

LEGISLATIVE GENERAL COUNSEL  
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H.B. 222

1                   **CHILD WELFARE PROCEEDINGS**  
2                   **AMENDMENTS**  
3                   2003 GENERAL SESSION  
4                   STATE OF UTAH  
5                   **Sponsor: Greg J. Curtis**

6   **This act modifies the Judicial Code. This act phases in expanded access to abuse, neglect,**  
7   **and dependency hearings and records of those hearings, beginning with Juvenile Court**  
8   **districts identified by the Judicial Council as pilot districts. This act requires the Judicial**  
9   **Council to report to the Legislature on the effects of this act. This act includes revisors**  
10 **instructions.**

11 This act affects sections of Utah Code Annotated 1953 as follows:

12 AMENDS:

13       **78-3-21**, as last amended by Chapter 221, Laws of Utah 2000

14       **78-3a-115**, as last amended by Chapters 171 and 237, Laws of Utah 1998

15       **78-3a-116**, as last amended by Chapter 274, Laws of Utah 1998

16       **78-3a-406**, as renumbered and amended by Chapter 260, Laws of Utah 1994

17 ENACTS:

18       **78-3a-115.1**, Utah Code Annotated 1953

19 This act enacts uncodified material.

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

21       Section 1. Section **78-3-21** is amended to read:

22       **78-3-21. Judicial Council -- Creation -- Members -- Terms and election --**

23 **Responsibilities -- Reports.**

24       (1) The Judicial Council, established by Article VIII, Section 12, Utah Constitution,  
25 shall be composed of:

26       (a) the chief justice of the Supreme Court;

27       (b) one member elected by the justices of the Supreme Court;

28 (c) one member elected by the judges of the Court of Appeals;

29 (d) five members elected by the judges of the district courts;

30

(e) two members elected by the judges of the juvenile courts;

31 (f) three members elected by the justice court judges; and

32 (g) a member or ex officio member of the Board of Commissioners of the Utah State  
33 Bar who is an active member of the Bar in good standing elected by the Board of  
34 Commissioners.

35 (2) (a) The chief justice of the Supreme Court shall act as presiding officer of the  
36 council and chief administrative officer for the courts. The chief justice shall vote only in the  
37 case of a tie.

38 (b) All members of the council shall serve for three-year terms. If a council member  
39 should die, resign, retire, or otherwise fail to complete a term of office, the appropriate  
40 constituent group shall elect a member to complete the term of office. In courts having more  
41 than one member, the members shall be elected to staggered terms. The person elected to the  
42 Judicial Council by the Board of Commissioners shall be a member or ex officio member of  
43 the Board of Commissioners and an active member of the Bar in good standing at the time the  
44 person is elected. The person may complete a three-year term of office on the Judicial Council  
45 even though the person ceases to be a member or ex officio member of the Board of  
46 Commissioners. The person shall be an active member of the Bar in good standing for the  
47 entire term of the Judicial Council.

48 (c) Elections shall be held under rules made by the Judicial Council.

49 (3) The council is responsible for the development of uniform administrative policy for  
50 the courts throughout the state. The presiding officer of the Judicial Council is responsible for  
51 the implementation of the policies developed by the council and for the general management of  
52 the courts, with the aid of the administrator. The council has authority and responsibility to:

53 (a) establish and assure compliance with policies for the operation of the courts,  
54 including uniform rules and forms; and

55 (b) publish and submit to the governor, the chief justice of the Supreme Court, and the  
56 Legislature an annual report of the operations of the courts, which shall include financial and  
57 statistical data and may include suggestions and recommendations for legislation.

\*HB0222\*

(4) (a) The Judicial Council shall make rules establishing:

59

(i) standards for judicial competence; and

(ii) a formal program for the evaluation of judicial performance containing the elements of and meeting the requirements of this Subsection (4).

(b) The Judicial Council shall ensure that the formal judicial performance evaluation program has improvement in the performance of individual judges, court commissioners, and the judiciary as its goal.

(c) The Judicial Council shall ensure that the formal judicial performance evaluation program includes at least all of the following elements:

(i) a requirement that judges complete a certain number of hours of approved judicial education each year;

(ii) a requirement that each judge certify that he is:

(A) physically and mentally competent to serve; and

(B) in compliance with the Codes of Judicial Conduct and Judicial Administration; and

(iii) a requirement that the judge receive a satisfactory score on questions identified by the Judicial Council as relating to judicial certification on a survey of members of the Bar developed by the Judicial Council in conjunction with the American Bar Association.

(d) The Judicial Council shall ensure that the formal judicial performance evaluation program considers at least the following criteria:

(i) integrity;

(ii) knowledge;

(iii) understanding of the law;

(iv) ability to communicate;

(v) punctuality;

(vi) preparation;

(vii) attentiveness;

(viii) dignity;

(ix) control over proceedings; and

(x) skills as a manager.

(e) (i) The Judicial Council shall provide the judicial performance evaluation information and the disciplinary data required by Subsection 20A-7-702(2) to the Lieutenant Governor for publication in the voter information pamphlet.

90                   (ii) Not later than August 1 of the year before the expiration of the term of  
office of a

91 municipal court judge, the Judicial Council shall provide the judicial performance evaluation  
92 information required by Subsection 20A-7-702(2) to the appointing authority of a municipal  
93 justice court judge.

94           (5) The council shall establish standards for the operation of the courts of the state  
95 including, but not limited to, facilities, court security, support services, and staff levels for  
96 judicial and support personnel.

97           (6) The council shall by rule establish the time and manner for destroying court  
98 records, including computer records, and shall establish retention periods for these records.

99           (7) (a) Consistent with the requirements of judicial office and security policies, the  
100 council shall establish procedures to govern the assignment of state vehicles to public officers  
101 of the judicial branch.

102           (b) The vehicles shall be marked in a manner consistent with Section 41-1a-407 and  
103 may be assigned for unlimited use, within the state only.

104           (8) (a) The council shall advise judicial officers and employees concerning ethical  
105 issues and shall establish procedures for issuing informal and formal advisory opinions on  
106 these issues.

107           (b) Compliance with an informal opinion is evidence of good faith compliance with the  
108 Code of Judicial Conduct.

109           (c) A formal opinion constitutes a binding interpretation of the Code of Judicial  
110 Conduct.

111           (9) (a) The council shall establish written procedures authorizing the presiding officer  
112 of the council to appoint judges of courts of record by special or general assignment to serve  
113 temporarily in another level of court in a specific court or generally within that level. The  
114 appointment shall be for a specific period and shall be reported to the council.

115           (b) These procedures shall be developed in accordance with Subsection 78-3-24(10)  
116 regarding temporary appointment of judges.

117           (10) The Judicial Council may by rule designate municipalities in addition to those  
118 designated by statute as a location of a trial court of record. There shall be at least one court  
119 clerk's office open during regular court hours in each county. Any trial court of record may  
120 hold court in any municipality designated as a location of a court of record. Designations by

121 the Judicial Council may not be made between July 1, 1997, and July 1, 1998.

122 (11) The Judicial Council shall by rule determine whether the administration of a court  
123 shall be the obligation of the administrative office of the courts or whether the administrative  
124 office of the courts should contract with local government for court support services.

125 (12) The Judicial Council may by rule direct that a district court location be  
126 administered from another court location within the county.

127 (13) The Judicial Council shall establish and supervise the Office of Guardian Ad  
128 Litem Director, in accordance with the provisions of Sections 78-3a-911 and 78-3a-912, and  
129 assure compliance of the guardian ad litem program with state and federal law, regulation, and  
130 policy, and court rules.

131 (14) The Judicial Council shall establish and maintain, in cooperation with the Office of  
132 Recovery Services within the Department of Human Services, the part of the state case registry  
133 that contains records of each support order established or modified in the state on or after  
134 October 1, 1998, as is necessary to comply with the Social Security Act, 42 U.S.C. Sec. 654a.

135 (15) (a) On or before November 1, 2003, the Judicial Council, by rule, shall select one  
136 or more districts as pilot districts for purposes of Sections 78-3a-115, 78-3a-115.1, and  
137 78-3a-116.

138 (b) Prior to the 2005 Annual General Session, the Judicial Council shall report to the  
139 Child Welfare Legislative Oversight Panel and the Judiciary Interim Committee on the effects  
140 of this act and recommend whether the provisions of this act should be continued, modified, or  
141 repealed.

142 Section 2. Section 78-3a-115 is amended to read:

143 **78-3a-115. Hearings -- Public excluded, exceptions -- Victims admitted -- Minor's**  
144 **cases heard separately from adult cases -- Minor or parents or custodian heard**  
145 **separately -- Continuance of hearing -- Consolidation of proceedings involving more than**  
146 **one minor.**

147 (1) Hearings in minor's cases shall be held before the court without a jury and may be  
148 conducted in an informal manner.

