

Rule 13. Shelter hearings.

(a) Shelter hearings shall be conducted in accordance with Section 78A-6-306 and Section 78A-6-307.

(b) The Division of Child and Family Services shall file with the court at or before the shelter hearing a copy of the notice form required by Section 62A-4a-202.2 and the notice required by Section 78A-6-306.

(c) At the beginning of the shelter hearing, the court shall advise all persons present of the information submitted to the court as a basis for the admission of the minor into shelter care and of the scope and purpose of the hearing.

(d) The court may receive any information, including hearsay and opinions, that is relevant to the issue of whether it is safe to release the minor to the parent, guardian or custodian. Privileged communications may be admitted only in accordance with the rules of evidence.

(e) If the parent, guardian, or custodian of the minor cannot be notified as provided in Section 78A-6-306, a shelter hearing may be held without the minor's parent, guardian or custodian. Upon a finding that a continuance is necessary for the protection of the minor, for the accumulation or presentation of necessary evidence, to protect the rights of a party, or for other good cause, the court may continue the hearing in accordance with Section 78A-6-306.

(f) If the minor is not released, the order for continued shelter shall be furnished to the agency responsible for shelter care of minors in the county. Orders for continued shelter care shall be of definite duration and may be extended upon review at a hearing in conformity with Section 78A-6-306 and this rule.

(g) The release of the minor from shelter care may be requested by the court, a party, or any person interested in the minor at any time on the grounds that the conditions giving rise to the placement no longer exist or no longer justify continuing shelter. Such request shall be considered by the court at a hearing in conformity with Section 78A-6-306 and this rule.

78A-6-302. Court-ordered protective custody of a child following petition filing -- Grounds.

(1) After a petition has been filed under Section

1. 78A-6-304, if the child who is the subject of the petition is not in the protective custody of the division, a court may order that the child be removed from the child's home or otherwise taken into protective custody if the court finds, by a preponderance of the evidence, that any one or more of the following circumstances exist:

- (a) (i) there is an imminent danger to the physical health or safety of the child; and
 - (ii) the child's physical health or safety may not be protected without removing the child from the custody of the child's parent or guardian;
 - (b) (i) a parent or guardian engages in or threatens the child with unreasonable conduct that causes the child to suffer emotional damage; and
 - (ii) there are no reasonable means available by which the child's emotional health may be protected without removing the child from the custody of the child's parent or guardian;
 - (c) the child or another child residing in the same household has been, or is considered to be at substantial risk of being, physically abused, sexually abused, or sexually exploited, by a parent or guardian, a member of the parent's or guardian's household, or other person known to the parent or guardian;
 - (d) the parent or guardian is unwilling to have physical custody of the child;
 - (e) the child is abandoned or left without any provision for the child's support;
 - (f) a parent or guardian who has been incarcerated or institutionalized has not arranged or cannot arrange for safe and appropriate care for the child;
 - (g) (i) a relative or other adult custodian with whom the child is left by the parent or guardian is unwilling or unable to provide care or support for the child;
 - (ii) the whereabouts of the parent or guardian are unknown; and
 - (iii) reasonable efforts to locate the parent or guardian are unsuccessful;
 - (h) the child is in immediate need of medical care;
 - (i) (i) a parent's or guardian's actions, omissions, or habitual action create an environment that poses a threat to the child's health or safety; or
 - (ii) a parent's or guardian's action in leaving a child unattended would reasonably pose a threat to the child's health or safety;
 - (j) the child or another child residing in the same household has been neglected;
 - (k) an infant has been abandoned, as defined in Section 78A-6-316;
 - (l) (i) the parent or guardian, or an adult residing in the same household as the parent or guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act; and
 - (ii) any clandestine laboratory operation was located in the residence or on the property where the child resided; or
 - (m) the child's welfare is otherwise endangered.
- (2) (a) For purposes of Subsection (1)(a), if a child has previously been adjudicated as abused, neglected, or dependent, and a subsequent incident of abuse, neglect, or dependency occurs involving the same substantiated abuser or under similar circumstance as the previous abuse, that fact constitutes prima facie evidence that the child cannot safely remain in the custody of the child's parent.
- (b) For purposes of Subsection (1)(c):
- (i) another child residing in the same household may not be removed from the home

unless that child is considered to be at substantial risk of being physically abused, sexually abused, or sexually exploited as described in Subsection (1)(c) or Subsection (2)(b)(ii); and (ii) if a parent or guardian has received actual notice that physical abuse, sexual abuse, or sexual exploitation by a person known to the parent has occurred, and there is evidence that the parent or guardian failed to protect the child, after having received the notice, by allowing the child to be in the physical presence of the alleged abuser, that fact constitutes prima facie evidence that the child is at substantial risk of being physically abused, sexually abused, or sexually exploited.

