

Luz Escamilla proposes the following substitute bill:

Child Welfare Modifications

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Luz Escamilla

House Sponsor: Christine F. Watkins

LONG TITLE

General Description:

This bill addresses protective custody warrants and investigative warrants relating to child welfare.

Highlighted Provisions:

This bill:

- ▶ amends provisions regarding the issuance of warrants by a juvenile court;
- ▶ distinguishes between a protective custody warrant and an investigative warrant;
- ▶ authorizes a juvenile court to issue an investigative warrant related to the health, safety, or welfare of a child;
- ▶ states that a peace officer or child welfare caseworker who is executing a protective custody warrant or an investigative warrant may request assistance in executing the warrant;
- ▶ specifies that an investigative warrant does not give a peace officer or child welfare caseworker authority to take a child into protective custody;
- ▶ defines terms; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78A-6-102, as last amended by Laws of Utah 2022, Chapter 335

80-1-102, as last amended by Laws of Utah 2025, Chapter 426

80-2-402, as last amended by Laws of Utah 2025, Chapter 48

29 **80-2a-202**, as last amended by Laws of Utah 2025, Chapter 48
 30 **80-3-204**, as last amended by Laws of Utah 2025, Chapter 426
 31 **80-3-301**, as last amended by Laws of Utah 2025, Chapter 426
 32 **80-3-405**, as last amended by Laws of Utah 2025, Chapter 426

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

35 Section 1. Section **78A-6-102** is amended to read:

36 **78A-6-102 . Establishment of juvenile court -- Organization and status of court --**

37 **Purpose.**

38 (1) There is established a juvenile court for the state.

39 (2)(a) The juvenile court is a court of record.

40 (b) The juvenile court shall have a seal.

41 (c) The juvenile court's judges, clerks, and referees have the power to administer oaths
 42 and affirmations.

43 (d) The juvenile court has the authority to issue [~~search~~]warrants, subpoenas, or
 44 investigative subpoenas under:

45 (i) [~~under Section 80-2a-202,~~]Part 4a, Adult Criminal Proceedings, Title 80, Chapter
 46 3, Abuse, Neglect, and Dependency Proceedings, Title 80, Chapter 4, Termination
 47 and Restoration of Parental Rights, and Title 80, Chapter 6, Juvenile Justice, for
 48 the same purposes and in the same manner as described in Title 77, Utah Code of
 49 Criminal Procedure, and the Utah Rules of Criminal Procedure, for the issuance of
 50 search warrants, subpoenas, or investigative subpoenas in other trial courts in the
 51 state[-] ; and

52 (ii) Section 80-2a-202.

53 (3) The juvenile court is of equal status with the district courts of the state.

54 (4) The juvenile court is established as a forum for the resolution of all matters properly
 55 brought before the juvenile court, consistent with applicable constitutional and statutory
 56 requirements of due process.

57 (5) The purpose of the court under this chapter is to:

58 (a) promote public safety and individual accountability by the imposition of appropriate
 59 sanctions on persons who have committed acts in violation of law;

60 (b) order appropriate measures to promote guidance and control, preferably in the
 61 minor's own home, as an aid in the prevention of future unlawful conduct and the
 62 development of responsible citizenship;

- 63 (c) where appropriate, order rehabilitation, reeducation, and treatment for persons who
 64 have committed acts bringing them within the court's jurisdiction;
- 65 (d) adjudicate matters that relate to minors who are beyond parental or adult control and
 66 to establish appropriate authority over these minors by means of placement and
 67 control orders;
- 68 (e) adjudicate matters that relate to abused, neglected, and dependent children and to
 69 provide care and protection for minors by placement, protection, and custody orders;
- 70 (f) remove a minor from parental custody only where the minor's safety or welfare, or
 71 the public safety, may not otherwise be adequately safeguarded; and
- 72 (g) consistent with the ends of justice, act in the best interests of the minor in all cases
 73 and preserve and strengthen family ties.

74 Section 2. Section **80-1-102** is amended to read:

75 **80-1-102 . Juvenile Code definitions.**

76 Except as provided in Section 80-6-1103, as used in this title:

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

- 78 (i)(A) nonaccidental harm of a child;
 79 (B) threatened harm of a child;
 80 (C) sexual exploitation;
 81 (D) sexual abuse; or
 82 (E) human trafficking of a child in violation of Section 76-5-308.5; or
- 83 (ii) that a child's parent:
 84 (A) intentionally, knowingly, or recklessly causes the death of another parent of
 85 the child;
 86 (B) is identified by a law enforcement agency as the primary suspect in an
 87 investigation for intentionally, knowingly, or recklessly causing the death of
 88 another parent of the child; or
 89 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or
 90 recklessly causing the death of another parent of the child.

91 (b) "Abuse" does not include:

- 92 (i) reasonable discipline or management of a child, including withholding privileges;
 93 (ii) conduct described in Section 76-2-401; or
 94 (iii) the use of reasonable and necessary physical restraint or force on a child:
 95 (A) in self-defense;
 96 (B) in defense of others;

- 97 (C) to protect the child; or
- 98 (D) to remove a weapon in the possession of a child for any of the reasons
- 99 described in Subsections (1)(b)(iii)(A) through (C).
- 100 (2) "Abused child" means a child who has been subjected to abuse.
- 101 (3)(a) "Adjudication" means, except as provided in Subsection (3)(b):
- 102 (i) for a delinquency petition or criminal information under Chapter 6, Juvenile
- 103 Justice:
- 104 (A) a finding by the juvenile court that the facts alleged in a delinquency petition
- 105 or criminal information alleging that a minor committed an offense have been
- 106 proved;
- 107 (B) an admission by a minor in the juvenile court as described in Section 80-6-306;
- 108 or
- 109 (C) a plea of no contest by minor in the juvenile court; or
- 110 (ii) for all other proceedings under this title, a finding by the juvenile court that the
- 111 facts alleged in the petition have been proved.
- 112 (b) "Adjudication" does not include:
- 113 (i) an admission by a minor described in Section 80-6-306 until the juvenile court
- 114 enters the minor's admission; or
- 115 (ii) a finding of not competent to proceed in accordance with Section 80-6-402.
- 116 (4)(a) "Adult" means an individual who is 18 years old or older.
- 117 (b) "Adult" does not include an individual:
- 118 (i) who is 18 years old or older; and
- 119 (ii) who is a minor.
- 120 (5) "Attorney guardian ad litem" means the same as that term is defined in Section
- 121 78A-2-801.
- 122 (6) "Board" means the Board of Juvenile Court Judges.
- 123 (7) "Child" means, except as provided in Section 80-2-905, an individual who is under 18
- 124 years old.
- 125 (8) "Child and family plan" means a written agreement between a child's parents or
- 126 guardian and the Division of Child and Family Services as described in Section 80-3-307.
- 127 (9) "Child placing" means the same as that term is defined in Section 26B-2-101.
- 128 (10) "Child-placing agency" means the same as that term is defined in Section 26B-2-101.
- 129 (11) "Child protection team" means a team consisting of:
- 130 (a) the child welfare caseworker assigned to the case;

- 131 (b) if applicable, the child welfare caseworker who made the decision to remove the
132 child;
- 133 (c) a representative of the school or school district where the child attends school;
- 134 (d) if applicable, the law enforcement officer who removed the child from the home;
- 135 (e) a representative of the appropriate Children's Justice Center, if one is established
136 within the county where the child resides;
- 137 (f) if appropriate, and known to the division, a therapist or counselor who is familiar
138 with the child's circumstances;
- 139 (g) if appropriate, a representative of law enforcement selected by the chief of police or
140 sheriff in the city or county where the child resides; and
- 141 (h) any other individuals determined appropriate and necessary by the team coordinator
142 and chair.
- 143 (12)(a) "Chronic abuse" means repeated or patterned abuse.
- 144 (b) "Chronic abuse" does not mean an isolated incident of abuse.
- 145 (13)(a) "Chronic neglect" means repeated or patterned neglect.
- 146 (b) "Chronic neglect" does not mean an isolated incident of neglect.
- 147 (14) "Clandestine laboratory operation" means the same as that term is defined in Section
148 58-37d-3.
- 149 (15) "Commit" or "committed" means, unless specified otherwise:
- 150 (a) with respect to a child, to transfer legal custody; and
- 151 (b) with respect to a minor who is at least 18 years old, to transfer custody.
- 152 (16) "Community-based program" means a nonsecure residential or nonresidential program,
153 designated to supervise and rehabilitate juvenile offenders, that prioritizes the least
154 restrictive setting, consistent with public safety, and operated by or under contract with
155 the Division of Juvenile Justice and Youth Services.
- 156 (17) "Community placement" means placement of a minor in a community-based program
157 described in Section 80-5-402.
- 158 (18) "Correctional facility" means:
- 159 (a) a county jail; or
- 160 (b) a secure correctional facility as defined in Section 64-13-1.
- 161 (19) "Credible threat" means a threat supported by specific and articulated facts, known to
162 the petitioner at the time the warrant is sought, that would lead a reasonable person to
163 conclude that a child faces a current or ongoing risk of harm, as that term is defined in
164 Subsection (39).

