain
1984 for a review of the case by the court. A new date shall be set upon each review.

1985 (x) In reviewing foster home placements, special attention shall be given to making
1986 adoptable children available for adoption without delay.

1987 (y) (i) The juvenile court may enter an order of permanent custody and guardianship
1988 with an individual or relative of a child where the court has previously acquired jurisdiction as
1989 a result of an adjudication of abuse, neglect, or dependency. The juvenile court may enter an

1990 order for child support on behalf of the child against the natural or adoptive parents of the
1991 child.

1992 (ii) Orders under Subsection (2)(y)(i):

1993 (A) shall remain in effect until the child reaches majority;

1994 (B) are not subject to review under Section 78A-6-118; and

1995 (C) may be modified by petition or motion as provided in Section 78A-6-1103.

1996 (iii) Orders permanently terminating the rights of a parent, guardian, or custodian and
1997 permanent orders of custody and guardianship do not expire with a termination of jurisdiction
1998 of the juvenile court.

1999 (3) In addition to the dispositions described in Subsection (2), when a minor comes
2000 within the court's jurisdiction, the minor may be given a choice by the court to serve in the
2001 National Guard in lieu of other sanctions, provided:

2002 (a) the minor meets the current entrance qualifications for service in the National
2003 Guard as determined by a recruiter, whose determination is final;

2004 (b) the minor is not under the jurisdiction of the court for any act that:

2005 (i) would be a felony if committed by an adult;

2006 (ii) is a violation of Title 58, Chapter 37, Utah Controlled Substances Act; or

2007 (iii) was committed with a weapon; and

2008 (c) the court retains jurisdiction over the minor under conditions set by the court and
2009 agreed upon by the recruiter or the unit commander to which the minor is eventually assigned.

2010 (4) (a) A DNA specimen shall be obtained from a minor who is under the jurisdiction
2011 of the court as described in Subsection 53-10-403(3). The specimen shall be obtained by
2012 designated employees of the court or, if the minor is in the legal custody of the Division of
2013 Juvenile Justice Services, then by designated employees of the division under Subsection
2014 53-10-404(5)(b).

2015 (b) The responsible agency shall ensure that employees designated to collect the saliva
2016 DNA specimens receive appropriate training and that the specimens are obtained in accordance
2017 with accepted protocol.

2018 (c) Reimbursements paid under Subsection 53-10-404(2)(a) shall be placed in the DNA
2019 Specimen Restricted Account created in Section 53-10-407.

2020 (d) Payment of the reimbursement is second in priority to payments the minor is
2021 ordered to make for restitution under this section and treatment under Section 78A-6-321.

2022 Section 19. Section 78A-6-117 (Effective 07/01/18) is amended to read:

2023 **78A-6-117 (Effective 07/01/18). Adjudication of jurisdiction of juvenile court --**
2024 **Disposition of cases -- Enumeration of possible court orders -- Considerations of court.**

2025 (1) (a) When a minor is found to come within Section 78A-6-103, the court shall so
2026 adjudicate. The court shall make a finding of the facts upon which it bases its jurisdiction over
2027 the minor. However, in cases within Subsection 78A-6-103(1), findings of fact are not
2028 necessary.

2029 (b) If the court adjudicates a minor for a crime of violence or an offense in violation of
2030 Title 76, Chapter 10, Part 5, Weapons, it shall order that notice of the adjudication be provided
2031 to the school superintendent of the district in which the minor resides or attends school. Notice
2032 shall be made to the district superintendent within three days of the adjudication and shall
2033 include:

2034 (i) the specific offenses for which the minor was adjudicated; and

2035 (ii) if available, if the victim:

2036 (A) resides in the same school district as the minor; or

2037 (B) attends the same school as the minor.

2038 (c) An adjudicated minor shall undergo a risk screening or, if indicated, a validated risk
2039 and needs assessment. Results of the screening or assessment shall be used to inform
2040 disposition decisions and case planning. Assessment results, if available, may not be shared
2041 with the court before adjudication.

2042 (2) Upon adjudication the court may make the following dispositions by court order:

2043 (a) (i) the court may place the minor on probation or under protective supervision in
2044 the minor's own home and upon conditions determined by the court, including compensatory
2045 service;

2046 (ii) a condition ordered by the court under Subsection (2)(a)(i):
2047 (A) shall be individualized and address a specific risk or need;
2048 (B) shall be based on information provided to the court, including the results of a
2049 validated risk and needs assessment conducted under Subsection (1)(c); and
2050 (C) if the court orders treatment, be based on a validated risk and needs assessment
2051 conducted under Subsection (1)(c);
2052 (iii) a court may not issue a standard order that contains control-oriented conditions;
2053 (iv) prohibitions on weapon possession, where appropriate, shall be specific to the
2054 minor and not the minor's family;
2055 (v) if the court orders probation, the court may direct that notice of the court's order be
2056 provided to designated persons in the local law enforcement agency and the school or
2057 transferee school, if applicable, that the minor attends. The designated persons may receive the
2058 information for purposes of the minor's supervision and student safety; and
2059 (vi) an employee of the local law enforcement agency and the school that the minor
2060 attends who discloses the court's order of probation is not:
2061 (A) civilly liable except when the disclosure constitutes fraud or willful misconduct as
2062 provided in Section 63G-7-202; and
2063 (B) civilly or criminally liable except when the disclosure constitutes a knowing
2064 violation of Section 63G-2-801.
2065 (b) The court may place the minor in the legal custody of a relative or other suitable
2066 person, with or without probation or [~~protective supervision~~] other court-specified child
2067 welfare services, but the juvenile court may not assume the function of developing foster home
2068 services.
2069 (c) (i) The court shall only vest legal custody of the minor in the Division of Juvenile
2070 Justice Services and order the Division of Juvenile Justice Services to provide dispositional
2071 recommendations and services if:
2072 (A) nonresidential treatment options have been exhausted or nonresidential treatment
2073 options are not appropriate; and

2074 (B) the minor is adjudicated under this section for a felony offense, a misdemeanor
2075 when the minor has five prior misdemeanors or felony adjudications arising from separate
2076 criminal episodes, or a misdemeanor involving the use of a dangerous weapon as defined in
2077 Section 76-1-601.