(3) In the absence of one of the factors described in Subsection (1), a court may not remove a child from the parent's or guardian's custody on the basis of:

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

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

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

(4) A child removed from the custody of the child's parent or guardian under this section may not be placed or kept in a secure detention facility pending further court proceedings unless the child is detainable based on guidelines promulgated by the Division of Juvenile Justice Services.

(5) This section does not preclude removal of a child from the child's home without a warrant or court order under Section 62A-4a-202.1.

(6) (a) Except as provided in Subsection (6)(b), a court or the Division of Child and Family Services may not remove a child from the custody of the child's parent or guardian on the sole or primary basis that the parent or guardian refuses to consent to:

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

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

(iii) a psychiatric or behavioral health evaluation of a child.

(b) Notwithstanding Subsection (6)(a), a court or the Division of Child and Family Services may remove a child under conditions that would otherwise be prohibited under Subsection (6)(a) if failure to take an action described under Subsection (6)(a) would present a serious, imminent risk to the child's physical safety or the physical safety of others.

Amended by Chapter 293, 2012 General Session

78A-6-306. Shelter hearing.

(1) A shelter hearing shall be held within 72 hours excluding weekends and holidays after any one or all of the following occur:

- (a) removal of the child from the child's home by the division;
- (b) placement of the child in the protective custody of the division;
- (c) emergency placement under Subsection

1. 62A-4a-202.1(4);

(d) as an alternative to removal of the child, a parent enters a domestic violence shelter at the request of the division; or

(e) a "Motion for Expedited Placement in Temporary Custody" is filed under Subsection 78A-6-106(4).

(2) Upon the occurrence of any of the circumstances described in Subsections (1)(a) through (e), the division shall issue a notice that contains all of the following:

- (a) the name and address of the person to whom the notice is directed;
- (b) the date, time, and place of the shelter hearing;
- (c) the name of the child on whose behalf a petition is being brought;
- (d) a concise statement regarding:
 - (i) the reasons for removal or other action of the division under Subsection (1); and
 - (ii) the allegations and code sections under which the proceeding has been instituted;
- (e) a statement that the parent or guardian to whom notice is given, and the child, are entitled to have an attorney present at the shelter hearing, and that if the parent or guardian is indigent and cannot afford an attorney, and desires to be represented by an attorney, one will be provided in accordance with the provisions of Section 78A-6-111; and
- (f) a statement that the parent or guardian is liable for the cost of support of the child in the protective custody, temporary custody, and custody of the division, and the cost for legal counsel appointed for the parent or guardian under Subsection (2)(e), according to the financial ability of the parent or guardian.

(3) The notice described in Subsection (2) shall be personally served as soon as possible, but no later than one business day after removal of the child from the child's home, or the filing of a "Motion for Expedited Placement in Temporary Custody" under Subsection 78A-6-106(4), on:

- (a) the appropriate guardian ad litem; and
- (b) both parents and any guardian of the child, unless the parents or guardians cannot be located.

(4) The following persons shall be present at the shelter hearing:

- (a) the child, unless it would be detrimental for the child;
- (b) the child's parents or guardian, unless the parents or guardian cannot be located, or fail to appear in response to the notice;
- (c) counsel for the parents, if one is requested;
- (d) the child's guardian ad litem;
- (e) the caseworker from the division who is assigned to the case; and
- (f) the attorney from the attorney general's office who is representing the division.

(5) (a) At the shelter hearing, the court shall:

- (i) provide an opportunity to provide relevant testimony to:
 - (A) the child's parent or guardian, if present; and
 - (B) any other person having relevant knowledge; and

(ii) subject to Section 78A-6-305, provide an opportunity for the child to testify.

(b) The court:

(i) may consider all relevant evidence, in accordance with the Utah Rules of Juvenile Procedure;

(ii) shall hear relevant evidence presented by the child, the child's parent or guardian, the requesting party, or their counsel; and

(iii) may in its discretion limit testimony and evidence to only that which goes to the issues of removal and the child's need for continued protection.