- 165 [~~(19)~~] (20) "Criminogenic risk factors" means evidence-based factors that are associated
166 with a minor's likelihood of reoffending.
- 167 [~~(20)~~] (21) "Department" means the Department of Health and Human Services created in
168 Section 26B-1-201.
- 169 [~~(21)~~] (22) "Dependent child" or "dependency" means a child who is without proper care
170 through no fault of the child's parent, guardian, or custodian.
- 171 [~~(22)~~] (23) "Deprivation of custody" means transfer of legal custody by the juvenile court
172 from a parent or a previous custodian to another person, agency, or institution.
- 173 [~~(23)~~] (24) "Detention" means home detention or secure detention.
- 174 [~~(24)~~] (25) "Detention facility" means a facility, established by the Division of Juvenile
175 Justice and Youth Services in accordance with Section 80-5-501, for minors held in
176 detention.
- 177 [~~(25)~~] (26) "Detention risk assessment tool" means an evidence-based tool established under
178 Section 80-5-203 that:
- 179 (a) assesses a minor's risk of failing to appear in court or reoffending before
180 adjudication; and
- 181 (b) is designed to assist in making a determination of whether a minor shall be held in
182 detention.
- 183 [~~(26)~~] (27) "Developmental immaturity" means incomplete development in one or more
184 domains that manifests as a functional limitation in the minor's present ability to:
- 185 (a) consult with counsel with a reasonable degree of rational understanding; and
186 (b) have a rational as well as factual understanding of the proceedings.
- 187 [~~(27)~~] (28) "Disposition" means an order by a juvenile court, after the adjudication of a
188 minor, under Section 80-3-405 or 80-4-305 or Chapter 6, Part 7, Adjudication and
189 Disposition.
- 190 [~~(28)~~] (29) "Educational neglect" means that, after receiving a notice of compulsory
191 education violation under Section 53G-6-202, the parent or guardian fails to make a
192 good faith effort to ensure that the child receives an appropriate education.
- 193 [~~(29)~~] (30) "Educational series" means an evidence-based instructional series:
- 194 (a) obtained at a substance abuse program that is approved by the Division of Integrated
195 Healthcare in accordance with Section 26B-5-104; and
- 196 (b) designed to prevent substance use or the onset of a mental health disorder.
- 197 [~~(30)~~] (31) "Emancipated" means the same as that term is defined in Section 80-7-102.
- 198 [~~(31)~~] (32) "Evidence-based" means a program or practice that has had multiple randomized

199 control studies or a meta-analysis demonstrating that the program or practice is effective
200 for a specific population or has been rated as effective by a standardized program
201 evaluation tool.

202 [~~(32)~~] (33) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.

203 [~~(33)~~] (34) "Formal probation" means a minor is:

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

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

207 [~~(34)~~] (35) "Gender identity" means the same as that term is defined in Section 34A-5-102.

208 [~~(35)~~] (36) "Group rehabilitation therapy" means psychological and social counseling of one
209 or more individuals in the group, depending upon the recommendation of the therapist.

210 [~~(36)~~] (37) "Guardian" means a person appointed by a court to make decisions regarding a
211 minor, including the authority to consent to:

212 (a) marriage;

213 (b) enlistment in the armed forces;

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

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

217 [~~(37)~~] (38) "Guardian ad litem" means the same as that term is defined in Section 78A-2-801.

218 [~~(38)~~] (39) "Harm" means:

219 (a) physical or developmental injury or damage;

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

222 (c) sexual abuse; or

223 (d) sexual exploitation.

224 [~~(39)~~] (40) "Home detention" means placement of a minor:

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

228 (b) if after a disposition, and in accordance with Section 78A-6-353 or 80-6-704, in the
229 minor's home, or in a surrogate home with the consent of the minor's parent,
230 guardian, or custodian, under terms and conditions established by the Division of
231 Juvenile Justice and Youth Services or the juvenile court.

232 [~~(40)~~] (41)(a) "Incest" means engaging in sexual intercourse with an individual whom the

233 perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle,
234 aunt, nephew, niece, or first cousin.

235 (b) "Incest" includes:

236 (i) blood relationships of the whole or half blood, regardless of whether the
237 relationship is legally recognized;

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

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

241 [(41)] (42) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

242 [(42)] (43) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

243 [(43)] (44) "Indigent defense service provider" means the same as that term is defined in
244 Section 78B-22-102.

245 [(44)] (45) "Indigent defense services" means the same as that term is defined in Section
246 78B-22-102.

247 [(45)] (46) "Indigent individual" means the same as that term is defined in Section
248 78B-22-102.

249 [(46)] (47)(a) "Intake probation" means a minor is:

250 (i) monitored by a juvenile probation officer; and

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

252 (b) "Intake probation" does not include formal probation.

253 [(47)] (48) "Intellectual disability" means a significant subaverage general intellectual
254 functioning existing concurrently with deficits in adaptive behavior that constitutes a
255 substantial limitation to the individual's ability to function in society.

256 [(48)] (49) "Juvenile offender" means:

257 (a) a serious youth offender; or

258 (b) a youth offender.

259 [(49)] (50) "Juvenile probation officer" means a probation officer appointed under Section
260 78A-6-205.

261 [(50)] (51) "Juvenile receiving center" means a nonsecure, nonresidential program
262 established by the Division of Juvenile Justice and Youth Services, or under contract
263 with the Division of Juvenile Justice and Youth Services, that is responsible for minors
264 taken into temporary custody under Section 80-6-201.

265 [(51)] (52) "Legal custody" means a relationship embodying:

266 (a) the right to physical custody of the minor;

- 267 (b) the right and duty to protect, train, and discipline the minor;
- 268 (c) the duty to provide the minor with food, clothing, shelter, education, and ordinary
269 medical care;
- 270 (d) the right to determine where and with whom the minor shall live; and
- 271 (e) the right, in an emergency, to authorize surgery or other extraordinary care.
- 272 ~~[(52)]~~ (53) "Licensing Information System" means the Licensing Information System
273 maintained by the Division of Child and Family Services under Section 80-2-1002.
- 274 ~~[(53)]~~ (54) "Management Information System" means the Management Information System
275 developed by the Division of Child and Family Services under Section 80-2-1001.
- 276 ~~[(54)]~~ (55) "Mental illness" means:
- 277 (a) a psychiatric disorder that substantially impairs an individual's mental, emotional,
278 behavioral, or related functioning; or
- 279 (b) the same as that term is defined in:
- 280 (i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders
281 published by the American Psychiatric Association; or
- 282 (ii) the current edition of the International Statistical Classification of Diseases and
283 Related Health Problems.
- 284 ~~[(55)]~~ (56) "Minor" means, except as provided in Sections 80-6-501, 80-6-901, and 80-7-102:
- 285 (a) a child; or
- 286 (b) an individual:
- 287 (i)(A) who is at least 18 years old and younger than 21 years old; and
288 (B) for whom the Division of Child and Family Services has been specifically
289 ordered by the juvenile court to provide services because the individual was an
290 abused, neglected, or dependent child or because the individual was
291 adjudicated for an offense;
- 292 (ii)(A) who is at least 18 years old and younger than 25 years old; and
293 (B) whose case is under the jurisdiction of the juvenile court in accordance with
294 Subsection 78A-6-103(1)(b); or
- 295 (iii)(A) who is at least 18 years old and younger than 21 years old; and
296 (B) whose case is under the jurisdiction of the juvenile court in accordance with
297 Subsection 78A-6-103(1)(c).
- 298 ~~[(56)]~~ (57) "Mobile crisis outreach team" means the same as that term is defined in Section
299 26B-5-101.
- 300 ~~[(57)]~~ (58) "Molestation" means that an individual, with the intent to arouse or gratify the

301 sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of
302 any child, or the breast of a female child, or takes indecent liberties with a child as
303 defined in Section 76-5-401.1.

304 [(58)] (59)(a) "Neglect" means action or inaction causing:

- 305 (i) abandonment of a child, except as provided in Chapter 4, Part 5, Safe
306 Relinquishment of a Newborn Child;
- 307 (ii) lack of proper parental care of a child by reason of the fault or habits of the
308 parent, guardian, or custodian;
- 309 (iii) failure or refusal of a parent, guardian, or custodian to provide proper or
310 necessary subsistence or medical care, or any other care necessary for the child's
311 health, safety, morals, or well-being;
- 312 (iv) a child to be at risk of being neglected or abused because another child in the
313 same home is neglected or abused;
- 314 (v) abandonment of a child through an unregulated child custody transfer under
315 Section 81-14-203; or
- 316 (vi) educational neglect.

317 (b) "Neglect" does not include:

- 318 (i) a parent or guardian legitimately practicing religious beliefs and who, for that
319 reason, does not provide specified medical treatment for a child;
- 320 (ii) a health care decision made for a child by the child's parent or guardian, unless
321 the state or other party to a proceeding shows, by clear and convincing evidence,
322 that the health care decision is not reasonable and informed;
- 323 (iii) a parent or guardian exercising the right described in Section 80-3-304; or
- 324 (iv) permitting a child, whose basic needs are met and who is of sufficient age and
325 maturity to avoid harm or unreasonable risk of harm, to engage in independent
326 activities, including:
 - 327 (A) traveling to and from school, including by walking, running, or bicycling;
 - 328 (B) traveling to and from nearby commercial or recreational facilities;
 - 329 (C) engaging in outdoor play;
 - 330 (D) remaining in a vehicle unattended, except under the conditions described in
331 Subsection 76-5-115(2);
 - 332 (E) remaining at home unattended; or
 - 333 (F) engaging in a similar independent activity.

