

62A-4a-202.2 Notice upon removal of child -- Locating noncustodial parent -- Written statement of procedural rights and preliminary proceedings.

- (1)
- (a) Any peace officer or caseworker who takes a child into protective custody pursuant to Section 62A-4a-202.1 shall immediately use reasonable efforts to locate and inform, through the most efficient means available, the parents, including a noncustodial parent, the guardian, or responsible relative:
 - (i) that the child has been taken into protective custody;
 - (ii) the reasons for removal and placement of the child in protective custody;
 - (iii) that a written statement is available that explains:
 - (A) the parent's or guardian's procedural rights; and
 - (B) the preliminary stages of the investigation and shelter hearing;
 - (iv) of a telephone number where the parent or guardian may access further information;
 - (v) that the child and the child's parent or guardian are entitled to have an attorney present at the shelter hearing;
 - (vi) that if the child's parent or guardian is impecunious and desires to have an attorney, one will be provided; and
 - (vii) that resources are available to assist the child's parent or guardian, including:
 - (A) a parent advocate;
 - (B) a qualified attorney; or
 - (C) potential expert witnesses to testify on behalf of the:
 - (I) child;
 - (II) child's parent;
 - (III) child's guardian; or
 - (IV) child's family.
 - (b) For purposes of locating and informing the noncustodial parent as required in Subsection (1)(a), the division shall search for the noncustodial parent through the national parent locator database if the division is unable to locate the noncustodial parent through other reasonable efforts.
- (2)
- (a) The Office of the Attorney General shall adopt, print, and distribute a form for the written statement described in Subsection (1)(a)(iii).
 - (b) The statement described in Subsections (1)(a)(iii) and (2)(a) shall:
 - (i) be made available to the division and for distribution in:
 - (A) schools;
 - (B) health care facilities;
 - (C) local police and sheriff's offices;
 - (D) the division; and
 - (E) any other appropriate office within the Department of Human Services;
 - (ii) be in simple language; and
 - (iii) include at least the following information:
 - (A) the conditions under which a child may be released;
 - (B) hearings that may be required;
 - (C) the means by which the parent or guardian may access further specific information about a child's case and conditions of protective and temporary custody; and
 - (D) the rights of a child and of the parent or guardian to legal counsel and to appeal.

- (3) If reasonable efforts are made by the peace officer or caseworker to notify the parent or guardian or a responsible relative in accordance with the requirements of Subsection (1), failure to notify:
- (a) shall be considered to be due to circumstances beyond the control of the peace officer or caseworker; and
 - (b) may not be construed to:
 - (i) permit a new defense to any juvenile or judicial proceeding; or
 - (ii) interfere with any rights, procedures, or investigations provided for by this chapter or Title 78A, Chapter 6, Juvenile Court Act of 1996.

Amended by Chapter 3, 2008 General Session