

**PROTECTION OF CHILDREN IN FOSTER
CARE**

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: David Litvack

LONG TITLE

General Description:

This bill modifies Division of Child and Family Services provisions.

Highlighted Provisions:

This bill:

- ▶ gives the Department of Human Services access to provide a complete case history contained in the Management Information System for the purpose of licensing and monitoring foster parents;

- ▶ gives the Office of the Guardian Ad Litem access only to information about children and families where it has been appointed by a court to represent the interests of the children; and

- ▶ provides restrictions and outlines security required for information in the Management Information System.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

62A-2-121, as last amended by Chapters 283 and 300, Laws of Utah 2002

62A-4a-116, as last amended by Chapter 283, Laws of Utah 2002

62A-4a-116.2, as last amended by Chapter 210, Laws of Utah 2003

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **62A-2-121** is amended to read:

62A-2-121. Access to abuse and neglect information for licensing purposes.

(1) With respect to human services licensees, the department may access only the Licensing Information System of the Division of Child and Family Services created by Section 62A-4a-116.2 and juvenile court records under Subsection 78-3a-320(4), for the purpose of:

(a) determining whether a person associated with a licensee, with direct access to children, is listed in the Licensing Information System or has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 78-3a-320(1) and (2); and

(b) informing a licensee that a person associated with the licensee is listed in the Licensing Information System or has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 78-3a-320(1) and (2).

(2) Notwithstanding Subsection (1), the department may access the Division of Child and Family Service's Management Information System under Section 62A-4a-116 for the purpose of licensing and monitoring foster parents.

~~[(2)]~~ (3) After receiving identifying information for a person under Subsection 62A-2-120(1), the department shall process the information for the purposes described in Subsection (1).

~~[(3)]~~ (4) The department shall adopt rules under Title 63, Chapter 46a, Utah Administrative Rulemaking Act, consistent with this chapter, defining the circumstances under which a person who has direct access to children and who is listed in the Licensing Information System or has a substantiated finding by a court of a severe type of child abuse or neglect under Subsections 78-3a-320(1) and (2) may provide services to children.

Section 2. Section **62A-4a-116** is amended to read:

62A-4a-116. Management Information System -- Requirements -- Contents -- Purpose -- Access.

(1) The division shall develop and implement a Management Information System that meets the requirements of this section and the requirements of federal law and regulation. The

information and records contained in the Management Information System are protected records under Title 63, Chapter 2, Government Records Access and Management Act, and except for the limited, specific, and narrow provisions relating to licensing, contained in Section 62A-4a-116.2, and those provisions relating to contract providers, described in Subsection (6), they are available only to those with statutory authorization to review under that law. They are also available to those who have a specific statutory authorization to access the record for the purpose of assisting the state with state and federal requirements to maintain information solely for the purpose of protecting minors and providing services to families in need.

(2) With regard to all child welfare cases, the Management Information System shall provide each caseworker and the department's office of licensing, exclusively for the purposes of foster parent licensure and monitoring, with a complete history of each child in that worker's caseload, including the following information:

(a) a record of all past action taken by the division with regard to that child and the child's siblings;

(b) the complete case history and all reports and information in the control or keeping of the division regarding that child and the child's siblings;

(c) the number of times the child has been in the custody of the division;

(d) the cumulative period of time the child has been in the custody of the division;

(e) a record of all reports of abuse or neglect received by the division with regard to that child's parent, parents, or guardian including documentation of the latest status or the final outcome or determination regarding each report, including whether each report was found to be supported, unsupported, substantiated by a juvenile court, unsubstantiated by a juvenile court, or without merit;

(f) the number of times the child's parent or parents have failed any treatment plan; and

(g) the number of different caseworkers who have been assigned to that child in the past.

(3) The division's Management Information System shall also:

(a) contain all key elements of each family's current treatment plan, including the dates and number of times the plan has been administratively or judicially reviewed, the number of times

the parent or parents have failed that treatment plan, and the exact length of time that treatment plan has been in effect; and

(b) alert caseworkers regarding deadlines for completion of and compliance with policy, including treatment plans.

(4) With regard to all child protective services cases, the Management Information System shall also:

(a) monitor the compliance of each case with division rule and policy, state law, and federal law and regulation; and

(b) include the age and date of birth of the alleged perpetrator at the time the abuse or neglect is alleged to have occurred, in order to ensure accuracy regarding the identification of the alleged perpetrator.

(5) Except as provided in Subsection (6) regarding contract providers and Section 62A-4a-116.2 regarding limited access to the Licensing Information System, all information contained in the division's Management Information System is available to the department, upon the approval of the executive director, on a need-to-know basis.