334 [(59)] (60) "Neglected child" means a child who has been subjected to neglect.

- 335 ~~[(60)]~~ (61) "Nonjudicial adjustment" means closure of the case by the assigned juvenile
336 probation officer, without an adjudication of the minor's case under Section 80-6-701,
337 upon the consent in writing of:
- 338 (a) the assigned juvenile probation officer; and
 - 339 (b)(i) the minor; or
 - 340 (ii) the minor and the minor's parent, guardian, or custodian.
- 341 ~~[(61)]~~ (62) "Not competent to proceed" means that a minor, due to a mental illness,
342 intellectual disability or related condition, or developmental immaturity, lacks the ability
343 to:
- 344 (a) understand the nature of the proceedings against the minor or of the potential
345 disposition for the offense charged; or
 - 346 (b) consult with counsel and participate in the proceedings against the minor with a
347 reasonable degree of rational understanding.
- 348 ~~[(62)]~~ (63)(a) "Parent" means, except as provided in Section 80-3-302, an individual with
349 a parent-child relationship to a minor under Section 81-5-201.
- 350 (b) "Parent" includes the minor's noncustodial parent as defined in Section 81-1-101.
- 351 ~~[(63)]~~ (64) "Parole" means a conditional release of a juvenile offender from residency in
352 secure care to live outside of secure care under the supervision of the Division of
353 Juvenile Justice and Youth Services, or another person designated by the Division of
354 Juvenile Justice and Youth Services.
- 355 ~~[(64)]~~ (65) "Physical abuse" means abuse that results in physical injury or damage to a child.
- 356 ~~[(65)]~~ (66)(a) "Probation" means a legal status created by court order, following an
357 adjudication under Section 80-6-701, whereby the minor is permitted to remain in the
358 minor's home under prescribed conditions.
- 359 (b) "Probation" includes intake probation or formal probation.
- 360 ~~[(66)]~~ (67) "Prosecuting attorney" means:
- 361 (a) the attorney general and any assistant attorney general;
 - 362 (b) any district attorney or deputy district attorney;
 - 363 (c) any county attorney or assistant county attorney; and
 - 364 (d) any other attorney authorized to commence an action on behalf of the state.
- 365 ~~[(67)]~~ (68) "Protective custody" means the shelter of a child by the Division of Child and
366 Family Services from the time the child is removed from the home until the earlier of:
- 367 (a) the day on which the shelter hearing is held under Section 80-3-301; or
 - 368 (b) the day on which the child is returned home.

- 369 [(68)] (69) "Protective services" means expedited services that are provided:
- 370 (a) in response to evidence of neglect, abuse, or dependency of a child;
- 371 (b) to a cohabitant who is neglecting or abusing a child, in order to:
- 372 (i) help the cohabitant develop recognition of the cohabitant's duty of care and of the
- 373 causes of neglect or abuse; and
- 374 (ii) strengthen the cohabitant's ability to provide safe and acceptable care; and
- 375 (c) in cases where the child's welfare is endangered:
- 376 (i) to bring the situation to the attention of the appropriate juvenile court and law
- 377 enforcement agency;
- 378 (ii) to cause a protective order to be issued for the protection of the child, when
- 379 appropriate; and
- 380 (iii) to protect the child from the circumstances that endanger the child's welfare
- 381 including, when appropriate:
- 382 (A) removal from the child's home;
- 383 (B) placement in substitute care; and
- 384 (C) petitioning the court for termination of parental rights.
- 385 [(69)] (70) "Protective supervision" means a legal status created by court order, following an
- 386 adjudication on the ground of abuse, neglect, or dependency, whereby:
- 387 (a) the minor is permitted to remain in the minor's home; and
- 388 (b) supervision and assistance to correct the abuse, neglect, or dependency is provided
- 389 by an agency designated by the juvenile court.
- 390 [(70)] (71)(a) "Related condition" means a condition that:
- 391 (i) is found to be closely related to intellectual disability;
- 392 (ii) results in impairment of general intellectual functioning or adaptive behavior
- 393 similar to that of an intellectually disabled individual;
- 394 (iii) is likely to continue indefinitely; and
- 395 (iv) constitutes a substantial limitation to the individual's ability to function in society.
- 396 (b) "Related condition" does not include mental illness, psychiatric impairment, or
- 397 serious emotional or behavioral disturbance.
- 398 [(71)] (72)(a) "Residual parental rights and duties" means the rights and duties remaining
- 399 with a parent after legal custody or guardianship, or both, have been vested in another
- 400 person or agency, including:
- 401 (i) the responsibility for support;
- 402 (ii) the right to consent to adoption;

- 403 (iii) the right to determine the child's religious affiliation; and
404 (iv) the right to reasonable parent-time unless restricted by the court.
- 405 (b) If no guardian has been appointed, "residual parental rights and duties" includes the
406 right to consent to:
- 407 (i) marriage;
408 (ii) enlistment; and
409 (iii) major medical, surgical, or psychiatric treatment.
- 410 ~~[(72)]~~ (73) "Runaway" means a child, other than an emancipated child, who willfully leaves
411 the home of the child's parent or guardian, or the lawfully prescribed residence of the
412 child, without permission.
- 413 ~~[(73)]~~ (74) "Secure care" means placement of a minor, who is committed to the Division of
414 Juvenile Justice and Youth Services for rehabilitation, in a facility operated by, or under
415 contract with, the Division of Juvenile Justice and Youth Services, that provides 24-hour
416 supervision and confinement of the minor.
- 417 ~~[(74)]~~ (75) "Secure care facility" means a facility, established in accordance with Section
418 80-5-503, for juvenile offenders in secure care.
- 419 ~~[(75)]~~ (76) "Secure detention" means temporary care of a minor who requires secure custody
420 in a physically restricting facility operated by, or under contract with, the Division of
421 Juvenile Justice and Youth Services:
- 422 (a) before disposition of an offense that is alleged to have been committed by the minor;
423 or
424 (b) under Section 80-6-704.
- 425 ~~[(76)]~~ (77) "Serious youth offender" means an individual who:
- 426 (a) is at least 14 years old, but under 25 years old;
427 (b) committed a felony listed in Subsection 80-6-503(1) and the continuing jurisdiction
428 of the juvenile court was extended over the individual's case until the individual was
429 25 years old in accordance with Section 80-6-605; and
430 (c) is committed by the juvenile court to the Division of Juvenile Justice and Youth
431 Services for secure care under Sections 80-6-703 and 80-6-705.
- 432 ~~[(77)]~~ (78) "Severe abuse" means abuse that causes or threatens to cause serious harm to a
433 child.
- 434 ~~[(78)]~~ (79) "Severe neglect" means neglect that causes or threatens to cause serious harm to
435 a child.
- 436 ~~[(79)]~~ (80)(a) "Severe type of child abuse or neglect" means, except as provided in

- 437 Subsection [~~(79)(b)~~] (80)(b):
- 438 (i) if committed by an individual who is 18 years old or older:
- 439 (A) chronic abuse;
- 440 (B) severe abuse;
- 441 (C) sexual abuse;
- 442 (D) sexual exploitation;
- 443 (E) abandonment;
- 444 (F) chronic neglect; or
- 445 (G) severe neglect; or
- 446 (ii) if committed by an individual who is under 18 years old:
- 447 (A) causing serious injury, as defined in Subsection 76-5-109(1), to another child
- 448 that indicates a significant risk to other children; or
- 449 (B) sexual behavior with or upon another child that indicates a significant risk to
- 450 other children.
- 451 (b) "Severe type of child abuse or neglect" does not include:
- 452 (i) the use of reasonable and necessary physical restraint by an educator in
- 453 accordance with Section 53G-8-301 or Section 76-2-401;
- 454 (ii) an individual's conduct that is justified under Section 76-2-401 or constitutes the
- 455 use of reasonable and necessary physical restraint or force in self-defense or
- 456 otherwise appropriate to the circumstances to obtain possession of a weapon or
- 457 other dangerous object in the possession or under the control of a child or to
- 458 protect the child or another individual from physical injury; or
- 459 (iii) a health care decision made for a child by a child's parent or guardian, unless,
- 460 subject to Subsection [~~(79)(e)~~] (80)(c), the state or other party to the proceeding
- 461 shows, by clear and convincing evidence, that the health care decision is not
- 462 reasonable and informed.
- 463 (c) Subsection [~~(79)(b)(iii)~~] (80)(b)(iii) does not prohibit a parent or guardian from
- 464 exercising the right to obtain a second health care opinion.
- 465 [~~(80)~~] (81)(a) "Sexual abuse" means:
- 466 (i) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an
- 467 adult directed towards a child;
- 468 (ii) an act or attempted act of sexual intercourse, sodomy, incest, or molestation
- 469 committed by a child towards another child if:
- 470 (A) there is an indication of force or coercion;