2078 (ii) The court may not vest legal custody of a minor in the Division of Juvenile Justice
2079 Services for:

2080 (A) contempt of court except to the extent permitted under Section 78A-6-1101;

2081 (B) a violation of probation;

2082 (C) failure to pay a fine, fee, restitution, or other financial obligation;

2083 (D) unfinished compensatory or community service hours;

2084 (E) an infraction; or

2085 (F) a status offense.

2086 (iii) (A) A minor who is 18 years old or older, but younger than 21 years old, may
2087 petition the court to express the minor's desire to be removed from the jurisdiction of the
2088 juvenile court and from the custody of the Division of Child and Family Services if the minor
2089 is in the division's custody on grounds of abuse, neglect, or dependency.

2090 (B) If the minor's parent's rights have not been terminated in accordance with Part 5,
2091 Termination of Parental Rights Act, the minor's petition shall contain a statement from the
2092 minor's parent or guardian agreeing that the minor should be removed from the custody of the
2093 Division of Child and Family Services.

2094 (C) The minor and the minor's parent or guardian shall sign the petition.

2095 (D) The court shall review the petition within 14 days.

2096 (E) The court shall remove the minor from the custody of the Division of Child and
2097 Family Services if the minor and the minor's parent or guardian have met the requirements
2098 described in Subsections (2)(c)(iv)(B) and (C) and if the court finds, based on input from the
2099 Division of Child and Family Services, the minor's guardian ad litem, and the Office of the
2100 Attorney General, that the minor does not pose an imminent threat to self or others.

2101 (F) A minor removed from custody under Subsection (2)(c)(iv)(E) may, within 90 days

2102 of the date of removal, petition the court to re-enter custody of the Division of Child and
2103 Family Services.

2104 (G) Upon receiving a petition under Subsection (2)(c)(iv)(F), the court shall order the
2105 Division of Child and Family Services to take custody of the minor based on the findings the
2106 court entered when the court originally vested custody in the Division of Child and Family
2107 Services.

2108 (d) (i) The court shall only commit a minor to the Division of Juvenile Justice Services
2109 for secure confinement if the court finds that the minor poses a risk of harm to others and is
2110 adjudicated under this section for:

2111 (A) a felony offense;

2112 (B) a misdemeanor if the minor has five prior misdemeanor or felony adjudications
2113 arising from separate criminal episodes; or

2114 (C) a misdemeanor involving use of a dangerous weapon as defined in Section
2115 [76-1-601](#).

2116 (ii) A minor under the jurisdiction of the court solely on the ground of abuse, neglect,
2117 or dependency under Subsection [78A-6-103\(1\)\(b\)](#) may not be committed to the Division of
2118 Juvenile Justice Services.

2119 (iii) The court may not commit a minor to the Division of Juvenile Justice Services for
2120 secure confinement for:

2121 (A) contempt of court;

2122 (B) a violation of probation;

2123 (C) failure to pay a fine, fee, restitution, or other financial obligation;

2124 (D) unfinished compensatory or community service hours;

2125 (E) an infraction; or

2126 (F) a status offense.

2127 (e) The court may order nonresidential, diagnostic assessment, including substance use
2128 disorder, mental health, psychological, or sexual behavior risk assessment.

2129 (f) (i) The court may commit a minor to a place of detention or an alternative to

2130 detention for a period not to exceed 30 cumulative days per adjudication subject to the court
2131 retaining continuing jurisdiction over the minor. This commitment may not be suspended upon
2132 conditions ordered by the court.

2133 (ii) This Subsection (2)(f) applies only to a minor adjudicated for:

2134 (A) an act which if committed by an adult would be a criminal offense; or

2135 (B) contempt of court under Section 78A-6-1101.

2136 (iii) The court may not commit a minor to a place of detention for:

2137 (A) contempt of court except to the extent allowed under Section 78A-6-1101;

2138 (B) a violation of probation;

2139 (C) failure to pay a fine, fee, restitution, or other financial obligation;

2140 (D) unfinished compensatory or community service hours;

2141 (E) an infraction; or

2142 (F) a status offense.

2143 (iv) (A) Time spent in detention pre-adjudication shall be credited toward the 30

2144 cumulative days eligible as a disposition under Subsection (2)(f)(i). If the minor spent more

2145 than 30 days in a place of detention before disposition, the court may not commit a minor to

2146 detention under this section.

2147 (B) Notwithstanding Subsection (2)(f)(iv)(A), the court may commit a minor for a

2148 maximum of seven days while a minor is awaiting placement under Subsection (2)(c)(i). Only

2149 the seven days under this Subsection (2)(f)(iv)(B) may be combined with a nonsecure

2150 placement.

2151 (v) Notwithstanding Subsection (2)(t), no more than seven days of detention may be

2152 ordered in combination with an order under Subsection (2)(c)(i).

2153 (g) The court may vest legal custody of an abused, neglected, or dependent minor in

2154 the Division of Child and Family Services or any other appropriate person in accordance with

2155 the requirements and procedures of Title 78A, Chapter 6, Part 3, Abuse, Neglect, and

2156 Dependency Proceedings.

2157 (h) (i) The court may order a minor to repair, replace, or otherwise make restitution for

2158 material loss caused by the minor's wrongful act or for conduct for which the minor agrees to
2159 make restitution.