149 (a) In abuse, neglect, and dependency cases in all districts other than pilot districts  
150 selected by the Judicial Council under Subsection 78-3-21(15)(a), the court shall exclude all  
151 persons from hearings held prior to July 1, 2005 who do not have a direct interest in the

152 proceedings.

153 (b) In delinquency cases the court shall admit all persons who have a direct interest in  
154 the case and may admit persons requested by the parent or legal guardian to be present. The  
155 court shall exclude all other persons except as provided in Subsection (1)(c).

156 (c) In delinquency cases in which the minor charged is 14 years of age or older, the  
157 court shall admit any person unless the hearing is closed by the court upon findings on the  
158 record for good cause if:

159 (i) the minor has been charged with an offense which would be a felony if committed  
160 by an adult; or

161 (ii) the minor is charged with an offense that would be a class A or B misdemeanor if  
162 committed by an adult, and the minor has been previously charged with an offense which  
163 would be a misdemeanor or felony if committed by an adult.

164 (d) The victim of any act charged in a petition or information involving an offense  
165 committed by a minor which if committed by an adult would be a felony or a class A or class B  
166 misdemeanor shall, upon request, be afforded all rights afforded victims in Title 77, Chapter  
167 36, Cohabitant Abuse Procedures Act, Title 77, Chapter 37, Victims' Rights, and Title 77,  
168 Chapter 38, Rights of Crime Victims Act. The notice provisions in Section 77-38-3 do not  
59 apply to important juvenile justice hearings as defined in Section 77-38-2.

170 (e) A victim, upon request to appropriate juvenile court personnel, shall have the right  
171 to inspect and duplicate juvenile court legal records that have not been expunged concerning:

172 (i) the scheduling of any court hearings on the petition;

173 (ii) any findings made by the court; and

174 (iii) any sentence or decree imposed by the court.

175 (2) Minor's cases shall be heard separately from adult cases. The minor or his parents  
176 or custodian may be heard separately when considered necessary by the court. The hearing  
177 may be continued from time to time to a date specified by court order.

178 (3) When more than one minor is involved in a home situation which may be found to  
179 constitute neglect or dependency, or when more than one minor is alleged to be involved in the  
180 same law violation, the proceedings may be consolidated, except that separate hearings may be  
181 held with respect to disposition.

182 Section 3. Section **78-3a-115.1** is enacted to read:

183 **78-3a-115.1. Access to abuse, neglect, and dependency hearings.**184 (1) This section applies:185 (a) beginning November 1, 2003, to districts selected by the Judicial Council as pilot  
186 districts under Subsection 78-3-21(15)(a); and187 (b) beginning July 1, 2005, to all other districts.188 (2) (a) In abuse, neglect, and dependency cases the court shall admit any person to a  
189 hearing, including a hearing under Subsection 78-3a-320(3), unless the court makes a finding  
190 upon the record that the person's presence at the hearing would:191 (i) be detrimental to the best interest of a child who is a party to the proceeding;192 (ii) impair the fact-finding process; or193 (iii) be otherwise contrary to the interests of justice.194 (b) The court may exclude a person from a hearing under Subsection (2)(a) on its own  
195 motion or by motion of a party to the proceeding.196 Section 4. Section **78-3a-116** is amended to read:197 **78-3a-116. Hearings -- Record -- County attorney or district attorney**  
198 **responsibilities -- Attorney general responsibilities -- Admissibility of evidence.**199 (1) (a) A verbatim record of the proceedings shall be taken by an official court reporter  
200 or by means of a mechanical recording device in all cases that might result in deprivation of  
201 custody as defined in this chapter. In all other cases a verbatim record shall also be made  
202 unless dispensed with by the court.203 (b) (i) Notwithstanding any other provision, including Title 63, Chapter 2, Government  
204 Records Access and Management Act, a record of a proceeding made under Subsection(1)(a)  
205 shall be released by the court to any person upon a finding on the record for good cause.206 (ii) Following a petition for a record of a proceeding made under Subsection (1)(a), the  
207 court shall:208 (A) provide notice to all subjects of the record that a request for release of the record  
209 has been made; and210 (B) allow sufficient time for the subjects of the record to respond before making a  
211 finding on the petition.212 (iii) A record of a proceeding may not be released under this Subsection (1)(b) if the  
213 court's jurisdiction over the subjects of the proceeding ended more than 12 months prior to the



214 request.

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

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

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

221 (v) This Subsection (1)(b) applies:

222 (A) to records of proceedings made on or after November 1, 2003 in districts selected  
223 by the Judicial Council as pilot districts under Subsection 78-3-21(15)(a); and

224 (B) to records of proceedings made on or after July 1, 2005 in all other districts.

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

228 (b) The attorney general shall enforce all provisions of Title 62A, Chapter 4a, Child  
229 and Family Services, and Title 78, Chapter 3a, Juvenile Courts, relating to:

230 (i) protection or custody of an abused, neglected, or dependent child; and

31 (ii) petitions for termination of parental rights.

232 (c) The attorney general shall represent the Division of Child and Family Services in  
233 actions involving minors who have not been adjudicated as abused or neglected, but who are  
234 otherwise committed to the custody of that division by the juvenile court, and who are  
235 classified in the division's management information system as having been placed in custody  
236 primarily on the basis of delinquent behavior or a status offense. Nothing in this Subsection  
237 (2)(c) may be construed to affect the responsibility of the county attorney or district attorney to  
238 represent the state in those matters, in accordance with the provisions of Subsection (2)(a).

239 (3) The board may adopt special rules of procedure to govern proceedings involving  
240 violations of traffic laws or ordinances, fish and game laws, and boating laws. However,  
241 proceedings involving offenses under Section 78-3a-506 are governed by that section regarding  
242 suspension of driving privileges.

243 (4) (a) For the purposes of determining proper disposition of the minor in dispositional  
244 hearings and establishing the fact of abuse, neglect, or dependency in adjudication hearings and

245 in hearings upon petitions for termination of parental rights, written reports and other  
246 material

246 relating to the minor's mental, physical, and social history and condition may be received in  
247 evidence and may be considered by the court along with other evidence. The court may require  
248 that the person who wrote the report or prepared the material appear as a witness if the person  
249 is reasonably available.

250 (b) For the purpose of determining proper disposition of a minor alleged to be or  
251 adjudicated as abused, neglected, or dependent, dispositional reports prepared by Foster Care  
252 Citizen Review Boards pursuant to Section 78-3g-103 may be received in evidence and may be  
253 considered by the court along with other evidence. The court may require any person who  
254 participated in preparing the dispositional report to appear as a witness, if the person is  
255 reasonably available.

256 (5) For the purpose of establishing the fact of abuse, neglect, or dependency, the court  
257 may, in its discretion, consider evidence of statements made by a minor under eight years of  
258 age to a person in a trust relationship.

259 Section 5. Section **78-3a-406** is amended to read:

260 **78-3a-406. Notice -- Nature of proceedings.**

261 (1) After a petition for termination of parental rights has been filed, notice of that fact  
262 and of the time and place of the hearing shall be provided, in accordance with the Utah Rules  
53 of Civil Procedure, to the parents, the guardian, the person or agency having legal custody of  
264 the child, and to any person acting in loco parentis to the child.

265 (2) A hearing shall be held specifically on the question of termination of parental rights  
266 no sooner than ten days after service of summons is complete. A verbatim record of the  
267 proceedings shall be taken and the parties shall be advised of their right to counsel. The  
268 summons shall contain a statement to the effect that the rights of the parent or parents are  
269 proposed to be permanently terminated in the proceedings. That statement may be contained in  
270 the summons originally issued in the proceeding or in a separate summons subsequently issued.

271 (3) The proceedings are civil in nature and are governed by the Utah Rules of Civil  
272 Procedure. The court shall in all cases require the petitioner to establish the facts by clear and  
273 convincing evidence, and shall give full and careful consideration to all of the evidence  
274 presented with regard to the constitutional rights and claims of the parent and, if a parent is  
275 found, by reason of his conduct or condition, to be unfit or incompetent based upon any of the

276 grounds for termination described in this part, the court shall then consider the  
welfare and best

277 interest of the child of paramount importance in determining whether termination of parental  
278 rights shall be ordered.