- 471 (B) the children are related, as described in Subsection [~~(40)~~] (41), including
 472 siblings by marriage while the marriage exists or by adoption; or
 473 (C) the act or attempted act constitutes unlawful sexual activity as described in
 474 Section 76-5-401.3.
- 475 (iii) engaging in any conduct with a child that would constitute an offense under any
 476 of the following, regardless of whether the individual who engages in the conduct
 477 is actually charged with, or convicted of, the offense:
- 478 (A) Title 76, Chapter 5, Part 4, Sexual Offenses;
 479 (B) child bigamy, Section 76-7-101.5;
 480 (C) incest, Section 76-7-102;
 481 (D) voyeurism, Section 76-12-306;
 482 (E) recorded or photographed voyeurism, Section 76-12-307; or
 483 (F) distribution of images obtained through voyeurism, Section 76-12-308; or
- 484 (iv) subjecting a child to participate in or threatening to subject a child to participate
 485 in a sexual relationship, regardless of whether that sexual relationship is part of a
 486 legal or cultural marriage.
- 487 (b) "Sexual abuse" does not include engaging in any conduct with a child that would
 488 constitute an offense described in:
- 489 (i) Section 76-5-401, unlawful sexual activity with a minor, if the alleged perpetrator
 490 of the offense is a minor; or
 491 (ii) Section 76-5-417, enticing a minor.
- 492 [~~(81)~~] (82) "Sexual exploitation" means knowingly:
- 493 (a) employing, using, persuading, inducing, enticing, or coercing any child to:
 494 (i) pose in the nude for the purpose of sexual arousal of any individual; or
 495 (ii) engage in any sexual or simulated sexual conduct for the purpose of
 496 photographing, filming, recording, or displaying in any way the sexual or
 497 simulated sexual conduct;
- 498 (b) displaying, distributing, possessing for the purpose of distribution, or selling material
 499 depicting a child:
 500 (i) in the nude, for the purpose of sexual arousal of any individual; or
 501 (ii) engaging in sexual or simulated sexual conduct; or
- 502 (c) engaging in any conduct that would constitute an offense under Section 76-5b-201,
 503 sexual exploitation of a minor, or Section 76-5b-201.1, aggravated sexual
 504 exploitation of a minor, regardless of whether the individual who engages in the

505 conduct is actually charged with, or convicted of, the offense.

506 [~~(82)~~] (83) "Shelter" means the temporary care of a child in a physically unrestricted facility
507 pending a disposition or transfer to another jurisdiction.

508 [~~(83)~~] (84) "Shelter facility" means a nonsecure facility that provides shelter for a minor.

509 [~~(84)~~] (85) "Significant risk" means a risk of harm that is determined to be significant in
510 accordance with risk assessment tools and rules established by the Division of Child and
511 Family Services in accordance with Title 63G, Chapter 3, Utah Administrative
512 Rulemaking Act, that focus on:

513 (a) age;

514 (b) social factors;

515 (c) emotional factors;

516 (d) sexual factors;

517 (e) intellectual factors;

518 (f) family risk factors; and

519 (g) other related considerations.

520 [~~(85)~~] (86) "Single criminal episode" means the same as that term is defined in Section
521 76-1-401.

522 [~~(86)~~] (87) "Status offense" means an offense that would not be an offense but for the age of
523 the offender.

524 [~~(87)~~] (88) "Substance abuse" means, except as provided in Section 80-2-603, the misuse or
525 excessive use of alcohol or other drugs or substances.

526 [~~(88)~~] (89) "Substantiated" or "substantiation" means a judicial finding based on a
527 preponderance of the evidence, and separate consideration of each allegation made or
528 identified in the case, that abuse, neglect, or dependency occurred.

529 [~~(89)~~] (90) "Substitute care" means:

530 (a) the placement of a minor in a family home, group care facility, or other placement
531 outside the minor's own home, either at the request of a parent or other responsible
532 relative, or upon court order, when it is determined that continuation of care in the
533 minor's own home would be contrary to the minor's welfare;

534 (b) services provided for a minor in the protective custody of the Division of Child and
535 Family Services, or a minor in the temporary custody or custody of the Division of
536 Child and Family Services, as those terms are defined in Section 80-2-102; or

537 (c) the licensing and supervision of a substitute care facility.

538 [~~(90)~~] (91) "Supported" means a finding by the Division of Child and Family Services based

539 on the evidence available at the completion of an investigation, and separate
540 consideration of each allegation made or identified during the investigation, that there is
541 a reasonable basis to conclude that abuse, neglect, or dependency occurred.

542 [(91)] (92) "Termination of parental rights" means the permanent elimination of all parental
543 rights and duties, including residual parental rights and duties, by court order.

544 [(92)] (93) "Therapist" means:

545 (a) an individual employed by a state division or agency for the purpose of conducting
546 psychological treatment and counseling of a minor in the division's or agency's
547 custody; or

548 (b) any other individual licensed or approved by the state for the purpose of conducting
549 psychological treatment and counseling.

550 [(93)] (94) "Threatened harm" means actions, inactions, or credible verbal threats, indicating
551 that the child is at an unreasonable risk of harm or neglect.

552 [(94)] (95) "Torture" means:

553 (a) the infliction of a serious injury upon a child in an exceptionally cruel or
554 exceptionally depraved manner that causes the child to experience extreme physical
555 or psychological pain or anguish; or

556 (b) the infliction of a serious injury, or more than one serious injury, upon a child as part
557 of a course of conduct or over a prolonged period of time.

558 [(95)] (96) "Ungovernable" means a child in conflict with a parent or guardian, and the
559 conflict:

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

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

563 (c) results in the situations described in Subsections [(95)(a)] (96)(a) and (b).

564 [(96)] (97) "Unsubstantiated" means a judicial finding that there is insufficient evidence to
565 conclude that abuse, neglect, or dependency occurred.

566 [(97)] (98) "Unsupported" means a finding by the Division of Child and Family Services at
567 the completion of an investigation, after the day on which the Division of Child and
568 Family Services concludes the alleged abuse, neglect, or dependency is not without
569 merit, that there is insufficient evidence to conclude that abuse, neglect, or dependency
570 occurred.

571 [(98)] (99) "Validated risk and needs assessment" means an evidence-based tool that
572 assesses a minor's risk of reoffending and a minor's criminogenic needs.

573 [(99)] (100) "Without merit" means a finding at the completion of an investigation by the
574 Division of Child and Family Services, or a judicial finding, that the alleged abuse,
575 neglect, or dependency did not occur, or that the alleged perpetrator was not responsible
576 for the abuse, neglect, or dependency.

577 [(100)] (101) "Youth offender" means an individual who is:

- 578 (a) at least 12 years old, but under 21 years old; and
- 579 (b) committed by the juvenile court to the Division of Juvenile Justice and Youth
580 Services for secure care under Sections 80-6-703 and 80-6-705.

581 Section 3. Section **80-2-402** is amended to read:

582 **80-2-402 . Child welfare training coordinator -- Mandatory education and**
583 **training of child welfare caseworkers -- Development of curriculum.**

- 584 (1) There is created within the division a full-time position of a child welfare training
585 coordinator.
- 586 (2) The child welfare training coordinator is not responsible for direct casework services or
587 the supervision of casework services, but is required to:
 - 588 (a) develop child welfare curriculum that:
 - 589 (i) is current and effective, consistent with the division's mission and purpose for
590 child welfare; and
 - 591 (ii) utilizes curriculum and resources from a variety of sources including those from:
 - 592 (A) the public sector;
 - 593 (B) the private sector; and
 - 594 (C) inside and outside of the state;
 - 595 (b) recruit, select, and supervise child welfare trainers;
 - 596 (c) develop a statewide training program, including a budget and identification of
597 sources of funding to support that training;
 - 598 (d) evaluate the efficacy of training in improving job performance;
 - 599 (e) assist child protective services and foster care workers in developing and fulfilling
600 their individual training plans;
 - 601 (f) monitor staff compliance with division training requirements and individual training
602 plans; and
 - 603 (g) expand the collaboration between the division and schools of social work within
604 institutions of higher education in developing child welfare services curriculum, and
605 in providing and evaluating training.
- 606 (3) The director shall, with the assistance of the child welfare training coordinator, establish