2160 (ii) A victim has the meaning defined under Subsection 77-38a-102(14). A victim of an
2161 offense that involves as an element a scheme, a conspiracy, or a pattern of criminal activity,
2162 includes any person directly harmed by the minor's delinquency conduct in the course of the
2163 scheme, conspiracy, or pattern.

2164 (iii) If the victim and the minor agree to participate, the court may refer the case to a
2165 restorative justice program such as victim offender mediation to address how loss resulting
2166 from the adjudicated act may be addressed.

2167 (iv) For the purpose of determining whether and how much restitution is appropriate,
2168 the court shall consider the following:

2169 (A) restitution shall only be ordered for the victim's material loss;

2170 (B) restitution may not be ordered if the court finds that the minor is unable to pay or
2171 acquire the means to pay; and

2172 (C) any amount paid by the minor to the victim in civil penalty shall be credited against
2173 restitution owed.

2174 (v) Any amount paid to the victim in restitution shall be credited against liability in a
2175 civil suit.

2176 (vi) The court may also require a minor to reimburse an individual, entity, or
2177 governmental agency who offered and paid a reward to a person or persons for providing
2178 information resulting in a court adjudication that the minor is within the jurisdiction of the
2179 juvenile court due to the commission of a criminal offense.

2180 (vii) If a minor is returned to this state under the Interstate Compact on Juveniles, the
2181 court may order the minor to make restitution for costs expended by any governmental entity
2182 for the return.

2183 (viii) The prosecutor shall submit a request for restitution to the court at the time of
2184 disposition, if feasible, otherwise within three months after disposition.

2185 (ix) A financial disposition ordered shall prioritize the payment of restitution.

2186 (i) The court may issue orders necessary for the collection of restitution and fines
2187 ordered by the court, including garnishments, wage withholdings, and executions, except for an
2188 order that changes the custody of the minor, including detention or other secure or nonsecure
2189 residential placements.

2190 (j) (i) The court may through its probation department encourage the development of
2191 nonresidential employment or work programs to enable minors to fulfill their obligations under
2192 Subsection (2)(h) and for other purposes considered desirable by the court.

2193 (ii) Consistent with the order of the court, the probation officer may permit a minor
2194 found to be within the jurisdiction of the court to participate in a program of work restitution or
2195 compensatory service in lieu of paying part or all of the fine imposed by the court.

2196 (iii) The court may order the minor to:

2197 (A) pay a fine, fee, restitution, or other cost; or

2198 (B) complete service hours.

2199 (iv) If the court orders a minor to pay a fine, fee, restitution, or other cost, or to
2200 complete service hours, those dispositions shall be considered collectively to ensure that the
2201 order is reasonable and prioritizes restitution.

2202 (v) If the court orders a minor to pay a fine, fee, or other cost, or complete service
2203 hours, the cumulative order shall be limited per criminal episode as follows:

2204 (A) for children under age 16 at adjudication, the court may impose up to \$180 or up to
2205 24 hours of service; and

2206 (B) for minors 16 and older at adjudication, the court may impose up to \$270 or up to
2207 36 hours of service.

2208 (vi) The cumulative order under Subsection (2)(j)(v) does not include restitution.

2209 (vii) If the court converts a fine, fee, or restitution amount to service hours, the rate of
2210 conversion shall be no less than the minimum wage.

2211 (k) (i) In violations of traffic laws within the court's jurisdiction, when the court finds
2212 that as part of the commission of the violation the minor was in actual physical control of a
2213 motor vehicle, the court may, in addition to any other disposition authorized by this section:

2214 (A) restrain the minor from driving for periods of time the court considers necessary;
2215 and

2216 (B) take possession of the minor's driver license.

2217 (ii) The court may enter any other eligible disposition under Subsection (2)(k)(i) except
2218 for a disposition under Subsection (2)(c), (d), or (f). However, the suspension of driving
2219 privileges for an offense under Section 78A-6-606 is governed only by Section 78A-6-606.

2220 (l) (i) The court may order a minor to complete community or compensatory service
2221 hours in accordance with Subsections (2)(j)(iv) and (v).

2222 (ii) When community service is ordered, the presumptive service order shall include
2223 between five and 10 hours of service.

2224 (iii) Satisfactory completion of an approved substance use disorder prevention or
2225 treatment program or other court-ordered condition may be credited by the court as
2226 compensatory service hours.

2227 (iv) When a minor is found within the jurisdiction of the juvenile court under Section
2228 78A-6-103 because of a violation of Section 76-6-106 or 76-6-206 using graffiti, the court may
2229 order the minor to clean up graffiti created by the minor or any other person at a time and place
2230 within the jurisdiction of the court. Compensatory service ordered under this section may be
2231 performed in the presence and under the direct supervision of the minor's parent or legal
2232 guardian. The parent or legal guardian shall report completion of the order to the court. The
2233 court may also require the minor to perform other alternative forms of restitution or repair to
2234 the damaged property pursuant to Subsection (2)(h).

2235 (m) (i) Subject to Subsection (2)(m)(iii), the court may order that a minor:

2236 (A) be examined or treated by a physician, surgeon, psychiatrist, or psychologist; or

2237 (B) receive other special care.

2238 (ii) For purposes of receiving the examination, treatment, or care described in
2239 Subsection (2)(m)(i), the court may place the minor in a hospital or other suitable facility that is
2240 not a secure facility or secure detention.

2241 (iii) In determining whether to order the examination, treatment, or care described in

2242 Subsection (2)(m)(i), the court shall consider:

2243 (A) the desires of the minor;

2244 (B) if the minor is under the age of 18, the desires of the parents or guardian of the
2245 minor; and

2246 (C) whether the potential benefits of the examination, treatment, or care outweigh the
2247 potential risks and side-effects, including behavioral disturbances, suicidal ideation, brain
2248 function impairment, or emotional or physical harm resulting from the compulsory nature of
2249 the examination, treatment, or care.