279 ~~[(4) Any hearing held pursuant to this part shall be held in closed court without~~  
280 ~~admittance of any person who is not necessary to the action or proceeding, unless the court~~  
281 ~~determines that holding the hearing in open court will not be detrimental to the child.]~~

282 **Section 6. Revisors instructions.**

283 It is the intent of the Legislature that, in preparing the Utah Code database for  
284 publication, the Office of Legislative Research and General Counsel shall change the reference  
285 in Subsection 78-3-21(15)(b) from "this act" to the act's designated chapter number in Laws of  
286 Utah, 2003.

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**Legislative Review Note**

**as of 1-24-03 11:39 AM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**

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## S.B. 128

1

### PROTECTIVE ORDER AMENDMENTS

2

2003 GENERAL SESSION

3

STATE OF UTAH

4

**Sponsor: Lyle W. Hillyard**

It

5 **This act enacts a new chapter in the Judicial Code regarding child protective orders.**

ad

6 **provides for the filing of a petition, notice to the parties, appointment of a guardian**

The

7 **litem, and hearings. Provision is also made for the review or expiration of the order.**

network.

8 **act also requires that the order be entered into the statewide domestic violence**

9 This act affects sections of Utah Code Annotated 1953 as follows:

10 **AMENDS:**

11 **30-6-1**, as last amended by Chapter 9, Laws of Utah 2001

12 **30-6-2**, as last amended by Chapter 244, Laws of Utah 1996

13 **30-6-3**, as last amended by Chapter 300, Laws of Utah 1995

14 **30-6-4.2**, as last amended by Chapter 255, Laws of Utah 2001

15 **62A-4a-412**, as last amended by Chapter 283, Laws of Utah 2002

16 **76-5-108**, as last amended by Chapter 246, Laws of Utah 1999

17 **77-36-2.1**, as last amended by Chapter 13, Laws of Utah 1998

18 **77-36-2.4**, as last amended by Chapter 246, Laws of Utah 1999

19 **77-36-2.5**, as renumbered and amended by Chapter 300, Laws of Utah 1995

20 **77-36-2.6**, as last amended by Chapter 244, Laws of Utah 1996

21 **77-36-5**, as last amended by Chapter 47, Laws of Utah 2002

22 **78-3a-104**, as last amended by Chapter 8, Laws of Utah 2002, Fifth Special Session

23 **78-3a-105**, as last amended by Chapters 213 and 255, Laws of Utah 2001

24 **78-3a-118**, as last amended by Chapters 2 and 8, Laws of Utah 2002, Fifth Special

25 Session

26 **78-3a-305**, as last amended by Chapter 274, Laws of Utah 1998

27 **ENACTS:**

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**30-6-15, Utah Code Annotated 1953**29 **78-3h-101, Utah Code Annotated 1953**30 **78-3h-102, Utah Code Annotated 1953**31 **78-3h-103, Utah Code Annotated 1953**32 **78-3h-104, Utah Code Annotated 1953**33 **78-3h-105, Utah Code Annotated 1953**34 **78-3h-106, Utah Code Annotated 1953**35 **78-3h-107, Utah Code Annotated 1953**36 **REPEALS:**37 **30-6-4.8, as enacted by Chapter 252, Laws of Utah 1995**38 *Be it enacted by the Legislature of the state of Utah:*39 Section 1. Section **30-6-1** is amended to read:40 **30-6-1. Definitions.**

41 As used in this chapter:

42 (1) "Abuse" means *intentionally or knowingly causing or attempting to cause[;] a*  
43 *cohabitant physical harm* or intentionally or knowingly [~~causing to an adult or minor~~

physical

44 ~~harm or intentionally placing another]~~ *placing a cohabitant in reasonable fear of*

imminent

45 physical harm.

46 (2) "Cohabitant" means an emancipated person pursuant to Section 15-2-1 or a person  
47 who is 16 years of age or older who:

48 (a) is or was a spouse of the other party;

49 (b) is or was living as if a spouse of the other party;

50 (c) is related by blood or marriage to the other party;

51 (d) has one or more children in common with the other party;

52 (e) is the biological parent of the other party's unborn child; or

53 (f) resides or has resided in the same residence as the other party.

54 [~~(3) Notwithstanding Subsection (2), "cohabitant" does not include:~~]55 [~~(a) the relationship of natural parent, adoptive parent, or step-parent to a minor; or]~~56 [~~(b) the relationship between natural, adoptive, step, or foster siblings who are under~~57 ~~18 years of age.~~]58 [~~(4)~~ (3) "Court clerk" means a district court clerk [~~or juvenile court clerk~~].

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59

[~~(5) "Department" means the Department of Human Services.~~]60 [~~(6)~~ (4) "Domestic violence" means the same as that term is defined in Section

61 77-36-1 .

62     ~~[(7)]~~ (5) "Ex parte protective order" means an order issued without notice to the  
63     defendant in accordance with this chapter.  
64     ~~[(8)]~~ (6) "Foreign protective order" means a protective order issued by another state,  
65     territory, or possession of the United States, tribal lands of the United States, the  
66     Commonwealth of Puerto Rico, or the District of Columbia which shall be given full faith  
and  
67     credit in Utah, if the protective order is similar to a protective order issued in compliance  
with  
68     Title 30, Chapter 6, Cohabitant Abuse Act, or Title 77, Chapter 36, Cohabitant Abuse  
69     Procedures Act, and includes the following requirements:  
70     (a) the requirements of due process were met by the issuing court, including subject  
71     matter and personal jurisdiction;  
72     (b) the respondent received reasonable notice; and  
73     (c) the respondent had an opportunity for a hearing regarding the protective order.  
74     ~~[(9)]~~ (7) "Law enforcement unit" or "law enforcement agency" means any public  
75     agency having general police power and charged with making arrests in connection with  
76     enforcement of the criminal statutes and ordinances of this state or any political  
subdivision.  
77     ~~[(10)]~~ (8) "Peace officer" means those persons specified in Title 53, Chapter 13, Peace  
78     Officer Classifications.  
79     ~~[(11)]~~ (9) "Protective order" means ~~[a restraining]~~ an order issued pursuant to this  
80     chapter subsequent to a hearing on the petition, of which the petitioner ~~[has]~~ and  
respondent  
81     have been given notice in accordance with this chapter.  
82     Section 2. Section **30-6-2** is amended to read:  
83     **30-6-2. Abuse or danger of abuse -- Protective orders.**  
84     (1) Any ~~[cohabitant or any child residing with a]~~ cohabitant who has been subjected to  
85     abuse or domestic violence, or to whom there is a substantial likelihood ~~[of immediate~~  
danger]  
86     of abuse or domestic violence, may seek an ex parte protective order or a protective order  
in  
87     accordance with this chapter, whether or not that person has left the residence or the  
premises  
88     in an effort to avoid further abuse.  
89     (2) ~~[(a)]~~ A petition for a protective order may be filed under this chapter regardless of

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90

whether an action for divorce between the parties is pending.

91     ~~[(b) If a complaint for divorce has already been filed in district court, a petition under~~  
92     ~~this chapter may be filed as part of the divorce proceedings.]~~  
93     ~~[(3) A cohabitant, the department, or any person or institution interested in a minor~~  
94     ~~may seek a protective order on behalf of the minor under the circumstances described in~~  
95     ~~Subsection (1), regardless of whether the minor could have filed a petition on his own~~  
behalf. If  
96     ~~a cohabitant intends to seek a protective order on his own behalf and on behalf of a minor,~~

a

97 ~~single petition may be filed.]~~  
 98 ~~[(4) The court shall appoint a guardian ad litem to represent the minor if the court~~  
 99 ~~considers the appointment necessary for the welfare of the minor.]~~  
 100 ~~[(5) The county attorney or district attorney, if appropriate, shall represent the~~  
 101 ~~department where the department appears as a petitioner.]~~  
 102 ~~[(6)] (3) A petition seeking a protective order may not be withdrawn without approval~~  
 103 ~~of the court.~~  
 104 Section 3. Section **30-6-3** is amended to read:  
 105 **30-6-3. Venue of action.**  
 106 (1) The district court has jurisdiction of any action brought under this chapter. ~~[The~~  
 107 ~~juvenile court has concurrent jurisdiction of an action brought under this chapter if a~~  
 protective  
 108 ~~order is sought on behalf of a minor unless the petition is filed by a natural parent,~~  
 adoptive  
 109 ~~parent, or step-parent of the minor against a natural parent, adoptive parent, or step-~~  
 parent of  
 110 ~~the minor.]~~  
 111 (2) An action brought pursuant to this chapter shall be filed in the county where either  
 112 party resides or in which the action complained of took place.  
 113 Section 4. Section **30-6-4.2** is amended to read:  
 114 **30-6-4.2. Protective orders -- Ex parte protective orders -- Modification of orders**  
 115 **-- Service of process -- Duties of the court.**  
 116 (1) If it appears from a petition for an order for protection or a petition to modify an  
 117 order for protection that domestic violence or abuse has occurred or a modification of an  
 order  
 118 for protection is required, a court may:  
 119 (a) without notice, immediately issue an order for protection ex parte or modify an  
 120 order for protection ex parte as it considers necessary to protect the petitioner and all  
 parties

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121

named to be protected in the petition; or

122 (b) upon notice, issue an order for protection or modify an order after a hearing,  
 123 whether or not the respondent appears.