- 607 and ensure child welfare caseworker competency regarding a core curriculum for child
608 welfare services that:
- 609 (a) is driven by child safety and family well-being;
 - 610 (b) emphasizes child and family voice;
 - 611 (c) is based on a policy, procedure, program, or practice that demonstrates an ability to
612 minimize retraumatization associated with the criminal and juvenile justice system;
613 and
 - 614 (d) is consistent with national child welfare practice standards.
- 615 (4) A child welfare caseworker shall complete training in:
- 616 (a) the legal duties of a child welfare caseworker;
 - 617 (b) the responsibility of a child welfare caseworker to protect the safety and legal rights
618 of children, parents, and families at all stages of a case, including:
 - 619 (i) initial contact;
 - 620 (ii) safety and risk assessment, as described in Section 80-2-403; and
 - 621 (iii) intervention;
 - 622 (c) recognizing situations involving:
 - 623 (i) substance abuse;
 - 624 (ii) domestic violence;
 - 625 (iii) abuse; and
 - 626 (iv) neglect; and
 - 627 (d) the relationship of the Fourth and Fourteenth Amendments of the Constitution of the
628 United States to the child welfare caseworker's job, including:
 - 629 (i) search and seizure of evidence;
 - 630 (ii) the warrant requirement;
 - 631 (iii) exceptions to the warrant requirement; and
 - 632 (iv) removing a child from the custody of the child's parent or guardian.
- 633 (5) The division shall train the division's child welfare caseworkers to:
- 634 (a) apply the risk assessment tools and rules described in Subsection [80-1-102(84)]
635 80-1-102(85); and
 - 636 (b) develop child and family plans that comply with:
 - 637 (i) federal mandates; and
 - 638 (ii) the specific needs of the child and the child's family.
- 639 (6) The division shall use the training of child welfare caseworkers to emphasize:
- 640 (a) the importance of maintaining the parent-child relationship;

- 641 (b) the preference for providing in-home services over taking a child into protective
642 custody, both for the emotional well-being of the child and the efficient allocation of
643 resources; and
- 644 (c) the importance and priority of:
- 645 (i) kinship placement in the event a child must be taken into protective custody; and
646 (ii) guardianship placement, in the event the parent-child relationship is legally
647 terminated and no appropriate adoptive placement is available.

- 648 (7) If a child welfare caseworker is hired, before assuming independent casework
649 responsibilities, the division shall ensure that the child welfare caseworker has:
- 650 (a) completed the training described in Subsections (4), (5), and (6); and
651 (b) participated in sufficient skills development for a child welfare caseworker.

652 Section 4. Section **80-2a-202** is amended to read:

653 **80-2a-202 . Removal of a child by a peace officer or child welfare caseworker --**
654 **Protective custody warrants and investigative warrants -- Protective custody and**
655 **temporary care of a child.**

- 656 (1) A peace officer or child welfare caseworker may remove a child or take a child into
657 protective custody, temporary custody, or custody in accordance with this section.
- 658 (2)(a) Except as provided in Subsection (2)(b), a peace officer or a child welfare
659 caseworker may not enter the home of a child whose case is not under the jurisdiction
660 of the juvenile court, remove a child from the child's home or school, or take a child
661 into protective custody unless:
- 662 (i) there exist exigent circumstances sufficient to relieve the peace officer or the child
663 welfare caseworker of the requirement to obtain a~~[-search]~~ protective custody
664 warrant under Subsection (3);
- 665 (ii) the peace officer or child welfare caseworker obtains a~~[-search]~~ protective
666 custody warrant under Subsection (3);
- 667 (iii) the peace officer or child welfare caseworker obtains a court order after the
668 child's parent or guardian is given notice and an opportunity to be heard; or
- 669 (iv) the peace officer or child welfare caseworker obtains the consent of the child's
670 parent or guardian.
- 671 (b) A peace officer or a child welfare caseworker may not take action under Subsection
672 (2)(a) solely on the basis of:
- 673 (i) educational neglect, truancy, or failure to comply with a court order to attend
674 school;

- 675 (ii) the possession or use, in accordance with Title 26B, Chapter 4, Part 2,
676 Cannabinoid Research and Medical Cannabis, of cannabis in a medicinal dosage
677 form, a cannabis product in a medicinal dosage form, or a medical cannabis
678 device, as those terms are defined in Section 26B-4-201; or
- 679 (iii) subject to Subsection (2)(c), a parent's agreement or disagreement with a minor
680 child of the couple's:
- 681 (A) assertion that the child's gender identity is different from the child's biological
682 sex;
- 683 (B) practice of having or expressing a different gender identity than the child's
684 biological sex; or
- 685 (C) sexual orientation.
- 686 (c) Subsection (2)(b)(iii) does not preclude a peace officer or a child welfare caseworker
687 from taking action under Subsection (2)(a) if the parent's agreement or disagreement
688 with a minor child as described in Subsection (2)(b)(iii) results in or is related to
689 harm, as that term is defined in Section 80-1-102, to the minor child.
- 690 (3)(a) The juvenile court may issue a protective custody warrant authorizing a peace
691 officer or a child welfare caseworker to search for a child and take the child into
692 protective custody if it appears to the juvenile court upon a verified petition, recorded
693 sworn testimony, or an affidavit sworn to by a peace officer or another individual,
694 and upon the examination of other witnesses if required by the juvenile court, that
695 there is probable cause to believe that:
- 696 (i) there is a threat of substantial harm to the child's health or safety;
- 697 (ii) it is necessary to take the child into protective custody to avoid the harm
698 described in Subsection (3)(a)(i); and
- 699 (iii) it is likely that the child will suffer substantial harm if the child's parent or
700 guardian is given notice and an opportunity to be heard before the child is taken
701 into protective custody.
- 702 (b) The juvenile court may issue an investigative warrant authorizing a peace officer or a
703 child welfare caseworker to view a child, view a child's home environment, examine
704 a child for signs of abuse or neglect, or interview a child regarding the child's health,
705 safety, or welfare, if it appears to the juvenile court upon a verified petition, recorded
706 sworn testimony, or an affidavit sworn to by a peace officer or child welfare
707 caseworker, and upon the examination of other witnesses if required by the juvenile
708 court, that there is probable cause to believe that:

- 709 (i) there is a credible threat, supported by specific and articulable facts, to the child's
- 710 health, safety, or welfare;
- 711 (ii) it is necessary to view, examine, or interview the child to ensure the child's
- 712 health, safety, or welfare; and
- 713 (iii) the peace officer or child welfare caseworker has made diligent efforts to ensure
- 714 the child's health, safety, or welfare by other legal means but has been unable or
- 715 not permitted to view, examine, or interview the child to ensure the child's health,
- 716 safety, or welfare.

717 ~~[(b)]~~ (c) In accordance with Section 77-23-210, a peace officer [~~making the search under~~

718 ~~Subsection (3)(a)] executing a protective custody warrant under Subsection (3)(a) or~~

719 an investigative warrant under Subsection (3)(b) may enter a house or premises by

720 force, if necessary, in order to [~~remove the child~~] execute the warrant.

721 ~~Ĥ~~ → ~~[(d) A peace officer or a child welfare caseworker who is executing a protective~~

721a ~~custody]~~ ← ~~Ĥ~~

722 ~~Ĥ~~ → ~~[warrant under Subsection (3)(a) or an investigative warrant under Subsection (3)(b)~~

723 ~~]~~ ← ~~Ĥ~~

724 ~~Ĥ~~ → ~~[may request other persons to assist in executing the warrant.]~~

724 ~~[(e)]~~ (d) ← ~~Ĥ~~ Except as described in Subsection (2)(a)(i), an individual that is

724a executing an

725 investigative warrant may not take a child into protective custody unless the

726 individual obtains a protective custody warrant in accordance with Subsection (3)(a).

727 (4)(a) A child welfare caseworker may take action under Subsection (2) accompanied by

728 a peace officer or without a peace officer if a peace officer is not reasonably available.

729 (b)(i) Before taking a child into protective custody, and if possible and consistent

730 with the child's safety and welfare, a child welfare caseworker shall determine

731 whether there are services available that, if provided to a parent or guardian of the

732 child, would eliminate the need to remove the child from the custody of the child's

733 parent or guardian.

734 (ii) In determining whether the services described in Subsection (4)(b)(i) are

735 reasonably available, the child welfare caseworker shall consider the child's

736 health, safety, and welfare as the paramount concern.

737 (iii) If the child welfare caseworker determines the services described in Subsection

738 (4)(b)(i) are reasonably available, the services shall be utilized.

739 (5)(a) If a peace officer or a child welfare caseworker takes a child into protective

- 740 custody under Subsection (2), the peace officer or child welfare caseworker shall:
- 741 (i) notify the child's parent or guardian in accordance with Section 80-2a-203; and
- 742 (ii) release the child to the care of the child's parent or guardian or another
- 743 responsible adult, unless:
- 744 (A) the child's immediate welfare requires the child remain in protective custody;
- 745 or
- 746 (B) the protection of the community requires the child's detention in accordance
- 747 with Chapter 6, Part 2, Custody and Detention.
- 748 (b)(i) If a peace officer or child welfare caseworker is executing a warrant under
- 749 Subsection (3), the peace officer or child welfare caseworker shall take the child
- 750 to:
- 751 (A) a shelter facility; or
- 752 (B) if the division makes an emergency placement under Section 80-2a-301, the
- 753 emergency placement.
- 754 (ii) If a peace officer or a child welfare caseworker takes a child to a shelter facility
- 755 under Subsection (5)(b)(i), the peace officer or the child welfare caseworker shall
- 756 promptly file a written report that includes the child's information, on a form
- 757 provided by the division, with the shelter facility.
- 758 (c) A child removed or taken into protective custody under this section may not be
- 759 placed or kept in detention pending court proceedings, unless the child may be held
- 760 in detention under Chapter 6, Part 2, Custody and Detention.
- 761 (6)(a) The juvenile court shall issue a warrant authorizing a peace officer or a child
- 762 welfare worker to search for a child who is missing, has been abducted, or has run
- 763 away, and take the child into physical custody if the juvenile court determines that
- 764 the child is missing, has been abducted, or has run away from the protective custody,
- 765 temporary custody, or custody of the division.
- 766 (b) If the juvenile court issues a warrant under Subsection (6)(a):
- 767 (i) the division shall notify the child's parent or guardian who has a right to
- 768 parent-time with the child in accordance with Subsection 80-2a-203(5)(a);
- 769 (ii) the court shall order:
- 770 (A) the law enforcement agency that has jurisdiction over the location from which
- 771 the child ran away to enter a record of the warrant into the National Crime
- 772 Information Center database within 24 hours after the time in which the law
- 773 enforcement agency receives a copy of the warrant; and

774 (B) the division to notify the law enforcement agency described in Subsection
775 (6)(b)(ii)(A) of the order described in Subsection (6)(b)(ii)(A); and
776 (c) the court shall specify the location to which the peace officer or the child welfare
777 caseworker shall transport the child.