2250 (iv) The Division of Child and Family Services shall take reasonable measures to
2251 notify a parent or guardian of any non-emergency health treatment or care scheduled for a
2252 child, shall include the parent or guardian as fully as possible in making health care decisions
2253 for the child, and shall defer to the parent's or guardian's reasonable and informed decisions
2254 regarding the child's health care to the extent that the child's health and well being are not
2255 unreasonably compromised by the parent's or guardian's decision.

2256 (v) The Division of Child and Family Services shall notify the parent or guardian of a
2257 child within five business days after a child in the custody of the Division of Child and Family
2258 Services receives emergency health care or treatment.

2259 (vi) The Division of Child and Family Services shall use the least restrictive means to
2260 accomplish a compelling interest in the care and treatment of a child described in this
2261 Subsection (2)(m).

2262 (n) (i) The court may appoint a guardian for the minor if it appears necessary in the
2263 interest of the minor, and may appoint as guardian a public or private institution or agency, but
2264 not a nonsecure residential placement provider, in which legal custody of the minor is vested.

2265 (ii) In placing a minor under the guardianship or legal custody of an individual or of a
2266 private agency or institution, the court shall give primary consideration to the welfare of the
2267 minor. When practicable, the court may take into consideration the religious preferences of the
2268 minor and of a child's parents.

2269 (o) (i) In support of a decree under Section [78A-6-103](#), the court may order reasonable

2270 conditions to be complied with by a minor's parents or guardian, a minor's custodian, or any
2271 other person who has been made a party to the proceedings. Conditions may include:

2272 (A) parent-time by the parents or one parent;

2273 (B) restrictions on the minor's associates;

2274 (C) restrictions on the minor's occupation and other activities; and

2275 (D) requirements to be observed by the parents or custodian.

2276 (ii) A minor whose parents or guardians successfully complete a family or other
2277 counseling program may be credited by the court for detention, confinement, or probation time.

2278 (p) The court may order the child to be committed to the physical custody of a local
2279 mental health authority, in accordance with the procedures and requirements of Title 62A,
2280 Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and
2281 Mental Health.

2282 (q) (i) The court may make an order committing a minor within the court's jurisdiction
2283 to the Utah State Developmental Center if the minor has an intellectual disability in accordance
2284 with Title 62A, Chapter 5, Part 3, Admission to an Intermediate Care Facility for People with
2285 an Intellectual Disability.

2286 (ii) The court shall follow the procedure applicable in the district courts with respect to
2287 judicial commitments to the Utah State Developmental Center when ordering a commitment
2288 under Subsection (2)(q)(i).

2289 (r) The court may terminate all parental rights upon a finding of compliance with Title
2290 78A, Chapter 6, Part 5, Termination of Parental Rights Act.

2291 (s) The court may make other reasonable orders for the best interest of the minor and as
2292 required for the protection of the public, except that a child may not be committed to jail,
2293 prison, secure detention, or the custody of the Division of Juvenile Justice Services under
2294 Subsections (2)(c) and (d).

2295 (t) The court may combine the dispositions listed in this section if it is permissible and
2296 they are compatible.

2297 (u) Before depriving any parent of custody, the court shall give due consideration to the

2298 rights of parents concerning their child. The court may transfer custody of a minor to another
2299 person, agency, or institution in accordance with the requirements and procedures of Title 78A,
2300 Chapter 6, Part 3, Abuse, Neglect, and Dependency Proceedings.

2301 (v) Except as provided in Subsection (2)(x)(i), an order under this section for probation
2302 or placement of a minor with an individual or an agency shall include a date certain for a
2303 review and presumptive termination of the case by the court in accordance with Subsection (6)
2304 and Section 62A-7-404. A new date shall be set upon each review.

2305 (w) In reviewing foster home placements, special attention shall be given to making
2306 adoptable children available for adoption without delay.

2307 (x) (i) The juvenile court may enter an order of permanent custody and guardianship
2308 with an individual or relative of a child where the court has previously acquired jurisdiction as
2309 a result of an adjudication of abuse, neglect, or dependency. The juvenile court may enter an
2310 order for child support on behalf of the child against the natural or adoptive parents of the
2311 child.

2312 (ii) Orders under Subsection (2)(x)(i):

2313 (A) shall remain in effect until the child reaches majority;

2314 (B) are not subject to review under Section 78A-6-118; and

2315 (C) may be modified by petition or motion as provided in Section 78A-6-1103.

2316 (iii) Orders permanently terminating the rights of a parent, guardian, or custodian and
2317 permanent orders of custody and guardianship do not expire with a termination of jurisdiction
2318 of the juvenile court.

2319 (3) In addition to the dispositions described in Subsection (2), when a minor comes
2320 within the court's jurisdiction, the minor may be given a choice by the court to serve in the
2321 National Guard in lieu of other sanctions, provided:

2322 (a) the minor meets the current entrance qualifications for service in the National
2323 Guard as determined by a recruiter, whose determination is final;

2324 (b) the minor is not under the jurisdiction of the court for any act that:

2325 (i) would be a felony if committed by an adult;

2326 (ii) is a violation of Title 58, Chapter 37, Utah Controlled Substances Act; or
2327 (iii) was committed with a weapon; and
2328 (c) the court retains jurisdiction over the minor under conditions set by the court and
2329 agreed upon by the recruiter or the unit commander to which the minor is eventually assigned.

2330 (4) (a) A DNA specimen shall be obtained from a minor who is under the jurisdiction
2331 of the court as described in Subsection 53-10-403(3). The specimen shall be obtained by
2332 designated employees of the court or, if the minor is in the legal custody of the Division of
2333 Juvenile Justice Services, then by designated employees of the division under Subsection
2334 53-10-404(5)(b).