(6) If the child is in the protective custody of the division, the division shall report to the court:

(a) the reason why the child was removed from the parent's or guardian's custody;

(b) any services provided to the child and the child's family in an effort to prevent removal;

(c) the need, if any, for continued shelter;

(d) the available services that could facilitate the return of the child to the custody of the child's parent or guardian; and

(e) subject to Subsections 78A-6-307(18)(c) through (e), whether any relatives of the child or friends of the child's parents may be able and willing to accept temporary placement of the child.

(7) The court shall consider all relevant evidence provided by persons or entities authorized to present relevant evidence pursuant to this section.

(8) (a) If necessary to protect the child, preserve the rights of a party, or for other good cause shown, the court may grant no more than one continuance, not to exceed five judicial days.

(b) A court shall honor, as nearly as practicable, the request by a parent or guardian for a continuance under Subsection (8)(a).

(9) (a) If the child is in the protective custody of the division, the court shall order that the child be released from the protective custody of the division unless it finds, by a preponderance of the evidence, that any one of the following exist:

(i) subject to Subsection (9)(b)(i), there is a substantial danger to the physical health or safety of the child and the child's physical health or safety may not be protected without removing the child from the custody of the child's parent;

(ii) (A) the child is suffering emotional damage; and

(B) there are no reasonable means available by which the child's emotional health may be protected without removing the child from the custody of the child's parent;

(iii) there is a substantial risk that the child will suffer abuse or neglect if the child is not removed from the custody of the child's parents;

(iv) subject to Subsection (9)(b)(ii), the child or a minor residing in the same household has been, or is considered to be at substantial risk of being, physically abused, sexually abused, or sexually exploited by a:

(A) parent;

(B) member of the parent's household; or

(C) person known to the parent;

(v) the parent is unwilling to have physical custody of the child;

(vi) the child is without any provision for the child's support;

(vii) a parent who is incarcerated or institutionalized has not or cannot arrange for safe

and appropriate care for the child;

(viii) (A) a relative or other adult custodian with whom the child is left by the parent is unwilling or unable to provide care or support for the child;

(B) the whereabouts of the parent are unknown; and

(C) reasonable efforts to locate the parent are unsuccessful;

(ix) the child is in urgent need of medical care;

(x) the physical environment or the fact that the child is left unattended beyond a reasonable period of time poses a threat to the child's health or safety;

(xi) the child or a minor residing in the same household has been neglected;

(xii) the parent, or an adult residing in the same household as the parent, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act, and any clandestine laboratory operation was located in the residence or on the property where the child resided; or

(xiii) the child's welfare is substantially endangered.

(b) (i) Prima facie evidence of the finding described in Subsection (9)(a)(i) is established if:

(A) a court previously adjudicated that the child suffered abuse, neglect, or dependency involving the parent; and

(B) a subsequent incident of abuse, neglect, or dependency involving the parent occurs.

(ii) For purposes of Subsection (9)(a)(iv), if the court finds that the parent knowingly allowed the child to be in the physical care of a person after the parent received actual notice that the person physically abused, sexually abused, or sexually exploited the child, that fact constitutes prima facie evidence that there is a substantial risk that the child will be physically abused, sexually abused, or sexually exploited.

(10) (a) (i) The court shall also make a determination on the record as to whether reasonable efforts were made to prevent or eliminate the need for removal of the child from the child's home and whether there are available services that would prevent the need for continued removal.

(ii) If the court finds that the child can be safely returned to the custody of the child's parent or guardian through the provision of those services, the court shall place the child with the child's parent or guardian and order that those services be provided by the division.

(b) In making the determination described in Subsection (10)(a), and in ordering and providing services, the child's health, safety, and welfare shall be the paramount concern, in accordance with federal law.

(11) Where the division's first contact with the family occurred during an emergency situation in which the child could not safely remain at home, the court shall make a finding that any lack of preplacement preventive efforts was appropriate.

(12) In cases where actual sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved, neither the division nor the court has any duty to make "reasonable efforts" or to, in any other way, attempt to maintain a child in the child's home, return a child to the child's home, provide reunification services, or attempt to rehabilitate the offending parent or parents.

(13) The court may not order continued removal of a child solely on the basis of educational neglect as described in Subsection 78A-6-105(25)(b) truancy, or failure to comply with a court order to attend school.