778 Section 5. Section **80-3-204** is amended to read:

779 **80-3-204 . Protective custody of a child after a petition is filed -- Grounds.**

- 780 (1) When an abuse, neglect, or dependency petition is filed, the juvenile court shall apply,
781 in addressing the petition, the least restrictive means and alternatives available to
782 accomplish a compelling state interest and to prevent irretrievable destruction of family
783 life as described in Subsections 80-2a-201(1) and (7)(a) and Section 80-4-104.
- 784 (2) After an abuse, neglect, or dependency petition is filed, if the child who is the subject of
785 the petition is not in protective custody, a juvenile court may order that the child be
786 removed from the child's home or otherwise taken into protective custody if the juvenile
787 court finds, by a preponderance of the evidence, that any one or more of the following
788 circumstances exist:
- 789 (a)(i) there is an imminent danger to the physical health or safety of the child; and
790 (ii) the child's physical health or safety may not be protected without removing the
791 child from the custody of the child's parent or guardian;
- 792 (b)(i) a parent or guardian engages in or threatens the child with unreasonable
793 conduct that causes the child to suffer harm; and
794 (ii) there are no less restrictive means available by which the child's emotional health
795 may be protected without removing the child from the custody of the child's
796 parent or guardian;
- 797 (c) the child or another child residing in the same household has been, or is considered
798 to be at substantial risk of being, physically abused, sexually abused, or sexually
799 exploited, by a parent or guardian, a member of the parent's or guardian's household,
800 or other individual known to the parent or guardian;
- 801 (d) the parent or guardian is unwilling to have physical custody of the child;
- 802 (e) the child is abandoned or left without any provision for the child's support;
- 803 (f) a parent or guardian who has been incarcerated or institutionalized has not arranged
804 or cannot arrange for safe and appropriate care for the child;
- 805 (g)(i) a relative or other adult custodian with whom the child is left by the parent or
806 guardian is unwilling or unable to provide care or support for the child;
- 807 (ii) the whereabouts of the parent or guardian are unknown; and

- 808 (iii) reasonable efforts to locate the parent or guardian are unsuccessful;
- 809 (h) subject to Subsection [~~80-1-102(58)(b)~~] 80-1-102(59)(b) and Sections 80-3-109 and
- 810 80-3-304, the child is in immediate need of medical care;
- 811 (i)(i) a parent's or guardian's actions, omissions, or habitual action create an
- 812 environment that poses a serious risk to the child's health or safety for which
- 813 immediate remedial or preventive action is necessary; or
- 814 (ii) a parent's or guardian's action in leaving a child unattended would reasonably
- 815 pose a threat to the child's health or safety;
- 816 (j) the child or another child residing in the same household has been neglected;
- 817 (k) the child's parent:
- 818 (i) intentionally, knowingly, or recklessly causes the death of another parent of the
- 819 child;
- 820 (ii) is identified by a law enforcement agency as the primary suspect in an
- 821 investigation for intentionally, knowingly, or recklessly causing the death of
- 822 another parent of the child; or
- 823 (iii) is being prosecuted for or has been convicted of intentionally, knowingly, or
- 824 recklessly causing the death of another parent of the child;
- 825 (l) an infant is an abandoned infant, as defined in Section 80-4-203;
- 826 (m)(i) the parent or guardian, or an adult residing in the same household as the parent
- 827 or guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine
- 828 Drug Lab Act; and
- 829 (ii) any clandestine laboratory operation was located in the residence or on the
- 830 property where the child resided; or
- 831 (n) the child's welfare is otherwise endangered.
- 832 (3)(a) For purposes of Subsection (2)(a), if a child has previously been adjudicated as
- 833 abused, neglected, or dependent, and a subsequent incident of abuse, neglect, or
- 834 dependency occurs involving the same substantiated abuser or under similar
- 835 circumstance as the previous abuse, that fact is prima facie evidence that the child
- 836 cannot safely remain in the custody of the child's parent.
- 837 (b) For purposes of Subsection (2)(c):
- 838 (i) another child residing in the same household may not be removed from the home
- 839 unless that child is considered to be at substantial risk of being physically abused,
- 840 sexually abused, or sexually exploited as described in Subsection (2)(c) or
- 841 Subsection (3)(b)(ii); and

842 (ii) if a parent or guardian has received actual notice that physical abuse, sexual
843 abuse, or sexual exploitation by an individual known to the parent has occurred,
844 and there is evidence that the parent or guardian failed to protect the child, after
845 having received the notice, by allowing the child to be in the physical presence of
846 the alleged abuser, that fact is prima facie evidence that the child is at substantial
847 risk of being physically abused, sexually abused, or sexually exploited.

848 (4)(a) For purposes of Subsection (2), if the division files an abuse, neglect, or
849 dependency petition, the juvenile court shall consider the division's safety and risk
850 assessments described in Section 80-2-403 to determine whether a child should be
851 removed from the custody of the child's parent or guardian or should otherwise be
852 taken into protective custody.

853 (b) The division shall make a diligent effort to provide the safety and risk assessments
854 described in Section 80-2-403 to the juvenile court, guardian ad litem, and counsel
855 for the parent or guardian, as soon as practicable before the shelter hearing described
856 in Section 80-3-301.

857 (5) In the absence of one of the factors described in Subsection (2), a juvenile court may not
858 remove a child from the parent's or guardian's custody on the basis of:

859 (a) educational neglect, truancy, or failure to comply with a court order to attend school;

860 (b) mental illness or poverty of the parent or guardian;

861 (c) disability of the parent or guardian, as defined in Section 57-21-2; or

862 (d) the possession or use, in accordance with Title 26B, Chapter 4, Part 2, Cannabinoid
863 Research and Medical Cannabis, of cannabis in a medicinal dosage form, a cannabis
864 product in a medicinal dosage form, or a medical cannabis device, as those terms are
865 defined in Section 26B-4-201.

866 (6) A child removed from the custody of the child's parent or guardian under this section
867 may not be placed or kept in detention, unless the child may be admitted to detention
868 under Chapter 6, Part 2, Custody and Detention.

869 (7) This section does not preclude removal of a child from the child's home without a
870 warrant or court order under Section 80-2a-202.

871 (8)(a) Except as provided in Subsection (8)(b), a juvenile court and the division may not
872 remove a child from the custody of the child's parent or guardian on the sole or
873 primary basis that the parent or guardian refuses to consent to:

874 (i) the administration of a psychotropic medication to a child;

875 (ii) a psychiatric, psychological, or behavioral treatment for a child; or

- 876 (iii) a psychiatric or behavioral health evaluation of a child.
- 877 (b) Notwithstanding Subsection (8)(a), a juvenile court or the division may remove a
878 child under conditions that would otherwise be prohibited under Subsection (8)(a) if
879 failure to take an action described under Subsection (8)(a) would present a serious,
880 imminent risk to the child's physical safety or the physical safety of others.