124 (2) A court may grant the following relief without notice in an order for protection or

a

125 modification issued ex parte:  
 126 (a) enjoin the respondent from threatening to commit or committing domestic violence  
 127 or abuse against the petitioner and any designated family or household member;  
 128 (b) prohibit the respondent from harassing, telephoning, contacting, or otherwise  
 129 communicating with the petitioner, directly or indirectly;  
 130 (c) order that the respondent is excluded from the petitioner's residence and its  
 131 premises, and order the respondent to stay away from the residence, school, or place of  
 132 employment of the petitioner, and the premises of any of these, or any specified place

133 frequented by the petitioner and any designated family or household member;  
 134 (d) upon finding that the respondent's use or possession of a weapon may pose a  
 135 serious threat of harm to the petitioner, prohibit the respondent from purchasing, using,  
 or  
 136 possessing a firearm or other weapon specified by the court;  
 137 (e) order possession and use of an automobile and other essential personal effects, and  
 138 direct the appropriate law enforcement officer to accompany the petitioner to the  
 residence of  
 139 the parties to ensure that the petitioner is safely restored to possession of the residence,  
 140 automobile, and other essential personal effects, or to supervise the petitioner's or  
 respondent's  
 141 removal of personal belongings;  
 142 (f) grant to the petitioner temporary custody of any minor children ~~[to]~~ of the  
 143 ~~[petitioner]~~ parties;  
 144 (g) order any further relief that the court considers necessary to provide for the safety  
 145 and welfare of the petitioner and any designated family or household member; and  
 146 (h) if the petition requests child support or spousal support, at the hearing on the  
 147 petition order both parties to provide verification of current income, including year-to-  
 date pay  
 148 stubs or employer statements of year-to-date or other period of earnings, as specified by  
 the  
 149 court, and complete copies of tax returns from at least the most recent year.  
 150 (3) A court may grant the following relief in an order for protection or a modification  
 151 of an order after notice and hearing, whether or not the respondent appears:

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152  
 (a) grant the relief described in Subsection (2); and  
 153 (b) specify arrangements for parent-time of any minor child by the respondent and  
 154 require supervision of that parent-time by a third party or deny parent-time if necessary  
 to  
 155 protect the safety of the petitioner or child.  
 156 (4) Following the protective order hearing, the court shall:  
 157 (a) as soon as possible, deliver the order to the county sheriff for service of process;  
 158 (b) make reasonable efforts to ensure that the order for protection is understood by the  
 159 petitioner, and the respondent, if present;  
 160 (c) transmit, by the end of the next business day after the order is issued, a copy of the  
 161 order for protection to the local law enforcement agency or agencies designated by the  
 162 petitioner; and  
 163 (d) transmit a copy of the order to the statewide domestic violence network described  
 164 in Section 30-6-8 .  
 165 (5) (a) Each protective order shall include two separate portions, one for provisions,  
 the  
 166 violation of which are criminal offenses, and one for provisions, the violation of which  
 are civil  
 167 violations, as follows:



168 (i) criminal offenses are those under Subsections (2)(a) through (e), and under  
 169 Subsection (3)(a) as it refers to Subsections (2)(a) through (e); and  
 170 (ii) civil offenses are those under Subsections (2)(f) through (h), and Subsection (3)(a)  
 171 as it refers to Subsections (2)(f) through (h).  
 172 (b) The criminal provision portion shall include a statement that violation of any  
 173 criminal provision is a class A misdemeanor.  
 174 (c) The civil provision portion shall include a notice that violation of or failure to  
 175 comply with a civil provision is subject to contempt proceedings.  
 176 (6) The protective order shall include:  
 177 (a) a designation of a specific date, determined by the court, when the civil portion of  
 178 the protective order either expires or is scheduled for review by the court, which date  
 may not  
 179 exceed 150 days after the date the order is issued, unless the court indicates on the record  
 the  
 180 reason for setting a date beyond 150 days;  
 181 (b) information the petitioner is able to provide to facilitate identification of the  
 182 respondent, such as Social Security number, driver license number, date of birth,  
 address,

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183  
 telephone number, and physical description; and  
 184 (c) a statement advising the petitioner that:  
 185 (i) after three years from the date of issuance of the protective order, a hearing may be  
 186 held to dismiss the criminal portion of the protective order;  
 187 (ii) the petitioner should, within the 30 days prior to the end of the three-year period,  
 188 advise the court of the petitioner's current address for notice of any hearing; and  
 189 (iii) the address provided by the petitioner will not be made available to the  
 respondent.  
 190 (7) Child support and spouse support orders issued as part of a protective order are  
 191 subject to mandatory income withholding under Title 62A, Chapter 11, Part 4, Income  
 192 Withholding in IV-D Cases, and Title 62A, Chapter 11, Part 5, Income Withholding in  
 Non  
 193 IV-D Cases, except when the protective order is issued ex parte.  
 194 (8) (a) The county sheriff that receives the order from the court, pursuant to  
 Subsection  
 195 (5)(a), shall provide expedited service for orders for protection issued in accordance with  
 this  
 196 chapter, and shall transmit verification of service of process, when the order has been  
 served, to  
 197 the statewide domestic violence network described in Section 30-6-8 .  
 198 (b) This section does not prohibit any law enforcement agency from providing service  
 199 of process if that law enforcement agency:  
 200 (i) has contact with the respondent and service by that law enforcement agency is  
 201 possible; or  
 202 (ii) determines that under the circumstances, providing service of process on the

203 respondent is in the best interests of the petitioner.  
 204 (9) (a) When an order is served on a respondent in a jail or other holding facility, the  
 205 law enforcement agency managing the facility shall make a reasonable effort to provide  
 notice 206 to the petitioner at the time the respondent is released from incarceration.  
 207 (b) Notification of the petitioner shall consist of a good faith reasonable effort to  
 208 provide notification, including mailing a copy of the notification to the last-known  
 address of 209 the victim.  
 210 (10) ~~[(a)]~~ A court may modify or vacate an order of protection or any provisions in the  
 211 order after notice and hearing, except ~~[as limited under Subsection (10)(b). (b) Criminal]~~  
 that 212 *the criminal* provisions of a protective order may not be vacated within three years of  
 issuance 213 unless the petitioner~~[-(i)]~~ is personally served with notice of the hearing as provided in  
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214  
 and 5, Utah Rules of Civil Procedure~~[-and the petitioner personally appears before the court~~  
 215 ~~and gives specific consent to the vacation of the criminal provisions of the protective~~  
 order, or]. 216 ~~[(ii) submits a verified affidavit, stating agreement to the vacation of the criminal~~  
 217 ~~provisions of the protective order.]~~  
 218 (11) A protective order may be modified without a showing of substantial and  
 material 219 change in circumstances.  
 220 (12) Insofar as the provisions of this chapter are more specific than the Utah Rules of  
 221 Civil Procedure, regarding protective orders, the provisions of this chapter govern.  
 222 Section 5. Section **30-6-15** is enacted to read:  
 223 **30-6-15. Dismissal of protective order when divorce is final.**  
 224 *When a protective order exists and a divorce proceeding is pending between the same*  
 225 *parties named in the protective order, the protective order shall be dismissed when the*  
 court 226 *issues a decree of divorce for the parties unless the court specifically finds that the order*  
 needs 227 *to be continued.*  
 228 Section 6. Section **62A-4a-412** is amended to read:  
 229 **62A-4a-412. Reports and information confidential.**  
 230 (1) Except as otherwise provided in this chapter, reports made pursuant to this part, as  
 231 well as any other information in the possession of the division obtained as the result of a  
 report 232 are private, protected, or controlled records under Title 63, Chapter 2, Government  
 Records 233 Access and Management Act, and may only be made available to:  
 234 (a) a police or law enforcement agency investigating a report of known or suspected

235 child abuse or neglect;  
 236 (b) a physician who reasonably believes that a child may be the subject of abuse or  
 237 neglect;  
 238 (c) an agency that has responsibility or authority to care for, treat, or supervise a child  
 239 who is the subject of a report;  
 240 (d) a contract provider that has a written contract with the division to render services  
 to  
 241 a child who is the subject of a report;  
 242 (e) any subject of the report, the natural parents of the minor, and the guardian ad  
 243 litem;  
 244 (f) a court, upon a finding that access to the records may be necessary for the

