

**CHILD WELFARE INVESTIGATIONS**

2004 GENERAL SESSION

STATE OF UTAH

**Sponsor: Mike Thompson**

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**LONG TITLE**

**General Description:**

This bill amends the Child Welfare Services Code.

**Highlighted Provisions:**

This bill:

- ▶ prohibits a state officer, peace officer, or child welfare worker from entering the home of a minor who is not under the jurisdiction of the court, except in specified circumstances; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill takes effect on July 1, 2004.

**Utah Code Sections Affected:**

AMENDS:

**62A-4a-202.1 (Effective 07/01/04)**, as last amended by Chapter 171, Laws of Utah  
2003

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

Section 1. Section **62A-4a-202.1 (Effective 07/01/04)** is amended to read:

**62A-4a-202.1 (Effective 07/01/04). Entering home of a minor -- Taking a minor into protective custody -- Caseworker accompanied by peace officer -- Preventive services -- Shelter care or emergency kinship.**

(1) A state officer, peace officer, or child welfare worker may not~~[-without the~~

~~consent of the minor's parent or guardian, a warrant, or a court order issued under Section 78-3a-106;]~~ enter the home of a minor who is not under the jurisdiction of the court, remove a minor from the minor's home or school, or take a minor into protective custody unless:

(a) the state officer, peace officer, or child welfare worker has obtained:

(i) the consent of the minor's parent or guardian; or

(ii) a court order issued under Section 78-3a-106; or

(b) there exist exigent circumstances.

(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) If possible, consistent with the minor's safety and welfare, before taking a minor into protective custody, the worker shall also determine whether there are services reasonably available to the worker which, if provided to the minor's parent or to the minor, would eliminate the need to remove the minor from the custody of the minor's parent or guardian. If those services are reasonably available, they shall be utilized. In determining whether services are reasonably available, and in making reasonable efforts to provide those services, the minor's health, safety, and welfare shall be the worker's paramount concern.

(4) (a) A minor removed or taken into custody under this section may not be placed or kept in a secure detention facility pending court proceedings unless the minor is detainable based on guidelines promulgated by the Division of Juvenile Justice Services.

(b) A minor removed from the custody of the minor'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 kinship placement in accordance with Section 62A-4a-209.

**Section 2. Effective date.**

This bill takes effect on July 1, 2004.