881 Section 6. Section **80-3-301** is amended to read:

882 **80-3-301 . Shelter hearing -- Court considerations.**

- 883 (1) A juvenile court shall hold a shelter hearing to determine the temporary custody of a
884 child within 72 hours, excluding weekends and holidays, after any one or all of the
885 following occur:
- 886 (a) removal of the child from the child's home by the division;
887 (b) placement of the child in protective custody;
888 (c) emergency placement under Subsection 80-2a-202(5);
889 (d) as an alternative to removal of the child, a parent enters a domestic violence shelter
890 at the request of the division; or
891 (e) a motion for expedited placement in temporary custody is filed under Section
892 80-3-203.
- 893 (2) If one of the circumstances described in Subsections (1)(a) through (e) occurs, the
894 division shall issue a notice that contains all of the following:
- 895 (a) the name and address of the individual to whom the notice is directed;
896 (b) the date, time, and place of the shelter hearing;
897 (c) the name of the child on whose behalf an abuse, neglect, or dependency petition is
898 brought;
899 (d) a concise statement regarding:
900 (i) the reasons for removal or other action of the division under Subsection (1); and
901 (ii) the allegations and code sections under which the proceeding is instituted;
902 (e) a statement that the parent or guardian to whom notice is given, and the child, are
903 entitled to have an attorney present at the shelter hearing, and that if the parent or
904 guardian is an indigent individual and cannot afford an attorney, and desires to be
905 represented by an attorney, one will be provided in accordance with Title 78B,
906 Chapter 22, Indigent Defense Act; and
907 (f) a statement that the parent or guardian is liable for the cost of support of the child in
908 the protective custody, temporary custody, and custody of the division, and the cost
909 for legal counsel appointed for the parent or guardian under Subsection (2)(e),

- 910 according to the financial ability of the parent or guardian.
- 911 (3) The notice described in Subsection (2) shall be personally served as soon as possible,
912 but no later than one business day after the day on which the child is removed from the
913 child's home, or the day on which a motion for expedited placement in temporary
914 custody under Section 80-3-203 is filed, on:
- 915 (a) the appropriate guardian ad litem; and
916 (b) both parents and any guardian of the child, unless the parents or guardians cannot be
917 located.
- 918 (4) Notwithstanding Section 80-3-104, the following individuals shall be present at the
919 shelter hearing:
- 920 (a) the child, unless it would be detrimental for the child;
921 (b) the child's parents or guardian, unless the parents or guardian cannot be located, or
922 fail to appear in response to the notice;
923 (c) counsel for the parents, if one is requested;
924 (d) the child's guardian ad litem;
925 (e) the child welfare caseworker from the division who is assigned to the case; and
926 (f) the attorney from the attorney general's office who is representing the division.
- 927 (5)(a) At the shelter hearing, the juvenile court shall:
- 928 (i) provide an opportunity to provide relevant testimony to:
929 (A) the child's parent or guardian, if present; and
930 (B) any other individual with relevant knowledge;
931 (ii) subject to Section 80-3-108, provide an opportunity for the child to testify; and
932 (iii) in accordance with Subsections 80-3-302(7)(c) and (d), grant preferential
933 consideration to a relative or friend for the temporary placement of the child.
- 934 (b) The juvenile court:
- 935 (i) may consider all relevant evidence, in accordance with the Utah Rules of Juvenile
936 Procedure;
937 (ii) shall hear relevant evidence presented by the child, the child's parent or guardian,
938 the requesting party, or the requesting party's counsel, including relevant evidence
939 regarding harm the specific child has suffered or will suffer due to the separation
940 or continued separation from the child's parent or guardian; and
941 (iii) may in the juvenile court's discretion limit testimony and evidence to only that
942 which goes to the issues of removal and the child's need for continued protection.
- 943 (6) If the child is in protective custody, the division shall report to the juvenile court:

- 944 (a) the reason why the child was removed from the parent's or guardian's custody;
945 (b) any services provided to the child and the child's family in an effort to prevent
946 removal;
- 947 (c) the need, if any, for continued shelter;
948 (d) the available services that could facilitate the return of the child to the custody of the
949 child's parent or guardian; and
950 (e) subject to Subsections 80-3-302(7)(c) and (d), whether any relatives of the child or
951 friends of the child's parents may be able and willing to accept temporary placement
952 of the child.
- 953 (7) The juvenile court shall consider all relevant evidence provided by an individual or
954 entity authorized to present relevant evidence under this section.
- 955 (8)(a) If necessary to protect the child, preserve the rights of a party, or for other good
956 cause shown, the juvenile court may grant no more than one continuance, not to
957 exceed five judicial days.
- 958 (b) A juvenile court shall honor, as nearly as practicable, the request by a parent or
959 guardian for a continuance under Subsection (8)(a).
- 960 (c) Notwithstanding Subsection (8)(a), if the division fails to provide the notice
961 described in Subsection (2) within the time described in Subsection (3), the juvenile
962 court may grant the request of a parent or guardian for a continuance, not to exceed
963 five judicial days.
- 964 (9)(a) If the child is in protective custody, the juvenile court shall order that the child be
965 returned to the custody of the parent or guardian unless the juvenile court finds, by a
966 preponderance of the evidence, consistent with the protections and requirements
967 provided in Subsection 80-2a-201(1), that any one of the following exists:
- 968 (i) subject to Subsection (9)(b)(i), there is a serious danger to the physical health or
969 safety of the child and the child's physical health or safety may not be protected
970 without removing the child from the custody of the child's parent;
- 971 (ii)(A) the child is suffering emotional damage that results in a serious impairment
972 in the child's growth, development, behavior, or psychological functioning;
- 973 (B) the parent or guardian is unwilling or unable to make reasonable changes that
974 would sufficiently prevent future damage; and
- 975 (C) there are no reasonable means available by which the child's emotional health
976 may be protected without removing the child from the custody of the child's
977 parent or guardian;

- 978 (iii) there is a substantial risk that the child will suffer abuse or neglect if the child is
979 not removed from the custody of the child's parent or guardian;
- 980 (iv) subject to Subsection (9)(b)(ii), the child or a minor residing in the same
981 household has been, or is considered to be at substantial risk of being, physically
982 abused, sexually abused, or sexually exploited by:
- 983 (A) a parent or guardian;
- 984 (B) a member of the parent's household or the guardian's household; or
- 985 (C) an individual known to the parent or guardian;
- 986 (v) the parent or guardian is unwilling to have physical custody of the child;
- 987 (vi) the parent or guardian is unable to have physical custody of the child;
- 988 (vii) the child is without any provision for the child's support;
- 989 (viii) a parent who is incarcerated or institutionalized has not or cannot arrange for
990 safe and appropriate care for the child;
- 991 (ix)(A) a relative or other adult custodian with whom the child is left by the parent
992 or guardian is unwilling or unable to provide care or support for the child;
- 993 (B) the whereabouts of the parent or guardian are unknown; and
- 994 (C) reasonable efforts to locate the parent or guardian are unsuccessful;
- 995 (x) subject to Subsection [~~80-1-102(58)(b)(i)~~] 80-1-102(59)(b)(i) and Sections
996 80-3-109 and 80-3-304, the child is in immediate need of medical care;
- 997 (xi)(A) the physical environment or the fact that the child is left unattended
998 beyond a reasonable period of time poses a threat to the child's health or safety;
999 and
- 1000 (B) the parent or guardian is unwilling or unable to make reasonable changes that
1001 would remove the threat;
- 1002 (xii)(A) the child or a minor residing in the same household has been neglected;
1003 and
- 1004 (B) the parent or guardian is unwilling or unable to make reasonable changes that
1005 would prevent the neglect;
- 1006 (xiii) the parent, guardian, or an adult residing in the same household as the parent or
1007 guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine
1008 Drug Lab Act, and any clandestine laboratory operation was located in the
1009 residence or on the property where the child resided;
- 1010 (xiv)(A) the child's welfare is substantially endangered; and
- 1011 (B) the parent or guardian is unwilling or unable to make reasonable changes that

- 1012 would remove the danger; or
- 1013 (xv) the child's parent:
- 1014 (A) intentionally, knowingly, or recklessly causes the death of another parent of
- 1015 the child;
- 1016 (B) is identified by a law enforcement agency as the primary suspect in an
- 1017 investigation for intentionally, knowingly, or recklessly causing the death of
- 1018 another parent of the child; or
- 1019 (C) is being prosecuted for or has been convicted of intentionally, knowingly, or
- 1020 recklessly causing the death of another parent of the child.
- 1021 (b)(i) Prima facie evidence of the finding described in Subsection (9)(a)(i) is
- 1022 established if:
- 1023 (A) a court previously adjudicated that the child suffered abuse, neglect, or
- 1024 dependency involving the parent; and
- 1025 (B) a subsequent incident of abuse, neglect, or dependency involving the parent
- 1026 occurs.
- 1027 (ii) For purposes of Subsection (9)(a)(iv), if the juvenile court finds that the parent
- 1028 knowingly allowed the child to be in the physical care of an individual after the
- 1029 parent received actual notice that the individual physically abused, sexually
- 1030 abused, or sexually exploited the child, that fact is prima facie evidence that there
- 1031 is a substantial risk that the child will be physically abused, sexually abused, or
- 1032 sexually exploited.
- 1033 (10)(a)(i) The juvenile court shall make a determination on the record as to whether
- 1034 reasonable efforts were made to prevent or eliminate the need for removal of the
- 1035 child from the child's home and whether there are available services that would
- 1036 prevent the need for continued removal.
- 1037 (ii) If the juvenile court finds that the child can be safely returned to the custody of
- 1038 the child's parent or guardian through the provision of the services described in
- 1039 Subsection (10)(a)(i), the juvenile court shall place the child with the child's
- 1040 parent or guardian and order that the services be provided by the division.
- 1041 (b) In accordance with federal law, the juvenile court shall consider the child's health,
- 1042 safety, and welfare as the paramount concern when making the determination
- 1043 described in Subsection (10)(a), and in ordering and providing the services described
- 1044 in Subsection (10)(a).
- 1045 (11) If the division's first contact with the family occurred during an emergency situation in

1046 which the child could not safely remain at home, the juvenile court shall make a finding
1047 that any lack of preplacement preventive efforts, as described in Section 80-2a-302, was
1048 appropriate.