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245  
 determination of an issue before it, provided that in a divorce, custody, or related proceeding  
 246 between private parties, the record alone is:  
 247 (i) limited to objective or undisputed facts that were verified at the time of the  
 248 investigation; and  
 249 (ii) devoid of conclusions drawn by the division or any of its workers on the ultimate  
 250 issue of whether or not a person's acts or omissions constituted any level of abuse or  
 neglect of  
 251 another person;  
 252 (g) an office of the public prosecutor or its deputies in performing an official duty;  
 253 (h) a person authorized by a Children's Justice Center, for the purposes described in  
 254 Section 67-5b-102 ;  
 255 (i) a person engaged in bona fide research, when approved by the director of the  
 256 division, if the information does not include names and addresses;  
 257 (j) the State Office of Education, acting on behalf of itself or on behalf of a school  
 258 district, for the purpose of evaluating whether an individual should be permitted to  
 obtain or  
 259 retain a license as an educator or serve as an employee or volunteer in a school, limited  
 to  
 260 information with substantiated findings involving an alleged sexual offense, an alleged  
 felony  
 261 or class A misdemeanor drug offense, or any alleged offense against the person under  
 Title 76,  
 262 Chapter 5, Offenses Against the Person, and with the understanding that the office must  
 263 provide the subject of a report received under Subsection (1)(k) with an opportunity to  
 respond  
 264 to the report before making a decision concerning licensure or employment; ~~and~~  
 265 (k) any person identified in the report as a perpetrator or possible perpetrator of child  
 266 abuse or neglect, after being advised of the screening prohibition in Subsection (2)[-];  
 and  
 267 (l) a person filing a petition for a child protective order on behalf of a minor who is  
 the  
 268 subject of the report.

269 (2) (a) No person, unless listed in Subsection (1), may request another person to obtain  
 270 or release a report or any other information in the possession of the division obtained as  
 a result  
 271 of the report that is available under Subsection (1)(k) to screen for potential perpetrators  
 of  
 272 child abuse or neglect.  
 273 (b) A person who requests information knowing that it is a violation of Subsection  
 274 (2)(a) to do so is subject to the criminal penalty in Subsection (4).  
 275 (3) Except as provided in Section 62A-4a-116.3 , the division and law enforcement

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276  
 officials shall ensure the anonymity of the person or persons making the initial report and any  
 277 others involved in its subsequent investigation.  
 278 (4) Any person who wilfully permits, or aides and abets the release of data or  
 279 information obtained as a result of this part, in the possession of the division or  
 contained on  
 280 any part of the Management Information System, in violation of this part or Sections  
 281 62A-4a-116 through 62A-4a-116.3 , is guilty of a class C misdemeanor.  
 282 (5) The physician-patient privilege is not a ground for excluding evidence regarding a  
 283 child's injuries or the cause of those injuries, in any proceeding resulting from a report  
 made in  
 284 good faith pursuant to this part.  
 285 Section 7. Section **76-5-108** is amended to read:  
 286 **76-5-108. Protective orders restraining abuse of another -- Violation.**  
 287 (1) Any person who is the respondent or defendant subject to a protective order, *child*  
 288 *protective order, ex parte protective order*, or ex parte *child* protective order issued  
 under Title  
 289 30, Chapter 6, Cohabitant Abuse Act, or Title 78, Chapter 3a, Juvenile Court Act of  
 1996, Title  
 290 77, Chapter 36, Cohabitant Abuse Procedures Act, or a foreign protective order as  
 described in  
 291 Section 30-6-12 , who intentionally or knowingly violates that order after having been  
 properly  
 292 served, is guilty of a class A misdemeanor, except as a greater penalty may be provided  
 in Title  
 293 77, Chapter 36, Cohabitant Abuse Procedures Act.  
 294 (2) Violation of an order as described in Subsection (1) is a domestic violence offense  
 295 under Section 77-36-1 and subject to increased penalties in accordance with Section 77-  
 36-1.1 .  
 296 Section 8. Section **77-36-2.1** is amended to read:  
 297 **77-36-2.1. Duties of law enforcement officers -- Notice to victims.**  
 298 (1) A law enforcement officer who responds to an allegation of domestic violence  
 shall  
 299 use all reasonable means to protect the victim and prevent further violence, including:  
 300 (a) taking the action that, in the officer's discretion, is reasonably necessary to provide

301 for the safety of the victim and any family or household member;  
 302 (b) confiscating the weapon or weapons involved in the alleged domestic violence;  
 303 (c) making arrangements for the victim and any child to obtain emergency housing or  
 304 shelter;  
 305 (d) providing protection ~~[for]~~ while the victim ~~[while he or she]~~ removes essential  
 306 personal effects;

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(e) arrange, facilitate, or provide for the victim and any child to obtain medical  
 308 treatment; and  
 309 (f) arrange, facilitate, or provide the victim with immediate and adequate notice of the  
 310 rights of victims and of the remedies and services available to victims of domestic  
 violence, in  
 311 accordance with Subsection (2).  
 312 (2) (a) A law enforcement officer shall give written notice to the victim in simple  
 313 language, describing the rights and remedies available ~~[to her]~~ under this chapter ~~[and]~~,  
 Title  
 314 30, Chapter 6, Cohabitant Abuse Act, and Title 78, Chapter 3h, Child Protective Orders.  
 315 (b) The written notice shall also include:  
 316 (i) a statement that the forms needed in order to obtain an order for protection are  
 317 available from the ~~[district]~~ court clerk's office in the judicial district where the victim  
 resides  
 318 or is temporarily domiciled;  
 319 (ii) a list of shelters, services, and resources available in the appropriate community,  
 320 together with telephone numbers, to assist the victim in accessing any needed assistance;  
 and  
 321 (iii) the information required to be provided to both parties in accordance with  
 322 Subsection 77-36-2.5 (7).  
 323 Section 9. Section **77-36-2.4** is amended to read:  
 324 **77-36-2.4. Violation of protective orders -- Mandatory arrest.**  
 325 (1) A law enforcement officer shall, without a warrant, arrest an alleged perpetrator  
 326 whenever ~~[he has]~~ there is probable cause to believe that the alleged perpetrator has  
 violated  
 327 any of the provisions of an ex parte protective order or protective order.  
 328 (2) (a) Intentional or knowing violation of any ex parte protective order or protective  
 329 order is a class A misdemeanor, in accordance with Section 76-5-108 , and is a domestic  
 330 violence offense, pursuant to Section 77-36-1 .  
 331 (b) Second or subsequent violations of ex parte protective orders or protective orders  
 332 carry increased penalties, in accordance with Section 77-36-1.1 .  
 333 (3) As used in this section, "ex parte protective order" or "protective order" includes  
 334 any protective order or ex parte protective order issued under Title 30, Chapter 6,  
Cohabitant  
 335 Abuse Act, or Title 77, Chapter 36, Cohabitant Abuse Procedures Act, any child  
protective  
 336 order or ex parte child protective order issued under Title 78, Chapter 3h, Child

Protective

337 Orders, or a foreign protective order enforceable under Section 30-6-12 .

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Section 10. Section **77-36-2.5** is amended to read:

339 **77-36-2.5. Conditions for release after arrest for domestic violence.**

340 (1) Upon arrest for domestic violence, a person may not be released on bail,  
341 recognizance, or otherwise prior to the close of the next court day following the arrest,

unless

342 as a condition of that release he is ordered by the court or agrees in writing that until the  
343 expiration of that time he will:

344 (a) have no personal contact with the alleged victim;

345 (b) not threaten or harass the alleged victim; and

346 (c) not knowingly enter onto the premises of the alleged victim's residence or any  
347 premises temporarily occupied by the alleged victim.

348 (2) As a condition of release, the court may order the defendant to participate in an  
349 electronic monitoring program [~~described in Section 30-6-4.8,~~] and pay the costs

associated

350 with the program.

351 (3) (a) Subsequent to an arrest for domestic violence, an alleged victim may waive in  
352 writing any or all of the requirements described in Subsection (1). Upon waiver, those  
353 requirements shall not apply to the alleged perpetrator.

354 (b) A court or magistrate may modify the requirements described in Subsections (1)(a)  
355 or (c), in writing or on the record, and only for good cause shown.

356 (4) (a) Whenever a person is released pursuant to Subsection (1), the releasing agency  
357 shall notify the arresting law enforcement agency of the release, conditions of release,

and any

358 available information concerning the location of the victim. The arresting law

enforcement

359 agency shall then make reasonable effort to notify the victim of that release.

