

2023 Legislative Session Review

What Do We Want To Do Next ?

HB 204 Child Welfare Proceedings Testing Requirements (Rep. Watkins, C.)

- The bill prohibits the Division and the GAL from referring/requiring an individual to take a drug test via oral fluid testing
- There is an exception for a parent who consents, or if the court makes a finding that oral fluid testing is necessary in the circumstances presented

SB 52 Parental Indigent Defense Amendments (*Sen. Weiler, T.*)

- Gives the IADD the responsibility for providing representation in all child welfare/TPR appeals in 3rd through 6th class counties
- This practice has been in place for a few years but is now a statutorily established duty of the IADD
- Every child welfare appeal is to be transferred to the IADD after the filing of a notice of appeal
 - Trial counsel no longer has the duty to prepare the Petition

SB 54 Child Welfare Parental Representation Amendments (*Sen. Harper, W.*)

- In 2022 the Legislature created a pilot program to team social workers with parents' attorneys and required that the workers in the program have a master's degree
- This change allows the focus to be on experience not the degree
- Currently 3 in the Pilot project We are working to determine the benefits and outcomes

SB 56 Child Welfare Amendments (Sen. Harper, W.)

- Makes some changes to the Division's citizen review committees
- It also creates a limitation on the court's authority to finalize a non-relative placement while an ICPC report is pending
Appears this will have little impact on practice

Kinship Preference for Placement

- Provides a definition of how a relative shows they “asserted an interest” in placement
- Requires that a statement of interest be written down and reported to the court
- Extends the preference for kin placement from 4 months to 12 months
- Creates a rebuttable presumption that up until 8 months from the Shelter a kinship placement is in the best interest of the child
- After 8 months, the presumption expires, but the court must give preference for placement with a relative until 12 months from Shelter
- *Deletes the provision that denies preferential consideration for placement to a natural parent after 12 months (80-3-302 (7)(c)(i))*

The bill also eliminates this:

(9) (a) Except as provided in Subsection (9)(b), with regard to a child who is three years old or younger, if the child and family plan is not to return the child home, the primary permanency plan described in Section 80-3-406 for the child shall be adoption.

SB 163 Child Welfare Modifications (Sen. Harper, W.)

- This is a bill we requested Senator Harper run
- There was a lot of opposition from other parties but he ran it through the way he wanted it—with one bump
- The bill states that parents and children have the right to visit with each other even when the child is placed out of the home

The Changes

- Creates a requirement that the court consider visitation and make specific findings as to the conditions of visitation that are in the child's best interest and if visitation is denied to state the reasons for denial
- States that the conditions of visitation should be the least restrictive necessary to protect the safety of the child and to protect them from trauma
 - The language is repeated in the code sections for shelter, adjudication, dispositional hearing, six-month and permanency hearings.

SB 163 -- Findings Language

- ▶ (2) (a) If, at the adjudication hearing, a child remains in an out-of-home placement, the juvenile court shall:
 - (i) make specific findings regarding the conditions of parent-time that are in the child's best interest; and
 - (ii) if parent-time is denied, state the facts that justify the denial.

- ▶ (b) Parent-time shall be under the least restrictive conditions necessary to:
 - (i) protect the physical safety of the child; or
 - (ii) prevent the child from being traumatized by contact with the parent due to the child's fear of the parent in light of the nature of the alleged abuse or neglect

SB 290 Juvenile Court Modifications (Sen. Weiler, T.)

- This bill allows a juvenile court to find that a person between the age of 18 and 21 is or was abused, neglected, or abandoned by their parents. This finding provides the person a protected status in deportation proceedings
- It does not require the division to provide any services
- It does not create any immigration proceedings in juvenile court

HB 305 Child Abuser Education Restrictions (Rep. Clancy, T.)

- A parent with a substantiated finding of child abuse made by a court of competent jurisdiction cannot be the person who gets approval to home school their child
 - This applies also to a conviction
- Limited to home schooling

BILLS THAT FAILED

HB 180 Child Welfare Placement Review Amendments (Rep. Gricius, S.)

Intended to modify the definition of “strictly necessary”

- Intended to improve the position of non-kin adoptive homes where the child has resided during the case
- The language reads:

(1) Subject to the protections and requirements of Section [80-4-104](#), [~~and if the juvenile court finds termination of parental rights, from the child's point of view, is strictly necessary,~~] the juvenile court may terminate all parental rights with respect to the parent if:
(a) based on the totality of the circumstances and from the individual child's point of view, the juvenile court finds that termination of parental rights is strictly necessary to promote the child's best interest; ...

Additionally:

(b) the existence of a placement option that does not require the termination of parental rights does not preclude a finding, based on the totality of the circumstances, that termination of parental rights is strictly necessary to promote the child's best interest; and

(c) as applicable, the juvenile court shall include the considerations described in Sections [80-4-303](#) and [80-4-304](#) when determining the best interest of the child.

HB 520 Child Welfare Changes (Rep. Watkins, C.)

- The proposal is to modify the definition of neglect to read this way:

80-1-102. Juvenile Code definitions

(58) (a) "Neglect" means action or inaction causing:

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

- The proposal is to also modify the definition of threatened harm so it does not include threatened neglect. It reads:

(92) "Threatened harm" means [~~actions, inactions, or credible verbal threats, indicating that the child is at an unreasonable risk of harm or neglect~~] credible verbal threats of harm, or actions or inactions that place a child at an unreasonable risk of non-accidental harm

HB 504 Child Welfare Investigations Amendments (Rep. Watkins, C.)

- Requires a child welfare caseworker to obtain a warrant before entering a private premises if the purpose is to gather “evidence”
- It also requires that when a child is removed from the child's home the removal be recorded

HB 40 Native American Child and Family Amendments (Rep. Watkins, C.)

- The bill aimed to create a state ICWA and had been worked on for around a year. It did not get passed out of committee
- This will be back in some form after the decision from the Supreme Court

We Can Do More

- ▶ Get Involved In The Process Before The Session
- ▶ Legislators Do Listen To Constituents And Their Anecdotes
- ▶ Know Your Legislator
 - ▶ www.le.Utah.gov
- ▶ Email and Text Your Legislator with Stories And Suggestions
 - ▶ Explain Family Policing
- ▶ Share Your Ideas With Our Legislative Team

Adam Trupp

385-228-8238

atrupp@Utah.gov