(6) (a) The division may allow its contract providers and the Office of the Guardian Ad Litem to have limited access to the Management Information System. A division contract provider has access only to information about persons who are currently receiving services from that specific contract provider. The Office of the Guardian Ad Litem has access only to information about children and families where the Office of the Guardian Ad Litem has been appointed by a court to represent the interests of the children. The access granted to the Office of the Guardian Ad Litem is limited to information entered into the system on or after July 1, 2004, except the office may have access to all child abuse and neglect referrals about children and families where the office has been appointed by a court to represent the interests of the children.

(b) Each contract provider and designated representative of the Office of the Guardian Ad Litem who requests access to information contained in the Management Information System shall:

(i) take all necessary precautions to safeguard the security of the information contained in the Management Information System;

(ii) train its employees regarding requirements for protecting the information contained in the Management Information System as required by this chapter and under Title 63, Chapter 2, Government Records Access and Management Act, and the criminal penalties under Sections 62A-4a-412 and 63-2-801 for improper release of information; and

(iii) monitor its employees to ensure that they protect the information contained in the Management Information System as required by law.

(c) The division shall take reasonable precautions to ensure that its contract providers comply with the requirements of this Subsection (6).

(7) The division shall take all necessary precautions, including password protection and other appropriate and available technological techniques, to prevent unauthorized access to or release of information contained in the Management Information System.

Section 3. Section **62A-4a-116.2** is amended to read:

62A-4a-116.2. Licensing Information System -- Contents -- Juvenile court finding -- Protected record -- Access -- Criminal penalty.

(1) The division shall maintain a sub-part of the Management Information System established pursuant to Section 62A-4a-116, to be known as the Licensing Information System, to be used solely for licensing purposes. The Licensing Information System shall include only the following information:

(a) the information described in Subsections 62A-4a-116.1(1)(a) and (6)(b);

(b) consented-to supported findings by alleged perpetrators under Subsection 62A-4a-116.1(6)(a)(iii); and

(c) the information in the licensing part of the division's Management Information System as of May 6, 2002.

(2) Notwithstanding Subsection (1), the department's access to information in the Management Information System for the licensure and monitoring of foster parents is governed by Sections 62A-4a-116 and 62A-2-121.

~~(2)~~ (3) The division shall promptly amend the Licensing Information System, upon receipt of a finding from the juvenile court under Section 78-3a-320, and shall enter the same

information in the Management Information System. However, if a finding of unsubstantiated or without merit is appealed, the supported finding shall not be amended until the appeal is concluded.

~~[(3)]~~ (4) Information contained in the Licensing Information System is classified as a protected record under Title 63, Chapter 2, Government Records Access and Management Act. Notwithstanding the disclosure provisions of Title 63, Chapter 2, Government Records Access and Management Act, the information contained in the Licensing Information System may only be used or disclosed as specifically provided in this chapter and Section 62A-2-121 and is accessible only to:

- (a) the Office of Licensing within the department, for licensing purposes only;
- (b) the division, for the following purposes:
 - (i) to screen a person at the request of the Office of the Guardian Ad Litem Director, at the time that person seeks a paid or voluntary position with the Office of the Guardian Ad Litem Director and each year thereafter that the person remains with that office; and
 - (ii) to respond to a request for information from a person whose name is listed in the Licensing Information System;
- (c) two persons designated by and within the Department of Health, only for the following purposes:
 - (i) licensing a child care program or provider; or
 - (ii) determining whether a person associated with a covered health care facility, as defined by the Department of Health by rule, who provides direct care to a child, has a supported finding of severe child abuse or neglect; and
- (d) the department, as specifically provided in this chapter.

~~[(4)]~~ (5) The two persons designated by the Department of Health under Subsection ~~[(3)]~~ (4)(c) shall adopt measures to:

- (a) protect the security of the Licensing Information System; and
- (b) strictly limit access to the Licensing Information System to those persons designated by statute.

~~[(5)]~~ (6) All persons designated by statute as having access to information contained in the Licensing Information System shall receive training from the department with respect to:

- (a) accessing the Licensing Information System;
- (b) maintaining strict security; and
- (c) the criminal provisions of Sections 62A-4a-412 and 63-2-801 pertaining to the improper release of information.

~~[(6)]~~ (7) No person, except those authorized by this chapter, may request another person to obtain or release any other information in the Licensing Information System to screen for potential perpetrators of child abuse or neglect. A person who requests information knowing that it is a violation of this Subsection ~~[(6)]~~ (7) to do so is subject to the criminal penalty described in Sections 62A-4a-412 and 63-2-801.