360 (b) (i) When a person is released pursuant to Subsection (1) based on a written  
361 agreement, the releasing agency shall transmit that information to the statewide domestic  
362 violence network described in Section 30-6-8 .

363 (ii) When a person is released pursuant to Subsection (1) based upon a court order, the  
364 court shall transmit that order to the statewide domestic violence network described in

Section

365 30-6-8 .

366 (c) This Subsection (4) does not create or increase liability of a law enforcement

officer

367 or agency, and the good faith immunity provided by Section 77-36-8 is applicable.

368 (5) (a) If a law enforcement officer has probable cause to believe that a person has

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violated a court order or agreement executed pursuant to Subsection (1) the officer shall,

370 without a warrant, arrest the alleged violator.

371 (b) Any person who knowingly violates a court order or agreement executed pursuant  
372 to Subsection (1) shall be guilty as follows:

373 (i) if the original arrest was for a felony, an offense under this section is a third degree  
374 felony;

375 (ii) if the original arrest was for a misdemeanor, an offense under this section is a class  
376 A misdemeanor.

377 (c) City attorneys may prosecute class A misdemeanor violations under this section.

378 (6) An individual who was originally arrested for a felony under this chapter and

379 released pursuant to this section, may subsequently be held without bail if there is

substantial

380 evidence to support a new felony charge against him.

381 (7) At the time an arrest for domestic violence is made, the arresting officer shall

382 provide both the alleged victim and the alleged perpetrator with written notice containing

the

383 following information:

384 (a) the requirements described in Subsection (1), and notice that those requirements

385 shall be ordered by a court or must be agreed to by the alleged perpetrator prior to

release;

386 (b) notification of the penalties for violation of the court order or any agreement  
387 executed under Subsection (1);

388 (c) the date and time, absent modification by a court or magistrate, that the  
389 requirements expire;

390 (d) the address of the appropriate court in the district or county in which the alleged  
391 victim resides;

392 (e) the availability and effect of any waiver of the requirements; and

393 (f) information regarding the availability of and procedures for obtaining civil and  
394 criminal protective orders with or without the assistance of an attorney.

395 (8) In addition to the provisions of Subsections (1) through (6), because of the unique  
396 and highly emotional nature of domestic violence crimes, the high recidivism rate of

violent

397 offenders, and the demonstrated increased risk of continued acts of violence subsequent

to the

398 release of an offender who has been arrested for domestic violence, it is the finding of

the

399 Legislature that domestic violence crimes, as defined in Section 77-36-1, are crimes for

which

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bail may be denied if there is substantial evidence to support the charge, and if the court finds

401 by clear and convincing evidence that the alleged perpetrator would constitute a  
substantial  
402 danger to an alleged victim of domestic violence if released on bail. If bail is denied  
under this  
403 Subsection (8), it shall be under the terms and conditions described in Subsections (1)  
through  
404 (6).  
405 Section 11. Section **77-36-2.6** is amended to read:  
406 **77-36-2.6. Appearance of defendant required -- Determinations by court.**  
407 (1) A defendant who has been arrested for an offense involving domestic violence  
shall  
408 appear in person before the court or a magistrate within one judicial day after the arrest.  
409 (2) A defendant who has been charged by citation, indictment, or information with an  
410 offense involving domestic violence but has not been arrested, shall appear before the  
court in  
411 person for arraignment as soon as practicable, but no later than 14 days after the next day  
on  
412 which court is in session following the issuance of the citation or the filing of the  
indictment or  
413 information.  
414 (3) At the time of an appearance under Subsection (1) or (2), the court shall determine  
415 the necessity of imposing a protective order or other condition of pretrial release  
including, but  
416 not limited to, participating in an electronic monitoring program [~~described in Section~~  
417 ~~30-6-4.8, in accordance with the provisions of that section~~], and shall state its findings  
and  
418 determination in writing.  
419 (4) Appearances required by this section are mandatory and may not be waived.  
420 Section 12. Section **77-36-5** is amended to read:  
421 **77-36-5. Sentencing -- Restricting contact with victim -- Electronic monitoring --**  
422 **Counseling -- Cost assessed against defendant.**  
423 (1) When a defendant is found guilty of a crime and a condition of the sentence  
424 restricts the defendant's contact with the victim, an order may be issued or, if one has  
already  
425 been issued, it may be extended for the length of the defendant's probation. The order  
shall be  
426 in writing, and the prosecutor shall provide a certified copy of that order to the victim.  
427 (2) In determining its sentence the court, in addition to penalties otherwise provided  
by  
428 law, may require the defendant to participate in an electronic monitoring program[~~as~~  
429 ~~described in Section 30-6-4.8, in accordance with the provisions of that section~~].  
430 (3) The court may also require the defendant to pay all or part of the costs of

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431

counseling incurred by the victim, as well as the costs for defendant's own counseling.



432 (4) The court shall:  
 433 (a) assess against the defendant, as restitution, any costs for services or treatment  
 434 provided to the abused spouse by the Division of Child and Family Services under  
 Section 435 62A-4a-106 ; and  
 436 (b) order those costs to be paid directly to the division or its contracted provider.  
 437 (5) The court shall order the defendant to obtain and satisfactorily complete treatment  
 438 or therapy in a domestic violence treatment program, as defined in Section 62A-2-101 ,  
 that is  
 439 licensed by the Department of Human Services, unless the court finds that there is no  
 licensed 440 program reasonably available or that the treatment or therapy is not necessary.  
 441 Section 13. Section **78-3a-104** is amended to read:  
 442 **78-3a-104. Jurisdiction of juvenile court -- Original -- Exclusive.**  
 443 (1) Except as otherwise provided by law, the juvenile court has exclusive original  
 444 jurisdiction in proceedings concerning:  
 445 (a) a minor who has violated any federal, state, or local law or municipal ordinance or  
 a 446 person younger than 21 years of age who has violated any law or ordinance before  
 becoming 447 18 years of age, regardless of where the violation occurred, excluding traffic laws and  
 boating 448 and ordinances;  
 449 (b) a person 21 years of age or older who has failed or refused to comply with an order  
 450 of the juvenile court to pay a fine or restitution, if the order was imposed prior to the  
 person's 451 21st birthday; however, the continuing jurisdiction is limited to causing compliance with  
 452 existing orders;  
 453 (c) a minor who is an abused child, neglected child, or dependent child, as those terms  
 454 are defined in Section 78-3a-103 ;  
 455 (d) a protective order for a minor ~~[who is alleged to be an abused child or neglected~~  
 456 ~~child, except as provided in Section 78-3a-105 , and unless the petition is filed by a~~  
 natural 457 ~~parent or stepparent of the minor against a natural parent or stepparent of the minor]~~  
 pursuant 458 to the provisions of Title 78, Chapter 3h, Child Protective Orders;  
 459 (e) ~~[the determination of the custody of a minor or to appoint]~~ appointment of a  
 460 guardian of the person or other guardian of a minor who comes within the court's  
 jurisdiction 461 under other provisions of this section;

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(f) the termination of the legal parent-child relationship in accordance with Part 4,  
 463 Termination of Parental Rights Act, including termination of residual parental rights and  
 464 duties;

465 (g) the treatment or commitment of a mentally retarded minor;  
 466 (h) a minor who is a habitual truant from school;  
 467 (i) the judicial consent to the marriage of a minor under age 16 upon a determination  
 of  
 468 voluntariness or where otherwise required by law, employment, or enlistment of a minor  
 when  
 469 consent is required by law;  
 470 (j) any parent or parents of a minor committed to a secure youth corrections facility, to  
 471 order, at the discretion of the court and on the recommendation of a secure youth  
 corrections  
 472 facility, the parent or parents of a minor committed to a secure youth corrections facility  
 for a  
 473 custodial term, to undergo group rehabilitation therapy under the direction of a secure  
 youth  
 474 corrections facility therapist, who has supervision of that parent's or parents' minor, or  
 any  
 475 other therapist the court may direct, for a period directed by the court as recommended  
 by a  
 476 secure youth corrections facility;  
 477 (k) a minor under Title 55, Chapter 12, Interstate Compact on Juveniles;  
 478 (l) the treatment or commitment of a mentally ill child. The court may commit a child  
 479 to the physical custody of a local mental health authority or to the legal custody of the  
 Division  
 480 of Substance Abuse and Mental Health in accordance with the procedures and  
 requirements of  
 481 Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of  
 Substance  
 482 Abuse and Mental Health. The court may not commit a child directly to the Utah State  
 483 Hospital;  
 484 (m) the commitment of a minor in accordance with Section 62A-15-301 ;  
 485 (n) de novo review of final agency actions resulting from an informal adjudicative  
 486 proceeding as provided in Section 63-46b-15 ; and  
 487 (o) adoptions conducted in accordance with the procedures described in Title 78,  
 488 Chapter 30, Adoption, when the juvenile court has previously entered an order  
 terminating the  
 489 rights of a parent and finds that adoption is in the best interest of the minor.  
 490 (2) In addition to the provisions of Subsection (1)(a) the juvenile court has exclusive  
 491 jurisdiction over any traffic or boating offense committed by a minor under 16 years of  
 age and  
 492 concurrent jurisdiction over all other traffic or boating offenses committed by a minor 16  
 years