2335 (b) The responsible agency shall ensure that employees designated to collect the saliva
2336 DNA specimens receive appropriate training and that the specimens are obtained in accordance
2337 with accepted protocol.

2338 (c) Reimbursements paid under Subsection 53-10-404(2)(a) shall be placed in the DNA
2339 Specimen Restricted Account created in Section 53-10-407.

2340 (d) Payment of the reimbursement is second in priority to payments the minor is
2341 ordered to make for restitution under this section and treatment under Section 78A-6-321.

2342 (5) (a) A disposition made by the court pursuant to this section may not be suspended,
2343 except for the following:

2344 (i) If a minor qualifies for commitment to the Division of Juvenile Justice Services
2345 under Subsection (2)(c) or (d), the court may suspend a custody order pursuant to Subsection
2346 (2)(c) or (d) in lieu of immediate commitment, upon the condition that the minor commit no
2347 new misdemeanor or felony offense during the three months following the day of disposition.

2348 (ii) The duration of a suspended custody order made under Subsection (5)(a)(i) may not
2349 exceed three months post-disposition and may not be extended under any circumstance.

2350 (iii) The court may only impose a custody order suspended under Subsection (5)(a)(i)
2351 following adjudication of a new misdemeanor or felony offense committed by the minor during
2352 the period of suspension set out under Subsection (5)(a)(ii).

2353 (b) The court pursuant to Subsection (5)(a) shall terminate jurisdiction over the minor

2354 at the end of the presumptive time frame unless at least one the following circumstances exists:

- 2355 (i) termination pursuant to Subsection (6)(a)(ii) would interrupt the completion of a
- 2356 program determined to be necessary by the results of a validated risk and needs assessment
- 2357 with completion found by the court after considering the recommendation of a licensed service
- 2358 provider on the basis of the minor completing the goals of the necessary treatment program;
- 2359 (ii) the minor commits a new misdemeanor or felony offense;
- 2360 (iii) service hours have not been completed; or
- 2361 (iv) there is an outstanding fine.

2362 (6) When the court places a minor on probation under Subsection (2)(a) or vests legal

2363 custody of the minor in the Division of Juvenile Justice Services under Subsection (2)(c), the

2364 court shall do so for a defined period of time pursuant to this section.

2365 (a) For the purposes of placing a minor on probation under Subsection (2)(a), the court

2366 shall establish a presumptive term of probation as specified in this Subsection (6):

- 2367 (i) the presumptive maximum length of intake probation may not exceed three months;
- 2368 and
- 2369 (ii) the presumptive maximum length of formal probation may not exceed four to six
- 2370 months.

2371 (b) For the purposes of vesting legal custody of the minor in the Division of Juvenile

2372 Justice Services under Subsection (2)(c), the court shall establish a maximum term of custody

2373 and a maximum term of aftercare as specified in this Subsection (6):

- 2374 (i) the presumptive maximum length of out-of-home placement may not exceed three
- 2375 to six months; and
- 2376 (ii) the presumptive maximum length of aftercare supervision, for those previously
- 2377 placed out-of-home, may not exceed three to four months, and minors may serve the term of
- 2378 aftercare in the home of a qualifying relative or guardian or at an independent living program
- 2379 contracted or operated by the Division of Juvenile Justice Services.

2380 (c) The court pursuant to Subsections (6)(a) and (b), and the Youth Parole Authority

2381 pursuant to Subsection (6)(b), shall terminate jurisdiction over the minor at the end of the

2382 presumptive time frame unless at least one of the following circumstances exists:

2383 (i) termination pursuant to Subsection (6)(a)(ii) would interrupt the completion of a
2384 court ordered program determined to be necessary by the results of a validated assessment, with
2385 completion found by the court after considering the recommendations of a licensed service
2386 provider on the basis of the minor completing the goals of the necessary treatment program;

2387 (ii) termination pursuant to Subsection (6)(a)(i) or (6)(b) would interrupt the
2388 completion of a program determined to be necessary by the results of a validated assessment,
2389 with completion determined on the basis of whether the minor has regularly and consistently
2390 attended the treatment program and completed the goals of the necessary treatment program as
2391 determined by the Youth Parole Authority after considering the recommendation of a licensed
2392 service provider;

2393 (iii) the minor commits a new misdemeanor or felony offense;

2394 (iv) service hours have not been completed; or

2395 (v) there is an outstanding fine.

2396 (d) (i) Subject to Subsection (6)(g), if one of the circumstances under Subsection
2397 (6)(c)(i), (ii), (iii), or (iv) exists, the court may extend jurisdiction for the time needed to
2398 address the specific circumstance.

2399 (ii) Subject to Subsection (6)(g), if one of the circumstances under Subsection (6)(c)(i),
2400 (ii), (iii), or (iv) exists, and the Youth Parole Authority has jurisdiction, the Youth Parole
2401 Authority may extend jurisdiction for the time needed to address the specific circumstance.

2402 (e) If the circumstance under Subsection (6)(c)(iv) exists, the court, or the Youth
2403 Parole Authority if the Youth Parole Authority has jurisdiction, may extend jurisdiction one
2404 time for up to three months.

2405 (f) Grounds for extension of the presumptive length of supervision or placement and
2406 the length of any extension shall be recorded in the court record or records of the Youth Parole
2407 Authority if the Youth Parole Authority has jurisdiction, and tracked in the data system used by
2408 the Administrative Office of the Courts and the Division of Juvenile Justice Services.

2409 (g) (i) For a minor who is under the supervision of the juvenile court and whose

2410 supervision is extended to complete service hours under Subsection (6)(c)(iv), jurisdiction may
 2411 only be continued under the supervision of intake probation.

2412 (ii) For a minor who is under the jurisdiction of the Youth Parole Authority whose
 2413 supervision is extended to complete service hours under Subsection (6)(c)(iv), jurisdiction may
 2414 only be continued on parole and not in secure confinement.

