

62A-4a-202.1 Entering home of a child -- Taking a child into protective custody -- Caseworker accompanied by peace officer -- Preventive services -- Shelter facility or emergency placement.

- (1) A peace officer or child welfare worker may not:
 - (a) enter the home of a child who is not under the jurisdiction of the court, remove a child from the child's home or school, or take a child into protective custody unless authorized under Subsection 78A-6-106(2); or
 - (b) remove a child from the child's home or take a child into custody under this section solely on the basis of educational neglect, truancy, or failure to comply with a court order to attend school.
- (2) A child welfare worker within the division may take action under Subsection (1) accompanied by a peace officer, or without a peace officer when a peace officer is not reasonably available.
- (3)
 - (a) If possible, consistent with the child's safety and welfare, before taking a child into protective custody, the child welfare worker shall also determine whether there are services available that, if provided to a parent or guardian of the child, would eliminate the need to remove the child from the custody of the child's parent or guardian.
 - (b) If the services described in Subsection (3)(a) are reasonably available, they shall be utilized.
 - (c) In determining whether the services described in Subsection (3)(a) are reasonably available, and in making reasonable efforts to provide those services, the child's health, safety, and welfare shall be the child welfare worker's paramount concern.
- (4)
 - (a) A child removed or taken into custody under this section may not be placed or kept in a secure detention facility pending court proceedings unless the child is detainable based on guidelines promulgated by the Division of Juvenile Justice Services.
 - (b) A child removed from the custody of the child's parent or guardian but who does not require physical restriction shall be given temporary care in:
 - (i) a shelter facility; or
 - (ii) an emergency placement in accordance with Section 62A-4a-209.
 - (c) When making a placement under Subsection (4)(b), the Division of Child and Family Services shall give priority to a placement with a noncustodial parent, relative, or friend, in accordance with Section 62A-4a-209.
 - (d) If the child is not placed with a noncustodial parent, a relative, or a designated friend, the caseworker assigned to the child shall file a report with the caseworker's supervisor explaining why a different placement was in the child's best interest.
- (5) When a child is removed from the child's home or school or taken into protective custody, the caseworker shall give a parent of the child a pamphlet or flier explaining:
 - (a) the parent's rights under this part, including the right to be present and participate in any court proceeding relating to the child's case;
 - (b) that it may be in the parent's best interest to contact an attorney and that, if the parent cannot afford an attorney, the court will appoint one;
 - (c) the name and contact information of a division employee the parent may contact with questions;
 - (d) resources that are available to the parent, including:
 - (i) mental health resources;
 - (ii) substance abuse resources; and
 - (iii) parenting classes; and
 - (e) any other information considered relevant by the division.

(6) The pamphlet or flier described in Subsection (5) shall be:

- (a) evaluated periodically for its effectiveness at conveying necessary information and revised accordingly;
- (b) written in simple, easy-to-understand language; and
- (c) available in English and other languages as the division determines to be appropriate and necessary.

Amended by Chapter 221, 2012 General Session

Amended by Chapter 293, 2012 General Session