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493

of age or older, except that the court shall have exclusive jurisdiction over the following  
 494 offenses committed by a minor under 18 years of age:

495 (a) Section 76-5-207 , automobile homicide;  
 496 (b) Section 41-6-44 , operating a vehicle while under the influence of alcohol or  
 drugs;  
 497 (c) Section 41-6-45 , reckless driving or Section 73-18-12 , reckless operation;  
 498 (d) Section 41-1a-1314 , unauthorized control over a motor vehicle, trailer, or  
 499 semitrailer for an extended period of time; and  
 500 (e) Section 41-6-13.5 or 73-18-20 , fleeing a peace officer.  
 501 (3) The court also has jurisdiction over traffic and boating offenses that are part of a  
 502 single criminal episode filed in a petition that contains an offense over which the court  
 has  
 503 jurisdiction.  
 504 ~~[(4) The juvenile court has jurisdiction over questions of custody, support, parent-~~  
 time,  
 505 ~~and visitation certified to it by the district court pursuant to Section 78-3a-105.]~~  
 506 ~~[(5)]~~ (4) The juvenile court has jurisdiction over an ungovernable or runaway minor  
 507 who is referred to it by the Division of Child and Family Services or by public or private  
 508 agencies that contract with the division to provide services to that minor where, despite  
 earnest  
 509 and persistent efforts by the division or agency, the minor has demonstrated that he:  
 510 (a) is beyond the control of his parent, guardian, lawful custodian, or school  
 authorities  
 511 to the extent that his behavior or condition endangers his own welfare or the welfare of  
 others;  
 512 or  
 513 (b) has run away from home.  
 514 ~~[(6)]~~ (5) This section does not restrict the right of access to the juvenile court by  
 private  
 515 agencies or other persons.  
 516 ~~[(7)]~~ (6) The juvenile court has jurisdiction of all magistrate functions relative to cases  
 517 arising under Section 78-3a-602 .  
 518 ~~[(8)]~~ (7) The juvenile court has jurisdiction to make a finding of substantiated,  
 519 unsubstantiated, or without merit, in accordance with Section 78-3a-320 .  
 520 Section 14. Section **78-3a-105** is amended to read:  
 521 **78-3a-105. Concurrent jurisdiction -- District court and juvenile court.**  
 522 (1) The district court or other court has concurrent jurisdiction with the juvenile court  
 523 as follows:

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524

(a) when a person who is 18 years of age or older and who is under the continuing  
 525 jurisdiction of the juvenile court under Section 78-3a-118 violates any federal, state, or  
 local  
 526 law or municipal ordinance; *and*  
 527 (b) in establishing paternity and ordering testing for the purposes of establishing  
 528 paternity, in accordance with Title 78, Chapter 45a, Uniform Act on Paternity, with  
 regard to

4, 529 proceedings initiated under Part 3, Abuse, Neglect, and Dependency Proceedings, or Part  
 530 Termination of Parental Rights Act~~[-and].~~  
 531 ~~[(e) in proceedings brought on behalf of a minor pursuant to Title 30, Chapter 6,~~  
 532 ~~Cohabitant Abuse Act, unless the petition is filed by a natural parent or stepparent of the~~  
 minor 533 ~~against a natural parent or stepparent of the minor.]~~  
 534 (2) The juvenile court has jurisdiction over petitions to modify a minor's birth  
 535 certificate if the court otherwise has jurisdiction over the minor.  
 536 (3) ~~[(a)]~~ This section does not deprive the district court of jurisdiction to appoint a  
 537 guardian for a minor, or to determine the support, custody, and parent-time of a minor  
 upon 538 writ of habeas corpus or when the question of support, custody, and parent-time is  
 incidental to 539 the determination of a cause in the district court.  
 540 ~~[(b) However, if a petition involving the same minor is pending in the juvenile court~~  
 or 541 ~~the juvenile court has previously acquired continuing jurisdiction over the same minor,~~  
 the 542 ~~district court shall certify the question of support, custody, and parent-time to the~~  
 juvenile court 543 ~~for determination.]~~  
 544 ~~[(4) When a question is certified to the juvenile court under Subsection (3), the~~  
 545 ~~findings and order of the juvenile court judge are the order of the district court.]~~  
 546 ~~[(5)]~~ (4) (a) Where a support, custody, or parent-time award has been made by a  
 district 547 court in a divorce action or other proceeding, and the jurisdiction of the district court in  
 the 548 case is continuing, the juvenile court may acquire jurisdiction in a case involving the  
 same 549 minor if the minor is dependent, abused, neglected, or otherwise comes within the  
 jurisdiction 550 of the juvenile court under Section 78-3a-104 .  
 551 (b) The juvenile court may, by order, change the custody, support, parent-time, and  
 552 visitation rights previously ordered in the district court as necessary to implement the  
 order of 553 the juvenile court for the safety and welfare of the minor. The juvenile court order  
 remains in 554 effect so long as the jurisdiction of the juvenile court continues.

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555

556 ~~[(6)]~~ (c) When a copy of the findings and order of the juvenile court has been filed with  
 the 557 the district court, the findings and order of the juvenile court are binding on the parties to  
 divorce action as though entered in the district court.

558 *(5) The juvenile court has jurisdiction over questions of custody, support, and*  
 559 *parent-time, of a minor who comes within the court's jurisdiction under this section or*  
*Section*  
 560 *78-3a-104 .*  
 561 Section 15. Section **78-3a-118** is amended to read:  
 562 **78-3a-118. Adjudication of jurisdiction of juvenile court -- Disposition of cases --**  
 563 **Enumeration of possible court orders -- Considerations of court -- Obtaining DNA**  
 564 **sample.**  
 565 (1) (a) When a minor is found to come within the provisions of Section 78-3a-104 ,  
 the  
 566 court shall so adjudicate. The court shall make a finding of the facts upon which it bases  
 its  
 567 jurisdiction over the minor. However, in cases within the provisions of Subsection  
 568 78-3a-104 (1), findings of fact are not necessary.  
 569 (b) If the court adjudicates a minor for a crime of violence or an offense in violation of  
 570 Title 76, Chapter 10, Part 5, Weapons, it shall order that notice of the adjudication be  
 provided  
 571 to the school superintendent of the district in which the minor resides or attends school.  
 Notice  
 572 shall be made to the district superintendent within three days of the adjudication and  
 shall  
 573 include the specific offenses for which the minor was adjudicated.  
 574 (2) Upon adjudication the court may make the following dispositions by court order:  
 575 (a) (i) The court may place the minor on probation or under protective supervision in  
 576 the minor's own home and upon conditions determined by the court, including  
 compensatory  
 577 service as provided in Section 78-11-20.7 .  
 578 (ii) The court may place the minor in state supervision with the probation department  
 579 of the court, under the legal custody of:  
 580 (A) his parent or guardian;  
 581 (B) the Division of Youth Corrections; or  
 582 (C) the Division of Child and Family Services.  
 583 (iii) If the court orders probation or state supervision, the court shall direct that notice  
 584 of its order be provided to designated persons in the local law enforcement agency and  
 the  
 585 school or transferee school, if applicable, which the minor attends. The designated  
 persons

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586

may receive the information for purposes of the minor's supervision and student safety.