1049 (12) In cases where sexual abuse, sexual exploitation, abandonment, severe abuse, or severe
1050 neglect are involved, the juvenile court and the division do not have any duty to make
1051 reasonable efforts or to, in any other way, attempt to maintain a child in the child's
1052 home, return a child to the child's home, provide reunification services, or attempt to
1053 rehabilitate the offending parent or parents.

1054 (13) The juvenile court may not order continued removal of a child solely on the basis of
1055 educational neglect, truancy, or failure to comply with a court order to attend school.

1056 (14)(a) If a juvenile court orders continued removal of a child under this section, the
1057 juvenile court shall state the facts on which the decision is based.

1058 (b) If no continued removal is ordered and the child is returned home, the juvenile court
1059 shall state the facts on which the decision is based.

1060 (15) If the juvenile court finds that continued removal and temporary custody are necessary
1061 for the protection of a child under Subsection (9)(a), the juvenile court shall order
1062 continued removal regardless of:

1063 (a) any error in the initial removal of the child;

1064 (b) the failure of a party to comply with notice provisions; or

1065 (c) any other procedural requirement of this chapter, Chapter 2, Child Welfare Services,
1066 or Chapter 2a, Removal and Protective Custody of a Child.

1067 Section 7. Section **80-3-405** is amended to read:

1068 **80-3-405 . Dispositions after adjudication.**

1069 (1) Upon adjudication under Subsection 80-3-402(1), the juvenile court may make the
1070 dispositions described in Subsection (2) at the dispositional hearing.

1071 (2)(a)(i) The juvenile court may vest custody of an abused, neglected, or dependent
1072 minor in the division or any other appropriate person, with or without
1073 court-specified child welfare services, in accordance with the requirements and
1074 procedures of this chapter.

1075 (ii) When placing a minor in the custody of the division or any other appropriate
1076 person, the juvenile court:

1077 (A) shall give primary consideration to the welfare of the minor;

1078 (B) shall give due consideration to the rights of the parent or parents concerning
1079 the minor; and

- 1080 (C) when practicable, may take into consideration the religious preferences of the
1081 minor and of the minor's parents or guardian.
- 1082 (b)(i) The juvenile court may appoint a guardian for the minor if it appears necessary
1083 in the interest of the minor.
- 1084 (ii) A guardian appointed under Subsection (2)(b)(i) may be a public or private
1085 institution or agency, but not a nonsecure residential placement provider, in which
1086 legal custody of the minor is vested.
- 1087 (iii) When placing a minor under the guardianship of an individual or of a private
1088 agency or institution, the juvenile court:
- 1089 (A) shall give primary consideration to the welfare of the minor; and
1090 (B) when practicable, may take into consideration the religious preferences of the
1091 minor and of the minor's parents or guardian.
- 1092 (c) The juvenile court may order:
- 1093 (i) protective supervision;
1094 (ii) family preservation;
1095 (iii) sibling visitation; or
1096 (iv) other services.
- 1097 (d)(i) If a minor has been placed with an individual or relative as a result of an
1098 adjudication under this chapter, the juvenile court may enter an order of
1099 permanent legal custody and guardianship with the individual or relative of the
1100 minor.
- 1101 (ii) If a juvenile court enters an order of permanent custody and guardianship with an
1102 individual or relative of a minor under Subsection (2)(d)(i), the juvenile court
1103 may, in accordance with Section 78A-6-356, enter an order for child support on
1104 behalf of the minor against the parents of the minor.
- 1105 (iii) An order under this Subsection (2)(d):
- 1106 (A) shall remain in effect until the minor is 18 years old;
1107 (B) is not subject to review under Section 78A-6-358; and
1108 (C) may be modified by petition or motion as provided in Section 78A-6-357.
- 1109 (iv) If the district court has a pending case concerning questions of custody, support,
1110 or parent-time, and if the juvenile court grants an order of permanent custody and
1111 guardianship with one of the child's parents under this Subsection (2)(d), the
1112 juvenile court shall order one of the child's parents to file the order of permanent
1113 custody and guardianship with the district court within a reasonable time.

- 1114 (e) The juvenile court may order a child be committed to the physical custody, as
1115 defined in Section 26B-5-401, of a local mental health authority, in accordance with
1116 the procedures and requirements of Title 26B, Chapter 5, Part 4, Commitment of
1117 Persons Under Age 18.
- 1118 (f)(i) If the child has an intellectual disability, the juvenile court may make an order
1119 committing a minor to the Utah State Developmental Center in accordance with
1120 Title 26B, Chapter 6, Part 6, Admission to an Intermediate Care Facility for
1121 People with an Intellectual Disability.
- 1122 (ii) The juvenile court shall follow the procedure applicable in the district court with
1123 respect to judicial commitments to the Utah State Developmental Center when
1124 ordering a commitment under Subsection (2)(f)(i).
- 1125 (g)(i) Subject to Subsection [~~80-1-102(58)(b)~~] 80-1-102(59)(b) and Section 80-3-304,
1126 the juvenile court may order that a minor:
- 1127 (A) be examined or treated by a mental health therapist, as described in Section
1128 80-3-109; or
- 1129 (B) receive other special care.
- 1130 (ii) For purposes of receiving the examination, treatment, or care described in
1131 Subsection (2)(g)(i), the juvenile court may place the minor in a hospital or other
1132 suitable facility that is not secure care or secure detention.
- 1133 (iii) In determining whether to order the examination, treatment, or care described in
1134 Subsection (2)(g)(i), the juvenile court shall consider:
- 1135 (A) the desires of the minor;
- 1136 (B) the desires of the parent or guardian of the minor if the minor is younger than
1137 18 years old; and
- 1138 (C) whether the potential benefits of the examination, treatment, or care outweigh
1139 the potential risks and side-effects, including behavioral disturbances, suicidal
1140 ideation, brain function impairment, or emotional or physical harm resulting
1141 from the compulsory nature of the examination, treatment, or care.
- 1142 (h) The juvenile court may make other reasonable orders for the best interest of the
1143 minor.
- 1144 (3)(a) At the dispositional hearing described in Subsection 80-3-402(3), if a child
1145 remains in an out-of-home placement, the juvenile court shall:
- 1146 (i) make specific findings regarding the conditions of parent-time that are in the
1147 child's best interest; and

- 1148 (ii) if parent-time is denied, state the facts that justify the denial.
- 1149 (b) Parent-time shall be under the least restrictive conditions necessary to:
- 1150 (i) protect the physical safety of the child; or
- 1151 (ii) prevent the child from being traumatized by contact with the parent due to the
- 1152 child's fear of the parent in light of the nature of the alleged abuse or neglect.
- 1153 (c)(i) The division or the person designated by the division or a court to supervise a
- 1154 parent-time session may deny parent-time for the session if the division or the
- 1155 supervising person determines that, based on the parent's condition, it is necessary
- 1156 to deny parent-time to:
- 1157 (A) protect the physical safety of the child;
- 1158 (B) protect the life of the child; or
- 1159 (C) consistent with Subsection (3)(c)(ii), prevent the child from being traumatized
- 1160 by contact with the parent.
- 1161 (ii) In determining whether the condition of the parent described in Subsection
- 1162 (3)(c)(i) will traumatize a child, the division or the person supervising the
- 1163 parent-time session shall consider the impact that the parent's condition will have
- 1164 on the child in light of:
- 1165 (A) the child's fear of the parent; and
- 1166 (B) the nature of the alleged abuse or neglect.
- 1167 (4) Upon an adjudication under this chapter, the juvenile court may not:
- 1168 (a) commit a minor solely on the ground of abuse, neglect, or dependency to the
- 1169 Division of Juvenile Justice and Youth Services;
- 1170 (b) assume the function of developing foster home services; or
- 1171 (c) vest legal custody of an abused, neglected, or dependent minor in the division to
- 1172 primarily address the minor's ungovernable or other behavior, mental health, or
- 1173 disability, unless the division:
- 1174 (i) engages other relevant divisions within the department that are conducting an
- 1175 assessment of the minor and the minor's family's needs;
- 1176 (ii) based on the assessment described in Subsection (4)(c)(i), determines that vesting
- 1177 custody of the minor in the division is the least restrictive intervention for the
- 1178 minor that meets the minor's needs; and
- 1179 (iii) consents to legal custody of the minor being vested in the division.
- 1180 (5) The juvenile court may combine the dispositions listed in Subsection (2) if combining
- 1181 the dispositions is permissible and the dispositions are compatible.

1182 (6)(a) If, for a relative placement, an interstate placement requested under the Interstate
1183 Compact on the Placement of Children has been initiated by the division or is ordered
1184 by or pending before the juvenile court, the court may not finalize a non-relative
1185 placement unless the court gives due weight to:

1186 (i) the preferential consideration granted to a relative in Section 80-3-302;

1187 (ii) the rebuttable presumption in Section 80-3-302; and

1188 (iii) the division's placement authority under Subsections 80-1-102(51) and
1189 80-3-303(1).

1190 (b) Nothing in this section affects the ability of a foster parent to petition the juvenile
1191 court under Subsection 80-3-502(3).

1192 Section 8. **Effective Date.**

1193 This bill takes effect on May 6, 2026.