2415 (h) In the event of an unauthorized leave lasting more than 24 hours, the supervision
 2416 period shall toll until the minor returns.

2417 (7) Subsection (6) does not apply to any minor adjudicated under this section for:

2418 (a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

2419 (b) Section 76-5-202, attempted aggravated murder;

2420 (c) Section 76-5-203, murder or attempted murder;

2421 (d) Section 76-5-302, aggravated kidnapping;

2422 (e) Section 76-5-405, aggravated sexual assault;

2423 (f) a felony violation of Section 76-6-103, aggravated arson;

2424 (g) Section 76-6-203, aggravated burglary;

2425 (h) Section 76-6-302, aggravated robbery;

2426 (i) Section 76-10-508.1, felony discharge of a firearm; or

2427 (j) an offense other than those listed in Subsections (7)(a) through (i) involving the use
 2428 of a dangerous weapon, as defined in Section 76-1-601, that is a felony, and the minor has been
 2429 previously adjudicated or convicted of an offense involving the use of a dangerous weapon.

2430 Section 20. Section 78A-6-307 is amended to read:

2431 **78A-6-307. Shelter hearing -- Placement -- DCFS custody.**

2432 (1) As used in this section:

2433 (a) "Friend" means an adult the child knows and is comfortable with but who is not a
 2434 natural parent or relative.

2435 (b) (i) "Natural parent," notwithstanding the provisions of Section 78A-6-105, means:

2436 (A) a biological or adoptive mother;

2437 (B) an adoptive father; or

2438 (C) a biological father who:
2439 (I) was married to the child's biological mother at the time the child was conceived or
2440 born; or
2441 (II) has strictly complied with the provisions of Sections 78B-6-120 through
2442 78B-6-122, prior to removal of the child or voluntary surrender of the child by the custodial
2443 parent.
2444 (ii) The definition of "natural parent" described in Subsection (1)(b)(i) applies
2445 regardless of whether the child has been or will be placed with adoptive parents or whether
2446 adoption has been or will be considered as a long-term goal for the child.
2447 (c) "Relative" means:
2448 (i) an adult who is a grandparent, great grandparent, aunt, great aunt, uncle, great uncle,
2449 brother-in-law, sister-in-law, stepparent, first cousin, stepsibling, sibling of a child, or a first
2450 cousin of the child's parent;
2451 (ii) an adult who is an adoptive parent of the child's sibling; or
2452 (iii) in the case of a child defined as an "Indian" under the Indian Child Welfare Act, 25
2453 U.S.C. Sec. 1903, "relative" also means an "extended family member" as defined by that
2454 statute.
2455 (2) (a) At the shelter hearing, when the court orders that a child be removed from the
2456 custody of the child's parent in accordance with the requirements of Section 78A-6-306, the
2457 court shall first determine whether there is another natural parent with whom the child was not
2458 residing at the time the events or conditions that brought the child within the court's jurisdiction
2459 occurred, who desires to assume custody of the child.
2460 (b) If another natural parent requests custody under Subsection (2)(a), the court shall
2461 place the child with that parent unless it finds that the placement would be unsafe or otherwise
2462 detrimental to the child.
2463 (c) The provisions of this Subsection (2) are limited by the provisions of Subsection
2464 (18)(b).
2465 (d) (i) The court shall make a specific finding regarding the fitness of the parent

2466 described in Subsection (2)(b) to assume custody, and the safety and appropriateness of the
2467 placement.

2468 (ii) The court shall, at a minimum, order the division to visit the parent's home, comply
2469 with the criminal background check provisions described in Section 78A-6-308, and check the
2470 division's management information system for any previous reports of abuse or neglect
2471 received by the division regarding the parent at issue.

2472 (iii) The court may order the division to conduct any further investigation regarding the
2473 safety and appropriateness of the placement.

2474 (iv) The division shall report its findings in writing to the court.

2475 (v) The court may place the child in the temporary custody of the division, pending its
2476 determination regarding that placement.

2477 (3) If the court orders placement with a parent under Subsection (2):

2478 (a) the child and the parent are under the continuing jurisdiction of the court;

2479 (b) the court may order:

2480 (i) that the parent assume custody subject to the supervision of the court; and

2481 (ii) that services be provided to the parent from whose custody the child was removed,
2482 the parent who has assumed custody, or both; and

2483 (c) the court shall order reasonable parent-time with the parent from whose custody the
2484 child was removed, unless parent-time is not in the best interest of the child.

2485 (4) The court shall periodically review an order described in Subsection (3) to
2486 determine whether:

2487 (a) placement with the parent continues to be in the child's best interest;

2488 (b) the child should be returned to the original custodial parent;

2489 (c) the child should be placed in the custody of a relative, pursuant to Subsections (7)
2490 through (12); or

2491 (d) the child should be placed in the custody of the division.

2492 (5) The time limitations described in Section 78A-6-312 with regard to reunification
2493 efforts, apply to children placed with a previously noncustodial parent in accordance with

2494 Subsection (2).

2495 (6) Legal custody of the child is not affected by an order entered under Subsection (2)
2496 or (3). In order to affect a previous court order regarding legal custody, the party must petition
2497 that court for modification of the order.

2498 (7) If, at the time of the shelter hearing, a child is removed from the custody of the
2499 child's parent and is not placed in the custody of the child's other parent, the court:

2500 (a) shall, at that time, determine whether, subject to Subsections (18)(c) through (e),
2501 there is a relative of the child or a friend of a parent of the child who is able and willing to care
2502 for the child;

2503 (b) may order the division to conduct a reasonable search to determine whether, subject
2504 to Subsections (18)(c) through (e), there are relatives of the child or friends of a parent of the
2505 child who are willing and appropriate, in accordance with the requirements of this part and
2506 Title 62A, Chapter 4a, Part 2, Child Welfare Services, for placement of the child;

2507 (c) shall order the parents to cooperate with the division, within five working days, to,
2508 subject to Subsections (18)(c) through (e), provide information regarding relatives of the child
2509 or friends who may be able and willing to care for the child; and

2510 (d) may order that the child be placed in the custody of the division pending the
2511 determination under Subsection (7)(a).