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

589 (A) civilly liable except when the disclosure constitutes fraud or malice as provided in  
 590 Section 63-30-4 ; and

591 (B) civilly or criminally liable except when the disclosure constitutes a knowing

592 violation of Section 63-2-801 .  
 593 (b) The court may place the minor in the legal custody of a relative or other suitable  
 594 person, with or without probation or protective supervision, but the juvenile court may  
 not  
 595 assume the function of developing foster home services.  
 596 (c) (i) The court may:  
 597 (A) vest legal custody of the minor in the Division of Child and Family Services,  
 598 Division of Youth Corrections, or the Division of Substance Abuse and Mental Health;  
 and  
 599 (B) order the Department of Human Services to provide dispositional  
 600 recommendations and services.  
 601 (ii) For minors who may qualify for services from two or more divisions within the  
 602 Department of Human Services, the court may vest legal custody with the department.  
 603 (iii) (A) Minors who are committed to the custody of the Division of Child and Family  
 604 Services on grounds other than abuse or neglect are subject to the provisions of Title 78,  
 605 Chapter 3a, Part 3A, Minors in Custody on Grounds Other Than Abuse or Neglect, and  
 Title  
 606 62A, Chapter 4a, Part 2A, Minors in Custody on Grounds Other Than Abuse or Neglect.  
 607 (B) Prior to the court entering an order to place a minor in the custody of the Division  
 608 of Child and Family Services on grounds other than abuse or neglect, the court shall  
 provide  
 609 the division with notice of the hearing no later than five days before the time specified  
 for the  
 610 hearing so the division may attend the hearing.  
 611 (C) Prior to committing a minor to the custody of the Division of Child and Family  
 612 Services, the court shall make a finding as to what reasonable efforts have been  
 attempted to  
 613 prevent the minor's removal from his home.  
 614 (d) (i) The court may commit the minor to the Division of Youth Corrections for  
 secure  
 615 confinement.  
 616 (ii) A minor under the jurisdiction of the court solely on the ground of abuse, neglect,

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617  
 or dependency under Subsection 78-3a-104 (1)(c) may not be committed to the Division of  
 618 Youth Corrections.  
 619 (e) The court may commit the minor, subject to the court retaining continuing  
 620 jurisdiction over him, to the temporary custody of the Division of Youth Corrections for  
 621 observation and evaluation for a period not to exceed 45 days, which period may be  
 extended  
 622 up to 15 days at the request of the director of the Division of Youth Corrections.  
 623 (f) (i) The court may commit the minor to a place of detention or an alternative to  
 624 detention for a period not to exceed 30 days subject to the court retaining continuing  
 625 jurisdiction over the minor. This commitment may be stayed or suspended upon  
 conditions

626 ordered by the court.  
 627 (ii) This Subsection (2)(f) applies only to those minors adjudicated for:  
 628 (A) an act which if committed by an adult would be a criminal offense; or  
 629 (B) contempt of court under Section 78-3a-901 .  
 630 (g) The court may vest legal custody of an abused, neglected, or dependent minor in  
 631 the Division of Child and Family Services or any other appropriate person in accordance  
 with  
 632 the requirements and procedures of Title 78, Chapter 3a, Part 3, Abuse, Neglect, and  
 633 Dependency Proceedings.  
 634 (h) The court may place the minor on a ranch or forestry camp, or similar facility for  
 635 care and also for work, if possible, if the person, agency, or association operating the  
 facility  
 636 has been approved or has otherwise complied with all applicable state and local laws. A  
 minor  
 637 placed in a forestry camp or similar facility may be required to work on fire prevention,  
 638 forestation and reforestation, recreational works, forest roads, and on other works on or  
 off the  
 639 grounds of the facility and may be paid wages, subject to the approval of and under  
 conditions  
 640 set by the court.  
 641 (i) The court may order the minor to repair, replace, or otherwise make restitution for  
 642 damage or loss caused by the minor's wrongful act, including costs of treatment as stated  
 in  
 643 Section 78-3a-318 and impose fines in limited amounts. If a minor has been returned to  
 this  
 644 state under the Interstate Compact on Juveniles, the court may order the minor to make  
 645 restitution for costs expended by any governmental entity for the return.  
 646 (j) The court may issue orders necessary for the collection of restitution and fines  
 647 ordered by the court, including garnishments, wage withholdings, and executions.

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648

(k) (i) The court may through its probation department encourage the development of  
 649 employment or work programs to enable minors to fulfill their obligations under  
 Subsection  
 650 (2)(i) and for other purposes considered desirable by the court.  
 651 (ii) Consistent with the order of the court, the probation officer may permit the minor  
 652 found to be within the jurisdiction of the court to participate in a program of work  
 restitution or  
 653 compensatory service in lieu of paying part or all of the fine imposed by the court.  
 654 (l) (i) In violations of traffic laws within the court's jurisdiction, the court may, in  
 655 addition to any other disposition authorized by this section:  
 656 (A) restrain the minor from driving for periods of time the court considers necessary;  
 657 and  
 658 (B) take possession of the minor's driver license.  
 659 (ii) The court may enter any other disposition under Subsection (2)(l)(i); however, the

660 suspension of driving privileges for an offense under Section 78-3a-506 are governed  
 only by  
 661 Section 78-3a-506 .  
 662 (m) (i) When a minor is found within the jurisdiction of the juvenile court under  
 663 Section 78-3a-104 because of violating Section 58-37-8 , Title 58, Chapter 37a, Utah  
 Drug  
 664 Paraphernalia Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, the  
 court  
 665 shall, in addition to any fines or fees otherwise imposed, order that the minor perform a  
 666 minimum of 20 hours, but no more than 100 hours, of compensatory service.  
 Satisfactory  
 667 completion of an approved substance abuse prevention or treatment program may be  
 credited  
 668 by the court as compensatory service hours.  
 669 (ii) When a minor is found within the jurisdiction of the juvenile court under Section  
 670 78-3a-104 because of a violation of Section 32A-12-209 or Subsection 76-9-701 (1), the  
 court  
 671 may, upon the first adjudication, and shall, upon a second or subsequent adjudication,  
 order  
 672 that the minor perform a minimum of 20 hours, but no more than 100 hours of  
 compensatory  
 673 service, in addition to any fines or fees otherwise imposed. Satisfactory completion of an  
 674 approved substance abuse prevention or treatment program may be credited by the court  
 as  
 675 compensatory service hours.  
 676 (n) The court may order that the minor be examined or treated by a physician,  
 surgeon,  
 677 psychiatrist, or psychologist or that he receive other special care. For these purposes the  
 court  
 678 may place the minor in a hospital or other suitable facility.

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679

(o) (i) The court may appoint a guardian for the minor if it appears necessary in the  
 680 interest of the minor, and may appoint as guardian a public or private institution or  
 agency in  
 681 which legal custody of the minor is vested.  
 682 (ii) In placing a minor under the guardianship or legal custody of an individual or of a  
 683 private agency or institution, the court shall give primary consideration to the welfare of  
 the  
 684 minor. When practicable, the court may take into consideration the religious preferences  
 of the  
 685 minor and of the minor's parents.  
 686 (p) (i) In support of a decree under Section 78-3a-104 , the court may order reasonable  
 687 conditions to be complied with by the parents or guardian, the minor, the minor's  
 custodian, or



688 any other person who has been made a party to the proceedings. Conditions may include:  
 689 (A) parent-time by the parents or one parent;  
 690 (B) restrictions on the minor's associates;  
 691 (C) restrictions on the minor's occupation and other activities; and  
 692 (D) requirements to be observed by the parents or custodian.  
 693 (ii) A minor whose parents or guardians successfully complete a family or other  
 694 counseling program may be credited by the court for detention, confinement, or  
 probation time.  
 695 (q) The court may order the minor to be placed in the legal custody of the Division of  
 696 Substance Abuse and Mental Health or committed to the physical custody of a local  
 mental  
 697 health authority, in accordance with the procedures and requirements of Title 62A,  
 Chapter 15,  
 698 Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and  
 Mental  
 699 Health.  
 700 (r) (i) The court may make an order committing a minor within its jurisdiction to the  
 701 Utah State Developmental Center if the minor has mental retardation in accordance with  
 the  
 702 provisions of Title 62A, Chapter 5, Part 3, Admission to Mental Retardation Facility.  
 703 (ii) The court shall follow the procedure applicable in the district courts with respect  
 to  
 704 judicial commitments to the Utah State Developmental Center when ordering a  
 commitment  
 705 under Subsection (2)(r)(i).  
 706 (s) The court may terminate all parental rights upon a finding of compliance with the  
 707 provisions of Title 78, Chapter 3a, Part 4, Termination of Parental Rights Act.  
 708 (t) The court may make any other reasonable orders for the best interest of the minor  
 or  
 709 as required for the protection of the public, except that a person younger than 18 years of  
 age

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710

may not be committed to jail or prison.  
 711 (u) The court may combine the dispositions listed in this section if they are  
 compatible.  
 712 (v) Before depriving any parent of custody, the court shall give due consideration to  
 the  
 713 rights of parents concerning their minor. The court may transfer custody of a minor to  
 another  
 714 person, agency, or institution in accordance with the requirements and procedures of  
 Title 78,  
 715 Chapter 3a, Part 3, Abuse, Neglect, and Dependency Proceedings.  
 716 (w) Except as provided in Subsection (2)(y)(i), an order under this section for  
 717 probation or placement of a minor with an individual or an agency shall include a date