(14) (a) Whenever a court orders continued removal of a child under this section, the

court shall state the facts on which that decision is based.

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

(15) If the court finds that continued removal and temporary custody are necessary for the

protection of a child because harm may result to the child if the child were returned home, the court shall order continued removal regardless of:

- (a) any error in the initial removal of the child;
- (b) the failure of a party to comply with notice provisions; or
- (c) any other procedural requirement of this chapter or Title 62A, Chapter 4a, Child and Family Services.

Amended by Chapter 293, 2012 General Session

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

(1) As used in this section:

(a) (i) "Natural parent," notwithstanding the provisions of Section

1. 78A-6-105, means:

(A) a biological or adoptive mother;

(B) an adoptive father; or

(C) a biological father who:

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

(II) has strictly complied with the provisions of Sections **78B-6-120** through **78B-6-122**, prior to removal of the child or voluntary surrender of the child by the custodial parent.

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

(b) "Relative" means:

(i) an adult who is a grandparent, great grandparent, aunt, great aunt, uncle, great uncle, brother-in-law, sister-in-law, stepparent, first cousin, stepsibling, or sibling of a child; and

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

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

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

(c) The provisions of this Subsection (2) are limited by the provisions of Subsection (18)(b).

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

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

(iii) The court may order the division to conduct any further investigation regarding the safety and appropriateness of the placement.

(iv) The division shall report its findings in writing to the court.

(v) The court may place the child in the temporary custody of the division, pending its determination regarding that placement.

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

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

(b) the court may order:

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

(ii) that services be provided to the parent from whose custody the child was removed,

the parent who has assumed custody, or both; and

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

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

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

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

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

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

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

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

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

(a) shall, at that time, determine whether, subject to Subsections (18)(c) through (e), there is a relative of the child or a friend of a parent of the child who is able and willing to care for the child;

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

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

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

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

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

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

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

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

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

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

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

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

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

(C) a background check that complies with the criminal background check provisions described in Section 78A-6-308, of each nonrelative, as defined in Subsection 62A-4a-209(1)(a), of the child who resides in the household where the child may be placed;

(ii) if the child will be placed with a noncustodial parent of the child, complete a background check that includes:

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

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

(C) a background check that complies with the criminal background check provisions described in Section 78A-6-308, of each nonrelative, as defined in Subsection 62A-4a-209(1)(a), of the child who resides in the household where the child may be placed;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The court shall ultimately base its determination regarding the appropriateness of a placement with a relative or friend on the best interest of the child.

(13) When the court awards custody and guardianship of a child with a relative or friend:

(a) the court shall order that:

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

- (ii) any necessary services be provided to the child and the relative or friend;
- (b) the child and any relative or friend with whom the child is placed are under the continuing jurisdiction of the court;
- (c) the court may enter any order that it considers necessary for the protection and best interest of the child;
- (d) the court shall provide for reasonable parent-time with the parent or parents from whose custody the child was removed, unless parent-time is not in the best interest of the child; and
- (e) the court shall conduct a periodic review no less often than every six months, to determine whether:
 - (i) placement with the relative or friend continues to be in the child's best interest;
 - (ii) the child should be returned home; or
 - (iii) the child should be placed in the custody of the division.

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

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

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

- (i) conduct a criminal background check of the relative that complies with the criminal background check provisions described in Section 78A-6-308; and
- (ii) if the results of the criminal background check described in Subsection (16)(a)(i) would prohibit the relative from having direct access to the child under Section 62A-2-120, the division shall:
 - (A) take the child into physical custody; and
 - (B) within three days, excluding weekends and holidays, after taking the child into physical custody under Subsection (16)(a)(ii)(A), give written notice to the court, and all parties to the proceedings, of the division's action.

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

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

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

child, may not be granted preferential consideration by the division or the court.

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

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

- (i) a noncustodial parent of the child;
- (ii) a relative of the child;
- (iii) subject to Subsection (18)(d), a friend of a parent of the child, if the friend is a licensed

foster parent; and

(iv) other placements that are consistent with the requirements of law.

(d) In determining whether a friend is a willing and appropriate placement for a child, neither the court, nor the division, is required to consider more than one friend designated by each parent of the child.

(e) If a parent of the child is not able to designate a friend who is a licensed foster parent for placement of the child, but is able to identify a friend who is willing to become licensed as a foster parent:

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

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

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

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

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Amended by Chapter 17, 2008 General Session