2512 (8) This section may not be construed as a guarantee that an identified relative or friend
2513 will receive custody of the child.

2514 (9) Subject to Subsections (18)(c) through (e), preferential consideration shall be given
2515 to a relative's or a friend's request for placement of the child, if it is in the best interest of the
2516 child, and the provisions of this section are satisfied.

2517 (10) (a) If a willing relative or friend is identified under Subsection (7)(a), the court
2518 shall make a specific finding regarding:

2519 (i) the fitness of that relative or friend as a placement for the child; and

2520 (ii) the safety and appropriateness of placement with that relative or friend.

2521 (b) In order to be considered a "willing relative or friend" under this section, the

2522 relative or friend shall be willing to cooperate with the child's permanency goal.

2523 (11) (a) In making the finding described in Subsection (10)(a), the court shall, at a
2524 minimum, order the division to:

2525 (i) if the child may be placed with a relative of the child, conduct a background check
2526 that includes:

2527 (A) completion of a nonfingerprint-based, Utah Bureau of Criminal Identification
2528 background check of the relative;

2529 (B) a completed search, relating to the relative, of the Management Information System
2530 described in Section 62A-4a-1003; and

2531 (C) a background check that complies with the criminal background check provisions
2532 described in Section 78A-6-308, of each nonrelative, as defined in Subsection
2533 62A-4a-209(1)(b), of the child who resides in the household where the child may be placed;

2534 (ii) if the child will be placed with a noncustodial parent of the child, complete a
2535 background check that includes:

2536 (A) the background check requirements applicable to an emergency placement with a
2537 noncustodial parent that are described in Subsections 62A-4a-209(5) and (7);

2538 (B) a completed search, relating to the noncustodial parent of the child, of the
2539 Management Information System described in Section 62A-4a-1003; and

2540 (C) a background check that complies with the criminal background check provisions
2541 described in Section 78A-6-308, of each nonrelative, as defined in Subsection
2542 62A-4a-209(1)(b), of the child who resides in the household where the child may be placed;

2543 (iii) if the child may be placed with an individual other than a noncustodial parent or a
2544 relative of the child, conduct a criminal background check of the individual, and each adult that
2545 resides in the household where the child may be placed, that complies with the criminal
2546 background check provisions described in Section 78A-6-308;

2547 (iv) visit the relative's or friend's home;

2548 (v) check the division's management information system for any previous reports of
2549 abuse or neglect regarding the relative or friend at issue;

- 2550 (vi) report the division's findings in writing to the court; and
- 2551 (vii) provide sufficient information so that the court may determine whether:
- 2552 (A) the relative or friend has any history of abusive or neglectful behavior toward other
- 2553 children that may indicate or present a danger to this child;
- 2554 (B) the child is comfortable with the relative or friend;
- 2555 (C) the relative or friend recognizes the parent's history of abuse and is committed to
- 2556 protect the child;
- 2557 (D) the relative or friend is strong enough to resist inappropriate requests by the parent
- 2558 for access to the child, in accordance with court orders;
- 2559 (E) the relative or friend is committed to caring for the child as long as necessary; and
- 2560 (F) the relative or friend can provide a secure and stable environment for the child.
- 2561 (b) The division may determine to conduct, or the court may order the division to
- 2562 conduct, any further investigation regarding the safety and appropriateness of the placement.
- 2563 (c) The division shall complete and file its assessment regarding placement with a
- 2564 relative or friend as soon as practicable, in an effort to facilitate placement of the child with a
- 2565 relative or friend.
- 2566 (12) (a) The court may place a child described in Subsection (2)(a) in the temporary
- 2567 custody of the division, pending the division's investigation pursuant to Subsections (10) and
- 2568 (11), and the court's determination regarding the appropriateness of that placement.
- 2569 (b) The court shall ultimately base its determination regarding the appropriateness of a
- 2570 placement with a relative or friend on the best interest of the child.
- 2571 (13) When [~~the court awards custody and guardianship of a child with a relative or~~
- 2572 ~~friend~~] a court places a child described in Subsection (7) in the custody of the child's relative or
- 2573 friend:
- 2574 (a) the court [~~shall order that~~]:
- 2575 (i) shall order the relative or friend assume custody, subject to the continuing
- 2576 supervision of the court; and
- 2577 (ii) [~~any necessary services be provided to the child and the relative or friend~~] may

2578 order the division provide necessary services to the child and the child's relative or friend,
2579 including the monitoring of the child's safety and well-being;

2580 (b) the child and [any] the relative or friend [with whom] in whose custody the child is
2581 placed are under the continuing jurisdiction of the court;

2582 (c) the court may enter any order that it considers necessary for the protection and best
2583 interest of the child;

2584 (d) the court shall provide for reasonable parent-time with the parent or parents from
2585 whose custody the child was removed, unless parent-time is not in the best interest of the child;
2586 and

2587 (e) the court shall conduct a periodic review no less often than every six months, to
2588 determine whether:

2589 (i) placement with the relative or friend continues to be in the child's best interest;

2590 (ii) the child should be returned home; or

2591 (iii) the child should be placed in the custody of the division.

2592 (14) No later than 12 months after placement with a relative or friend, the court shall
2593 schedule a hearing for the purpose of entering a permanent order in accordance with the best
2594 interest of the child.

2595 (15) The time limitations described in Section 78A-6-312, with regard to reunification
2596 efforts, apply to children placed with a relative or friend pursuant to Subsection (7).

