

62A-4a-409 Investigation by division -- Temporary protective custody -- Preremoval interviews of children.

- (1)
 - (a) The division shall make a thorough preremoval investigation upon receiving either an oral or written report of alleged abuse, neglect, fetal alcohol syndrome, or fetal drug dependency, when there is reasonable cause to suspect that a situation of abuse, neglect, fetal alcohol syndrome, or fetal drug dependency exists.
 - (b) The primary purpose of the investigation described in Subsection (1)(a) shall be protection of the child.
- (2) The preremoval investigation described in Subsection (1)(a) shall include the same investigative requirements described in Section 62A-4a-202.3.
- (3) The division shall make a written report of its investigation that shall include a determination regarding whether the alleged abuse or neglect is supported, unsupported, or without merit.
- (4)
 - (a) The division shall use an interdisciplinary approach when appropriate in dealing with reports made under this part.
 - (b) For this purpose, the division shall convene appropriate interdisciplinary "child protection teams" to assist it in its protective, diagnostic, assessment, treatment, and coordination services.
 - (c) A representative of the division shall serve as the team's coordinator and chair. Members of the team shall serve at the coordinator's invitation. Whenever possible, the team shall include representatives of:
 - (i) health, mental health, education, and law enforcement agencies;
 - (ii) the child;
 - (iii) parent and family support groups unless the parent is alleged to be the perpetrator; and
 - (iv) other appropriate agencies or individuals.
- (5) If a report of neglect is based upon or includes an allegation of educational neglect, the division shall immediately consult with school authorities to verify the child's status in accordance with Sections 53A-11-101 through 53A-11-103.
- (6) When the division completes its initial investigation under this part, it shall give notice of that completion to the person who made the initial report.
- (7) Division workers or other child protection team members have authority to enter upon public or private premises, using appropriate legal processes, to investigate reports of alleged abuse or neglect, upon notice to parents of their rights under the Child Abuse Prevention and Treatment Act, 42 U.S.C. Sec. 5106, or any successor thereof.
- (8) With regard to any interview of a child prior to removal of that child from the child's home:
 - (a) except as provided in Subsection (8)(b) or (c), the division shall inform a parent of the child prior to the interview of:
 - (i) the specific allegations concerning the child; and
 - (ii) the time and place of the interview;
 - (b) if a child's parent or stepparent, or a parent's paramour has been identified as the alleged perpetrator, the division is not required to comply with Subsection (8)(a);
 - (c) if the perpetrator is unknown, or if the perpetrator's relationship to the child's family is unknown, the division may conduct a minimal interview or conversation, not to exceed 15 minutes, with the child prior to complying with Subsection (8)(a);
 - (d) in all cases described in Subsection (8)(b) or (c), a parent of the child shall be notified as soon as practicable after the child has been interviewed, but in no case later than 24 hours after the interview has taken place;

- (e) a child's parents shall be notified of the time and place of all subsequent interviews with the child; and
- (f) the child shall be allowed to have a support person of the child's choice present, who:
 - (i) may include:
 - (A) a school teacher;
 - (B) an administrator;
 - (C) a guidance counselor;
 - (D) a child care provider;
 - (E) a family member;
 - (F) a family advocate; or
 - (G) clergy; and
 - (ii) may not be a person who is alleged to be, or potentially may be, the perpetrator.
- (9) In accordance with the procedures and requirements of Sections 62A-4a-202.1 through 62A-4a-202.3, a division worker or child protection team member may take a child into protective custody and deliver the child to a law enforcement officer, or place the child in an emergency shelter facility approved by the juvenile court, at the earliest opportunity subsequent to the child's removal from the child's original environment. Control and jurisdiction over the child is determined by the provisions of Title 78A, Chapter 6, Juvenile Court Act of 1996, and as otherwise provided by law.
- (10) With regard to cases in which law enforcement has or is conducting an investigation of alleged abuse or neglect of a child:
 - (a) the division shall coordinate with law enforcement to ensure that there is an adequate safety plan to protect the child from further abuse or neglect; and
 - (b) the division is not required to duplicate an aspect of the investigation that, in the division's determination, has been satisfactorily completed by law enforcement.

Amended by Chapter 239, 2010 General Session