2597 (16) (a) If the court awards custody of a child to the division, and the division places
2598 the child with a relative, the division shall:

2599 (i) conduct a criminal background check of the relative that complies with the criminal
2600 background check provisions described in Section 78A-6-308; and

2601 (ii) if the results of the criminal background check described in Subsection (16)(a)(i)
2602 would prohibit the relative from having direct access to the child under Section 62A-2-120, the
2603 division shall:

2604 (A) take the child into physical custody; and

2605 (B) within three days, excluding weekends and holidays, after taking the child into

2606 physical custody under Subsection (16)(a)(ii)(A), give written notice to the court, and all
2607 parties to the proceedings, of the division's action.

2608 (b) Nothing in Subsection (16)(a) prohibits the division from placing a child with a
2609 relative, pending the results of the background check described in Subsection (16)(a) on the
2610 relative.

2611 (17) When the court orders that a child be removed from the custody of the child's
2612 parent and does not award custody and guardianship to another parent, relative, or friend under
2613 this section, the court shall order that the child be placed in the temporary custody of the
2614 Division of Child and Family Services, to proceed to adjudication and disposition and to be
2615 provided with care and services in accordance with this chapter and Title 62A, Chapter 4a,
2616 Child and Family Services.

2617 (18) (a) Any preferential consideration that a relative or friend is initially granted
2618 pursuant to Subsection (9) expires 120 days from the date of the shelter hearing. After that
2619 time period has expired, a relative or friend who has not obtained custody or asserted an
2620 interest in a child, may not be granted preferential consideration by the division or the court.

2621 (b) When the time period described in Subsection (18)(a) has expired, the preferential
2622 consideration, which is initially granted to a natural parent in accordance with Subsection (2),
2623 is limited. After that time the court shall base its custody decision on the best interest of the
2624 child.

2625 (c) Prior to the expiration of the 120-day period described in Subsection (18)(a), the
2626 following order of preference shall be applied when determining the person with whom a child
2627 will be placed, provided that the person is willing, and has the ability, to care for the child:

2628 (i) a noncustodial parent of the child;

2629 (ii) a relative of the child;

2630 (iii) subject to Subsection (18)(d), a friend of a parent of the child, if the friend is a
2631 licensed foster parent; and

2632 (iv) other placements that are consistent with the requirements of law.

2633 (d) In determining whether a friend is a willing and appropriate placement for a child,

2634 neither the court, nor the division, is required to consider more than one friend designated by
2635 each parent of the child.

2636 (e) If a parent of the child is not able to designate a friend who is a licensed foster
2637 parent for placement of the child, but is able to identify a friend who is willing to become
2638 licensed as a foster parent:

2639 (i) the department shall fully cooperate to expedite the licensing process for the friend;
2640 and

2641 (ii) if the friend becomes licensed as a foster parent within the time frame described in
2642 Subsection (18)(a), the court shall determine whether it is in the best interests of the child to
2643 place the child with the friend.

2644 (19) If, following the shelter hearing, the child is placed with a person who is not a
2645 parent of the child, a relative of the child, a friend of a parent of the child, or a former foster
2646 parent of the child, priority shall be given to a foster placement with a man and a woman who
2647 are married to each other, unless it is in the best interests of the child to place the child with a
2648 single foster parent.

2649 (20) In determining the placement of a child, neither the court, nor the division, may
2650 take into account, or discriminate against, the religion of a person with whom the child may be
2651 placed, unless the purpose of taking religion into account is to place the child with a person or
2652 family of the same religion as the child.

2653 Section 21. Section **78A-6-318** is amended to read:

2654 **78A-6-318. Review of foster care removal -- Foster parent's standing.**

2655 (1) With regard to a child in the custody of the Division of Child and Family Services
2656 who is the subject of a petition alleging abuse, neglect, or dependency, and who has been
2657 placed in foster care with a foster family, the Legislature finds that:

2658 (a) except with regard to the child's natural parents, a foster family has a very limited
2659 but recognized interest in its familial relationship with the child; and

2660 (b) children in the custody of the division are experiencing multiple changes in foster
2661 care placements with little or no documentation, and that numerous studies of child growth and

2662 development emphasize the importance of stability in foster care living arrangements.

2663 (2) For the reasons described in Subsection (1), the Legislature finds that, except with
2664 regard to the child's natural parents, procedural due process protections must be provided to a
2665 foster family prior to removal of a foster child from the foster home.

2666 (3) (a) A foster parent who has had a foster child in the foster parent's home for 12
2667 months or longer may petition the juvenile court for a review and determination of the
2668 appropriateness of a decision by the Division of Child and Family Services to remove the child
2669 from the foster home, unless the removal was for the purpose of:

2670 (i) returning the child to the child's natural parent or legal guardian;

2671 (ii) immediately placing the child in an approved adoptive home;

2672 (iii) placing the child with a relative, as defined in Subsection [78A-6-307\(1\)\(~~t~~\)](#), who
2673 obtained custody or asserted an interest in the child within the preference period described in
2674 Subsection [78A-6-307\(18\)\(a\)](#); or

2675 (iv) placing an Indian child in accordance with preplacement preferences and other
2676 requirements described in the Indian Child Welfare Act, 25 U.S.C. Sec. 1915.

2677 (b) The foster parent may petition the court under this section without exhausting
2678 administrative remedies within the division.

2679 (c) The court may order the division to place the child in a specified home, and shall
2680 base its determination on the best interest of the child.

2681 (4) The requirements of this section do not apply to the removal of a child based on a
2682 foster parent's request for that removal.

2683 **Section 22. Effective date.**

2684 This bill takes effect on May 8, 2018, except that the amendments to Sections
2685 [78A-6-113](#) (Effective 07/01/18) and [78A-6-117](#) (Effective 07/01/18) take effect on July 1,
2686 2018.